
REQUEST FOR PROPOSALS

RFP NO.: 57816122

Return proposals to: Harris-Stowe State University
Business Office, Room 105
3026 Laclede Avenue
St. Louis, MO 63103DATE ISSUED: May 2, 2016

Buyer: Barbara A. Morrow

TEL: (314) 340-5763, FAX: (314) 340-3322

RECEIVED FROM:

Harris-Stowe State University is requesting proposals for General Counsel/Legal Services. Proposals must be received no later than **10:00 a.m. on Wednesday, June 1, 2016** in room 105 of the HGA building and will then be opened and the names of the offerors revealed in **Room 123 in the HGA building**. Any proposals received after **10:00 a.m. on Wednesday, June 1, 2016** shall not be accepted and will be returned to the offeror unopened. No award shall be made at the time proposals are opened. For a copy of the RFP, call (314) 340-5763. Copies of the proposals are to be mailed to:

**Harris-Stowe State University, Attention: B. A. Morrow
3026 Laclede Avenue, Room 105
St. Louis, MO 63103**

PROPOSAL MUST BE SIGNED TO BE VALID

The bidder hereby agrees to furnish items and/or services, at the prices quoted, pursuant to all requirements and specifications contained in this document upon either the receipt of an authorized Purchase Order from Purchasing, or when this document is countersigned by Purchasing as a binding Contract. The bidder further agrees that the language of this document shall govern in the event of a conflict with His or Her Bid. If incorporated - Where? _____

COMPANY NAME: _____ DATE: _____

AUTHORIZED SIGNATURE: _____ TEL: _____

(please sign here)

(please type or print name here)

TITLE: _____ FED. ID OF SSN: _____

NOTICE OF AWARD: _____ PURCHASE ORDER #: _____

Accept as to items:

(Signature of Director of Business Services)_____
(Date)

PART ONE

BACKGROUND INFORMATION

SECTION ONE: General Information

Harris-Stowe State University traces its origin back to 1857 when it was founded by the St. Louis Public Schools as a normal school and thus became the first public teacher education institution west of the Mississippi River, and the twelfth such institution in the United States.

This normal school was Harris-Stowe's first predecessor institution, and was restricted to white female students who would become the City of St. Louis' public elementary school teachers. This normal school later became a four-year college, named Harris Teachers College, in honor of William Torrey Harris. Dr. Harris had served as the Superintendent of Instruction of the St. Louis Public Schools and had also served as a United States Commissioner of Education.

The Normal School began offering in-service education for St. Louis white teachers, as early as 1906. and, later, in 1920 became a four-year undergraduate teachers college, authorized to grant a Bachelor of Arts Degree in Education. In 1924, the College received accreditation from the North Central Association of Schools and Colleges. Accreditation from other agencies followed, including accreditation by the American Association of Colleges for Teacher Education and the National Council for the Accreditation of Teacher Education.

A second predecessor institution was Stowe Teachers College which began in 1890 as a normal school for future black teachers of elementary schools in the City of St. Louis. This normal school was also founded by the St. Louis Public School System and was an extension of Sumner High School. In 1924, the Sumner Normal School became a four-year institution with authority to grant the baccalaureate degree. In 1929, its name was changed to Stowe Teachers College, in honor of the abolitionist and novelist, Harriet Beecher Stowe.

These two teacher education institutions were merged by the Board of Education of the St. Louis Public Schools in 1954 as the first of several steps to integrate the public schools of St. Louis. The merged institution retained the name Harris Teachers College. Later, in response to the many requests from alumni of Stowe Teachers College and members of the Greater St. Louis Community, the Board of Education agreed to restore to the College's name the word "Stowe", and to drop the word, "teachers".

Part One, **BACKGROUND INFORMATION** (Continued)

SECTION ONE: General Information (Continued)

In 1979 the General Assembly of the State of Missouri Senate Bill 703, under which Harris-Stowe State College became the newest member of the State system of public higher education. The Institution's name was again changed by the addition of the word, "State," and was then officially known as Harris-Stowe State College. In addition to the name change, the College's baccalaureate degree was changed to Bachelor of Science in Education. In compliance with new State standards and teacher certification requirements, the College's teacher education curriculum was modified and three separate teacher education majors were approved: early childhood education, elementary school education, and middle school/junior high school education.

In 1981, the College received State approval for a new degree program -- the Bachelor of Science in Urban Education. This program was the only one of its kind at the undergraduate level in the United States and is designed to prepare non-teaching urban education specialists who will be effective in solving the many urban-related problems facing today's urban schools. Later this degree program was expanded to include the preparation of non-teaching specialists in many other urban-related fields.

In 1993, the State Governor signed into law Senate Bill 153 which authorized the College to expand its mission in order to address unmet needs of Metropolitan St. Louis in various applied professional disciplines. In response to that authority, Harris-Stowe developed two new baccalaureate degree programs: (1) Business Administration with professional options in Accounting, Management Information Systems, General Business and Marketing; and (2) Secondary Teacher Education with subject-matter options in Biology, English, Mathematics, and Social Studies. The College, soon after, began developing new baccalaureate programs in other professional areas, including Criminal Justice and Management of Health and Medical Services. These new programs are "two-plus-two" baccalaureates based on relevant community college associate degrees.

In August of 2005, upon the urging of Governor Matt Blunt, and the approval of the State General Assembly, Harris-Stowe State College became Harris-Stowe State University.

Thus, from its beginnings as two normal schools in the mid- and late 19th Century to its present status as a State institution of public higher education, Harris-Stowe State University and its predecessor institutions have always been in the forefront of teacher education. Now, with its mission expanded to include other professional disciplines, the University will provide greatly needed additional opportunities to Metropolitan St. Louisans in other important fields of endeavor. The University will, therefore, continue its quest for excellence in all of its offerings and strive even more to meet the complex and demanding challenge of preparing students for effective roles in this region's various professions.

SECTION ONE: General Information (Continued)

Harris-Stowe State University is dedicated to the advancement of people through learning. Every social institution is, in some way, special; educational institutions are particularly so because they alone have been established to promote learning in formal and appropriately-designed settings. This University recognizes and accepts as an integral aspect of its mission the task of providing urban-oriented experiences, which will enable its students to function as constructive agents of change for the improvement of urban living.

The demands of today's society require the services of professionals; Harris-Stowe State University is well-known for its four-year professional education programs. The University began its distinguished career in undergraduate higher education with the exclusive purpose of developing highly competent and effective teachers for the elementary school. To this focus the University long ago added in-service, increased pre-service, and professional development programs. A few years ago, the primary purpose of Harris-Stowe was expanded to include the development of a non-teaching professional baccalaureate degree aimed at preparing humane problem-solvers for educational systems and community agencies.

Now, with an expanded mission, the academic thrust of the University has been broadened to include other greatly needed professional areas: in Business Administration, in Secondary Teacher Education, in Elementary Teacher Education, in Urban Education, in Liberal Arts, in Criminal Justice, and in the effective Management of Medical and Health services programs, and is collaborating with several sister institutions – both in and outside the metropolitan region in offering graduate-level programs.

Harris-Stowe is unique among midwestern institutions of higher education. This uniqueness is derived from two main characteristics: (1) its philosophy which stresses the importance of the learning potential of each individual student, and (2) its high accessibility--both geographical and financial.

Currently the University offers 31 Majors, Minors and Certificate Options.

The University offers Bachelor of Science degree programs. Each of these degree programs consists of two levels: (1) a lower-division level, which provides a general education foundation, and (2) an upper-division level, consisting of a specific set professional studies that gives each degree program its name. The University is an accredited member of the Higher Learning Commission. The following programs are offered: Accounting, Biology, Business Administration, Criminal Justice, Early Childhood Education, Educational Studies, Elementary Education, Finance, Health Care Management, Information Sciences & Computer Technology, Marketing, Mathematics, Middle School/Junior High Education, Political Science, Professional Interdisciplinary Studies, Secondary Education, Sociology, Sustainability and Urban Ecology, Urban Affairs, Urban Agriculture.

Harris-Stowe has approximately 200 full time employees and an enrollment of approximately 1,200 students. The campus presently consists of nine (9) buildings, the Dr. Henry Givens, Jr. Administration building; the Southwestern Bell Technology Resource Center Library; the Emerson Physical Education/Performing Arts Center which opened on April 25, 2003; the Gillespie Residence Hall/Student Center which opened on August 15, 2006; the William L. Clay Early Child Development and Parenting Education Center which opened August 24, 2009; the Freeman R. Bosley, Jr. Residence hall and Dining Facility which opened August 2011, the Vashon Community Center and two (2) additional buildings that were purchased in Fall 2015.

PART TWO
SCOPE OF WORK
FOR
GENERAL COUNSEL/LEGAL SERVICES

SECTION ONE. General Information

Harris-Stowe State University (HSSU) is currently requesting proposals from qualified firms that are located, licensed and authorized to do business in the state of Missouri. Counsel may be required to coordinate with federal, state and local administrative agencies and maintain regulatory compliance for the University. Currently Harris-Stowe State University is one of the five (5) State of Missouri universities governed by Chapter 34 of the Revised Statutes of Missouri (RSMo) granted local procurement authority in accordance with section 34.100, of the RSMo, as well as the rules and regulations that are delineated in 1 CSR 40-1.010 through 1 CSR 40.1.090.

The legal counsel will represent the University while following direction from the State of Missouri, Division of Purchasing and Materials Management, Procurement Authority Delegation and Procedures, the University Board of Regents, the University President and designated administrators of the University.

SECTION TWO. Areas of Legal Representation

Special assignments and projects may include but are not limited to full service representation and counseling in the following areas:

- Accreditation
- Administrative Law
- Affiliated Entities (i.e., outside entities, typically 501(c)(3) organizations, that are legally separate from but affiliated with the University)
- Americans With Disabilities Act
- Anti-Harassment
- Athletics
- Campus Activities
- Campus Safety and the Clery Act
- Collections

PART TWO, Scope of Work for General Counsel/Legal Services (Continued)

SECTION TWO. Areas of Legal Representation (Continued)

- Compliances Issues (Federal and State)
- Constitution Law (State and Federal)
- Contract and Procurement Issues
- Criminal Law
- Disability Services
- Distance Education
- Discrimination Issues and Litigation (State and Federal)
- Employment Law, Family Medical Leave Act (FMLA), Labor Law, Personnel Issues and Litigations, Workers Compensation
- Engineering, Architectural and Construction Contracting Issues and Litigation
- Environmental Issues and Litigation
- Facilities
- Faculty Promotion and Tenure
- Family Education Rights and Privacy Act (FERPA)
- Federal and State Administrative Agency Matters (FCC, SEC, OCR, HIPAA, FISA, FMLA, ADA, ADEA, FLSA, etc).
- Federal and State Tax Law
- Freedom of Speech Issues
- Fundraising and Working with Foundations
- General Public, Civil and Higher Education Law
- General Civil Litigation
- Grievance and Discipline

PART TWO, Scope of Work for General Counsel/Legal Services (Continued)

SECTION TWO. Areas of Legal Representation (Continued)

- Higher Education Law
- Higher Education Compliance and Strategy
- Immigration
- Insurance Regulation Matters
- Intellectual Property
- International Education Services
- International Law and Matters
- Investigations
- Litigation and Administrative Strategy
- Medical Education Law
- Policies and Procedures
- Public Records and Open Meetings Law and Litigation
- Real Estate Law
- Real Property Transactions (Leases and Contracts)
- Retirement and ERISA issues and Litigation
- Risk Management
- State Engineering, Architectural and Construction Contracting
- Student, Faculty and Staff Handbooks
- Student Affairs Legal Issues
- Taxation Law (Local, State and Federal) and Litigation

PART TWO, Scope of Work for General Counsel/Legal Services (Continued)

SECTION TWO. Areas of Legal Representation (Continued)

- Technology and Social Media
- Title IV Federal Student Aid and Finances
- Title IX
- Training of various clients (Administration, Faculty, Staff, Students, etc.)
- Violence Against Women's Act
- Vendor Contracts and Vendor Leasing Contracts
- Other areas of expertise within your firm that may be relevant to a public institution of higher learning.

The areas of legal representation listed in the scope of work in this RFP may change as needed.

Each firm will be required to support the University in any area that may include investigating, advising, drafting and reviewing documents, litigation or representation in courts, administrative hearings, alternate dispute resolution processes, etc.

The legal counsel may have to coordinate with the Attorney General Office (AGO) in certain matters/instances. In addition, the AGO could take lead in certain matters/instances.

PART THREE

PROPOSAL SUBMISSION INFORMATION

SECTION ONE. Mandatory Proposal Requirements

- a. Proposals must be priced, signed, sealed and returned (with all necessary attachments) to the Business Office, Room 105, by the receipt date and time specified on page 1 of the RFP. At a minimum, the Contractor should include at least five (5) additional copies along with their original proposal.
- b. The following should be addressed in the firm's proposal:
 1. Page 1 to this RFP should be signed and dated by someone authorized to sign on behalf of the firm.
 2. The firm's qualification and Business Overview should include the following:
 - (a) Age of Business
 - (b) Litigation Management
 - (c) Firm Billing Policies and Procedures: Flat Fee, Hourly Billing Fees, Case Budgeting, etc.
 - (d) Total number of firm employees.
 - (e) Diversity of firm leadership and staff.
 - (f) Total number of attorneys to be assigned to HSSU and their complete biographies with names, telephone numbers, email address and work experiences.
 - (g) List of professional or personal relationships you or anyone in your firm may have with the Board of Regents or other officers of HSSU that may be a conflict of interest. Please disclose any material of the aforementioned as well as any financial interests that your firm or any firm employees have that may create a conflict of interest or the appearance of a conflict of interest in contracting with HSS.
 - (h) A description of outstanding actions, suits, proceedings or pending investigations by government authorities or private parties in the last five (5) years, if any.
 - (i) Minimum of four (4) references
- c. The Contractor shall not submit a proposal by fax machine because only sealed proposals are acceptable in response to this RFP.

PART THREE, Proposal Submission Information (Continued)

SECTION TWO. Clarification of Requirements

- a. Any and all questions regarding this RFP should be directed to Barbara A. Morrow, (314) 340-5763. Questions can be faxed to (314) 340-3322, Attention: B. A. Morrow or emailed to morrow@hssu.edu. The deadline for questions is close of business on **Wednesday, May 18, 2016.**
- b. Firms shall not contact any other employee(s) of the University during the competitive procurement and evaluation processes.
- c. Firms are advised that the only official position of the University is that position which is stated in writing and issued by the Purchasing Department as a RFP and any amendments thereto. No other means of communication, whether oral or written, shall be construed as a formal or official response or statement.

PART FOUR

EVALUATION PROCESS

Upon receipt of those proposals provided by **10:00 a.m. on the due date of Wednesday, June 1, 2016**, the University will begin the review and evaluation process of each valid proposal submission. Each firm will be evaluated based on the following evaluation factors which are in no particular order:

- Expertise in Public University Law
- Continuing Education in Public University Law
- Workforce time available to dedicate to the University
- References and Reputation (in regards to Professional Ethics)
- Price/Hourly Rates

PART FIVE

GENERAL CONTRACTUAL REQUIREMENTS

SECTION ONE. Acceptance of Proposal

The University reserves the right to accept or reject any and all proposals without any statement or reason therefore. Final acceptance shall be subject to the parties entering into a written agreement including the terms thereof.

SECTION TWO. Additional Terms and Conditions

The University reserves the right to add terms and conditions during contract negotiations. These terms and conditions will be within the scope of the RFP and will not affect the proposal evaluations.

SECTION THREE. Applicable State Laws

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 might be applicable. The Contractor must be registered with and maintain good standing with the Secretary of State of the State of Missouri, as may be required by law or regulation.

SECTION FOUR. Assignments

The Contractor shall not assign any interest in the contract and shall not transfer any interest, whatsoever, in the contract without the prior written consent of the University.

SECTION FIVE. Authorized Personnel

- a. The Contractor shall only employ 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 Contractor 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 Contractor 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 Contractor from doing business with the state. The state may also withhold up to twenty-five percent of the total amount due to the Contractor.
- c. The Contractor shall agree to fully cooperate with any audit or investigation from federal, state or local law enforcement agencies.

PART FOUR, General Contractual Requirements (Continued)

SECTION FIVE. Authorized Personnel (Continued)

- d. If the Contractor meets the definition of a business entity as defined in section 285.525, RSMo, pertaining to section 285.520, RSMo, the Contractor shall maintain enrollment and participation in the E-Verify federal work authorization program with respect to the employees hired after enrollment in the program who are proposed to work in connection with the contracted services included herein. If the Contractor's business status changes during the life of the contract to become a business entity as defined in section 285.525, RSMo, pertaining to section 285.530, RSMo, then the Contractor shall, prior to the performance of any services as a business entity under the contract:
1. Enroll and participate in the E-Verify federal work authorization program with respect to the employees hired after enrollment in the program who are proposed to work in connection with the services required herein; AND
 2. Provide to the University the documentation required in the exhibit titled, Business Entity Certification, Enrollment Documentation, and Affidavit of Work Authorization affirming said company's/individual's enrollment and participation in the E-Verify federal work authorization program; AND
 3. Submit to the University a completed, notarized Affidavit of Work Authorization provided in the exhibit titled, Business Entity Certification, Enrollment Documentation, and Affidavit of Work Authorization.
- e. In accordance with subsection 2 of section 285.530, RSMo, the Contractor should renew their Affidavit of Work Authorization annually. A valid Affidavit of Work Authorization is necessary to award any new contracts.

SECTION SIX. Breach of Contract

The University may cancel the contract at any time for a breach of any contractual obligation by providing the Contractor with a written notice of such cancellation. Should the University exercise its right to cancel the contract for such a reason, the cancellation shall become effective on the date as specified in the notice of cancellation sent to the Contractor. In addition, the University shall declare a breach and cancel the contract immediately, with no penalty if the University has reasonable cause to believe that the Contractor has knowingly employed individuals who are not eligible to work in the United States in violation of federal law.

PART FIVE, General Contractual Requirements (Continued)

SECTION SEVEN. Confidentiality

- a. The Contractor shall agree and understand that all discussions with the Contractor and all information gained by the Contractor as a result of the Contractor's performance under the contract shall be confidential and that no reports, documentation or material prepared as required by the contract shall be released to the public without the prior written consent of HSSU.
- a. If required by the University, the Contractor and any required contractor personnel must sign specific documents regarding confidentiality, security, or other similar documents upon request. Failure of the Contractor and any required personnel to sign such documents shall be considered a breach of contract and subject to the cancellation provisions of this document.
- b. The Contractor shall maintain strict confidentiality of all information or records supplied to it by the University or that the Contractor establishes as a result of contract activities. The contents of such records shall not be disclosed to anyone other than the University and the student or the student's parent or legal guardian unless such disclosure is required by law.
- c. The Contractor assumes liability for all disclosures of confidential information by the Contractor and/or the Contractor's subcontractors and employees.
- d. The Contractor agrees to comply with all applicable provisions of the Federal Standards for Privacy of Individually Identifiable Health Information (45 C.F.R. Parts 160 and 164).
- e. The Contractor shall agree that the University utilizing the Contractor's services may be required to comply with 45 CFR 160 and 45 CFR 164, and that to achieve such compliance, the Contractor must appropriately safeguard Protected Health Information (as that term as defined in 45 CFR 164.501), which the Contractor receives from or creates or receives on behalf of the University. In such situations and to provide reasonable assurance of appropriate safeguards, the Contractor shall be required to sign a Business Associate Agreements provided by the University.

SECTION EIGHT. Conflict of Interest

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 employee to be an employee of the University. 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 University, it's 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.

PART FIVE, General Contractual Requirements (Continued)

SECTION EIGHT. Conflict of Interest (Continued)

In accordance with all applicable provisions of the RSMo, no official or employee of the University or its governing body and no public official of the State of Missouri who exercises any functions or responsibilities in the review or approval of the undertaking or carrying out of the scope of work covered by the contract shall voluntarily acquire any personal interest, directly or indirectly, in the proposed contract.

The Contractor covenants that he or she presently has no interest and shall not acquire any interest, directly or indirectly, which would conflict in any manner or degree with the performance of the services hereunder. The Contractor further covenants that no person having any such known interest shall be employed or conveyed an interest, directly or indirectly, in the contract.

SECTION NINE. Contract Period

The contract is for a one (1) year period commencing on or around July 1, 2016. The contract shall not bind, nor purport to bind, the University for any contractual commitment in excess of the original contract period. The University shall have the right, at its sole option, to renew the contractor for four (4) additional one periods, or any portion thereof. In the event the University exercises such right, all terms and conditions, requirements and specifications of the contract shall remain the same and apply during the renewal period, pursuant to applicable option clauses of this document.

SECTION TEN. Contractor Liability

The Contractor shall be responsible for any and all personal injury (including death) or property damage as a result of the Contractor's negligence involving any equipment or service provided under the terms and conditions, requirements and specifications of the contract. In addition, the Contractor assumes the obligations to save the University and the State of Missouri, including its agencies, employees, and assignees, from every expense, liability, or payment arising out of such negligent act.

- a. The Contractor also agrees to hold the University and 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.
- b. The Contractor shall not be responsible for any injury or damage occurring as a result of any negligent act or omission committed by the State of Missouri, including its agencies, employees, and assignees.
- c. Under no circumstances shall the contractor be liable for any of the following: (1) third party claims against the state for losses or damages (other than those listed above), or (2) economic consequential damages (including lost profits or savings) or incidental damages, even if the Contractor is informed of their possibility.

PART FIVE, General Contractual Requirements (Continued)

SECTION ELEVEN. Contractor Status/Relationship

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 employee to be an employee of the University. 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 University, 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.

SECTION TWELVE. Gratuities

University procurement personnel, evaluators, and any other persons involved in the procurement decisions are prohibited from accepting for personal benefit: gifts, meals, trips, or any other item of significant value of a monetary advantage from a Contractor.

SECTION THIRTEEN. Health Insurance Portability and Accountability Act of 1996 (HIPAA)

Contractors are subject to and must comply with provisions of the Health Insurance Portability and Accountability Act of 1996 (HIPAA).

SECTION FOURTEEN. Identification of Authorized Representative

The Contractor shall, within five (5) days after the award of the contract, submit a written identification and notification to the University of the name, title, address and telephone number of one (1) individual with its organization as a duly authorized representative to whom all correspondence, official notices and requests related to the Contractor's performance under the contract shall be addressed. The Contractor shall have the right to change or substitute the name of the individual described as deemed necessary provided that the University is notified immediately.

SECTION FIFTEEN. Insurance

- a. The Contractor shall understand and agree that the University and 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 have and maintain adequate liability insurance in the form(s) and amount(s) sufficient to protect the University and the State of Missouri, its agencies, its employees, its clients, and the general public against any such loss, damage and/or expense related to his/her performance under the contract. The insurance shall include an endorsement that adds the University as an additional insured. Self-insurance coverage or another

PART FIVE, General Contractual Requirements (Continued)

SECTION FIFTEEN. Insurance (Continued)

alternative risk financing mechanism may be utilized provided that such coverage is verifiable and irrevocably reliable and the University is protected as an additional insured. In the event any insurance coverage is cancelled, the University must be notified at least thirty (30) calendar days prior to such cancellation.

- b. Failure of a Contractor to provide evidence of such insurance coverage is a material breach and grounds for termination of the contract.
- c. The Contractor shall have and maintain, at the Contractor's expense, throughout the effective period of the contract, the following insurance in the amounts specified:
 1. Comprehensive General Liability, including Product Liability, with the following limits of liability:
 - i. Bodily Injury: \$1,000,000.00 each person
\$1,000,000.00 aggregate
 - ii Property Damage: \$1,000,000.00 each accident
 2. Automobile Public Liability and Property Damage, with the following limits of liability:
 - i. Bodily Injury: \$1,000,000.00 each person
\$1,000,000.00 accident
 - ii Property Damage: \$1,000,000.00 each accident

SECTION SIXTEEN. Minority Business Enterprise (MBE) and Women-owned Business Enterprise (WBE)

In accordance with Executive Order 05-30, state agencies shall continue to make every feasible effort to target the percentage of goods and services procured from certified Minority Business Enterprises (MBEs) and Women-owned Business Enterprises (WBEs) to 10% and 5%, respectively. (Also, see RSMo 37.020).

1. A MBE must be at least fifty-one percent (51%) owned and controlled by one or more persons who are United States citizens and members of one of the following racial minority groups: Black, American Indian, Hispanic, Asian Americans or other similar racial groups.
2. A WBE must be at least fifty-one percent (51%) owned and controlled by women who are United States citizens.

PART FIVE, General Contractual Requirements (Continued)

SECTION SIXTEEN. Minority Business Enterprise (MBE) and Women-owned Business Enterprise (WBE) (Continued)

3. In order to assist HSSU in meeting MBE/WBE contracting goals, the bidder is encouraged to utilize MBEs/WBEs for any subcontracts awarded for services and/or equipment provided pursuant to the contract. The bidders should indicate if any subcontractors will be used to fulfill the requirements of the contract. The bidder should provide specific information regarding subcontracts such as: name of subcontractor, nature and value of subcontract work, etc. The bidder should indicate whether or not the subcontractor qualifies as a MBE/WBE. Subcontract work shall be defined as work that provides a commercially useful function directly related to the delivery of the service/product required.
2. A WBE must be at least fifty-one percent (51%) owned and controlled by women who are United States citizens.
3. In order to assist HSSU in meeting MBE/WBE contracting goals, the bidder is encouraged to utilize MBEs/WBEs for any subcontracts awarded for services and/or equipment provided pursuant to the contract. The bidders should indicate if any subcontractors will be used to fulfill the requirements of the contract. The bidder should provide specific information regarding subcontracts such as: name of subcontractor, nature and value of subcontract work, etc. The bidder should indicate whether or not the subcontractor qualifies as a MBE/WBE. Subcontract work shall be defined as work that provides a commercially useful function directly related to the delivery of the service/product required.

SECTION SEVENTEEN. Performance Bond

The successful Contractor must furnish a performance bond in the amount proposed for the first full year of the agreement and for each succeeding year of the agreement. An original and one (1) copy of the bond must be furnished within ten (10) working days from the date of written notification of intent to award the contract. The cost of the performance bond will be borne by the Contractor and written by an insurance company licensed to do business in the State of Missouri.

SECTION EIGHTEEN. Property of State

All documents, data, reports, supplies, equipment and accomplishments prepared, furnished, or completed by the Contractor pursuant to the terms of the contract shall become the property of the University. Upon expiration, termination, or cancellation of the contract, said items shall become the property of the University.

PART FIVE, General Contractual Requirements (Continued)

SECTION NINETEEN. Supplemental Terms and Conditions

Proposals including supplemental terms and conditions will be accepted, but supplemental conditions that conflict with those contained in this RFP or that diminish the University's rights under any contract resulting from the RFP will be considered null and void. The University is not responsible for identifying conflicting supplemental terms and conditions before issuing a contract award. If a conflict arises after award of contract:

- a. If a conflict arises between a supplemental term or condition included in the proposal and a term or condition of the RFP, the term or condition of the RFP will prevail; and
- b. If the University's rights would be diminished as a result of application of a supplemental term or condition included in the proposal or any subsequent agreement, the supplemental term or condition included in that proposal or subsequent agreement, will be considered null and void.
- c. If any provision of this contract is found to be invalid, such invalidation will not be construed to invalidate the entire contract.

SECTION TWENTY. Termination

The University reserves the right to terminate the contract at any time, for the convenience of the University, without penalty or recourse, by giving written notice to the Contractor at least thirty (30) calendar days prior to the effective date of such termination. The Contractor shall be entitled to receive compensation for services and/or supplies delivered to and accepted by the University pursuant to the contract prior to the effective date of the termination. The Contractor may terminate the contract by giving the University written notice of such termination at least one hundred and twenty (120) days prior to termination.

- a. Upon the expiration or termination of this agreement, the Contractor shall surrender peaceably, possession of the premises to HSSU and shall surrender to HSSU in like good order as when received, ordinary wear, tear and depreciation excepted, the fixtures and equipment owned by HSSU and any equipment furnished by the Contractor to replace similar equipment which may have become lost, damaged or destroyed.

SECTION TWENTY-ONE. Transition

- a. Upon award of the contract, the Contractor shall work with HSSU and any other organizations designated by HSSU to insure an orderly transition of services and responsibilities under the contract and to insure the continuity of those services required by HSSU.

PART FIVE, General Contractual Requirements (Continued)

SECTION TWENTY-ONE. Transition (Continued)

- b. Upon expiration, termination or cancellation of the contract, the Contractor shall assist HSSU to insure an orderly transfer of responsibility and/or the continuity of those services required under the terms of the contract to an organization designated by HSSU. If requested in writing, the Contractor shall provide and/or perform any or all of the following responsibilities:
1. The Contractor shall discontinue providing service or accepting new assignments under the terms of the contract, on the date specified by HSSU, in order to insure the completion of such service prior to the expiration of the contract.
 2. The Contractor shall deliver, FOB destination, all records, documentation, reports, data, recommendations, master, or printing elements, etc., which are required to be produced under the terms of the contract to HSSU and/or to HSSU's designee within seven (7) working days after receipt of the written request.
 3. The Contractor shall agree to continue providing any part or all of the services in accordance with the terms and conditions, requirements and specifications of the contract for a period not to exceed ninety (90) calendar days after the expiration, termination or cancellation date of the contract for a price not to exceed those prices set forth in the contract.
 4. The Contractor shall discontinue providing service or accepting new assignments under the terms of the contract, on the date specified by HSSU, in order to insure the completion of such service prior to the expiration of the contract.

SECTION TWENTY-TWO. Vendor Tax Compliance

Pursuant to section 34.040.6, RSMO, and the vendor compliance guidelines for Section 34.040.6, RSMo, Vendor Compliance – Bids-Proposals/Contract Renewals/Single Feasible Source-Cooperative Purchase-Contract Assignment, the University shall not contract for goods and services with a vendor if the vendor or an affiliate of the vendor makes sales at retail of tangible personal property or for the purpose of storage, use, or consumption in Missouri but fails to collect and properly pay the tax as provided in chapter 144, RSMo. An “affiliate of the vendor” shall mean any person or entity that is controlled by or is under common control with the vendor, whether stock ownership or otherwise.

PART FIVE, General Contractual Requirements (Continued)

SECTION TWENTY-THREE. Work Authorization

1. Pursuant to section 285.530, RSMo, the University as a condition for the award of any contract or grant in excess of five thousand dollars by the state or by any political subdivision of the state to a business entity, or for any business entity receiving a state-administered or subsidized tax credit, tax abatement, or loan from the state, shall, **by sworn affidavit and provision of documentation**, affirm its enrollment and participation in a federal work authorization program with respect to the employees working in connection with the contracted services. Business entities shall sign an affidavit affirming that it does not knowingly employ any person who is an unauthorized alien in connection with the contracted services. **Effective September 1, 2009**, any entity contracting with the state or any political subdivision of the state shall only be required to provide the referenced affidavit on an annual basis. (E-Verify documentation)

1. **Executive Order 07-13**: The Contractor shall only utilize personnel authorized to work in the United States in accordance with applicable federal and state laws and Executive Order 07-13 for work performed in the United States.

PART SIX

PRICING

The Contractor shall specify hourly rates to be charged by each person to be assigned to the University:

GENERAL COUNSEL/LEGAL SERVICES: Contractor shall specify hourly rates to be charged by each person to be assigned to the University during the 1st year of the contract:

<u>Responsible attorney</u>	\$ _____ /hr.
<u>Other</u>	\$ _____ /hr.
<u>Other</u>	\$ _____ /hr.
<u>Other</u>	\$ _____ /hr.

CONTRACT EXTENSIONS

The Contractor shall specify hourly rates to be charged by each person to be assigned to the University during the Extension Periods:

Extension Period 1

<u>Responsible attorney</u>	\$ _____ /hr.
<u>Other</u>	\$ _____ /hr.
<u>Other</u>	\$ _____ /hr.
<u>Other</u>	\$ _____ /hr.

Extension Period 2

<u>Responsible attorney</u>	\$ _____ /hr.
<u>Other</u>	\$ _____ /hr.
<u>Other</u>	\$ _____ /hr.
<u>Other</u>	\$ _____ /hr.

PART SIX, Pricing

Extension Period 3

<u>Responsible attorney</u>	\$ _____ /hr.
<u>Other</u>	\$ _____ /hr.
<u>Other</u>	\$ _____ /hr.
<u>Other</u>	\$ _____ /hr.

Extension Period 4

<u>Responsible attorney</u>	\$ _____ /hr.
<u>Other</u>	\$ _____ /hr.
<u>Other</u>	\$ _____ /hr.
<u>Other</u>	\$ _____ /hr.

ATTACHMENT 1

TERMS AND CONDITIONS – REQUEST FOR PROPOSAL

STATE OF MISSOURI

DIVISION OF PURCHASING AND MATERIALS MANAGEMENT (DPMM)

****Please note substitutions in document wording in accordance with the University Procurement Authority Delegation and Procedures for Harris-Stowe State University.**

DPMM = Harris-Stowe State University Purchasing Department

State of Missouri = Harris-Stowe State University

TERMS AND CONDITIONS – REQUEST FOR PROPOSAL

1. TERMINOLOGY/DEFINITIONS

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

- a. **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 by the **Division of Purchasing and Materials Management (DPMM)**. The agency is also responsible for payment.
- b. **Amendment** means a written, official modification to a RFP or to a contract.
- c. **Attachment** applies to all forms which are included with a 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 a 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 procurement staff member of the DPMM. 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 Offeror as a result of a RFP and who enters into a contract.
- i. **Exhibit** applies to forms which are included with a RFP for the Offeror 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 DPMM to potential Offerors for the purchase of equipment, supplies, and/or services as described in the document. The definition includes these Terms and Conditions as well as all Pricing Pages, 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. Failure to provide or comply will result in a proposal being considered non-responsive.
- m. **Pricing Page(s)** applies to the form(s) on which the Offeror must state the price(s) applicable for the equipment, supplies, and/or services required in the RFP. The pricing pages must be completed and submitted by the Offeror with the sealed proposal prior to the specified proposal opening date and time.
- 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. Chapter 34 of the statutes is the primary chapter governing the operations of DPMM.
- 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 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 DPMM.
- c. The contractor must be registered and maintain good standing with the Secretary of State of the State of Missouri and other regulatory agencies, as may be required by law or regulations.
- d. The contractor must timely file and pay all Missouri sales, withholding, corporate and any other required Missouri tax returns and taxes, including interest and additions to tax.
- e. The exclusive venue for any legal proceeding relating to or arising out of the 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 Offeror's responsibility to ask questions, request changes or clarification, or otherwise advise the DPMM if any language, specifications or requirements of a RFP appear to be ambiguous, contradictory, and/or arbitrary, or appear to inadvertently restrict or limit the requirements stated in the RFP to a single source. Any and all communication from Offerors regarding specifications, requirements, competitive proposal process, etc., must be directed to the buyer from the DPMM, unless the RFP specifically refers the Offeror to another contact. Such e-mail, fax, 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 Offeror receives an adequate and prompt response. However, in order to maintain a fair and equitable proposal process, all Offerors will be advised, via the issuance of an amendment to the RFP, of any relevant or pertinent information related to the procurement. Therefore, Offerors are advised that unless specified elsewhere in the RFP, any questions received less than ten calendar days prior to the RFP opening date may not be answered.
- c. Offerors are cautioned that the only official position of the State of Missouri is that which is issued by the DPMM 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. The DPMM monitors all procurement activities to detect any possibility of deliberate restraint of competition, collusion among Offerors, price-fixing by Offerors, or any other anticompetitive conduct by Offerors which appears to violate state and federal antitrust laws. Any suspected violation shall be referred to the Missouri Attorney General's Office for appropriate action.
- e. The RFP is available for viewing and downloading on the state's On-Line Bidding/Vendor Registration System website. Registered Offerors are electronically notified of the proposal opportunity based on the information maintained in the State of Missouri's vendor database. If a registered Offeror's e-mail address is incorrect, the Offeror must update the e-mail address themselves on the state's On-Line Bidding/Vendor Registration System website.
- f. The DPMM reserves the right to officially amend or cancel a RFP after issuance. It shall be the sole responsibility of the Offeror to monitor the State of Missouri On-Line Bidding/Vendor Registration System website at: <https://www.moolb.mo.gov> to obtain a copy of the amendment(s). Registered Offerors who received e-mail notification of the proposal opportunity when the RFP was established and registered Offerors who have responded to the RFP on-line prior to an amendment being issued will receive e-mail notification of the amendment(s). Registered Offerors who received e-mail notification of the proposal opportunity when the RFP was established and registered Offerors who have responded to the proposal on-line prior to a cancellation being issued will receive e-mail notification of a cancellation issued prior to the exact closing time and date specified in the RFP.

4. PREPARATION OF PROPOSALS

- a. Offerors **must** examine the entire RFP carefully. Failure to do so shall be at Offeror's risk.
- b. Unless otherwise specifically stated in the RFP, all specifications and requirements constitute minimum requirements. All proposals must meet or exceed the stated specifications and requirements.
- c. Unless otherwise specifically stated in the RFP, any manufacturer names, trade names, brand names, information and/or catalog numbers listed in a specification and/or requirement are for informational purposes only and are not intended to limit competition. The Offeror may offer any brand which meets or exceeds the specification for any item, but must state the manufacturer's name and model number for any such brands in the bid. In addition, the Offeror shall explain, in detail, (1) the reasons why the proposed equivalent meets or exceeds the specifications and/or

requirements and (2) why the proposed equivalent should not be considered an exception thereto. proposals which do not comply with the requirements and specifications are subject to rejection without clarification.

- d. Proposals lacking any indication of intent to proposal 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 that the Offeror is an agency of state government or other such political subdivision which is prohibited by law or court decision from complying with certain provisions of a RFP, such a Offeror may submit a proposal which contains a list of statutory limitations and identification of those prohibitive clauses. The Offeror should include a complete list of statutory references and citations for each provision of the RFP, which is affected by this paragraph. The statutory limitation and prohibitive clauses may (1) be requested to be clarified in writing by DPMM or (2) be accepted without further clarification if the statutory limitations and prohibitive clauses are deemed acceptable by DPMM. If DPMM 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. Bids, including all pricing therein, shall remain valid for 90 days from Proposal Opening unless otherwise indicated. If the proposal is accepted, the entire bid, including all prices, shall be firm for the specified contract period.
- i. Any foreign Offeror not having an Employer Identification Number assigned by the United States Internal Revenue Service (IRS) must submit a completed IRS Form W-8 prior to or with the submission of their proposal in order to be considered for award.

5. SUBMISSION OF PROPOSALS

- a. Proposals may be submitted by delivery of a hard copy to the DPMM office or by mail services. **** Note Send Bids to HSSU Business Office address.**
- b. If mailed, the sealed envelope or container containing a proposal should be clearly marked on the outside with (1) the official RFP number and (2) the official opening date and time. Different proposals should not be placed in the same envelope, although copies of the same proposal may be placed in the same envelope.
- c. Faxed proposals shall not be accepted for this RFP. However, 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 made available at the opening of proposals. The contents of the responses shall not be disclosed at this time.
- b. Proposals which are not received in the DPMM office prior to the official due 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. PREFERENCES

- a. In the evaluation of proposals, preferences shall be applied in accordance with chapter 34, RSMo, other applicable Missouri statutes, and applicable Executive Orders. Contractors should apply the same preferences in selecting subcontractors.
- b. By virtue of statutory authority, a preference will be given to materials, products, supplies, provisions and all other articles produced, manufactured, mined, processed or grown within the State of Missouri and to all firms, corporations or individuals doing business as Missouri firms, corporations or individuals. Such preference shall be given when quality is equal or better and delivered price is the same or less.
- c. In accordance with Executive Order 05-30, contractors are encouraged to utilize certified minority and women-owned businesses in selecting subcontractors.

8. 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 Offeror 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 Offeror shall be subject to evaluation if deemed by the DPMM to be in the best interest of the State of Missouri.
- c. The Offeror is encouraged to propose price discounts for prompt payment or propose other price discounts that would benefit the State of Missouri. However, unless otherwise specified in the RFP, pricing shall be evaluated at the maximum potential financial liability to the State of Missouri.
- d. Awards shall be made to the Offeror 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 Offeror, and all other evaluation criteria specified in the RFP and (3) complies with chapter 34, RSMo, other applicable Missouri statutes, and all applicable Executive Orders.
- e. In the event all Offerors fail to meet the same mandatory requirement in a RFP, DPMM reserves the right, at its sole discretion, to waive that requirement for all Offerors and to proceed with the evaluation. In addition, the DPMM reserves the right to waive any minor irregularity or technicality found in any individual bid.
- f. The DPMM reserves the right to reject any and all proposals. When all proposals are non-responsive or otherwise unacceptable and circumstances do not permit a rebid, DPMM may negotiate for the required supplies.
- g. When evaluating a proposal, the State of Missouri reserves the right to consider relevant information and fact, whether gained from a proposal, from a Offeror, from Offeror's references, or from any other source.
- h. Any information submitted with the proposal, regardless of the format or placement of such information, may be considered in making decisions related to the responsiveness and merit of a proposal and the award of a contract.
- i. Negotiations may be conducted with those Offerors who submit potentially acceptable proposals. Proposal revisions may be permitted for the purpose of obtaining best and final offers. In conducting negotiations, there shall be no disclosure of any information submitted by competing offerors.
- j. Any award of a contract shall be made by notification from the DPMM to the successful Offeror. The DPMM 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 DPMM based upon factors such as item similarity, location, administrative efficiency, or other considerations in the best interest of the State of Missouri.
- k. Pursuant to Section 610.021 RSMo, proposals and associated documentation shall not be available for public review until after a contract is executed or all proposals are rejected.
- l. The DPMM posts all proposal results on the On-line Bidding/Vendor Registration System website for all vendors to view for a reasonable period after proposal award. The DPMM maintains images of all proposal file material for review. Offerors who include an e-mail address with their proposal will be notified of the award results via e-mail.
****NOTE: HSSU does not post bid results online. Results are available upon request only.**
- l. The DPMM reserves the right to request clarification of any portion of the Offeror's response in order to verify the intent of the Offeror. The Offeror is cautioned, however, that its response may be subject to acceptance or rejection without further clarification.
- m. 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 award(s) shall be made by DPMM.

9. CONTRACT/PURCHASE ORDER

- a. By submitting a proposal, the Offeror agrees to furnish any and all equipment, supplies and/or services specified in the RFP, at the prices quoted, pursuant to all requirements and specifications contained therein.
- b. A binding contract shall consist of: (1) the RFP and any amendments thereto, and any Best and Final Offer (BAFO) request(s) with RFP changes/additions, (2) the contractor's response (proposal) to the RFP including any contractor BAFO response(s), (3) clarification of the proposal, if any, and (4) DPMM'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 the State of Missouri does not constitute an authorization for shipment of equipment or supplies or a directive to proceed with services. Before providing equipment, supplies and/or services for the State of Missouri, the contractor must receive a properly authorized purchase order or other form of authorization given to the contractor at the discretion of the state agency.
- d. The contract expresses the complete agreement of the parties and performance shall be governed solely by the specifications and requirements contained therein. Any change to the contract, whether by modification and/or supplementation, must be accomplished by a formal contract amendment signed and approved by and between the duly authorized representative of the contractor and the DPMM or by a modified purchase order prior to the effective date of such modification. The contractor expressly and explicitly understands and agrees that no other method

and/or no other document, including correspondence, acts, and oral communications by or from any person, shall be used or construed as an amendment or modification to the contract.

10. INVOICING AND PAYMENT

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

11. DELIVERY

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

12. INSPECTION AND ACCEPTANCE

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

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 DPMM, (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.

14. CONFLICT OF INTEREST

- a. Elected or appointed officials or employees of the State of Missouri or any political subdivision thereof, serving in an executive or administrative capacity, must comply with sections 105.452 and 105.454, RSMo, regarding conflict of interest.
- b. The contractor hereby covenants that at the time of the submission of the proposal the contractor has no other contractual relationships which would create any actual or perceived conflict of interest. The contractor further agrees that during the term of the contract neither the contractor nor any of its employees shall acquire any other contractual relationships which create such a conflict.

15. REMEDIES AND RIGHTS

- a. No provision in the contract shall be construed, expressly or implied, as a waiver by the 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 DPMM may cancel the contract. At its sole discretion, the DPMM 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 DPMM 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 DPMM will issue a thirty (30) notice of cancellation terminating the contract. If it is determined the DPMM improperly cancelled the contract, such cancellation shall be deemed a termination for convenience in accordance with the contract.
- c. If the DPMM cancels the contract for breach, the DPMM 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 DPMM 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 Offeror/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 Offeror/contractor.

18. BANKRUPTCY OR INSOLVENCY

- a. Upon filing for any bankruptcy or insolvency proceeding by or against the contractor, whether voluntary or involuntary, or upon the appointment of a receiver, trustee, or assignee for the benefit of creditors, the contractor must notify the DPMM immediately.
- b. Upon learning of any such actions, the DPMM 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 unless otherwise provided by law. If the contractor or subcontractor employs at least 29 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 DPMM shall take appropriate enforcement action which may include, but not necessarily be limited to, cancellation of the contract, suspension, or debarment by the DPMM until corrective action by the contractor is made and ensured, and referral to the Attorney General's Office, whichever enforcement action may be deemed most appropriate.

21. AMERICANS WITH DISABILITIES ACT

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

22. FILING AND PAYMENT OF TAXES

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

23. 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 12-27-12

Executive Order #07-13 Compliance Requirement

The Contractor understands and agrees that by signing this document, they certify the following:

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

The Governor of the State of Missouri has issued Executive Order 07-13 which requires Harris-Stowe State University to audit all Contractors of the state to ensure that current employees of the Contractor working on behalf of the State of Missouri, are legally eligible to work within the United States under the Illegal Immigration Reform and Immigrant Responsibility Act (IIRIRA) and INA Section 274A of the federal government. All Contractors must 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. Therefore, Harris-Stowe State University hereby requests that your firm certify that only personnel who are authorized to work in the United States in accordance with applicable federal and state laws will be used on this contract. This document must be signed and returned with the proposal.

Contractor Statement: I certify that our company shall only use personnel who are authorized to work in the United States in accordance with applicable federal and state laws.

Contractor

Contractor Authorized Signature

Date

In accordance with Executive Order 07-13, if the state determines that a current contractor employs any persons not eligible to work in the United States, the contractor shall be in breach of contract and the state may lawfully cancel the contract and suspend or debar the contractor from doing business with the State of Missouri. **(Please copy this document and have all sub-contractors submit certifications to HSSU, also.)**

If you are participating in this bid:

In accordance with Section 34.040.6 RSMo, Harris-Stowe State University is precluded from contracting with a vendor or its affiliate who 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 RSMo 144.

As a result, Contractors will be required to verify that they are either registered to collect sales and/or use tax in Missouri, or are not making retail sales of tangible personal property or providing taxable services in Missouri. This verification can be provided by submitting an official “Vendor No Tax Due” certificate issued by the Missouri Department of Revenue. The Department of Revenue will issue the “Vendor No Tax Due” certificate if Contractors are properly registered to collect and have properly remitted sales and/or use tax, or if you are not making retail sales in Missouri. Once the “Vendor No Tax Due” certificate is issued, it must be submitted to the address listed below before an award can be made. (The certificate may also be faxed to 314-340-3322 or scanned/mailed to (morrowb@hssu.edu) **If the “Vendor No Tax Due” certificate is not received and/or a compliant tax status is maintain, Contractor proposals may be rendered unacceptable for further consideration and award.**

You may obtain a “Vendor No Tax Due” certificate by contacting the Missouri Department of Revenue. The attached document provides information on how to obtain the “Vendor No Tax Due” certificate. Additional information regarding Section 34.040.6 RSMo is available on the Department of Revenue’s website at <http://www.dor.mo.gov/tax/business/sales/hb600.htm>. (See next page for detailed instructions).

Contractors are encouraged to register as a vendor on the State of Missouri’s On-Line Bidding/Vendor Registration System website at <https://missouribuys.mo.gov>. Instructions for registering on this website are available on the Home page of the website.

How to Obtain A Certificate Of Vendor No Tax Due

A certificate of vendor no tax due can be obtained from the Missouri Department of Revenue when a business pays all of its sales/use tax in full, up to date, does not have a sales tax delinquency or does not sell tangible personal property at retail in Missouri.

If taxes are due, depending on the payment history of the business, a cashier's check or money order may be required for payment before a certificate of vendor no tax due can be issued.

A certificate of vendor no tax due can be obtained by contacting the Missouri Department of Revenue, Division of Taxation & Collection, P.O. Box 3666, Jefferson City, MO 65105-3666. You may also call (573) 751-9268, fax (573) 522-1160, or email taxclearance@dor.mo.gov, or complete and fax the Request For Tax Clearance, Form 943, located at <http://dor.mo.gov/tax/misc/forms/943f.pdf>. If you elect to complete the Request for Tax Clearance, Form 943, make sure you check item 4 in the Reason For Request section. For walk-in assistance, you can visit a Tax Assistance Center near you:

Jefferson City
301 West High Street, Room 330

St. Louis
3256 Laclede Station Rd., Ste 101

Kansas City
615 E 13th St., Room 127

Columbia
1500 Vandiver Drive, Room 113

Cape Girardeau
3102 Blattner Dr., Suite 102

St. Joseph
525 Jules, Room 314

Springfield
149 Park Central Square, Room 313

Joplin
705 Illinois Avenue, Suite 4