



Rules of
Department of Transportation
Division 10—Missouri Highways and Transportation
Commission
Chapter 10—Contractor Performance Rating
to Determine Responsibility

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**Title 7—DEPARTMENT OF
TRANSPORTATION
Division 10—Missouri Highways and
Transportation Commission
Chapter 10—Contractor Performance
Rating to Determine Responsibility**

7 CSR 10-10.010 Definitions

PURPOSE: This rule contains the definitions of terms used in this chapter.

- (1) Active project. Any contract of which final acceptance has not been made.
- (2) Affiliate. Persons are affiliates of each other if, directly or indirectly, either one controls or has the power to control the other; or a third person controls or has the power to control both. Indicia of control include, but are not limited to: interlocking management or ownership, identity of interests among family members, shared facilities and equipment, common use of employees, or a business entity organized following the suspension, debarment, or disqualification of a person which has the same or similar management, ownership, or principal employees as the suspended, debarred, or disqualified person.
- (3) Bidder. Any person, individual, partnership, corporation, or joint venture submitting a bid to supply goods or to perform the work contemplated under a commission contract.
- (4) Chief engineer. The chief engineer of the Missouri Department of Transportation.
- (5) Commission. The Missouri Highways and Transportation Commission.
- (6) Construction and materials. The division within the department responsible for administering all construction contracts awarded by the commission.
- (7) Contractor. Any person, individual, or legal entity including its officers and directors, that submits bids or proposals for or is awarded or may reasonably be expected to submit bids or proposals for or be awarded a commission contract. This definition includes any subcontractor that conducts business with the commission or department as an agent or representative of a contractor and any person, individual, or legal entity that conducts business with the department as an agent or representative of a contractor.
- (8) Contractor performance review committee. The review committee consists of the following three (3) persons: the assistant chief engineer, as chair, the state construction and materials engineer, and the administrator of the contractor performance rating system, or an authorized representative acting on behalf of any one (1) of them.
- (9) Contractor's representative. A general partner, officer of a corporation, or other proper term depending on the company or organization, as one having authority of position, stated in writing.
- (10) Department. The Missouri Department of Transportation (MoDOT).
- (11) District. One (1) of seven (7) geographic regions of Missouri established for administrative purposes within the department.
- (12) District engineer. The engineer in charge of a district.
- (13) Mean. The sum of all of the individual contractor's ratings divided by the total number of ratings.
- (14) Nonresponsible contractor. A contractor determined by the commission to lack one (1) or more of the qualities associated with a responsible bidder or responsible contractor and are deemed ineligible to bid on commission contracts.
- (15) Person. Any individual, corporation, partnership, association, unit of government, or legal entity, however organized.
- (16) Population. The collection of all results of a specified group.
- (17) Principal. Officer, director, owner, partner, key employee, or other person within an organization with primary management or supervisory responsibilities; or a person who has critical influence on or substantive control over another person's transaction, whether or not employed by that person.
- (18) Resident engineer. The individual employed by the department and assigned to a district, holding that title, who is the department's representative assigned the immediate control and administration of a commission project awarded by contract to a contractor for construction. Whenever appropriate, it also refers to his/her designated representative.
- (19) Responsible bidder or responsible contractor. A person who has the capability in all respects to perform fully the contract requirements, and who possesses the integrity and reliability which will assure good faith performance.
- (20) Sample. A subset of a statistical population.
- (21) Specialty contractors. Those contractors who have performed eighty-five percent (85%) or more of their work in one (1) specification area as set forth in Divisions 200–900 in the Missouri Standard Specifications for Highway Construction.
- (22) Standard deviation. The square root of the average of the squared difference between the individual ratings and their mean.
- (23) State construction and materials engineer. The registered professional engineer in charge of construction and materials administration within the department.
- (24) Subcontractor. Any person participating as part of a joint venture, to whom the contractor sublets any part of the work under a commission contract.
- (25) Successor. A person is a successor if it is organized following the disqualification of another person, and it has the same or similar management, ownership, or principal employees as the disqualified person.
- (26) Weighted average. An average of quantities adjusted by a mathematical value to allow for their relative importance in a data set. The weighted average for ratings is the sum of the products of each individual rating within a population multiplied by its corresponding dollar value, which is then divided by the sum of these corresponding dollar values alone. For example: population=1 and 2, R1=rating for 1, R2=rating for 2; so the weighted average for the population's rating is $[(R1 \times \$ \text{ related to } R1) + (R2 \times \$ \text{ related to } R2)] / [(\$ \text{ related to } R1) + (\$ \text{ related to } R2)]$.

AUTHORITY: sections 226.020, 226.130, 227.030, and 227.105, RSMo 2016. Original rule filed Dec. 31, 1990, effective July 8, 1991. Emergency amendment filed Nov. 20, 1997, effective Jan. 1, 1998, expired June 29, 1998. Amended: Filed Nov. 20, 1997, effective May 30, 1998. Emergency amendment filed Nov. 9, 1999, effective Nov. 19, 1999, expired May 16, 2000. Amended: Filed Nov. 9, 1999, effective May 30, 2000. Emergency amendment filed Dec. 1, 2000, effective Jan. 1, 2001, expired June 29, 2001. Amended: Filed Dec. 1, 2000, effective May 30, 2001. Amended: Filed Nov. 20, 2002, effective June 30, 2003. Amended: Filed Dec.*



5, 2006, effective July 30, 2007. Amended: Filed Dec. 8, 2016, effective July 30, 2017.

*Original authority: 226.020, RSMo 1939; 226.130, RSMo 1939, amended 1993, 1995; 227.030, RSMo 1939; and 227.105, RSMo 1996.

7 CSR 10-10.020 Explanation of Contractor Performance Rating System

PURPOSE: This rule explains the need for the contractor rating system established in this chapter and states the general objectives of the system.

(1) The commission has the obligation to award its contracts to only responsive and responsible bidders. The commission also has the duty to supervise and control the construction and maintenance of its state highway system. Inherent in these concepts, and in the commission's general obligation to the traveling public of this state, is that the commission must regulate those who construct the finished highway product. Therefore, it requires a system for evaluating the performance of those contractors working on commission projects.

(2) This contractor rating system is intended to help the commission periodically determine those contractors who are responsible or are nonresponsible and those responsible contractors whose outstanding or superior performance merits recognition by the commission. In the process, the rating system is intended to provide the contractors with evaluations of their work and information they can use to improve their performance.

(3) These regulations also set forth the procedures governing how contractors who render unsatisfactory performance may be determined nonresponsible and ineligible to bid for work on commission projects and how nonresponsible contractors may be reinstated as responsible bidders or responsible contractors.

AUTHORITY: sections 226.020, 226.130, 227.030, and 227.100, RSMo 2016.* Original rule filed Dec. 31, 1990, effective July 8, 1991. Amended: Filed Dec. 8, 2016, effective July 30, 2017.

*Original authority: 226.020, RSMo 1939; 226.130, RSMo 1939, amended 1993; 227.030, RSMo 1939; and 227.100, RSMo 1939, amended 1963, 1967, 1969, 2002.

7 CSR 10-10.030 Rating Categories for Evaluating the Performance of a Contractor

PURPOSE: This rule sets forth the rating criteria used in evaluating the performance of contractors awarded commission projects.

(1) Contractors awarded commission projects shall be rated on the following four (4) categories:

(A) Quality of work includes, but is not limited to, construction methods, materials, structural adequacy, appearance, workmanship, attention to detail, and acceptable work;

(B) Contract compliance includes, but is not limited to, timely compliance, compliance with traffic control, handling of traffic, maintenance of the work site, and adherence to environmental requirements;

(C) Prosecution and progress includes, but is not limited to, proper planning and execution, achieving the progress schedule, coordinating subcontractors, and timely completion; and

(D) Contract administration includes, but is not limited to, submittal of required documents.

(2) Each of the four (4) categories will include performance and compliance questions that will be assigned scoring criteria. Not all questions will be applicable on each project's evaluation and will, therefore, not be completed.

(3) A contractor's individual category rating is obtained by subtracting the scores determined in section (2) from one hundred percent (100%). The category ratings of the applicable sections for "Quality" and "Contract Compliance" will be based on the weighted average of the total dollar value of work completed during the rated period. The category ratings of the applicable sections for "Prosecution & Progress" and "Contract Administration" will be based on the weighted average of the applicable contract dollar values.

(4) The overall rating for a project will be the average of all applicable category ratings.

AUTHORITY: sections 226.020, 226.130, 227.030, and 227.105, RSMo 2016.* Original rule filed Dec. 31, 1990, effective July 8, 1991. Emergency amendment filed Nov. 20, 1997, effective Jan. 1, 1998, expired June 29, 1998. Amended: Filed Nov. 20, 1997, effective May 30, 1998. Emergency amendment filed Dec. 1, 2000, effective Jan. 1, 2001, expired June 29, 2001. Amended: Filed Dec. 1, 2000, effective May 30, 2001. Amended: Filed Nov. 20, 2002, effective June 30, 2003. Amended: Filed Dec. 5, 2006, effective July 30, 2007. Amended: Filed Dec. 8, 2016, effective July 30, 2017.

*Original authority: 226.020, RSMo 1939; 226.130, RSMo 1939, amended 1993, 1995; 227.030, RSMo 1939; and 227.105, RSMo 1996.

7 CSR 10-10.040 Contractor Performance Project Evaluation Used For Determining Contractor Performance

PURPOSE: This rule describes generally the form used in rating and reporting a contractor's performance on a contract, according to the provisions of this chapter.

(1) The form used to evaluate contractor performance on a commission contract is known as the contractor performance project evaluation. This project evaluation identifies the contractor, the project(s) to which it applies, the original and final contract amounts, and other pertinent project data.

(2) One (1) form is intended to rate all projects awarded in a combination bid contract. The contractor performance project evaluation shall designate all project(s) listed in the contract on these combinations.

(3) The contractor performance project evaluation contains performance measures that are assigned to the four (4) evaluation categories: quality of work; prosecution and progress; contract compliance; and contract administration. Not all performance measures will be applicable on any certain project and will, therefore, not be completed.

(4) The contractor performance project evaluation shall rate a contractor on the work required in each contract and shall take into consideration the contractor's work quality/progress and contract administration/compliance, as well as those of all the subcontractors. The contractor is responsible for all work required in the contract, as well as the selection of subcontractors and the quality, progress, administration, and compliance of their work.

(5) A copy of the contractor performance project evaluation form and completion guidelines shall be provided to contractors of active contracts at the beginning of each year or at the start of each project or may be obtained by submitting a written request to the following address: Missouri Department of Transportation, Construction and Materials Division, PO Box 270, Jefferson City, MO 65102.

AUTHORITY: sections 226.020, 226.130, 227.030, and 227.105, RSMo 2016.* Original rule filed Dec. 31, 1990, effective July 8,



1991. *Emergency rescission and rule filed Nov. 20, 1997, effective Jan. 1, 1998, expired June 29, 1998. Rescinded and readopted: Filed Nov. 20, 1997, effective May 30, 1998. Emergency amendment filed Nov. 9, 1999, effective Nov. 19, 1999, expired May 16, 2000. Amended: Filed Nov. 9, 1999, effective May 30, 2000. Emergency amendment filed Dec. 1, 2000, effective Jan. 1, 2001, expired June 29, 2001. Amended: Filed Dec. 1, 2000, effective May 30, 2001. Amended: Filed Nov. 20, 2002, effective June 30, 2003. Amended: Filed Dec. 5, 2006, effective July 30, 2007. Amended: Filed Dec. 8, 2016, effective July 30, 2017.*

**Original authority: 226.020, RSMo 1939; 226.130, RSMo 1939, amended 1993, 1995; 227.030, RSMo 1939; and 227.105, RSMo 1996.*

7 CSR 10-10.050 Procedure and Schedule for Completing the Contractor Performance Project Evaluation

PURPOSE: This rule describes the procedures and schedule which apply to the completion of the contractor performance project evaluation.

(1) The contractor performance project evaluation shall be completed by the resident engineer assigned to the contract project(s). If the resident engineer is unable to complete the form, the district engineer responsible for those projects shall designate another person familiar with those projects to complete the contractor performance project evaluation.

(2) The contractor performance project evaluation shall be completed in accordance with this chapter and with written guidelines given to the resident engineer by the construction and materials division. A copy of the current contractor performance project evaluation and completion guidelines may be obtained from the state construction and materials engineer.

(3) Each contractor performance project evaluation shall be completed as an Interim Report, Annual Report, or Final Report. The report shall note which type of report it is. The following criteria govern each type of report and when it is completed:

(A) Interim Report. This midseason report is completed on all contractors currently on probation or which have been disqualified. This report can be completed at any time during the year. An Interim Report will not be used in a contractor's performance determination;

(B) Annual Report. This report is complet-

ed on all active projects. Each Annual Report shall be completed on all projects that were active during the rated year and shall be completed no later than January 15;

(C) Final Report. This report is completed on all projects having received final acceptance during the rated year. The final contractor performance project evaluation will be completed within thirty (30) days after final project acceptance, but shall be completed no later than January 15, whichever comes first. The category ratings of performance for "Quality of Work," "Contract Compliance," and "Contract Administration" shall be evaluated only for the work performed during the rated year. The category rating of performance for "Prosecution and Progress" shall be predominantly based upon final acceptance of the project as compared to the contract completion requirements, after authorized time adjustments are made.

(4) The resident engineer shall sign and date the contractor performance project evaluation when he/she completes his/her rating. This project evaluation shall be sent by the United States Postal Service registered mail, with notice of return receipt, to the contractor at the contractor's address contained in its most recent contractor questionnaire required by the Missouri Standards Specifications for Highway Construction.

(5) The contractor's representative, at his/her election, may meet privately with the resident engineer to review the contractor performance project evaluation. If the contractor's representative does review the project evaluation, he/she shall sign and date it as an acknowledgment that he/she has reviewed it. If the contractor's representative does not return a signed project evaluation to the resident engineer within three (3) weeks after it has been mailed to him/her, the project evaluation shall be final, with no further comment to be considered by the contractor's representative.

AUTHORITY: sections 226.020, 226.130, 227.030, and 227.105, RSMo 2016. Original rule filed Dec. 31, 1990, effective July 8, 1991. Emergency rescission and rule filed Nov. 20, 1997, effective Jan. 1, 1998, expired June 29, 1998. Rescinded and readopted: Filed Nov. 20, 1997, effective May 30, 1998. Emergency amendment filed Nov. 9, 1999, effective Nov. 19, 1999, expired May 16, 2000. Amended: Filed Nov. 9, 1999, effective May 30, 2000. Emergency amendment filed Dec. 1, 2000, effective Jan. 1, 2001, expired June 29, 2001. Amended: Filed Dec. 1, 2000, effective May 30, 2001. Amended: Filed Nov.*

20, 2002, effective June 30, 2003. Amended: Filed Dec. 5, 2006, effective July 30, 2007. Amended: Filed Dec. 8, 2016, effective July 30, 2017.

**Original authority: 226.020, RSMo 1939; 226.130, RSMo 1939, amended 1993, 1995; 227.030, RSMo 1939; and 227.105, RSMo 1996.*

7 CSR 10-10.060 Explanation of Standard Deviation Rating System for All Contractors

PURPOSE: This rule describes the procedures and rating values used in annual ratings of contractors.

(1) Statistical Analysis. Statistical analysis shall be used by the commission to compare performance by the contractors. Through standard deviation analysis, the commission shall determine how each contractor's performance compares to all others.

(2) Rating Categories. The following categories shall be used by the commission in determining the annual rating of each contractor based on their contractor performance project evaluations completed for the rated year and on the statistical analysis used by the commission: average, above average, below average, outstanding and unacceptable:

(A) Average Rating. An average rating shall result if the contractor's rating is within the range of the mean of the total population plus or minus one (1) standard deviation;

(B) Above Average Rating. An above average rating shall result if the contractor's rating is equal to or greater than the mean of the total population plus one (1) standard deviation but less than the mean plus two (2) standard deviations;

(C) Outstanding Rating. An outstanding rating shall result if the contractor's rating is equal to or greater than the mean of the total population plus two (2) standard deviations;

(D) Below Average Rating. A below average rating shall result if the contractor's rating is equal to or less than the mean of the total population minus one (1) standard deviation but greater than the mean minus two (2) standard deviations; and

(E) Unacceptable Rating. An unacceptable rating shall result if the contractor's rating is equal to or less than the mean of the total population minus two (2) standard deviations.

(3) Overall and Category Ratings. On an annual basis, each contractor who has done work for the commission and which the department has completed a contractor performance project evaluation, shall be given a



rating for each of the four (4) categories: quality of work, prosecution and progress, contract compliance, and contract administration as well as receiving an overall rating which combines the ratings of all of the four (4) categories.

AUTHORITY: sections 226.020, 226.130, 227.030 and 227.105, RSMo 2000. Original rule filed Dec. 31, 1990, effective July 8, 1991. Amended: Filed April 13, 1994, effective Oct. 30, 1994. Amended: Filed June 12, 1996, effective Jan. 30, 1997. Emergency rescission and rule filed Nov. 20, 1997, effective Jan. 1, 1998, expired June 29, 1998. Rescinded and readopted: Filed Nov. 20, 1997, effective May 30, 1998. Emergency amendment filed Dec. 1, 2000, effective Jan. 1, 2001, expired June 29, 2001. Amended: Filed Dec. 1, 2000, effective May 30, 2001. Amended: Filed Nov. 20, 2002, effective June 30, 2003. Amended: Filed Dec. 5, 2006, effective July 30, 2007.*

**Original authority: 226.020, RSMo 1939; 226.130, RSMo 1939, amended 1993, 1995; 227.030, RSMo 1939; and 227.105, RSMo 1996.*

7 CSR 10-10.070 Procedure for Annual Rating of Contractors

PURPOSE: This rule describes the procedures used in annual rating of contractors.

(1) Annual Rating of Contractors. The construction and materials division shall be responsible for the determination of the annual ratings of contractors. The construction and materials division will annually determine a contractor's overall and category performance rating for all contracts on all active projects. The performance ratings for the categories of "Quality of Work" and "Contract Compliance" will be based on a weighted average of the dollar value of all work completed during the rated year on all contracts. The performance ratings for the categories of "Prosecution and Progress" and "Contract Administration" will be based on a weighted average of the applicable contract dollar totals.

(2) Contractor Rating Groups. For purposes of recognizing outstanding contractor performance, contractors shall be divided into four (4) sample groups based upon whether the contractor is a specialty contractor and on the dollar value of the work completed during the rated year.

(A) Contractor Groups.

1. Large volume contractors shall be the ten (10) contractors who have the largest dol-

lar value of work completed during the rated year.

2. Specialty contractors shall be those contractors who have performed eighty-five percent (85%) or more of their work in one (1) specification area as set forth in Division 200-900 in the Missouri Standard Specifications for Highway Construction.

3. The remaining contractors not included in the large volume or specialty contractor groups shall be sorted by dollar value of work completed during the rated year, and divided in half. Medium volume contractors shall be the half who have the higher dollar value of work, and light volume contractors shall be the half who have the lower dollar value of work.

(3) Determination of Contractor Ratings. The construction and materials division shall determine contractor ratings and make action recommendations to the chief engineer.

(A) Upon the chief engineer's review and approval, all contractors shall be notified in writing of their annual ratings via a letter of performance notification. The construction and materials division will act on each contractor or not, based on the overall and category ratings the contractor receives. These actions may range from recognizing very outstanding performance, to recommending that a contractor be declared nonresponsible. Probation or disqualification shall become effective upon the date stated in the written notification.

(B) A letter of performance notification along with the individual contractor performance project evaluations and a performance summary shall be mailed via the United States Postal Service to the contractor at the contractor's address contained in its most recent contractor questionnaire required by the Missouri Standard Specifications for Highway Construction. The department will keep a written record of the persons to whom such notices of ratings were sent and of the address and date they were sent for a period of at least ten (10) years, which record shall prove the notification of rating results. Further, it shall be presumed that the contractor received the notice on the second day, which is not a Sunday or holiday, after the day the written record states it was sent, unless a different date is shown by a delivery receipt of the United States Postal Service.

(4) Review Process. If the contractor disagrees with any performance measure finding on the contractor performance project evaluation and cannot resolve the dispute with the resident engineer, it may request in writing that the district engineer review the matter.

Such request must be made to the district engineer within twenty-eight (28) days from the date of the mailing of the project evaluation to the contractor. However, the contractor's representative shall first have discussed the project evaluation response with the resident engineer in order to resolve the dispute. Upon receiving the contractor's written request to review the disputed performance measure finding on the project evaluation, the district engineer shall review the matter and provide the contractor with a written response regarding the particular area of dispute between the contractor and the resident engineer. All reports shall be submitted to the construction and materials division before, but no later than, February 15.

(A) "Unacceptable" Rating. No request for review to the contractor performance review committee for an informal hearing or to the department regarding the contractors' performance ratings is provided under this chapter, with the exception of contractors who receive an unacceptable performance rating.

1. The contractor must have received either an unacceptable category or overall performance rating and timely discussed the dispute with the resident engineer and made a timely written request for review by the district engineer of the particular unacceptable rating on the project evaluation that the contractor disagrees with as provided in this chapter.

2. If the contractor has complied with the requirements of paragraph (4)(A)1. above, the contractor shall have ten (10) working days to request an informal hearing to review an unacceptable category or overall performance rating.

3. The contractor shall submit its request for an informal hearing to the following address: Missouri Department of Transportation, Construction and Materials Division, PO Box 270, Jefferson City, MO 65102.

(B) Procedure. If the contractor timely requests an informal hearing, the contractor performance review committee shall advise the contractor of the time, date, and place. This is not a contested case under Chapter 536, RSMo. The rules of evidence shall not apply at the hearing.

(C) Review by the Contractor Performance Review Committee. The contractor performance review committee will review the contractor's request and make a recommendation to the chief engineer. The chief engineer's decision regarding the contractor's rating, review of which is held as provided by this section, shall be final and no further commission action is necessary.

(5) No Further Commission Action. As to



contractor performance ratings of which no review is requested or permitted under this rule, upon the determination by the construction and materials division regarding the annual ratings of all contractors and the approval of the chief engineer of the annual ratings, the ratings of the contractors shall become final for purposes of this chapter and the effect of this chapter on a level of performance on the contractor's status to bid or perform work as a subcontractor or vendor on commission contracts. No commission action is necessary regarding the annual ratings of the contractors.

AUTHORITY: sections 226.020, 226.130, 227.030, and 227.105, RSMo 2016. Original rule filed Dec. 31, 1990, effective July 8, 1991. Emergency rescission and rule filed Nov. 20, 1997, effective Jan. 1, 1998, expired June 29, 1998. Rescinded and readopted: Filed Nov. 20, 1997, effective May 30, 1998. Emergency amendment filed Nov. 9, 1999, effective Nov. 19, 1999, expired May 16, 2000. Amended: Filed Nov. 9, 1999, effective May 30, 2000. Emergency amendment filed Dec. 1, 2000, effective Jan. 1, 2001, expired June 29, 2001. Amended: Filed Dec. 1, 2000, effective May 30, 2001. Amended: Filed Nov. 20, 2002, effective June 30, 2003. Amended: Filed Dec. 5, 2006, effective July 30, 2007. Amended: Filed Dec. 8, 2016, effective July 30, 2017.*

Original authority: 226.020, RSMo 1939; 226.130, RSMo 1939, amended 1993, 1995; 227.030, RSMo 1939; and 227.105, RSMo 1996.

7 CSR 10-10.080 Determination of Nonresponsibility

PURPOSE: This rule describes the effect and consequences that a commission determination of nonresponsibility has upon the person or contractor which has been disqualified under the provisions of this chapter.

(1) Determination of Unacceptable Performance.

(A) Contractors receiving an unacceptable rating or overall performance rating shall be considered and reviewed for possible disciplinary actions for unacceptable performance.

1. A contractor who receives an initial unacceptable category or overall performance determination shall be placed on probation.

2. Any contractor who is on probation and receives a second unacceptable category or overall performance determination shall be declared nonresponsible and shall be disqualified from bidding for one (1) year. The con-

tractor may also be declared disqualified from performing work as a subcontractor or vendor during the same disqualification period. At the conclusion of this disqualification period, the contractor may be reinstated to a probationary status and allowed to bid on commission projects upon providing proof to the satisfaction of the department that changes have been made within the company to correct previous deficiencies.

3. Any contractor reinstated to probationary status after a disqualification imposed under this rule, who receives a subsequent determination of unacceptable category or overall performance determination shall be declared nonresponsible and disqualified from bidding on commission projects for a period of three (3) years. The contractor may also be declared disqualified from performing work as a subcontractor or vendor, for that same disqualification period. After the three (3) year disqualification period has ended, the contractor may be reinstated to a probationary status upon providing proof to the satisfaction of the department that changes have been made within the company to correct previous deficiencies.

4. A probationary status shall remain in effect until the contractor obtains an annual rating of at least average in all categories or the chief engineer approves termination of the probationary status in writing, upon the contractor's written request, for reasons considered appropriate by the department, such as newly discovered relevant evidence of evaluation error or elimination of the cause or causes for which probationary status was imposed.

AUTHORITY: sections 226.020, 226.130, 227.030 and 227.105, RSMo 2000. Original rule filed Dec. 31, 1990, effective July 8, 1991. Emergency rescission and rule filed Nov. 20, 1997, effective Jan. 1, 1998, expired June 29, 1998. Rescinded and readopted: Filed Nov. 20, 1997, effective May 30, 1998. Emergency amendment filed Dec. 1, 2000, effective Jan. 1, 2001, expired June 29, 2001. Amended: Filed Dec. 1, 2000, effective May 30, 2001. Amended: Filed Nov. 20, 2002, effective June 30, 2003. Amended: Filed Dec. 5, 2006, effective July 30, 2007.*

**Original authority: 226.020, RSMo 1939; 226.130, RSMo 1939, amended 1993, 1995; 227.030, RSMo 1939; and 227.105, RSMo 1996.*

7 CSR 10-10.090 Reservation of Rights to Recommend or Declare Persons or Contractors Nonresponsible on Other Grounds

PURPOSE: This rule reserves to the depart-

ment the right to recommend disqualification of, and to the commission the right to disqualify persons, firms or contractors for reasons other than those set forth in this chapter.

(1) Nothing in this chapter shall be construed to waive, limit or restrict the right of the department to determine that a contractor be declared nonresponsible, if any individual rating on one (1) or more of the four (4) rating categories specified in 7 CSR 10-10.030 is so low that there is cause to believe that the contractor cannot responsibly or competently perform contract work generally, or of a particular type or description. The department reserves the right to declare disqualified any contractor it finds to be incompetent or nonresponsible, with such terms and conditions governing the disqualification as it deems appropriate.

(2) Nothing in this chapter shall be construed to waive, limit or restrict the right of the department or of the commission to determine and declare that a person, firm, corporation or contractor be disqualified for any other legal reason or circumstance that would support a finding that the person, firm, corporation, or contractor was nonresponsible, including but not limited to financial irresponsibility or a demonstrated lack of concern for public or employee safety or environmental responsibility. The commission reserves the right to declare nonresponsible any person, firm, corporation or contractor which it finds to be nonresponsible or ineligible upon sufficient legal grounds, with those terms and conditions governing that action as it deems appropriate.

AUTHORITY: sections 226.020, 226.130, 227.030 and 227.105, RSMo 2000. Original rule filed Dec. 31, 1990, effective July 8, 1991. Emergency rescission and rule filed Nov. 20, 1997, effective Jan. 1, 1998, expired June 29, 1998. Rescinded and readopted: Filed Nov. 20, 1997, effective May 30, 1998. Emergency amendment filed Dec. 1, 2000, effective Jan. 1, 2001, expired June 29, 2001. Amended: Filed Dec. 1, 2000, effective May 30, 2001. Amended: Filed Nov. 20, 2002, effective June 30, 2003. Amended Filed Dec. 5, 2006, effective July 30, 2007.*

**Original authority: 226.020, RSMo 1939; 226.130, RSMo 1939, amended 1993, 1995; 227.030, RSMo 1939; and 227.105, RSMo 1996.*

7 CSR 10-10.100 Procedure for Reinstatement of a Person or Contractor Previously Declared Nonresponsible (Rescinded May 30, 1998)



AUTHORITY: sections 226.020, 227.030 and 227.100, RSMo 1986 and 226.130, RSMo Supp. 1993. Original rule filed Dec. 31, 1990, effective July 8, 1991. Emergency rescission filed Nov. 20, 1997, effective Jan. 1, 1998, expired June 29, 1998. Rescinded: Filed Nov. 20, 1997, effective May 30, 1998.

7 CSR 10-10.110 Effect of Reinstatement of a Person or Contractor Previously Declared Nonresponsible

(Rescinded May 30, 1998)

AUTHORITY: sections 226.020, 227.030 and 227.100, RSMo 1986 and 226.130, RSMo Supp. 1993. Original rule filed Dec. 31, 1990, effective July 8, 1991. Emergency rescission filed Nov. 20, 1997, effective Jan. 1, 1998, expired June 29, 1998. Rescinded: Filed Nov. 20, 1997, effective May 30, 1998.

7 CSR 10-10.120 Reservation of Rights to Recommend or Declare Persons or Contractors Nonresponsible on Other Grounds

(Rescinded May 30, 1998)

AUTHORITY: sections 226.020, 227.030 and 227.100, RSMo 1986 and 226.130, RSMo Supp. 1993. Original rule filed Dec. 31, 1990, effective July 8, 1991. Emergency rescission filed Nov. 20, 1997, effective Jan. 1, 1998, expired June 29, 1998. Rescinded: Filed Nov. 20, 1997, effective May 30, 1998.

7 CSR 10-10.130 Addresses for Written Notification or Appeal

(Rescinded May 30, 1998)

AUTHORITY: sections 226.020, 227.030 and 227.100, RSMo 1986 and 226.130, RSMo Supp. 1993. Original rule filed Dec. 31, 1990, effective July 8, 1991. Emergency rescission filed Nov. 20, 1997, effective Jan. 1, 1998, expired June 29, 1998. Rescinded: Filed Nov. 20, 1997, effective May 30, 1998.