Rules of
Missouri Department of Transportation
Division 10—Missouri Highways and Transportation Commission
Chapter 24—Design-Build Project Contracts

Title 7—MISSOURI DEPARTMENT OF TRANSPORTATION

Division 10—Missouri Highways and Transportation Commission

Chapter 24—Design-Build Project Contracts

7 CSR 10-24.010 Definitions

PURPOSE: This rule provides definitions used throughout this chapter.

PUBLISHER'S NOTE: The secretary of state has determined that the publication of the entire text of the material which is incorporated by reference as a portion of this rule would be unduly cumbersome or expensive. This material as incorporated by reference in this rule shall be maintained by the agency at its headquarters and shall be made available to the public for inspection and copying at no more than the actual cost of reproduction. This note applies only to the reference material. The entire text of the rule is printed here.

(1) Unless otherwise specified, in addition to the definitions provided for in this rule, the definitions in Title 23, *United States Code* (U.S.C.) section 101(a) are applicable to this chapter whether or not specifically restated, or revised herein, and in their unrevised form to the extent not in conflict with this chapter. Title 23 U.S.C. section 101(a) is incorporated by reference into and made a part of this rule as published by the United States Superintendent of Documents, 732 N Capitol Street NW, Washington, D.C. 20402-0001, website: http://bookstore.gpo.gov on January 1, 2012. This rule does not incorporate any subsequent amendments or additions to the *United States Code* in 23 U.S.C. 101(a).

(2) Adjusted low bid means a form of best value selection in which qualitative aspects are scored on a numerical scale expressed as a decimal; price is then divided by qualitative score to yield an "adjusted bid" or "price per quality point." Award is made to proposer with the lowest adjusted bid.

(3) Alternate technical concept (ATC) means alternative concepts to the technical design requirements in the Request for Proposal (RFP) that are equal or better in quality or effect as determined by the contracting agency in its sole discretion and which have successfully been used elsewhere under comparable circumstances. A concept is not an ATC if it merely seeks to reduce quantities, performance, or reliability, or seeks a relaxation of the contract requirements.

(4) Best value selection means any selection process in which proposals contain both price and qualitative components and award is based upon a combination of price and qualitative considerations.

(5) Clarifications means a written or oral exchange of information that takes place after the receipt of proposals when award without discussions is contemplated. The purpose of clarifications is to address minor or clerical revisions in a proposal.

(6) Commission means the Missouri Highways and Transportation Commission.

(7) Communications are exchanges, between the contracting agency and proposers, after receipt of proposals, which lead to the establishment of the competitive range.

(8) Competitive acquisition means an acquisition process that is designed to foster an impartial and comprehensive evaluation of proposers' proposals, leading to the selection of the proposal representing the best value to the contracting agency.

(9) Competitive range means a list of the most highly rated proposals based on the initial proposal rankings. It is based on the rating of each proposal against all evaluation criteria.

(10) Construction means the supervising, inspecting, actual building, and incurrence of all costs incidental to the construction or reconstruction of a highway, including bond costs and other costs relating to the issuance of bonds whether in accordance with 23 U.S.C. section 122 or other debt financing instruments and costs incurred by the state in performing project related audits that directly benefit the state highway program. Title 23 U.S.C. section 122 is incorporated by reference into and made a part of this rule as published by the United States Superintendent of Documents, 732 N Capitol Street NW, Washington, D.C. 20402-0001, website: http://bookstore.gpo.gov on January 1, 2012. This rule does not incorporate any subsequent amendments or additions to the *United States Code* in 23 U.S.C. 122. Such term includes:

(A) Locating, surveying, and mapping (including the establishment of temporary and permanent geodetic markers in accordance with specifications of the National Oceanic and Atmospheric Administration of the Department of Commerce);

(B) Resurfacing, restoration, and rehabilitation;

(C) Acquisition of rights-of-way;

(D) Relocation assistance, acquisition of replacement housing sites, and acquisition and rehabilitation, relocation, and construction of replacement housing;

(E) Elimination of hazards of railway grade crossings;

(F) Elimination of roadside obstacles;

(G) Improvements that directly facilitate and control traffic flow, such as grade separation of intersections, widening of lanes, channelization of traffic, traffic control systems, and passenger loading and unloading areas; and

(H) Capital improvements that directly facilitate an effective vehicle weight enforcement program, such as scales (fixed and portable), scale pits, scale installation, and scale houses.

(11) Contracting agency means the public agency awarding and administering a design-build contract. The contracting agency may be the commission, MoDOT or another state or local public agency.

(12) Deficiency means a material failure of a proposal to meet a contracting agency requirement or a combination of significant weaknesses in a proposal that increases the risk of unsuccessful contract performance to an unacceptable level.

(13) Design means any design activities and includes the preparation of construction plans and detailed specifications for the performance of construction work.

(14) Design-build contract means a single contract that provides for design and construction, including any related services and materials, of a state highway project by a contractor or private developer. The term encompasses alternative project delivery methods including design-build, design-build-operate-maintain, design-build-operate, design-build-maintain, design-build-finance, design-build-finance-operate-maintain, engineer-procure-construct, and other contracts that include services in addition to design and construction.

(15) Design-builder means an individual, corporation, partnership, joint venture, limited liability company, limited liability partnership, or other entity making a proposal to be contractually responsible to perform, or which is performing, the project design and construction under a design-build contract.

(16) Disadvantaged business enterprise (DBE) means a for-profit small business concern—

(A) That is at least fifty-one percent (51%) owned by one (1) or more individuals who are both socially and economically disadvantaged

or, in the case of a corporation or other business entity, in which fifty-one percent (51%) of the stock or shares are owned by one (1) or more socially and economically disadvantaged individuals; and

(B) Whose management and daily business operations are controlled by one (1) or more of those socially and economically disadvantaged individuals who own the disadvantaged business enterprise.

(17) Discussions mean written or oral exchanges that take place after the establishment of the competitive range with the intent of allowing the proposers to revise their proposals.

(18) Division Administrator means the Division Administrator, Missouri Division of the Federal Highway Administration, United States Department of Transportation (FHWA).

(19) Fixed price/best design means a form of best value selection in which contract price is established by the contracting agency and stated in the Request for Proposals document. Design solutions and other qualitative factors are evaluated and rated, with award going to the firm offering the best qualitative proposal for the established price.

(20) Highway includes:

(A) A road, street, and parkway;

(B) A right-of-way, bridge, railroad-highway crossing, tunnel, drainage structure, sign, guardrail, and protective structure, in connection with a highway; and

(C) A portion of any interstate bridge or tunnel and the approaches thereto, the cost of which is assumed by the commission.

(21) Intelligent Transportation System (ITS) services means services which provide for the acquisition of technologies or systems of technologies (e.g., computer hardware or software, traffic control devices, communications link, fare payment system, automatic vehicle location system, etc.) that provide or contribute to the provision of one (1) or more ITS user services as defined in the National ITS Architecture. National ITS Architecture is incorporated by reference into and made a part of this rule as published by the United States Department of Transportation Office of the Assistant Secretary for Research and Technology, 1200 New Jersey Ave., SE, Washington, D.C. 20590, website: http://its.dot.gov December, 2014. This rule does not incorporate any subsequent amendments or additions to the National ITS Architecture.

(22) Interstate system means the Dwight D. Eisenhower National System of Interstate and Defense Highways described in 23 U.S.C. section 103(c).

(23) Modified design-build means a variation of design-build in which the contracting agency furnishes offerors with partially complete plans. The design-builders role is generally limited to the completion of the design and construction of the project.

(24) National Highway System (NHS) means the federal-aid highway system described in 23 U.S.C. section 103(b). Title 23 U.S.C. section 103(b) is incorporated by reference into and made a part of this rule as published by the United States Superintendent of Documents, 732 N Capitol Street NW, Washington, D.C. 20402-0001, website: http://bookstore.gpo.gov on January 1, 2012. This rule does not incorporate any subsequent amendments or additions to the *United States Code* in 23 U.S.C. 103(b).

(25) Organizational conflict of interest means that because of other activities or relationships with other persons, a person is unable or potentially unable to render impartial assistance or advice to the contracting agency, or the person's objectivity in performing the contract work is or might be otherwise impaired, or a person has an unfair competitive advantage.

(26) Prequalification means the contracting agency's process for determining whether a firm is fundamentally qualified to compete for a certain project or class of projects. The prequalification process may be based on financial, management and other types of qualitative data. Prequalification should be distinguished from short listing.

(27) Price proposal means the price submitted by the offeror to provide the design and construction services set forth in the request for proposal.

(28) Project manager means the person designated by the contracting agency whose specific authority will be set forth in the contract documents.

(29) Proposal modification means a change made to a proposal before the solicitation closing date and time, or made in response to an amendment, or made to correct a mistake at any time before award.

(30) Proposal revision means a change to a proposal made after the solicitation closing date, at the request of or as allowed by a contracting agency, as the result of negotiations.

(31) Project agreement means the formal instrument to be executed by the commission and the secretary under 23 U.S.C. section 106. Title 23 U.S.C. section 106 is incorporated by reference into and made a part of this rule as published by the United States Superintendent of Documents, 732 N Capitol Street NW, Washington, D.C. 20402-0001, website: http://bookstore.gpo.gov on January 1, 2012. This rule does not incorporate any subsequent amendments or additions to the *United States Code* in 23 U.S.C. 106.

(32) Request for Proposal (RFP) means a document that describes the procurement process, forms the basis for the final proposals and may potentially become an element in the contract. In any design-build contract, whether involving state or federal funds, a detailed DBE participation plan is to be included in each proposer's request for qualifications that provides information describing the experience of the proposer in meeting DBE participation goals, how the proposer intends to meet the DBE goal for the design-build project, and such other qualifications that the commission considers to be in the best interest of the state.

(33) Request for Qualification (RFQ) means a document issued by the contracting agency describing the project in enough detail to let potential proposers determine if they wish to compete and forms the basis for requesting qualifications submissions from which the most highly qualified proposers can be identified.

(34) Secretary means the Secretary of Transportation of the United States Department of Transportation.

(35) Short listing means the narrowing of the field of offerors through the selection of the most qualified proposers who have responded to an RFQ.

(36) Solicitation means a public notification of a contracting agency's need for information, qualifications, or proposals related to identified services.

(37) Standard design-build means a procurement process in which the first phase consists of short listing (based on qualifications submitted in response to an RFQ) and the second phase consists of the submission of price and technical proposals in response to an RFP.

(38) State means the state of Missouri,

MoDOT, or commission.

(39) State funds means funds raised under the authority of the state or any political or other subdivision thereof, and made available for expenditure under direct control of the commission or MoDOT.

(40) Stipend means a monetary amount paid to unsuccessful proposers.

(41) Technical proposal means that portion of a design-build proposal that contains design solutions and other qualitative factors that are provided in response to the RFP document.

(42) Tradeoff means an analysis technique involving a comparison of price and nonprice factors to determine the best value when considering the selection of other than the lowest priced proposal.

(43) Transportation corporation means any transportation corporation organized under sections 238.300 to 238.367, RSMo.

(44) Transportation development district means a transportation development district organized under sections 238.200 to 238.280, RSMo.

(45) Weakness means a flaw in the proposal that increases the risk of unsuccessful contract performance. A significant weakness in the proposal is a flaw that appreciably increases the risk of unsuccessful contract performance.

(46) Weighted criteria process means a form of best value selection in which maximum point values are pre-established for qualitative and price components, and award is based upon high total points earned by the proposers.

AUTHORITY: sections 226.020, 226.030, and 227.107, RSMo 2016. Original rule filed Aug. 15, 2005, effective Feb. 28, 2006. Amended: Filed Dec. 5, 2017, effective July 30, 2018.*

**Original authority: 226.020, RSMo 1939; 226.030, RSMo 1939, amended 1965, 2003, 2004, 2009; and 227.107, RSMo 2002, 2007, 2009, 2011, 2016.*

7 CSR 10-24.020 General

PURPOSE: This rule sets forth the scope of the chapter.

PUBLISHER'S NOTE: The secretary of state has determined that the publication of the entire text of the material which is incorporated by reference as a portion of this rule would be unduly cumbersome or expensive. This material as incorporated by reference in this rule shall be maintained by the agency at its headquarters and shall be made available to the public for inspection and copying at no more than the actual cost of reproduction. This note applies only to the reference material. The entire text of the rule is printed here.

(1) This chapter describes the commission's policies and procedures for approving design-build projects financed under Title 23, *United States Code* (U.S.C.), by use of state funds, by use of funds of local public agencies or counties, or any combination of fund sources. All acquisitions under these rules are competitive acquisitions.

(2) The provisions of this chapter apply to all design-build projects within the state highway system, interstate or National Highway System (NHS) highway or linked to a federal-aid highway project (i.e., the project would not exist without another federal-aid highway project).

(3) The design-build contracting technique is optional and its use by the commission is limited by federal and state law.

(4) Relations of the National Environmental Protection Act (NEPA) review process to the design-build procurement process.

(A) A commission Request for Qualification (RFQ) solicitation may be released prior to the conclusion of the NEPA review process as long as the RFQ solicitation informs proposers of the general status of the NEPA process.

(B) A commission Request for Proposal (RFP) may be issued prior to the conclusion of the NEPA process as long as the RFP informs proposers of the general status of the NEPA process and that no commitment will be made as to any alternative under evaluation in the NEPA process, including the no-build alternative as defined in Title 23, *Code of Federal Regulations* (CFR) 636.109. Title 23, CFR, section 636.109 is incorporated by reference into and made a part of this rule as published by the United States Superintendent of Documents, 732 N Capitol Street NW, Washington, D.C. 20402-0001, website: http://bookstore.gpo.gov on January 1, 2012. This rule does not incorporate any subsequent amendments or additions to the *Code of Federal Regulations* in 23 CFR 636.109.

(C) The environmental commitments and mitigation measures identified during the NEPA process are included in the commission's RFP for the design-built project, including how such commitments and mitigation measures will be implemented.

AUTHORITY: sections 226.020, 226.030, and 227.107, RSMo 2016. Original rule filed Aug. 15, 2005, effective Feb. 28, 2006. Amended: Filed Dec. 5, 2017, effective July 30, 2018.*

**Original authority: 226.020, RSMo 1939; 226.030, RSMo 1939, amended 1965, 2003, 2004, 2009; and 227.107, RSMo 2002, 2007, 2009, 2011, 2016.*

7 CSR 10-24.030 Procedures for Solicitations and Receipt of Proposals

PURPOSE: This rule lists procedures appropriate for solicitation and receipt of proposals, provides for oral presentations during the procurement process and restricts team changes.

PUBLISHER'S NOTE: The secretary of state has determined that the publication of the entire text of the material which is incorporated by reference as a portion of this rule would be unduly cumbersome or expensive. This material as incorporated by reference in this rule shall be maintained by the agency at its headquarters and shall be made available to the public for inspection and copying at no more than the actual cost of reproduction. This note applies only to the reference material. The entire text of the rule is printed here.

(1) In addition to the public notice set forth in section 227.107.18, RSMo, the commission may use additional procedures deemed appropriate for the solicitation and receipt of proposals and information, including the following:

(A) Exchanges with industry before receipt of proposals;

(B) Request for Qualification (RFQ), Request for Proposal (RFP) and contract format;

(C) Solicitation schedules;

(D) Lists of forms, documents, exhibits, and other attachments;

(E) Representations and instructions;

(F) Handling proposals and information; and

(G) Submission, modification, revisions and withdrawal of proposals.

(2) All responses to the RFQ will be evaluated by the pre-qualification review/short listing team, which is comprised of the following Missouri Department of Transportation (MoDOT) staff or their designated representative: chief engineer, chief financial officer,

assistant chief engineer, financial services director, one (1) or more district engineer(s), project manager for the given project, state construction and materials engineer, state bridge engineer, and the state design engineer. An external partner(s) may be asked to act as an observer to the pre-qualification/short listing process.

(3) Use of Oral Presentations During the Procurement Process.

(A) Oral presentations as a substitute for portions of a written proposal may be used in streamlining the source selection process. Oral presentations may occur at any time in the acquisition process and comply with any appropriate federal procurement integrity standards contained in 23 CFR 636.111. Title 23 CFR section 636.111 is incorporated by reference into and made a part of this rule as published by the United States Superintendent of Documents, 732 N Capitol Street NW, Washington, D.C. 20402-0001, website: http://bookstore.gpo.gov on January 1, 2012. This rule does not incorporate any subsequent amendments or additions to the *Code of Federal Regulations* in 23 CFR 636.111.

(B) Oral presentations may augment written information. The commission or MoDOT will maintain a record of oral presentations to document what information was relied upon in making the source selection decision. The commission will decide the appropriate method and level of detail for the record (e.g., videotaping, audio tape recording, written record, contracting agency notes, copies of proposer briefing slides, or presentation notes). A copy of the record will be placed in the contract file and may be provided to proposers upon request.

(4) Restrictions on a proposer's team changes after the proposer's response to an RFQ where the proposer's qualifications are a major factor in the selection of the successful design-builder, such as team member switching (adding or switching team members), is discouraged after submission of response to an RFQ. However, the commission may use its discretion in reviewing team changes or team enhancement requests on a case-by-case basis. Any specific project rules related to changes in team members or changes in personnel within teams will be explicitly stated in a project solicitation.

AUTHORITY: sections 226.020, 226.030, and 227.107, RSMo 2016. Emergency rule filed Oct. 17, 2005, effective Oct. 27, 2005, expired April 25, 2006. Original rule filed Aug. 15, 2005, effective Feb. 28, 2006. Amended: Filed Dec. 5, 2017, effective July 30, 2018.*

**Original authority: 226.020, RSMo 1939; 226.030, RSMo 1939, amended 1965, 2003, 2004, 2009; and 227.107, RSMo 2002, 2007, 2009, 2011, 2016.*

7 CSR 10-24.050 Types of Projects in Which Design-Build Contracting May Be Used

PURPOSE: This rule provides for the types of projects in which design-build method may be used.

(1) Subject to the provisions of 227.107, RSMo, the design-build contracting technique may be used for any project which the commission deems to be appropriate on the basis of project delivery time, cost, construction schedule, and/or quality.

AUTHORITY: sections 226.020, 226.030, and 227.107, RSMo 2016. Original rule filed Aug. 15, 2005, effective Feb. 28, 2006. Amended: Filed Dec. 5, 2017, effective July 30, 2018.*

**Original authority: 226.020, RSMo 1939; 226.030, RSMo 1939, amended 1965, 2003, 2004, 2009; and 227.107, RSMo 2002, 2007, 2009, 2011, 2016.*

7 CSR 10-24.060 Stipends

PURPOSE: This rule provides for the payment of stipends, if elected by the commission, and the criteria used in determining the amount of stipend.

(1) The commission will pay a reasonable stipend to unsuccessful proposers who have submitted responsive proposals.

(2) On federal-aid projects stipends are eligible for federal-aid participation. Proposers will cooperate in providing such records and complying with such process in order for the commission to obtain federal participation.

(3) Stipend amount determination may consider:

(A) Project scope;

(B) Substantial opportunity for innovation;

(C) The cost of submitting a proposal;

(D) Encouragement of competition;

(E) Compensate unsuccessful proposers for a portion of their costs (usually one-third to one-half (1/3 to 1/2) of the estimated proposal development cost); and

(F) Ensure that smaller companies are not put at a competitive disadvantage.

(4) The commission will retain the right to use ideas from both successful and unsuccessful proposers, if the stipend is accepted. The Request for Proposal (RFP) will describe the process for distributing the stipend to qualifying proposers and transfer of ownership of ideas in intellectual property of both the successful and qualifying unsuccessful proposers.

AUTHORITY: sections 226.020, 226.030, and 227.107, RSMo 2016. Original rule filed Aug. 15, 2005, effective Feb. 28, 2006. Amended: Filed Dec. 5, 2017, effective July 30, 2018.*

**Original authority: 226.020, RSMo 1939; 226.030, RSMo 1939, amended 1965, 2003, 2004, 2009; and 227.107, RSMo 2002, 2007, 2009, 2011, 2016.*

7 CSR 10-24.070 Risk Allocation

PURPOSE: This rule provides for factors to be considered in risk allocation.

(1) The commission will consider, identify, and allocate the risks in the Request for Proposal (RFP) document and define these risks in the contract. Risk will be allocated with consideration given to the party who is in the best position to manage and control a given risk or the impact of a given risk.

(2) Risk allocation will vary according to the type of project and location, however, the following factors should be considered and will be used to the extent the commission considers them appropriate:

(A) Governmental risks, including the potential for delays, modifications, withdrawal, scope changes, or additions that result from multi-level federal, state, and local participation and sponsorship;

(B) Regulatory compliance risks, including environmental and third-party issues, such as permitting, railroad, and utility company risks;

(C) Construction phase risks, including differing site conditions, traffic control, interim drainage, public access, weather issues, and schedule which good engineering and contracting practice would take into account in determining site investigation plan and design, which reflect sub-surface or latent physical conditions which are known, discoverable or which a reasonable person would be on notice to investigate or expect or which are inherent in the type of work and geographic location of the work;

(D) Post-construction risks, including public liability and meeting stipulated performance standards; and

(E) Right-of-way risks including acquisition

costs, appraisals, relocation delays, condemnation proceedings, including court costs, and others.

(3) Information exchange with industry at an early project stage will occur if it will facilitate understanding of the capabilities of potential proposers and such exchange of information can be made consistent with state procurement integrity requirements. Information exchanges may take place with potential proposers, end users, acquisition and supporting personnel, and others involved in the conduct or outcome of the acquisition.

(4) The purpose of exchanging information is to improve the understanding of the commission requirements for the design-build project and industry capabilities, thereby allowing potential proposers to judge whether or how they can satisfy those requirements, and enhancing the commission's ability to obtain quality supplies and services, including construction, at reasonable prices, and increase efficiency in proposal preparation, proposal evaluation, negotiation, and contract award.

(5) An early exchange of information may identify and resolve concerns regarding the acquisition strategy, including proposed contract type, terms and conditions, and acquisition planning schedules. This also includes the feasibility of the requirement, including performance requirements, statements of work, and data requirements; the suitability of the proposal instructions and evaluation criteria, including the approach for assessing past performance information; the availability of reference documents; and any other industry concerns or questions. Some techniques that may be used to promote early exchanges of information are:

(A) Industry or small business conferences;

(B) Public hearings;

(C) Market research;

(D) One-on-one meetings with potential proposers (except that any meetings that are substantially involved with potential contract terms and conditions will include the Missouri Department of Transportation (MoDOT) project manager designated for the project and are subject to the restrictions on disclosure of information set out in section (7) of this rule);

(E) Pre-solicitation notices;

(F) Draft RFPs;

(G) Request for Information (RFI) ;

(H) Pre-solicitation or pre-proposal conferences; and

(I) Site visits.

(6) RFIs may be used when the commission does not intend to award a contract, but wants to obtain price, delivery, other market information, or capabilities for planning purposes. Responses to these notices are not offers and cannot be accepted to form a binding contract.

(7) When specific information about a proposed acquisition that would be necessary for the preparation of proposals is disclosed to one or more potential proposers, that information shall be made available to all potential proposers as soon as practicable, but no later than the next general release of information, in order to avoid creating an unfair competitive advantage. Information provided to a particular proposer in response to that proposer's request must not be disclosed if doing so would reveal the potential proposer's confidential business strategy. When a pre-solicitation or pre-proposal conference is conducted, materials distributed at the conference will be made available to all potential proposers, upon request.

AUTHORITY: sections 226.020, 226.030, and 227.107, RSMo 2016. Original rule filed Aug. 15, 2005, effective Feb. 28, 2006. Amended: Filed Dec. 5, 2017, effective July 30, 2018.*

**Original authority: 226.020, RSMo 1939; 226.030, RSMo 1939, amended 1965, 2003, 2004, 2009; and 227.107, RSMo 2002, 2007, 2009, 2011, 2016.*

7 CSR 10-24.080 Organizational Conflicts of Interest

PURPOSE: This rule describes the conflict of interest policy applicable to design-build projects.

PUBLISHER'S NOTE: The secretary of state has determined that the publication of the entire text of the material which is incorporated by reference as a portion of this rule would be unduly cumbersome or expensive. This material as incorporated by reference in this rule shall be maintained by the agency at its headquarters and shall be made available to the public for inspection and copying at no more than the actual cost of reproduction. This note applies only to the reference material. The entire text of the rule is printed here.

(1) State statutes, regulations, or policies concerning organizational conflict of interest will be specified or referenced in the design-build Request for Qualification (RFQ) or Request for Proposal (RFP) document as well as any contract for engineering services, inspection, or technical support in the administration of the design-build contract. All design-build solicitations will address the following situations as appropriate:

(A) Consultants and sub-consultants who assist the commission in the preparation of a RFP document will not be allowed to participate as a proposer or join a team submitting a proposal in response to the RFP. However, the commission may determine there is not an organizational conflict of interest for a consultant or sub-consultant where:

1. The role of the consultant or sub-consultant was limited to provision of preliminary design, reports, or similar "low-level" documents that will be incorporated into the RFP, and did not include assistance in development of instructions to proposers or evaluation criteria; or

2. Where all documents and reports delivered to the commission by the consultant or sub-consultant are made available to all offerors;

(B) All solicitations for design-build contracts, including related contracts for inspection, administration, or auditing services, must include an organizational conflicts of interest provision which:

1. Directs proposers attention to this section;

2. States the nature of the potential conflict as seen by the commission;

3. States the nature of the proposed restraint or restrictions, and duration, upon future contracting activities, if appropriate;

4. Depending on the nature of the acquisition, states whether or not the terms of any proposed clause and the application of this section to the contract are subject to negotiation; and

5. Specifies the information concerning potential organizational conflicts of interest apparent successful proposers shall include in their proposals. The information may be in the form of a disclosure statement or a certification; and

(C) Based upon a review of the information submitted, the commission will make a written determination of whether the proposer's interests create an actual or potential organizational conflict of interest and identify any actions that must be taken to avoid, neutralize, or mitigate such conflict. There should be an award of the contract to the apparent successful proposer unless an organizational conflict of interest is determined to exist that cannot be avoided, neutralized, or mitigated, in the judgment of the commission.

(2) State laws and procedures governing improper business practices and personal conflicts of interest will apply to the commission selection team members. In design-build projects funded with federal-aid highway funds, the requirements of Title 48, *Code of Federal*

Regulations (CFR) Part 3, Improper Business Practices and Personal Conflicts of Interest, will apply to selection team members. Title 48 CFR Chapter 3, Subchapter A, Part 303, Improper Business Practices and Personal Conflicts of Interest, is incorporated by reference into and made a part of this rule as published by the United States Superintendent of Documents, 732 N Capitol Street NW, Washington, D.C. 20402-0001, website: http://bookstore.gpo.gov on January 1, 2012. This rule does not incorporate any subsequent amendments or additions to the *Code of Federal Regulations* in 48 CFR Chapter 3, Subchapter A, Part 303.

AUTHORITY: sections 226.020, 226.030, and 227.107, RSMo 2016. Original rule filed Aug. 15, 2005, effective Feb. 28, 2006. Amended: Filed Dec. 5, 2017, effective July 30, 2018.*

**Original authority: 226.020, RSMo 1939; 226.030, RSMo 1939, amended 1965, 2003, 2004, 2009; and 227.107, RSMo 2002, 2007, 2009, 2011, 2016.*

7 CSR 10-24.100 Selection Procedures and Award Criteria

PURPOSE: This rule provides the criteria used to determine whether standard design-build or modified design-build procedures will be used.

(1) The commission will use a two- (2-) phase selection procedure for all design-build projects. If it is determined by the commission that the design-build procedure is not appropriate for a given project, based on the criteria in 7 CSR 10-24.130, the modified design-build contracting method may be utilized.

(2) The following criteria will be used to decide whether design-build or modified design-build selection procedures are appropriate:

(A) The number of offers anticipated;

(B) Proposers are expected to perform substantial design work before developing price proposals;

(C) Proposers will incur a substantial expense in preparing proposals; and

(D) Commission has sufficiently defined and analyzed other contributing factors, including:

1. The requirements of the project;

2. The time constraints for delivery of the project;

3. The capability and experience of potential contractors;

4. Commission capabilities to manage the standard design-build selection process; and

5. Any other criteria that the commission may consider appropriate.

(3) The commission will identify the selection procedure and award criteria in the Request for Qualification (RFQ). The following will determine the type of selection procedure and award criteria used by the commission:

Selection procedure	Award criteria options
Standard Design-Build Selection Procedures	Lowest price, adjusted low bid (price per quality point), meets criteria/low bid, weighted criteria process, fixed price/best design, best value.
Modified Design-Build	Lowest price technically acceptable.

(4) Commission will base the source selection decision on a comparative assessment of proposals against all selection criteria in the solicitation. Commission may use reports and analyses prepared by others, however, the source selection decision represents the commission's independent judgment.

(5) The source selection decision will be documented, and the documentation will include the rationale for any business judgments and tradeoffs made or relied on, including benefits associated with additional costs. Although the rationale for the selection decision is documented, that documentation need not quantify the tradeoffs that led to the decision.

(6) A minimum of two (2) to a maximum of five (5) firms will be short-listed. If the commission fails to receive offers from at least two (2) responsive proposers, the offers will not be opened; and the commission may re-advertise the project.

AUTHORITY: sections 226.020, 226.030, and 227.107, RSMo 2016. Original rule filed Aug. 15, 2005, effective Feb. 28, 2006. Amended: Filed Dec. 5, 2017, effective July 30, 2018.*

**Original authority: 226.020, RSMo 1939; 226.030, RSMo 1939, amended 1965, 2003, 2004, 2009; and 227.107, RSMo 2002, 2007, 2009, 2011, 2016.*

7 CSR 10-24.110 Solicitation Procedures for Competitive Proposals

PURPOSE: This rule provides the elements included in phase one and phase two solicitation procedures.

(1) The first phase consists of a short listing based on a Request for Qualification (RFQ).

(2) The second phase consists of the receipt and evaluation of price and technical proposals in response to a Request for Proposal (RFP).

(3) The commission may include the following items in any phase one solicitation:

(A) The scope of the work;

(B) The cost estimate of the design-build project;

(C) The project completion date; and

(D) A detailed disadvantaged business enterprise (DBE) participation plan including:

1. Information describing the experience of the proposer in meeting DBE participation goals;

2. How the proposer will meet the commission DBE participation goal; and

3. Such other qualifications that the commission considers to be in the best interest of the state as stated in the RFQ;

(E) The phase one evaluation factors and their relative weights, including:

1. Technical approach (but not detailed design or technical information);

2. Technical qualifications, such as:

A. Specialized experience and technical competence;

B. The capability of proposers to perform, including key personnel; and

C. Past performance of the members of the proposer's team, including the architect-engineer and construction members;

3. Other appropriate factors, excluding cost or price related factors which are not permitted in phase one; and

(F) Phase two evaluation factors; and

(G) A statement of the maximum number of proposers that will be short-listed to submit phase two proposals.

(4) The commission will include the requirements for separately submitted sealed technical proposals and price proposals in the phase two solicitation. All factors and significant subfactors that will affect contract award and their relative importance will be stated clearly in the solicitation. The commission will use its own procedures for the solicitation as long as it complies with the requirements of this section.

(5) The commission may allow proposers to submit alternate technical concepts in their proposals as long as these alternate concepts do not conflict with criteria agreed upon in the environmental decision making process. Alternate technical concept proposals may supplement, but not substitute for base proposals that respond to the RFP requirements.

AUTHORITY: sections 226.020, 226.030, and 227.107, RSMo 2016. Emergency rule filed Oct. 17, 2005, effective Oct. 27, 2005, expired April 25, 2006. Original rule filed Aug. 15, 2005, effective Feb. 28, 2006. Amended: Filed Dec. 5, 2017, effective July 30, 2018.*

**Original authority: 226.020, RSMo 1939; 226.030, RSMo 1939, amended 1965, 2003, 2004, 2009; and 227.107, RSMo 2002, 2007, 2009, 2011, 2016.*

7 CSR 10-24.120 Past Performance

PURPOSE: This rule provides for the use of past performance information in evaluating contractor during either phase one or phase two solicitations.

(1) If the commission elects to use past performance criteria as an indicator of a proposer's ability to perform the contract successfully, the information may be used as evaluation criteria in either phase one or phase two solicitations. The currency and relevance of the information, source of the information, context of the data, and general trends in contractor's performance may be considered.

(2) For evaluating proposers with no relevant performance history, the commission will provide proposers an opportunity to identify past or current contracts, including federal, state, and local government and private, for efforts similar to the current solicitation.

(3) If the commission elects to request past performance information, the solicitation will also authorize proposers to provide information on problems encountered on the identified contracts and the proposer's corrective actions. The commission may consider this information, as well as information obtained from any other sources, when evaluating the proposer's past performance.

(4) The commission may, at its discretion, determine the relevance of similar past performance information.

(5) The evaluation will take into account past performance information regarding predecessor companies, key personnel who have relevant experience, or subcontractors that will perform major or critical aspects of the requirement when such information is relevant to the current acquisition.

(6) The commission may use any existing prequalification procedures for either construction or engineering design firms as a supplement to the procedures in this section.

AUTHORITY: sections 226.020, 226.030, and 227.107, RSMo 2016. Emergency rule filed Oct. 17, 2005, effective Oct. 27, 2005, expired April 25, 2006. Original rule filed Aug. 15, 2005, effective Feb. 28, 2006. Amended: Filed Dec. 5, 2017, effective July 30, 2018.*

**Original authority: 226.020, RSMo 1939; 226.030, RSMo 1939, amended 1965, 2003, 2004, 2009; and 227.107, RSMo 2002, 2007, 2009, 2011, 2016.*

7 CSR 10-24.130 Modified Design-Build Procedures

PURPOSE: This rule describes the modified design-build selection procedures.

(1) Modified design-build selection procedures, the lowest price technically acceptable source selection process, may be used for any project.

(2) The Request for Proposal (RFP) will clearly state the following:

(A) The identification of evaluation factors and significant subfactors that establish the requirements of acceptability; and

(B) That award will be made on the basis of the lowest evaluated price of proposals meeting or exceeding the acceptability standards for noncost factors.

(3) Tradeoffs will not be permitted, unless the tradeoff is in accordance with 7 CSR 10-24.110. However, the commission may incorporate cost-plus-time (A+B) bidding procedures, lane rental, or other cost-based provisions in such contracts.

(4) Proposals will be evaluated for acceptability but not ranked using the noncost/price factors.

(5) Exchanges may occur in accordance with 7 CSR 10-24.300 through 7 CSR 10-24.330.

AUTHORITY: sections 226.020, RSMo 2000 and 226.030 and 227.107, RSMo Supp. 2004. Original rule filed Aug. 15, 2005, effective Feb. 28, 2006.*

**Original authority: 226.020, RSMo 1939; 226.030, RSMo 1939, amended 1965, 2003, 2004; and 227.107, RSMo 2002.*

7 CSR 10-24.140 Tradeoffs in Design-Build Contracting

PURPOSE: This rule describes when and how tradeoffs should be used in awarding a design-build contract and documentation of the tradeoff decisions.

(1) At its discretion, the commission may consider the tradeoff technique when it is desirable to award to other than the lowest priced proposer or other than the highest technically rated proposer.

(2) If the commission uses a tradeoff technique, the following is to be clearly stated in the solicitation:

(A) All evaluation factors and significant subfactors that affect contract award and the factor's relative importance; and

(B) Whether all evaluation factors other than cost or price, when combined, are—

1. Significantly more important than cost or price; or

2. Approximately equal in importance to cost or price; or

3. Significantly less important than cost or price.

(3) When tradeoffs are performed, the source selection records must include the following:

(A) An assessment of each proposer's ability to accomplish the technical requirements; and

(B) A summary, matrix, or quantitative ranking, along with appropriate supporting narrative, of each technical proposal using the evaluation factors.

AUTHORITY: sections 226.020, 226.030, and 227.107, RSMo 2016. Original rule filed Aug. 15, 2005, effective Feb. 28, 2006. Amended: Filed Dec. 5, 2017, effective July 30, 2018.*

**Original authority: 226.020, RSMo 1939; 226.030, RSMo 1939, amended 1965, 2003, 2004, 2009; and 227.107, RSMo 2002, 2007, 2009, 2011, 2016.*

7 CSR 10-24.150 Use of a Competitive Range to Limit Competition

PURPOSE: This rule provides for establishing a competitive range to limit competition.

(1) The solicitation may notify proposers that a competitive range can be used for purposes of efficiency. The commission may limit the number of proposals to a number that will permit efficient competition. The commission will provide written notice of elimination to any proposer whose proposal is not within the competitive range. Proposers eliminated from the competitive range may request a debriefing according to procedure approved by the commission. The commission may

provide for pre-award or post-award debriefings.

AUTHORITY: sections 226.020, RSMo 2000 and 226.030 and 227.107, RSMo Supp. 2004. Original rule filed Aug. 15, 2005, effective Feb. 28, 2006.*

**Original authority: 226.020, RSMo 1939; 226.030, RSMo 1939, amended 1965, 2003, 2004; and 227.107, RSMo 2002.*

7 CSR 10-24.200 Proposal Evaluation Factors

PURPOSE: This rule describes the selection of the proposal evaluation factors and the limitations on the selection and the possible inclusion of prequalification standards.

(1) The commission will select proposal evaluation factors and significant subfactors for each design-build and modified design-build project, which will be clearly stated in the solicitation.

(A) The proposal evaluation factors and significant subfactors will be tailored to the acquisition.

(B) Evaluation factors and significant subfactors will—

1. Represent the key areas of importance and emphasis to be considered in the source selection decision; and

2. Support meaningful comparison and discrimination between and among competing proposals.

(2) Limitations on the Selection and Use of Proposal Evaluation Factors Are as Follows:

(A) The selection of the evaluation factors, significant subfactors and their relative importance are within the commission's broad discretion subject to the following:

1. The commission will evaluate price in every source selection where construction is a significant component of the scope of work;

2. The commission will evaluate the quality of the product or service through consideration of one (1) or more nonprice evaluation factors. These factors may include (but are not limited to) such criteria as:

A. Compliance with solicitation requirements;

B. Completion schedule (contractual incentives and disincentives for early completion may be used where appropriate); or

C. Technical solutions;

3. The commission may evaluate past performance, technical experience and management experience;

4. The commission may include prequalification standards when the scope of the work involves very specialized technical expertise or specialized financial qualifications;

(B) Disadvantaged Business Enterprise (DBE) commitments exceeding the commission's stated goal will not be used as a proposal evaluation factor in determining the successful proposer.

AUTHORITY: sections 226.020, 226.030, and 227.107, RSMo 2016. Original rule filed Aug. 15, 2005, effective Feb. 28, 2006. Amended: Filed Dec. 5, 2017, effective July 30, 2018.*

**Original authority: 226.020, RSMo 1939; 226.030, RSMo 1939, amended 1965, 2003, 2004, 2009; and 227.107, RSMo 2002, 2007, 2009, 2011, 2016.*

7 CSR 10-24.210 Process to Review, Rate, and Score Proposals

PURPOSE: This rule describes the process used to rate and score proposals.

(1) Technical and price proposals will normally be reviewed independently by separate evaluation teams. However, there may be occasions where the same evaluators needed to review the technical proposals are also needed in the review of the price proposals. This may occur where a limited amount of technical expertise is available to review proposals. Price information may be provided to such evaluators in accordance with this chapter and the provisions of the Request for Proposal (RFP).

(2) Proposal evaluation is an assessment of the proposer's proposal and ability to perform the prospective contract successfully. The commission will evaluate proposals solely on the factors and subfactors specified in the solicitation.

(3) Any rating method or combination of methods, including, but not limited to, color or adjectival ratings, numerical weights, and ordinal rankings, may be used when proposal evaluations are conducted to determine the relative strengths, deficiencies, weaknesses, and risks of the proposal.

AUTHORITY: sections 226.020, 226.030, and 227.107, RSMo 2016. Original rule filed Aug. 15, 2005, effective Feb. 28, 2006. Amended: Filed Dec. 5, 2017, effective July 30, 2018.*

**Original authority: 226.020, RSMo 1939; 226.030, RSMo 1939, amended 1965, 2003, 2004, 2009; and 227.107, RSMo 2002, 2007, 2009, 2011, 2016.*

7 CSR 10-24.300 Information Exchange, General

PURPOSE: This rule describes the types of information exchange that may take place either prior to or after the release of the Request for Proposal.

PUBLISHER'S NOTE: The secretary of state has determined that the publication of the entire text of the material which is incorporated by reference as a portion of this rule would be unduly cumbersome or expensive. This material as incorporated by reference in this rule shall be maintained by the agency at its headquarters and shall be made available to the public for inspection and copying at no more than the actual cost of reproduction. This note applies only to the reference material. The entire text of the rule is printed here.

(1) Verbal or written information exchanges, prior to the release of the Request for Proposal (RFP) document, must be consistent with state and/or local procurement integrity requirements, as well as those provided in Title 23, *Code of Federal Regulations* (CFR) 636.115 and 7 CSR 10-24.070. Title 23 CFR section 636.115 is incorporated by reference into and made a part of this rule as published by the United States Superintendent of Documents, 732 N Capitol Street NW, Washington, D.C. 20402-0001, website: http://bookstore.gpo.gov on January 1, 2012. This rule does not incorporate any subsequent amendments or additions to the *Code of Federal Regulations* in 23 CFR 636.115.

(2) Information exchange may be used at different points after the release of the RFP document. The following table summarizes the types of communications that will be discussed in 7 CSR 10-24.310 through 7 CSR 10-24.330. These communication methods are optional.

Type of Information Exchange	When	Purpose	Parties Involved
(1) Clarifications	After receipt of proposal.	Used when award without discussions is contemplated. Used to clarify certain aspects of a proposal (resolve minor errors, obtain additional past performance information, etc.).	Any offeror whose proposal is not clear to the commission.
(2) Communications	After receipt of proposals, prior to the establishment of the competitive range.	Used to address issues which might prevent a proposal from being placed in the competitive range.	Only those proposers whose exclusion from, or inclusion in, the competitive range is uncertain. All proposers whose past performance information is the determining factor preventing them from being placed in the competitive range.
(3) Discussions	After receipt of proposals and after determination of the competitive range.	Enhance commission understanding of proposals and proposers understanding of scope of work. Facilitate the evaluation process.	Will be held with all proposers in the competitive range.

(3) Commission will not engage in information exchanges that—

(A) Favor one proposer over another;

(B) Reveal a proposer's technical solution, including unique technology, innovative and unique uses of commercial items, or any information that would compromise a proposer's intellectual property to another proposer;

(C) Reveal a proposer's price without that proposer's permission;

(D) Reveal the names of individuals providing reference information about a proposer's past performance; or

(E) Knowingly furnish source selection information that could be in violation of Missouri procurement integrity standards applicable to the commission.

AUTHORITY: sections 226.020, 226.030, and 227.107, RSMo 2016. Original rule filed Aug. 15, 2005, effective Feb. 28, 2006. Amended: Filed Dec. 5, 2017, effective July 30, 2018.*

**Original authority: 226.020, RSMo 1939; 226.030, RSMo 1939, amended 1965, 2003, 2004, 2009; and 227.107, RSMo 2002, 2007, 2009, 2011, 2016.*

7 CSR 10-24.310 Clarifications

PURPOSE: This rule describes the "clarification" type of information exchange.

(1) The commission may clarify any aspect of proposals that would enhance the commission's understanding of a proposer's proposal. Clarification exchanges are discretionary. They do not have to be held with any specific number of proposers and do not have to address specific issues.

(2) Clarification may include information such as a proposer's past performance to which the proposer has not previously had an opportunity to respond.

(3) The commission may clarify and revise the Request for Proposal (RFP) document through an addenda process in response to questions from potential proposers.

AUTHORITY: sections 226.020, RSMo 2000 and 226.030 and 227.107, RSMo Supp. 2004. Original rule filed Aug. 15, 2005, effective Feb. 28, 2006.*

**Original authority: 226.020, RSMo 1939; 226.030, RSMo 1939, amended 1965, 2003, 2004; and 227.107, RSMo 2002.*

7 CSR 10-24.320 Communications

PURPOSE: This rule describes the "communications" type of information exchange.

(1) Communications may be considered in rating proposals for the purpose of inclusion in the competitive range. Prior to determining inclusion in the competitive range, the commission may conduct communications to:

(A) Enhance the commission's understanding of proposals;

(B) Allow reasonable interpretation of the proposal; or

(C) Facilitate the commission's evaluation process.

(2) Prior to establishing the competitive range, the commission will hold communications with proposers:

(A) Whose past performance information is the determining factor preventing them from being placed within the competitive range and address adverse past performance information to which a proposer has not had a prior opportunity to respond; and

(B) Whose exclusion from, or inclusion in, the competitive range is uncertain.

(3) Communications will not be used to:

(A) Cure proposal deficiencies or material omissions;

(B) Materially alter the technical or cost elements of the proposal; or

(C) Otherwise revise the proposal.

(4) Communications may be used to address the following:

(A) Ambiguities in the proposal or other concerns such as perceived deficiencies, weaknesses, errors, omissions, or mistakes; and

(B) Information relating to relevant past performance.

AUTHORITY: sections 226.020, RSMo 2000 and 226.030 and 227.107, RSMo Supp. 2004. Original rule filed Aug. 15, 2005, effective Feb. 28, 2006.*

**Original authority: 226.020, RSMo 1939; 226.030, RSMo 1939, amended 1965, 2003, 2004; and 227.107, RSMo 2002.*

7 CSR 10-24.330 Discussions

PURPOSE: This rule describes the "discussions" type of information exchange.

(1) After receipt of proposals and determination of the competitive range, the commission may use discussions to maximize its ability to obtain the best value, based on the requirements and the evaluation factors set forth in the solicitation.

(2) If discussions are held, they will be conducted with all proposers in the competitive range. If the commission wishes to hold discussions and did not formally establish a competitive range, then the commission will hold discussions with all responsive proposers.

(3) Discussions should be tailored to each proposer's proposal. Discussions will cover significant weaknesses, deficiencies, and other aspects of a proposal (such as cost or price, technical approach, past performance, and terms and conditions) that could be altered or explained to enhance materially the proposal's potential for award. The commission's discretionary judgment will set limits for the scope and extent of discussions.

(4) In situations where the solicitation stated that evaluation credit would be given for technical solutions exceeding any mandatory minimums, the commission may hold discussions regarding increased performance beyond any mandatory minimums, and the commission may suggest to proposers that have exceeded any mandatory minimums (in ways that are not integral to the design), that their proposals would be more competitive if the excesses were removed and the offered price decreased.

(5) In a competitive acquisition, the commission may employ discussions that may include bargaining. The term bargaining may include: persuasion, alteration of assumptions and positions, give-and-take, and may apply to price, schedule, technical requirements, type of contract, or other terms of a proposed contract.

(6) In competitive acquisitions, the solicitation will notify proposers of the commission's intent to use or not use discussions. The solicitation will either—

(A) Notify proposers that discussions may be held depending on the quality of the proposals received (except clarifications may be used as described in 7 CSR 10-24.300). Therefore, the proposer's initial proposal should contain the proposer's best terms from a cost or price and technical standpoint; or

(B) Notify proposers of commission's intent to establish a competitive range and hold discussions.

(7) The commission may elect to hold discussions when circumstances dictate. The rationale for doing so will be documented in the

contract file. Such circumstances may include situations where all proposals received have deficiencies, when fair and reasonable prices are not offered, or when the cost or price offered is not affordable.

(8) The commission may inform a proposer during discussion that its price is considered to be too high, or too low, and reveal the results of the analysis supporting that conclusion. At the commission's discretion, the commission may notify all proposers the estimated cost for the project determined at a point subsequent to the cost estimate published as part of the public notice of Request for Qualifications.

(9) Final Proposal Revisions as a Result of Discussions.

(A) The commission may request or allow final proposal revisions to clarify and document understandings reached during discussions. At the conclusion of discussions, each proposer may submit a final proposal revision in writing.

(B) The commission will establish a common cut-off date only for receipt of final proposal revisions.

(10) The commission may further narrow the competitive range if a proposer originally in the competitive range is no longer considered to be among the most highly rated proposers being considered for award. That proposer may be eliminated from the competitive range whether or not all material aspects of the proposal have been discussed, or whether or not the proposer has been afforded an opportunity to submit a proposal revision. The commission will provide a proposer excluded from the competitive range with a written determination and notice that proposal revisions will not be considered.

(11) The commission may determine a need to hold more than one (1) round of discussions with proposers, but only at the conclusion of discussions will the proposers be requested to submit a final proposal revision, also called best and final offer (BAFO). Thus, regardless of the length or number of discussions, there will be only one (1) request for a final revised proposal (i.e., only one (1) BAFO) with the intent to make award without obtaining further revisions.

AUTHORITY: sections 226.020, 226.030, and 227.107, RSMo 2016. Original rule filed Aug. 15, 2005, effective Feb. 28, 2006. Amended: Filed Dec. 5, 2017, effective July 30, 2018.*

**Original authority: 226.020, RSMo 1939; 226.030, RSMo 1939, amended 1965, 2003, 2004, 2009; and 227.107, RSMo 2002, 2007, 2009, 2011, 2016.*

7 CSR 10-24.413 Negotiations Allowed After Source Selection Prior to Contract Execution

PURPOSE: This rule describes when limited negotiations are allowed.

(1) After the source selection but prior to contract execution, commission may conduct limited negotiations with the selected design-builder to clarify any remaining issues regarding scope, schedule, financing or any other information provided by that offeror. These limited negotiations will be subject to the provisions of 7 CSR 10-24.300 in the exchange of this information.

AUTHORITY: sections 226.020, RSMo 2000 and 226.030 and 227.107, RSMo Supp. 2004. Original rule filed Aug. 15, 2005, effective Feb. 28, 2006.*

**Original authority: 226.020, RSMo 1939; 226.030, RSMo 1939, amended 1965, 2003, 2004; and 227.107, RSMo 2002.*