

Attachment A – Special Terms and Conditions
RFx #3000020880 – *Re-bid*Trimble Brand Name

1. SCOPE

STATEWIDE CONTRACT FOR TRIMBLE BRAND NAME GPS/SURVEY EQUIPMENT.

All items to be furnished must be the manufacturer's current state-of-the-art and must be certified to be in current new production. All items delivered under the contract must be new. Refurbished items are not acceptable for new purchases.

All items furnished, including hardware components within any system configuration, must be the brand specified.

This is an open-ended requirements contract. Bidders are to quote a discount percent off the Manufacturer's Catalog Price List. This discount(s) shall be stated on the appropriate line(s) as provided for on the price sheet herein.

2. DELIVERY OF BIDS/BID OPENING

Bidders are hereby advised that the Office of State Procurement (OSP) must receive bids at its physical location by the date and time specified in the Calendar of Events section of this bid and page one (1) of the Invitation to Bid.

Bids may be mailed or delivered by hand or courier service to the Office of State Procurement physical location at:

Office of State Procurement
Claiborne Building
1201 N. Third St. Suite 2-160
Baton Rouge, LA 70802

OR Bids may be submitted online by accessing the link on page one (1) of the Invitation to Bid.

Bidders should be aware of security requirements for the Claiborne Building and allow time to be photographed and presented with a temporary identification badge.

Bidder is solely responsible for ensuring that its courier service provider makes inside deliveries to the Office of State Procurement's physical location. The Office of State Procurement is not responsible for any delays caused by the bidder's chosen means of bid delivery.

Bidder is solely responsible for the timely delivery of its bid. Failure to meet the bid opening date & time shall result in rejection of the bid.

NOTE: Bidders who choose to respond to this bid online via the vendor portal are encouraged to not submit a written bid as well.

Bidders are hereby advised that due to the nature of the Internet, the State of Louisiana cannot guarantee that access to the LaGov or LaPac websites will be uninterrupted or that e-mails or other electronic transmissions will be sent to you or received by us. The Office of State Procurement is not responsible for any delays caused by the bidder's choice to submit their bid online. Bidder is solely responsible for the timely delivery of its bid. Failure to meet the bid opening date and time shall result in rejection of the bid.

****Attention****

Receipt of a solicitation or award cannot be relied upon as an assurance of receiving future solicitations. In order to receive notification of future solicitations from this office, you must register and enroll in the proper category in LaGov at the following website:

https://lagoverpvendor.doa.louisiana.gov/irj/portal/anonymous?quest_user=self_reg

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Enrollment in LaGov provides LaPAC email notification of bid opportunities based upon commodities that you select.

ALL BIDS BECOME A MATTER OF PUBLIC RECORDS AT THAT TIME. BY SUBMITTING A BID, BIDDER SPECIFICALLY ASSUMES ANY AND ALL RISKS AND LIABILITY ASSOCIATED WITH INFORMATION MARKED CONFIDENTIAL IN THE BID AND THE RELEASE OF THE INFORMATION.

3. BIDDER INQUIRIES

The State shall not and cannot permit an open-ended inquiry period, as this creates an unwarranted delay in the procurement cycle and operations of our agency customers. The State reasonably expects and requires responsible and interested bidders to conduct their in-depth bid review and submit inquiries in a timely manner.

An inquiry period is hereby firmly set for all interested bidders to perform a detailed review of the ITB documents and to submit any written inquires relative thereto. Without exception, all inquiries must be submitted in writing by an authorized representative of the bidder, clearly cross-referenced to the relevant ITB section. All inquiries must be on the Inquiry Deadline date set forth in Section 3-Calendar of Events of this Invitation to Bid (ITB). Only those inquiries received by the established deadline shall be considered by the State. Inquiries received after the established deadline shall not be entertained.

Inquiries concerning this ITB shall be delivered to the State's contact person for this ITB, Paris King, by mail, express courier, e-mail, hand, or fax to:

Office of State Procurement
Attention: Paris King
1201 North Third Street
Claiborne Building, Suite 2-160
Baton Rouge, LA 70802

E-mail: Paris.King2@la.gov
Phone: (225) 342-8019
Fax: (225) 342-9756

Only the person identified above or their designee has the authority to officially respond to bidder's questions on behalf of the State. Any communications from any other individuals are not binding to the State.

An addendum will be issued and posted at the Office of State Procurement LaPAC* website, to address all inquiries received and any changes or clarifications to the ITB. Thereafter, all ITB documents, including but not limited to the specifications, terms, conditions, plans, etc., will stand as written and/or amended by any addendum. No negotiations, decisions, or actions shall be executed by any bidder as a result of any oral discussions with any State employee, or State consultant. It is the bidder's responsibility to check the LaPAC website frequently for any possible addenda that may be issued. The Office of State Procurement is not responsible for a bidder's failure to download any addenda documents required to complete an ITB.

*Note: LaPAC is the State's online electronic bid posting and notification system resident on the Office of State Procurement website: <https://www.doa.la.gov/oa/osp/>. In that LaPAC provides an immediate e-mail notification to subscribing bidders that a solicitation and any subsequent addenda have been let and posted, notice and receipt thereof is considered formally given as of their respective dates of posting.

To receive the e-mail notification, Vendors must register in the LaGov portal. Registration is intuitive at the following link: https://lagoverpvendor.doa.louisiana.gov/irj/portal/anonymous?guest_user=self_reg.

Help scripts are available on the Office of State Procurement website under Vendor Resources at: <https://www.doa.la.gov/oa/osp/vendor-resources/>.

4. DEFINITIONS

- a) Contracted Manufacturer – 1) The original manufacturer awarded the contract to directly provide the products and services solicited in this document; or 2) the holder of a re-labeling agreement authorized by the original manufacturer to provide sales and support of the products, directly or through certified sub-contractors.
- b) Distribution/Channel Partner – 1) A third party distributor or channel partner named in the contract held by the original manufacturer as authorized to provide the sales and support of the products solicited in this document; or 2) A third party holding the contract and authorized by the original manufacturer to provide sales and support of the products solicited in this document, directly or through certified sub-contractors.
- c) Manufacturer Maintenance – Manufacturer offered and supported software maintenance plans to include access to the manufacturer's technical assistance center.
- d) OEM Products – Products included on the bidder's price list made available through OEM agreements.

5. BIDDER RESPONSIBILITIES

For the purposes of this type of contract, the bidder may be and should identify itself as one of the following:

- 1) The original manufacturer providing direct sales support of the products/services in full compliance with all terms and conditions of the contract.
- 2) The original manufacturer choosing to designate authorized distribution/channel partners certified to provide direct sales and support the products in full compliance with all terms and conditions of the contract.
- 3) A third party authorized by the original manufacturer to provide sales and support of the products, directly or through certified sub-contractors in full compliance with all terms and conditions of the contract.
- 4) Holders of re-labeling agreements authorized by the original manufacturer to provide sales and support of the products, directly or through certified sub-contractors in full compliance with all terms and conditions of the contract. Products must be legally labeled as the brand name specified in the contract. This would require that there be a legal agreement between the original equipment manufacturer and the private label distributor on file with the Office of State Procurement, allowing the private label distributor to label and market the product as the brand specified.

On the Bidder Identification Page, page 22 of this Attachment A, the bidder should identify which of the above categories is applicable.

The bidder must quote discount percentages on Bidder's Response Page – Pricing, Page 20 of this ITB. Discounted pricing should be furnished for individual items listed. (See Award/Evaluation Criteria.)

Should the manufacturer require license agreements associated with any software offered as a result of this ITB, master agreements shall be negotiated with the State of Louisiana prior to any order being placed for the particular product or service, in compliance with La. R.S. 39:198 et.seq.

The bidder should submit with bid a copy of the most recent manufacturer's published price list/catalog and the GSA price list if available. In the event that the published price list/catalog does not exist, a signed and notarized typed listing of retail prices of all items offered in the bid response should be submitted. Such price lists/catalogs shall be for informational purposes only. Terms and conditions contained therein are not applicable to this bid.

The price list should be submitted per the categories bid.

Bidders bidding as a holder of re-labeling agreements must identify all items that will be re-labeled and submit a copy of the original manufacturer's published price list/catalog.

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The bidder should submit with bid a copy of the current warranty offered by the manufacturer for the equipment bid (see warranty requirements).

If not the original manufacturer, the bidder should submit with bid documentation from the manufacturer certifying that the bidding company is authorized to sell and support the products bid. If the bidder is not authorized to service the products, the bidder shall list the name(s), address and phone number of the manufacturer authorized/certified third party that will be utilized for service in full compliance with the terms and conditions of the contract and provide documentation of the agreement with said third party.

The bidder shall quote an hourly rate schedule for the two (2) types of support requested: 1) Equipment Installation; and 2) Initial Software Configuration. Both types of support shall only be made available by the bidder and purchased by the using agency in direct support of, and in conjunction with, a purchase order for the purchase of hardware and software.

It is the bidder's responsibility to assure that all items meet the following criteria. Items delivered to an agency not in accordance with these criteria will be subject to return at the Contractor's expense and possibly other legal action.

Any survey device of significant cost must be legally labeled as the brand name specified in the contract. In certain cases, this would require that there be a legal agreement between the original equipment manufacturer and the private label distributor on file with the Office of State Procurement, allowing the private label distributor to label and market the product as the brand specified.*

- Example: On a contract for "ABC" Brand Name GPS/Survey Equipment, a system could not include a radio labeled "XYZ" or a tripod labeled "DEF". An agreement would have to exist which would allow ABC Company to market these products and label them as "ABC" Brand.

***In the case where items require being legally labeled as the brand name specified in the contract, those items cannot exceed the original equipment manufacturer's published price list less the discount bid.**

Bidders bidding items that are legally labeled as the brand specified in the contract, should identify those items with the original manufacturer's name on the price list that is submitted.

All documentation requested in the Invitation to Bid should be submitted with the bid response. Any documentation, verification or clarification requested during the evaluation must be provided by the date required in the request for additional information. Failure to provide the requested information in the time allowed may result in the rejection of the bid response.

6. NUMBER OF COPIES OF BID

One (1) additional copy of the bid is desired, unless bid is submitted online.

7. BID VALIDITY

All bids shall be considered valid for acceptance until final contract award, unless the bidder provides for a different time period within its bid response. However, the State reserves the right to reject a bid if the bidder's response is unacceptable and the bidder is unwilling to extend the validity of its bid.

8. NON-EXCLUSIVITY CONTRACT

The contract is non-exclusive and shall not in any way preclude the State from entering into similar contracts and/or arrangements with other vendors or from acquiring similar, equal or like goods and/or services from other entities or sources.

9. CHANGES, ADDENDA, WITHDRAWALS OF BID RESPONSE

If the bidder needs to submit changes or addenda, such shall be submitted in writing, signed in original ink by an official representative of the bidder, cross-referenced clearly to the relevant bid section, in a sealed envelope, prior to the bid opening. Such shall meet all requirements for the bid. If the bidder chooses to withdraw his bid response, the withdrawal notice shall be in writing and received prior to bid opening.

10. COOPERATIVE PURCHASE

It is the intent of the Office of State Procurement (OSP) to accommodate cooperative purchasing in any contract awarded from this solicitation.

As described below, Political Subdivisions of the State, Quasi State Agencies, External Procurement Units, and Agencies of the United States Government are to be authorized (potential) users of the contract(s) resulting from this solicitation, subject to the pricing and terms set forth in the contract(s).

- Political Subdivisions of the State include, but are not limited to, parish governments, municipal governments, school districts, human service districts, local governments and public utilities.
- Quasi State Agencies include, but are not limited to, non-profit or for-profit organizations created by the State of Louisiana or any political subdivision or agency thereof, or any special district or authority, or unit of local government, to perform a public purpose.
- External Procurement Units include, but are not limited to, buying organizations not located in the State of Louisiana, which, if located in the State, would qualify as a public procurement unit.

The current list of approved cooperating purchasing entities (including political subdivisions, quasi state agencies and external procurement units) is maintained and regularly updated on the OSP website at: <https://www.doa.la.gov/doa/osp/agency-resources/osp-purchasing> and may be used as a reference.

Bidders or Contractors may prospectively choose to partially or entirely ‘opt-out’ of accommodating cooperative purchasing for such contract(s) by sending formal written notification of same to the Office of State Procurement. This notification should clearly specify which individual type(s) of cooperative purchasing entities the bidder/contractor is choosing to not allow to participate in contract cooperative purchasing. Any purchase orders received by the contract-holder from cooperative purchasing entities prior to the contract-holder’s opt-out notification to OSP must be honored in accordance with the contract.

The extent of participation (or non-participation) by any vendor in cooperative purchasing will not affect the award of any contract(s) resulting from this solicitation.

11. LOUISIANA PREFERENCE

Notwithstanding any other provision of La. R.S. 39:1604 to the contrary, the following preferences shall apply only to bidders whose Louisiana business workforce is comprised of a minimum of fifty percent (50%) Louisiana residents.

Do you have a Louisiana Business workforce? _____ yes _____ no

If so, do you certify that at least fifty percent (50%) of your Louisiana business workforce is comprised of Louisiana residents? _____ yes _____ no

- A. In accordance with the provisions of La. R.S. 39:1604, each procurement officer, purchasing agent, or similar official who procures or purchases agricultural or forestry products, including meat, seafood, produce, eggs, paper or paper products under the provisions of Chapter 17 of Title 39 of the Louisiana Revised Statutes shall procure or purchase Louisiana products provided all of the following conditions are met:

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- (1) The bidder certifies in the bid submitted that the product meets the criteria of a Louisiana product.
- (2) The product is equal to or better than equal in quality to other products.
- (3) The cost of the Louisiana product shall not exceed the cost of other products by more than ten percent (10%), except as otherwise provided in this Chapter as a specific exception.

Do you claim this preference? _____ yes _____ no

Specify line number(s): _____

- B. In accordance with the provisions of La. R.S. 39:1604, each procurement officer, purchasing agent, or similar official who procures or purchases products under the provisions of Chapter 17 of Title 39 of the Louisiana Revised Statutes shall procure or purchase meat and meat products, domesticated or wild catfish, produce, eggs or crawfish which are further processed in Louisiana, provided the cost of the further processed meat and meat products, domesticated or wild catfish, produce, eggs or crawfish do not exceed the cost of other products by more than seven percent (7%).

Do you claim this preference? _____ yes _____ no

Specify line number(s): _____

Specify location within Louisiana where product is further processed:

(NOTE: If more space is required, include on a separate sheet.)

- C. In accordance with the provisions of La. R.S. 39:1604, each procurement officer, purchasing agent, or similar official who procures or purchases materials, supplies, products, provisions, or equipment under the provisions of Chapter 17 of Title 39 of the Louisiana Revised Statutes may purchase such materials, supplies, products, provisions, or equipment which are produced, manufactured, or assembled in Louisiana, as defined in La. R.S. 38:2251(A), and which are equal in quality to other materials, supplies, products, provisions, or equipment, provided that all of the following conditions are met:

- (1) The cost of such items does not exceed the cost of other items which are manufactured, processed, produced, or assembled outside the State by more than ten percent (10%).
- (2) The vendor of such Louisiana items agrees to sell the items at the same price as the lowest bid offered on such items.
- (3) In cases where more than one (1) bidder offers Louisiana items which are within ten percent (10%) of the lowest bid, the bidder offering the lowest bid on Louisiana items is entitled to accept the price of the lowest bid made on such items.

Do you claim this preference? _____ yes _____ no

Specify line number(s): _____

Specify location within Louisiana where product is produced, manufactured, or assembled:

(NOTE: If more space is required, include on a separate sheet.)

Failure to specify above information may cause elimination from preferences.

12. PROCUREMENT OF UNITED STATES PRODUCTS

In accordance with the provisions of R.S. 39:1604.7, in the event a contract is not entered into for products

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purchased under the provisions of R.S. 39:1595, each procurement officer, purchasing agent, or similar official who procures or purchases materials, supplies, products, provisions, or equipment under the provisions of this chapter may purchase such materials, supplies, products, provisions, or equipment which are manufactured in the United States, and which are equal in quality to other materials, supplies, products, provisions, or equipment, provided that all of the following conditions are met:

- (1) The cost of such items does not exceed the cost of other items which are manufactured outside the United States by more than five percent.
- (2) The vendor of such items agrees to sell the items at the same price as the lowest bid offered on such items.
- (3) In cases where more than one bidder offers items manufactured in the United States which are within five percent of the lowest bid, the bidder offering the lowest bid on such items is entitled to accept the price of the lowest bid made on such items.
- (4) The vendor certifies that such items are manufactured in the United States.

For the purposes of this preference,

- (1) "Manufactured in the United States" means produced by a process in which the manufacturing, final assembly, processing, packaging, testing, and any other process that adds value, quality, or reliability to assembled articles, materials, or supplies, occur in the United States.
- (2) "United States" means the United States and any place subject to the jurisdiction of the United States.

Do you claim this preference? _____ YES

Specify line number(s): _____

Specify location within the United States where this product is manufactured: _____

13. F.O.B.

Destination: All prices and terms shall be net.

14. USAGE:

Based on previous usage, the value of the contract is estimated to be approximately \$ 179,769.08.

15. DELIVERY

Deliver to any agency of the State government eligible by State statute and/or authorized to purchase from the contract. Delivery is to be made upon the issuance of a purchase order.

Contractors will have access to an adequate supply of all items in order to meet deliveries of not more than ninety (90) business days.

16. RISK OF LOSS/PASSAGE OF TITLE

Title to the equipment purchased under the Contract shall pass from Contractor to State on the date of installation for Contractor-installed equipment or on the date of delivery for State-installed equipment. Prior to the passage of title all risk of loss or damage shall be on the Contractor.

17. TERMS AND CONDITIONS

This solicitation contains all terms and conditions with respect to the commodities herein. Any vendor contracts, forms or other materials submitted with bid may cause bid to be rejected.

The purchase order is the only binding document to be issued against the contract. Signing of Vendor's pre- printed forms is not allowed.

18. ORDERS

All State Agencies are directed to issue contract purchase orders for a supply of the items required, as and when needed. Political Subdivisions of the State and Quasi Agencies who have been authorized to purchase from contracts made by the Office of State Procurement, are directed to issue their regular purchase orders directly to the supplier, making reference to the contract and line item numbers.

19. QUANTITIES:

This is an open-ended requirements contract. Quantities shown are based on the previous contract usage or estimates. Where usage is not available, a quantity of one (1) indicates a lack of history on the item. The successful bidder must supply at bid prices actual requirements as ordered whether the total of such requirements is more or less than the quantities shown.

20. INCREASE/DECREASE:

The quantities listed herein are estimated to be the amount needed. In the event a greater or lesser quantity is needed, the right is reserved by the State of Louisiana to increase or decrease the amount, at the unit price stated in the bid.

21. PRICES

Prices shall compete, including transportation/freight charges prepaid by the bidder to destination, inside delivery, unpacking, assembly of all components and removal of all associated debris from premises. Prices should be quoted in the unit (each, box, case, hour, flat, mile etc.) as specified in the IB.

22. INVOICE

Invoices will be submitted by the Contractor to the using agency as indicated on the purchase order and the invoice should refer to the delivery ticket number, delivery date, purchase order number, quantity, unit price, net discount and delivery point. A separate invoice for each order delivered and accepted should be submitted by the Contractor in duplicate directly to the accounting department of the using Agency. Invoices shall show the amount of any cash discount and shall be submitted on the Contractor's own invoice form.

State Agencies are directed to pay the Contractor upon presentation of a properly executed invoice after goods have been received, inspected and accepted. Invoices will be paid within thirty (30) days of receipt of a properly executed invoice, or receipt of goods, whichever is later. Payment will be made on the basis of unit price net discount as listed in the contract or the invoiced price, whichever is lower. Such price and payment will constitute full compensation for furnishing and delivering the requested contract commodities. In no case will the State Agency

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refuse to make partial payments to the Contractor although all items have not been delivered. This payment in no way relieves the Contractor of his responsibility to effect shipment of the balance of the order nor to provide the requested installation and/or initial software configuration services.

PAYMENTS WILL BE MADE TO THE VENDOR AND TO THE ADDRESS AS SHOWN ON THE PURCHASE ORDER. ADVANCED PAYMENTS WILL NOT BE ALLOWED IN THE CONTRACT.

23. LATE PAYMENTS

Interest due by a State Agency for late payments shall be in accordance with La. R.S. 39:1695 at the rates established in La. R.S. 13:4202.

24. ELECTRONIC VENDOR PAYMENT SOLUTIONS

In an effort to increase efficiencies and effectiveness as well as be strategic in utilizing technology and resources for the State and Contractor, the State intends to make all payments to Contractors electronically. The LaCarte Procurement Card will be used for purchases of \$5,000 and under, and where feasible, over \$5,000. Contractors will have a choice of receiving electronic payment for all other payments by selecting the Electronic Funds Transfer (EFT). If you receive an award and do not currently accept the LaCarte card or have not already enrolled in EFT, you will be asked to comply with this request by choosing either the LaCarte Procurement Card and/or EFT. You may indicate your acceptance below.

The **LaCarte** Procurement Card uses a Visa card platform. Contractors receive payment from state agencies using the card in the same manner as other Visa card purchases. Contractors cannot process payment transactions through the credit card clearinghouse until the purchased products have been shipped or received or the services performed.

For all statewide and agency term contracts:

- Under the LaCarte program, purchase orders are not necessary. Orders must be placed against the net discounted products of the contract. All contract terms and conditions apply to purchases made with LaCarte.
- If a purchase order is not used, the Contractor must keep on file a record of all LaCarte purchases issued against this contract during the contract period. The file must contain the particular item number, quantity, line total and order total. Records of these purchases must be provided to the Office of State Procurement on request.

EFT payments are sent from the State’s bank directly to the payee’s bank each weekday. The only requirement is that you have an active checking or savings account at a financial institution that can accept Automated Clearing House (ACH) credit files and remittance information electronically. Additional information and an enrollment form is available by contacting the Office of Statewide Reporting and Accounting Policy at DOA-OSRAP-EFT@LA.GOV.

To facilitate this payment process, you will need to complete and return the EFT enrollment form contained in the link above.

If an award is made to your company, please check which option you will accept or indicate if you are already enrolled.

<u>Payment Type</u>	<u>Will Accept</u>	<u>Already Enrolled</u>
LaCarte	_____	_____
EFT	_____	_____

Printed Name of Individual Authorized

Authorized Signature for payment type chosen

Date

Email address and phone number of authorized individual

25. CONTRACT PERIOD

The Contract will be effective upon the approval of the Office of State Procurement for an initial period of twelve (12) months, unless otherwise terminated in accordance with the termination provisions of the contract.

26. RENEWAL

At the option of the Office of State Procurement and acceptance by the Contractor, the contract may be extended for two (2) additional twelve (12) month periods at the same discount structure, terms and conditions. Contract not to exceed thirty-six (36) months.

27. CONTRACT REVISIONS

Requests for all revisions to the contract must be submitted in writing by the representative authorized to sign the execution of the bid sheet, unless otherwise stated herein:

I, _____, duly authorized to execute the contract, hereby delegate the following person/persons to submit written requests for revisions to the contract:

- 1.) _____, _____
(Name) (Title)
- 2.) _____, _____
(Name) (Title)
- 3.) _____, _____
(Name) (Title)

Briefly state any restrictions as to type of revisions delegates may request.

COMMENT: _____

Requests for revisions to the contract shall be addressed to the Office of State Procurement. Distributor vendor changes, price reductions and item deletions may be requested at any time during the contract period.

When future offerings of products become commercially available during the contract term and are not commercially offered within the established groups with an established discount structure, the contract may be amended to include such offerings. For this type of addition to be considered, it must be within the scope of the contract, the contractor must submit the requested group(s) to the Office of State Procurement for approval and the requested group(s) shall be offered to the State at a percentage discount off the manufacturer's established catalog price list. Contractor will be notified to update their contract and proceed with selling the requested product offerings if the offerings are approved by the Office of State Procurement.

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Contract modifications may result from technological enhancements, manufacturer discontinuance, or obsolescence. If an item meets or exceeds original specifications and the price is equal to or lower than the original bid price, a contract modification may be requested in writing by the Contractor to the Office of State Procurement.

Contractor must immediately notify the Office of State Procurement when any authorized distributor/channel partner on the contract is terminated, relocated, or added. All orders placed prior to receipt of such notification by the Office of State Procurement must be honored.

Revisions will become effective upon approval by the Office of State Procurement.

28. USAGE/REPORTING REQUIREMENTS

Brand Name Contracts for GPS/Survey Equipment are expected to have \$50,000.00 usage annually. This usage amount may be waived in whole or in part due to extenuating circumstances, in the State's best interest. The Office of State Procurement will consider contract purchases from both State Agencies, Quasi State Agencies, and Political Subdivisions. The inability or failure to timely produce usage reports evidencing adequate sales may result in the cancellation of your brand name contract for a period of two (2) years.

The Contractor shall submit detailed contract usage reports quarterly to the State Procurement Analyst (SPA) for the contract in accordance with the below schedule. Initiation and submission of the quarterly reports to the SPA is the responsibility of the Contractor without prompting or notification by the SPA. If these reports are not submitted in a timely manner, the Office of State Procurement (OSP) shall have the right to terminate the contract.

The specific usage report content, scope, and format requirements are available on the OSP website under Vendor Resources/Vendor Forms:

<https://www.doa.la.gov/doa/osp/vendor-resources/>.

In addition, the person's name who compiled the report and their contact information shall be provided. OSP reserves the right to request copies of any purchase orders issued against the contract.

The usage reports shall be submitted utilizing this format or an equivalent format that has been pre-approved by OSP. Schedule for submittal of usage reports:

<u>Quarter</u>	<u>Reporting Period</u>	<u>Due Date</u>
First Quarter	July 1 through September 30	October 31
Second Quarter	October 1 through December 31	January 31
Third Quarter	January 1 through March 31	April 30
Fourth Quarter	April 1 through June 30	July 31

29. ADMINISTRATIVE FEE OR REBATE

The State shall be due a minimum 1% administrative fee or rebate to be payable to the State of Louisiana, Office of State Procurement (OSP) in exchange for the management and facilitation of the contract(s) resulting from this solicitation. The calculation of the administrative fee or rebate includes any entity receiving contract pricing resulting from the awarded contract(s). The administrative fee or rebate shall be submitted quarterly and shall be based on the total net (gross sales minus returns, credits and deductions) sales made to entities located in the State of Louisiana under the contract. Initiation and submission of the administrative fee or rebate to OSP is the responsibility of the Contractor without prompting or notification by the State Procurement Analyst (SPA). If these administrative fees or rebates are not submitted in a timely manner, OSP shall have the right to terminate the contract.

The check is to be made payable to: Louisiana DOA – Office of State Procurement. The check is to be mailed or delivered by courier service to the following address: Office of State Procurement, Attn: OSP Receivables specialist, 1201 North 3rd Street, Claiborne Building – Suite 1-160, Baton Rouge, LA 70802. The calculation of the

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administrative fee or rebate shall begin immediately upon execution of the contract and payment shall be made in accordance with the following schedule:

<u>Quarter</u>	<u>Payment Period</u>	<u>Payment Due Date</u>
First Quarter	July 1 through September 30	October 31
Second Quarter	October 1 through December 31	January 31
Third Quarter	January 1 through March 31	April 30
Fourth Quarter	April 1 through June 30	July 31

IF CONTRACTOR IS OFFERING A GREATER ADMINISTRATIVE FEE OR REBATE THAN SPECIFIED ABOVE, PLEASE INDICATE THE PERCENTAGE HERE: _____%

NOTE: CONTRACTOR SHALL INDICATE THE STATE CONTRACT NUMBER ON THE REMITTANCE. WHEN SUBMITTING ONE (1) REMITTANCE FOR MORE THAN ONE (1) CONTRACT, CONTRACTOR SHALL INDICATE ALL STATE CONTRACT NUMBERS AND THE AMOUNT FOR EACH.

30. AWARD/EVALUATION CRITERIA

It is the intent of the Office of State Procurement to award the contract on an all-or-none basis to the overall lowest responsive, responsible bidder meeting the requirements of the bid specifications. The State of Louisiana reserves the right to reject individual lines from the award. The bidder shall quote on Page 17 of Attachment A the minimum discount(s) to be applied to any line items in the respective categories on Attachment B - Price Sheet. The minimum discount quoted for a category shall also apply to any updated items or new items added throughout the life of the contract, in accordance with the specification requirements.

On Attachment B – Price Sheet, bidder is to provide the retail price, discount percent and resulting Louisiana (LA) State Contract Price for each individual item listed. Greater discounts than the minimum discount bid may be offered on individual items. Award will be made by totaling the LA State Contract Price for all items and awarding to the overall lowest, responsive, responsible bidder. Any discount listed on Attachment B – Price Sheet shall be equal to or greater than the discounts bid on page 22. The items listed in Attachment B – Price Sheet will be the only products included in the original contract award.

LA State Contract prices may not exceed the current national advertised and available General Services Administration (GSA) Governmental price list, if one exists. If not, the Office of State Procurement does not intend to award or to maintain any item in any group that is offered at a price equal to or above the Manufacturer's List Price.

For evaluation and award, the Office of State Procurement reserves the right to seek clarification and/or to correct any mathematical error in the application of the percentage discount to individual items listed on the price sheet pages, Attachment B – Price Sheet; such as rounding errors, etc. The manufacturer's most current designated established catalog price less the percentage discount quoted shall govern.

31. CONTRACTOR'S RESPONSIBILITY

Price Reductions:

During the course of the contract, any price reduction in the Manufacturer's Published Prices must be immediately extended to the State by the Contractor. Failure to offer the benefit of these price reductions to the State within two (2) weeks after general announcement may result in the cancellation of the contract. These price reductions must be granted on any order not shipped. Contractor must maintain a list of equipment on order and be able to provide a list to the Office of State Procurement within forty-eight (48) hours of the request.

Only brand names and numbers stated in the award are approved for delivery under the contract and any substitution must receive prior written approval of the Office of State Procurement.

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Vendor List:

The Bidder who signs the execution of bid page contained herein shall be designated as prime Contractor on any contract resulting from this ITB. If additional vendors are authorized to receive purchase orders for items contained in said contract, the bidder must submit a list of those additional authorized distributors on Bidder's Response Page – Authorized Distributors, page 21. The prime Contractor will be responsible for the actions of any distributor vendors listed. Please see Bidder's Response Page – Authorized Distributors.

Single Point of Contact:

At a minimum, the Contractor shall assign one (1) person and at least one (1) backup within the Contractor's organization to serve as a primary contact person for contract related activities. These activities include but are not limited to: resolution of contract issues, all pre-sale and post-sale activities, including system configuration and implementation, order processing and status, billing-related issues, operating feature and function questions of the products on contract, training coordination. This designated contact person should be prepared to handle routine tasks, answer inquiries, and resolve problems that arise on a daily basis. The Contractor shall designate this single point of contact within ten (10) business days of award. The Contractor shall keep the contact list current during the term of the contract and provide updates to the Office of State Procurement.

32. TECHNICAL SUPPORT

All installation and software configuration services provided under the contract shall be performed by manufacturer certified technicians.

33. WARRANTY

The Contractor shall provide the standard warranty offered by the manufacturer for the products bid.

34. CONTRACT UTILIZATION

By submitting a bid, bidder acknowledges that he agrees to the following terms that will be part of any resulting contract(s) awarded from this solicitation:

The contract has been designated as a Louisiana Pricing Schedule ("LaPS"). The State intends to use the following process before placing orders under the contract, and the Contractor explicitly understands and agrees to the use of this process before accepting orders under the contract. Where multiple LaPS contracts exist for functionally equivalent products and/or services and the procurement exceeds the defined maximum value for small purchases established by executive order of the Governor, all eligible users of these contracts will utilize the following procedures:

- 1) Prepare a Request for Responses (an informal process used to make a best value determination) that includes, if applicable:
 - A) Performance-based statement of work that includes such things as:
 - The work to be performed
 - Location of work
 - Period of Performance
 - Deliverable schedule
 - Applicable performance standards
 - Acceptance criteria
 - Any special requirements (e.g., security clearances, special knowledge, etc.)
 - The products required (using a generic description of products and functions whenever possible).
 - B) If necessary or applicable, a request for submittal of a project plan for performing the task and information on the Contractor's experience and/or past performance performing similar tasks.

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- C) A best value determination is one that considers, in addition to underlying contract pricing, such factors as:
- Probable life of the item selected
 - Environmental and energy efficiency considerations
 - Technical qualifications
 - Delivery terms
 - Warranty
 - Maintenance availability
 - Administrative costs
 - Compatibility of an item within the user's environment
 - User's familiarity with the item or service
- D) A request for submittal of a firm-fixed total price for labor and/or products which are no higher than prices in the LaPS contract.
- 2) Submit the Request for Response to at least three (3) LaPS contract holders, whenever available, offering functionally equivalent products and/or services that will meet the agency's needs.
- 3) Evaluate responses and select the Contractor to receive the order:
- A) After responses have been evaluated, the order shall be placed with the Contractor that represents the best value that meets the agency's needs. The ordering agency should give preference to small entrepreneurs or small and emerging businesses when two or more Contractors can provide the services and/or products at the same firm-fixed price.
- B) The ordering agency shall document in the procurement file the evaluation of the Contractors' responses that formed the basis for selection. The documentation shall identify the Contractor from which the services and/or products were purchased, the services and/or products purchased, and the cost of the resulting purchase order.
- C) Purchases shall not be artificially divided to avoid the requirements of this section when recurring requirements for same products are known.

34. INDEMNIFICATION AND LIMITATION OF LIABILITY

Neither party shall be liable for any delay or failure in performance beyond its control resulting from acts of God or force majeure. The parties shall use reasonable efforts to eliminate or minimize the effect of such events upon performance of their respective duties under this contract.

Contractor shall be fully liable for the actions of its agents, employees, partners or subcontractors and shall fully indemnify and hold harmless the State from suits, actions, damages and costs of every name and description relating to personal injury and damage to real or personal tangible property caused by Contractor, its agents, employees, partners or subcontractors, in the performance of this contract without limitation; provided, however, that the Contractor shall not indemnify for that portion of any claim, loss or damage arising hereunder due to the negligent act or failure to act of the State.

Contractor shall indemnify, defend and hold the State harmless, **without limitation**, from and against any and all damages, expenses (including reasonable attorneys' fees), claims judgments, liabilities and costs which may be fully assessed against the State in any action for infringement of a United States Letter Patent with respect to the products, materials or services furnished by Contractor under its bid response and the contract, or of any copyright trademark, trade secret or intellectual property right, provided that the State shall give the Contractor: (i) prompt written notice of any action, claim or threat of infringement suit, or other suit, (ii) the opportunity to take over, settle or defend such action, claim or suit at Contractor's sole expense, and (iii) assistance in the defense of any such action at the expense of Contractor. Where a dispute or claim arises relative to a real or anticipated infringement, the State may require Contractor at its sole expense, to submit such information and documentation, including

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formal patent attorney opinions, as the Commissioner of Administration shall require.

The Contractor shall not be obligated to indemnify that portion of a claim or dispute based upon: (i) State's unauthorized modification or alteration of the products or materials; (ii) State's use of the products or materials in combination with other products or materials not furnished by Contractor; (iii) State's use of the products or materials in other than the specified operating conditions and environment.

In addition to the foregoing, if the use of any item(s) or part(s) thereof shall be enjoined for any reason or if Contractor believes that it may be enjoined, Contractor shall have the right, at its own expense and sole discretion as the State's exclusive remedy to take action in the following order of precedence: (i) to procure for the State the right to continue using such item(s) or part(s) thereof, as applicable; (ii) to modify the component so that it becomes non-infringing equipment of at least equal quality and performance; or (iii) to replace said item(s) or part(s) thereof, as applicable, with non-infringing components of at least equal quality and performance, or (iv) if none of the foregoing is commercially reasonable, then provide monetary compensation to the State up to the dollar amount of the product or material.

For all other claims against the Contractor where liability is not otherwise set forth in the contract as being "without limitation", and regardless of the basis on which the claim is made, Contractor's liability **for direct damages, shall be the greater of \$100,000, the dollar amount of the products or materials, or two (2) times the charges for services rendered by the Contractor under the contract.** Unless otherwise specifically enumerated herein mutually agreed between the parties, neither party shall be liable to the other for special, indirect or consequential damages, including lost data or records, even if the party has been advised of the possibility of such damages. Neither party shall be liable for lost profits, lost revenue or lost institutional operating savings.

The State may, in addition to other remedies available to it at law or equity and upon notice to the Contractor, retain such monies from amounts due Contractor, or may proceed against the performance and payment bond, if any, as may be necessary to satisfy any claim for damages, penalties, costs and the like asserted by or against them.

35. INSURANCE REQUIREMENTS FOR CONTRACTORS

The Contractor shall purchase and maintain for the duration of the contract insurance against claims for injuries to persons or damages to property which may arise from or in connection with the performance of the work hereunder by the Contractor, its agents, representatives, employees or subcontractors. The cost of such insurance shall be included in the bidder's pricing.

A. Minimum Scope and Limits of Insurance

1. Workers Compensation

Workers Compensation insurance shall be in compliance with the Workers Compensation law of the State of the Contractor's headquarters. Employers Liability is included with a minimum limit of \$1,000,000 per accident/per disease/per employee. If work is to be performed over water and involves maritime exposure, applicable LHWCA, Jones Act, or other maritime law coverage shall be included. A.M. Best's insurance company rating requirement may be waived for workers compensation coverage only.

2. Commercial General Liability

Commercial General Liability insurance, including Personal and Advertising Injury Liability and Products and Completed Operations, shall have a minimum limit per occurrence of \$1,000,000 and a minimum general aggregate of \$2,000,000. The Insurance Services Office (ISO) Commercial General Liability occurrence coverage form CG 00 01 (current form approved for use in Louisiana), or equivalent, is to be used in the policy. Claims-made form is unacceptable.

3. Automobile Liability

Automobile Liability Insurance shall have a minimum combined single limit per occurrence of \$1,000,000. ISO form number CA 00 01 (current form approved for use in Louisiana), or equivalent, is to be used in the

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policy. This insurance shall include third-party bodily injury and property damage liability for owned, hired and non-owned automobiles.

B. Deductibles and Self-Insured Retentions

Any deductibles or self-insured retentions must be declared to and accepted by the Agency. The Contractor shall be responsible for all deductibles and self-insured retentions.

C. Other Insurance Provisions

The policies are to contain, or be endorsed to contain, the following provisions:

1. Commercial General Liability and Automobile Liability Coverages

- a. The Agency, its officers, agents, employees and volunteers shall be named as an additional insured as regards negligence by the contractor. ISO Form CG 20 10 (for ongoing work) AND CG 20 37 (for completed work) (current forms approved for use in Louisiana), or equivalent, are to be used when applicable. The coverage shall contain no special limitations on the scope of protection afforded to the Agency.
- b. The Contractor's insurance shall be primary as respects the Agency, its officers, agents, employees and volunteers for any and all losses that occur under the contract. Any insurance or self-insurance maintained by the Agency shall be excess and non-contributory of the Contractor's insurance.

2. Workers Compensation and Employers Liability Coverage

To the fullest extent allowed by law, the insurer shall agree to waive all rights of subrogation against the Agency, its officers, agents, employees and volunteers for losses arising from work performed by the Contractor for the Agency.

3. All Coverages

- a. All policies must be endorsed to require thirty (30)-day written notice of cancellation to the Agency. Ten (10)-day written notice of cancellation is acceptable for non-payment of premium. Notifications shall comply with the standard cancellation provisions in the Contractor's policy. In addition, Contractor is required to notify Agency of policy cancellations or reductions in limits.
- b. The acceptance of the completed work, payment, failure of the Agency to require proof of compliance, or Agency's acceptance of a non-compliant Certificate of Insurance, shall not release the Contractor from the obligations of the insurance requirements or indemnification agreement.
- c. The insurance companies issuing the policies shall have no recourse against the Agency for payment of premiums or for assessments under any form of the policies.
- d. Any failure of the Contractor to comply with reporting provisions of the policy shall not affect coverage provided to the Agency, its officers, agents, employees and volunteers.

D. Acceptability of Insurers

1. All required insurance shall be provided by a company or companies lawfully authorized to do business in the jurisdiction in which the Project is located. Insurance shall be placed with insurers with an A.M. Best's rating of **A-:VI or higher**. This rating requirement may be waived for workers compensation coverage only.

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2. If at any time an insurer issuing any such policy does not meet the minimum A.M. Best rating, the Contractor shall obtain a policy with an insurer that meets the A.M. Best rating and shall submit another Certificate of Insurance within 30 days.

E. Verification of Coverage

1. Contractor shall furnish the Agency with Certificates of Insurance reflecting proof of required coverage. The Certificates for each insurance policy are to be signed by a person authorized by that insurer to bind coverage on its behalf. The Certificates are to be received and approved by the Agency before work commences and upon any contract renewal or insurance policy renewal thereafter.
2. The Certificate Holder shall be listed as follows:
State of Louisiana
Office of State Procurement
1201 N. 3rd Street, Suite 2-160, Claiborne Bldg., Baton Rouge, LA 70802
Trimble Brand Name GPS/Survey Equipment
3. In addition to the Certificates, Contractor shall submit the declarations page and the cancellation provision for each insurance policy. The Agency reserves the right to request complete certified copies of all required insurance policies at any time.
4. Upon failure of the Contractor to furnish, deliver and maintain such insurance, this contract, at the election of the Agency, may be suspended, discontinued or terminated. Failure of the Contractor to purchase and/or maintain any required insurance shall not relieve the Contractor from any liability or indemnification under the contract.

F. Subcontractors

Contractor shall include all subcontractors as insureds under its policies OR shall be responsible for verifying and maintaining the Certificates provided by each subcontractor. Subcontractors shall be subject to all of the requirements stated herein. The Agency reserves the right to request copies of subcontractor's Certificates at any time.

G. Workers Compensation Indemnity

In the event Contractor is not required to provide or elects not to provide workers compensation coverage, the parties hereby agree that Contractor, its owners, agents and employees will have no cause of action against, and will not assert a claim against, the State of Louisiana, its departments, agencies, agents and employees as an employer, whether pursuant to the Louisiana Workers Compensation Act or otherwise, under any circumstance. The parties also hereby agree that the State of Louisiana, its departments, agencies, agents and employees shall in no circumstance be, or considered as, the employer or statutory employer of Contractor, its owners, agents and employees. The parties further agree that Contractor is a wholly independent contractor and is exclusively responsible for its employees, owners, and agents. Contractor hereby agrees to protect, defend, indemnify and hold the State of Louisiana, its departments, agencies, agents and employees harmless from any such assertion or claim that may arise from the performance of the contract.

36. ASSIGNMENT

The Contractor shall not assign any interest in the contract by assignment, transfer or novation without prior written consent of the State. This provision shall not be construed to prohibit the Contractor from assigning his bank, trust company, or other financial institution any money due or to become due from approved contracts without such prior written consent. Notice of any such assignment or transfer shall be furnished promptly to the State.

37. RIGHT TO AUDIT

The State Legislative auditor, federal auditors and internal auditors of the Division of Administration, or others so designated by the DOA, shall have the option to audit all accounts directly pertaining to the contract for a period of five (5) years from the date of final payment or as required by applicable State and Federal Law. Records shall be made available during normal working hours for this purpose.

38. TERMINATION FOR NON-APPROPRIATION OF FUNDS

The continuation of the contract is contingent upon the continuation of an appropriation of funds by the Legislature to fulfill the requirements of the contract. If the Legislature fails to appropriate sufficient monies to provide for the continuation of a contract or if such appropriation is reduced by the veto of the Governor or by any means provided in the appropriations act to prevent the total appropriations for the year from exceeding revenues for that year or for any other lawful purpose and the effect of such reduction is to provide insufficient monies for the continuation of the contract, the contract shall terminate on the last day of the fiscal year for which funds were appropriated.

39. WAIVER CLAUSE

Waiver of any breach of any term or condition of the contract shall not be deemed a waiver of any prior or subsequent breach. No term or condition of the contract shall be held to be waived, modified, or deleted except by the written consent of both parties.

40. SEVERABILITY

If any term or condition of the contract or the application thereof is held invalid, such invalidity shall not affect other terms, conditions or applications which can be given effect without the invalid term, condition or application; to this end, the terms and conditions of the contract are declared severable.

41. CODE OF ETHICS

The Contractor acknowledges that Chapter 15 of Title 42 of the Louisiana Revised Statutes (R.S. 42:1101 et. seq., Code of Governmental Ethics) applies to the Contracting Party in the performance of products/services called for in the Contract. The Contractor agrees to immediately notify the State if potential violations of the Code of Governmental Ethics arise at any time during the term of the Contract.

42. APPLICABLE LAW

The contract shall be governed by and interpreted in accordance with the laws of the State of Louisiana. Venue of any action brought with regard to the contract shall be in the Nineteenth Judicial District Court, parish of East Baton Rouge, State of Louisiana.

43. CONTRACT CONTROVERSIES

Any claim or controversy arising out of the contract shall be resolved by the provisions of Louisiana Revised Statutes 39:1671-1673.

44. PRICE LIST CHANGES

The price list bid shall remain firm and effective for the first three (3) months of the contract term. Price list changes will be considered during the remainder of the contract period and during any contract renewals.

Requests for price list changes must be submitted in writing by the Contractor to the Office of State Procurement and must be supported by sufficient documentation such as manufacturer's price increase, significant changes in the published market indicators for the industry, certified raw material cost data and/or any other substantiating information that may be requested by OSP. Upon receipt of the price escalation request, OSP reserves the right to accept the request, request additional information, negotiate the proposed increase, or reject the request outright. Any decision by the Office of State Procurement to grant or decline a request will be at the Office of State

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Procurement's sole discretion and the Office of State Procurement's decision shall be final.

Price list changes will not be effective until approval has been granted in writing by OSP. No retroactive adjustments to the price list will be allowed.

The Contractor shall immediately notify OSP of all manufacturer's price decreases and the State shall receive the full benefit of such decreases, effective the date in the manufacturer's announcement.

BIDDER’S RESPONSE PAGE – PRICING

CATEGORIES:

PERCENT DISCOUNT

Category 1 – Trimble Educator Systems

Category 2 – Trimble Mapping & GIS Systems

Category 3 – Trimble Optical & Scanning Equipment

Category 4 – Trimble Survey Equipment

BIDDER'S RESPONSE PAGE – AUTHORIZED DISTRIBUTORS

Vendor List - Authorized Distributors:

Please list complete name, business address, phone number, fax number, email address, etc. of all vendors who are authorized to accept purchase orders against the contract. (Attach additional pages if necessary).

1) **VENDOR NAME:** _____

BUSINESS ADDRESS: _____

PHONE NUMBER: _____

FAX NUMBER: _____

EMAIL ADDRESS: _____

2) **VENDOR NAME:** _____

BUSINESS ADDRESS: _____

PHONE NUMBER: _____

FAX NUMBER: _____

EMAIL ADDRESS: _____

3) **VENDOR NAME:** _____

BUSINESS ADDRESS: _____

PHONE NUMBER: _____

FAX NUMBER: _____

EMAIL ADDRESS: _____

4) **VENDOR NAME:** _____

BUSINESS ADDRESS: _____

PHONE NUMBER: _____

FAX NUMBER: _____

EMAIL ADDRESS: _____

BIDDER IDENTIFICATION PAGE

Identify below your response as one of the following:

- _____ 1) The original manufacturer providing direct sales support of the products/services in full compliance with all terms and conditions of the contract.
- _____ 2) The original manufacturer choosing to designate authorized distribution/channel partners certified to provide direct sales and support the products in full compliance with all terms and conditions of the contract.
- _____ 3) A third party authorized by the original manufacturer to provide sales and support of the products, directly or through certified sub-contractors in full compliance with all terms and conditions of the contract.
- _____ 4) Holders of re-labeling agreements authorized by the original manufacturer to provide sales and support of the products, directly or through certified sub-contractors in full compliance with all terms and conditions of the contract.