

## **Attachment A – Special Terms and Conditions**

**RFx Number: 3000021602**

**Contract Title: Equine Lab Testing – Louisiana Racing Commission (LRC)**

### **Bid Delivery Instructions for State Procurement:**

Bidders are hereby advised that the Office of State Procurement (OSP) must receive bids at its physical location by the date and time specified on 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's physical location as follows:

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

**Or** bids may be submitted online by accessing the link on page one (1) of the Invitation to Bid.

Bidder 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 notifications 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?guest\\_user=self\\_reg](https://lagoverpvendor.doa.louisiana.gov/irj/portal/anonymous?guest_user=self_reg)

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

**Calendar of Events:**

Deadline to receive written inquiries: 9/18/2023

Deadline to answer written inquiries: 9/27/2023

Bid Opening Date and Time: 10/04/2023 @ 10:00 A.M. (Central Time)

**NOTE: The State of Louisiana reserves the right to revise this calendar. Revisions before the bid opening date and time, if any, will be formalized by the issuance of an addendum to this ITB.**

**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 bid documents and to submit any written inquiries relative thereto. *Without exception*, all inquiries MUST be submitted in writing by an authorized representative of the bidder, clearly cross-referenced to the relevant bid section. All inquiries must be received by the Inquiry Deadline date set forth in the Calendar of Events section of this bid. 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 bid may be delivered by mail, express courier, e-mail, hand, or fax to:

Office of State Procurement  
Attention: Christine Schwartzenburg  
1201 North Third St.  
Claiborne Bldg., Suite 2-160  
Baton Rouge, LA 70802

E-Mail: [christine.schwartzenburg@la.gov](mailto:christine.schwartzenburg@la.gov)  
Phone: (225) 342-6634  
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 other changes or clarifications to the bid. Thereafter, all bid 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 the bid.

\*Note: LaPAC is the state's online electronic bid posting and notification system resident on State Procurement's website [<https://www.doa.la.gov/doa/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 email 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](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/doa/osp/vendor-resources/>

**Terms and Conditions:**

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

**Vendor's Forms:**

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

**Vendor List:**

The bidder who signs the bid will be designated as prime Contractor on any contract resulting from this solicitation. If additional distributor vendors are authorized to receive orders for items contained in said contract, the bidder should submit with the bid, a list of those additional authorized distributors including the complete business address. The prime Contractor will be responsible for the actions of any distributor vendors listed.

**Acceptance:**

Unless otherwise specified, bids on this contract will be assumed to be firm for acceptance for a minimum of sixty (60) days. If accepted, prices must be firm for the specified contract period.

**Prices:**

Prices shall be complete, including transportation/freight charges prepaid by 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 solicitation.

**Payment:**

Payment will be made on the basis of unit price as listed in the contract; such price and payment will constitute full compensation for furnishing and delivering the contract services. In no case will the state agency refuse to make partial payments to the Contractor although all services have not been provided. This payment in no way relieves the Contractor of his responsibility to complete the remaining services. Payment will be to vendor and address as shown on order.

**Invoices:**

Invoices will be submitted by the Contractor to the using agency and the invoice shall refer to the delivery ticket number, delivery date, purchase order number, quantity, unit price, and delivery point. A separate invoice for each order delivered and accepted shall 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.

**Contractual Period:**

The State of Louisiana intends to award all items for an initial period, not to exceed thirty-six (36) months. Delays in awarding, beyond the anticipated starting date, may result in a change in the contract period. If the situation occurs, an award may be made for less than thirty-six (36) months.

**Renewals:**

At the option of the State of Louisiana and acceptance by the Contractor, the contract may be extended for two (2) additional twelve (12) month periods at the same price, terms and conditions. Total contract time may not exceed sixty (60) months.

**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.

**Freight Charges:**

Unit price must be inclusive of any freight charges. Bid should be F.O.B. Destination – title passing upon receipt of goods. Failure to comply with this requirement may disqualify your bid.

**Orders:**

Louisiana Racing Commission (LRC) is to issue contract purchase orders for the items required, as and when needed.

**Electronic Vendor Payment Solution:**

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 the 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 & Accounting Policy at [DOA-OSRAP-EFT@la.gov](mailto:DOA-OSRAP-EFT@la.gov).

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

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

**Non-Exclusivity Clause:**

This agreement is non-exclusive and shall not in any way preclude state agencies from entering into similar agreements and/or arrangements with other vendors or from acquiring similar, equal, or like goods and/or services from other entities or sources.

**Termination for Non-Appropriation of Funds:**

The continuation of the contract is contingent upon the appropriation of funds to fulfill the requirements of the contract by the legislature. 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 or Title 39 of the Louisiana Revised Statutes of 1950 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 date of the beginning of the first fiscal year for which funds are not appropriated.

**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.

**Late Payment:**

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.

**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 \$2,000,000 and not less than \$700,000 per person. ISO form number CA 00 01 (current form approved for use in Louisiana), or equivalent, is to be used in the 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.

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 thirty (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  
Louisiana Racing Commission  
320 N. Carrollton Avenue, Suite 2-B, New Orleans, LA 70119  
Equine Drug Testing
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.

## **H. Indemnification/Hold Harmless Agreement**

1. Contractor agrees to protect, defend, indemnify, save, and hold harmless, the State of Louisiana, all State Departments, Agencies, Boards and Commissions, its officers, agents, servants, employees, and volunteers, from and against any and all claims, damages, expenses, and liability arising out of injury or death to any person or the damage, loss or destruction of any property which may occur, or in any way grow out of, any act or omission of Contractor, its agents, servants, and employees, or any and all costs, expenses and/or attorney fees incurred by Contractor as a result of any claims, demands, suits or causes of action, except those claims, demands, suits, or causes of action arising out of the negligence of the State of Louisiana, all State Departments, Agencies, Boards, Commissions, its officers, agents, servants, employees and volunteers.
2. Contractor agrees to investigate, handle, respond to, provide defense for and defend any such claims, demands, suits, or causes of action at its sole expense and agrees to bear all other costs and expenses related thereto, even if the claims, demands, suits, or causes of action are groundless, false or fraudulent. The State of Louisiana may, but is not required to, consult with the Contractor in the defense of claims, but this shall not affect the Contractor's responsibility for the handling of and expenses for all claims.

### **Usage Reporting Requirements:**

Successful vendor is to keep a record of all orders issued against the contract during the contract period. Approximately four (4) months prior to the end of the contract period, the vendor is to be prepared to submit to the Office of State Procurement a contract usage report.

The specific usage report content, scope, and format requirements is available on the Office of State Procurement website under Vendor Resources/Vendor Forms:

<https://www.doa.la.gov/oa/osp/vendor-resources/>. In addition, the person's name who compiled the report and their contact information shall be provided. The Office of State Procurement reserves the right to request copies of any purchase order issued against the contract.

The usage reports shall be submitted utilizing this format or an equivalent format that has been pre-approved by the Office of State Procurement.

### **Right to Audit**

The State Legislative auditor, federal auditors, and the internal auditors of the Louisiana Racing Commission, 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.

### **Confidentiality of Test Results**

Contractor agrees that test results constitute privileged medical information and such results are subject to applicable Louisiana and Federal laws and regulations governing the same. Any

breach of confidentiality by the Contractor, its agents, or employees may be cause for immediate contract cancellation. (A breach of this confidentiality clause voids the required thirty (30) days written notice of cancellation listed in the Invitation to Bid –Instructions to Bidders #22)

It is understood that this policy of confidentiality is forever binding, even after Contractor's association with, Louisiana Racing Commission (LRC) has terminated.

It is understood that failure to abide by this policy of confidentiality could also result in litigation against the Contractor.

**Method of Award:**

Award to be made on an ALL- OR- NONE basis to the overall lowest responsive, responsible bidder meeting specifications. The State reserves the right to reject individual line items from the award.

**Governing Law:**

The contract shall be governed by and interpreted in accordance with the laws of the State of Louisiana, including but not limited to La. R.S. 39:1551-1736; purchasing rules and regulations; executive orders; and standard terms and conditions; and special conditions. 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.

**Changes of Work:**

The Contractor shall not commence any additional work or change the scope of the work until authorized in writing by LRC. The Contractor shall make no claim for additional compensation in the absence of a prior written approval and amendment executed by all signatories hereto. The contract may only be amended, supplemented or modified by a written document executed in the same manner as the contract.

**Record Ownership:**

All records, reports, documents and other material delivered or transmitted to Contractor by LRC shall remain the property of LRC, and shall be returned by Contractor to LRC, at Contractor's expense, at termination or expiration of the contract.

All documents, records, applications, data, algorithms, film, tape, articles, memoranda, and other materials (the "Materials") not developed or licensed by the Contractor prior to execution of the contract, but specifically developed under the contract shall be considered "work for hire" and the Contractor hereby transfers and assigns any ownership claims to the State so that all Materials will be the property of LRC. For clarity, none of the Know-How shall be deemed Materials hereunder. If ownership interest in the Materials cannot be assigned to LRC, the Contractor grants LRC a non-exclusive, non-cancelable, perpetual, worldwide royalty-free license to use the Materials and to use, modify, copy and create derivative works of the Materials.

Use of the Materials, other than related to contract performance by the Contractor, without the

prior written consent of LRC, is prohibited. During the performance of the contract, the Contractor shall be responsible for any loss of or damage to the Materials developed for or supplied by LRC and used to develop or assist in the services provided while the Materials are in the possession of the Contractor. Any loss or damage thereto shall be restored at the Contractor's expense. The Contractor shall provide LRC full, immediate, and unrestricted access to the Materials and to Contractor's work product during the term of the contract.

**Access to Records:**

The Contractor and its subcontractors, if any, shall maintain all financial and accounting records, and other evidence pertaining to all costs incurred under the contract. They shall make such materials available at their respective offices at all reasonable times during the contract, and for five (5) years from the date of final payment under the contract, for inspection by the State or its authorized designees. Copies of such records shall be furnished at no cost to LRC if requested.

**Contractor's Cooperation:**

The Contractor has the duty to fully cooperate with LRC and provide any and all requested information, documentation, etc. to LRC when requested. This applies even if the contract is terminated and/or a lawsuit is filed. Specifically, the Contractor shall not limit or impede LRC's or the State of Louisiana's right to audit or shall not withhold LRC-owned documents.

**Force Majeure:**

In the event that either party is unable to perform any of its obligations under the contract or to enjoy any of its benefits because of natural disaster or decrees of governmental bodies not the fault of the affected party (hereinafter referred to as a "Force Majeure Event"), the party who has been so affected shall immediately or as soon as is reasonably possible under the circumstances give notice to the other party and shall do everything possible to resume performance. Upon receipt of such notice, all obligations under the contract shall be immediately suspended. If the period of nonperformance exceeds thirty (30) days from the receipt of notice of the Force Majeure Event, the party whose ability to perform has not been so affected may, by giving written notice, terminate the contract.

**Termination due to HISA:**

The contract may be terminated by LRC if the Anti-Doping and Medication Control Program of the Horseracing Integrity and Safety Authority ("HISA") becomes effective in the State of Louisiana, upon providing thirty (30) days' written notice via certified mail or in person to LRC Headquarters, 320 N. Carrollton Avenue, Suite 2-B, New Orleans, LA 70119.

**Assignment:**

Contractor shall not assign any interest in this Agreement 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.