

**ATTACHMENT A – SPECIAL TERMS AND CONDITIONS**  
**RFx 3000022761– OPTIMAL WATER TECHNOLOGIES BN WATER TREAT. CHEM. - SW (93024)**

**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 time and date specified on page 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 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.

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**Calendar of Events:**

Deadline to receive written inquiries: 05/15/2024

Deadline to answer written inquiries: 05/22/2024

Bid Opening Date and Time: 05/29/2024 at 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: Paris King  
1201 North Third St.  
Claiborne Bldg., Suite 2-160  
Baton Rouge, LA 70802

E-Mail: [Paris.King2@la.gov](mailto: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's 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.

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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's website under Vendor Resources at: <https://www.doa.la.gov/oa/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.

**Contractual Period:** The State of Louisiana intends to award all items for an initial period, not to exceed 12 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 12 months.

**Renewals:** At the option of the State of Louisiana and acceptance by the Contractor, the contract may be extended for two additional 12 month periods at the same price, terms and conditions. Total contract time may not exceed 36 months.

**Brand Name Contract Usage Requirements:** Brand Name Contracts for Water Treatment Chemicals are expected to have **\$50,000** 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 State Agencies, Quasi-Public Agencies and/or 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 years.

**Brand Name Contract:** All items bid must be brand name specified. Alternate brands will not be considered.

Bidders should submit with their bid response the most recent published commercial price list and their GSA price schedule (if one exists) covering all items bid. In the event that a printed published price list is not available, a typed, signed and notarized list of prices covering all items bid should be submitted. If not submitted with the bid, this information shall be provided within 10 business days of the request. Prices bid may not exceed the commercial price list or GSA prices in order for items to be awarded. Any terms and conditions contained in the published price list or GSA price list will not be applicable to the State's contract unless specifically stated.

**Administrative Fees:**

The State shall be due **1%** administrative fees 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 fees includes any entity receiving contract pricing resulting from the awarded contracts. The administrative fees 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 fees to OSP is the responsibility of the Contractor without prompting or notification by the State Procurement Analyst (SPA). If these administrative fees 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 sent through a courier service to the following address: Office of State Procurement, Attn: OSP Receivables Specialist, 1201 North 3rd Street, Claiborne Building – Suite 2-160, Baton Rouge, LA 70802. The calculation of the administrative fees shall begin immediately upon execution of the contract and payment shall be made in accordance with the following schedule:

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<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

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

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**Contract Usage Reports:**

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/oa/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         |

**Invoices:** Invoices will be submitted by the Contractor to the using Agency as indicated on the purchase order 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.

Using 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 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 using Agency 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.

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

**Prices:** Prices shall be complete including transportation/freight charges prepaid by bidder to destination, inside delivery, unpacking, assembly of all components (if necessary), 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 this solicitation.

**Acceptance:** Unless otherwise specified, bids on the contract will be assumed to be firm for acceptance for a minimum of 60 days. If accepted, prices must be firm for the specified contract period.

**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.

**Contract Revisions:** Requests for revisions to the contract must be addressed to the Office of State Procurement and shall refer to the contract item number with justification of the request. Distributor vendor changes, price reductions and justifiable item deletions may be considered during the contract period. New item additions will be considered only when the Office of State Procurement has determined additions will be of substantial benefit to the State and will justify the time, effort and cost required to make such additions.

The Contractor must immediately notify the Office of State Procurement when any dealer on the contract is terminated, relocated, or added. All orders placed with dealers prior to receipt of such notification to the Office of State Procurement must be honored. Revisions will become effective only upon approval by the Office of State Procurement. Bidder should include with the bid a list of all persons, in addition to the signer of the bid, who are authorized to request revisions to the contract.

**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/dao/osp/agency-resources/osp-purchasing/approved-quasi-units/> and may be used as a reference.

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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.

Any entity that is interested in using the contract must contact the Office of State Procurement. The State reserves the right of refusal to extend the contract to other Agencies and use of the contract will require prior approval by the State.

**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 50% Louisiana residents.

(1) Do you have a Louisiana Business workforce? \_\_\_\_\_ yes \_\_\_\_\_ no

(2) If so, do you certify that at least 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:

- (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 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 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 bidder offers Louisiana items which are within 10% of the lowest bid, the bidder

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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.)

**NOTE: FAILURE TO SPECIFY ABOVE INFORMATION MAY CAUSE ELIMINATION FROM PREFERENCES.**

**Procurement of United States Products:**

In accordance with the provisions of La. R.S. 39:1604.7, in the event a contract is not entered into for products purchased under the provisions of La. 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 5%.
- (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 5% 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 \_\_\_\_\_ no

Specify line number(s): \_\_\_\_\_

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

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

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**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 the Contractor, the State intends to make all payments to the 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



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**Sample(s) may be required:** When requested, samples must be furnished at bidder's expense, and received no later than 10 business days after request. Packages should be clearly labeled with the file number. Each individual sample within the package must be clearly labeled with the bidder's name, manufacturer's brand name and number, file number and item reference. Submit only one bid proposal's samples per box. Samples of successful bidder will be retained at the Office of State Procurement or the using Agency for the purpose of receiving merchandise. Any part of merchandise received that does not meet the quality standards and construction of the sample will be rejected and returned at bidder's expense.

The using Agency reserves the right to inspect and test the delivered merchandise for compliance with the bid specification. If merchandise fails to meet the specifications, the cost of test and inspection will be paid by the bidder. If the merchandise is in compliance, cost of all test will be paid by the using Agency.

**Delivery:** Contractor will maintain an adequate supply of all items in order to meet specified delivery.

**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.

**Vendor List:** The bidder who signs the bid will be designated as the 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.

**Price Reductions:** Whenever there is a reduction in price, which is lower than the contract price, offered to similarly situated customers contracting for the same period and under the same terms and conditions, said reduction must be presented directly to the Office of State Procurement. No price reduction on a statewide contract may be offered to an Agency unless that reduction is offered to all Agencies.

**Method of Award:** Award to be made on an all-or-none basis to the overall lowest responsive, responsible bidder meeting the specifications. The State reserves the right to reject individual line items from the award.

**Substitutes:** Only brands 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.

**Material safety data sheets (MSDS):** and the actual product label are required for each chemical and should be submitted with the bid or shall be submitted within seven business days of request. The vendor is responsible for providing updated MSDS and/or labels to the Office of State Procurement as needed.

All materials furnished under the contract shall comply with all Federal, State, and Local laws, rules and regulations for the chemicals listed in the contract, including OSHA regulations standard 29 CFR. All products shipped as part of the contract must include an MSDS and the container shall be properly labeled with all required information and warnings.

**Packaging and labeling:** Vendors are encouraged to consider delivery methods that utilize recyclable or reusable packaging material and containers, or those with recycled content.

**Freight Charges:** Unit price should 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.

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**Quantities:** This is an open-ended requirements contract. Quantities shown are based on estimates. Where usage is not available, a quantity of one 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.

**Increase/Decrease:** The quantities included 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.

**Orders:** All State Agencies are to issue contract purchase orders for 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 to issue their regular purchase orders directly to the supplier, making reference to the contract and item number.

**Non-Exclusivity Contract:** 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.

**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 commodities. In no case will the State Agency 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. Payment will be to vendor and address as shown on order.

**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 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.

**Assignment:** The Contractor shall not assign any interest in this 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.

**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:

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- 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.
  - 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 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.

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**Price List Changes:** The price list bid shall remain firm and effective for the first three 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 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 the Office of State Procurement. No retroactive adjustments to the price list will be allowed.

The Contractor shall immediately notify the Office of State Procurement 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.

**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 connections 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 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.

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**C. Other Insurance Provisions**

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

1. Commercial General Liability, Automobile Liability, and Cyber 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 2037 (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 30 day written notice of cancellation to the Agency. Ten 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, the Contractor is required to notify the 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 the 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 30 days.

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**E. Verification of Coverage**

1. The 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. Third Street, Suite 2-160  
Baton Rouge, LA 70802  
Optimal Water Technologies Brand Name Water Treatment Chemicals
3. In addition to the Certificates, the 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, the 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**

The 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 the Contractor is not required to provide or elects not to provide workers compensation coverage, the parties hereby agree that the 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 the Contractor is a wholly independent Contractor and is exclusively responsible for its employees, owners, and agents. The 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. The 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

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omission of the 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. The 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.