

RFx No.: 3000023324

Title: TSI BN Photo ID Equipment & Supplies - SW

1. 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 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 also 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

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: August 8, 2024

Deadline to answer written inquiries: August 15, 2024

Bid Opening Date and Time: August 22, 2024 @ 10:00 AM (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.

2. 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 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 exceptions*, 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: Arielle Bibbins
1201 North Third St.
Claiborne Bldg. Suite 2-160
Baton Rouge, LA 70802

Email: Arielle.Bibbins@la.gov
Phone: (225) 342-5465
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

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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

Help scripts are available on the Office of State Procurement website under Vendor Resources at:

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

3. 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.

4. 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.

5. 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.

6. 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.

7. Brand Name Contract Usage Requirements:

Brand Name Contracts for Photo ID Equipment & Supplies 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.

8. Brand Name Contract:

All items bid must be brand name specified. Alternate brands will not be considered.

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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.

9. Administrative Fees:

The State shall be due a **1%** administrative fee 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 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:

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

10. 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 or 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/>

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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 report shall be submitted to 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

11. 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 by 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 bid a list of all persons, in additions to the signer of the bid, who are authorized to request revisions to the contract.

12. 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 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.

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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/purchasing/approved-quasi-units/> 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.

13. Prices:

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

14. Acceptance:

Unless otherwise specified, bids on this 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.

15. Freight Charges:

Unit price shall 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.

16. 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.

17. 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 execute invoice, or receipt of goods, whichever is later. Payment will be made on the basis of

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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.

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.

18. 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 State 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.

19. 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 Contractors, 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 & Accounting Policy at DOA-OSRAP-EFT@la.gov.

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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

20. 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 10%, except as otherwise provided in this Chapter as a specific exception.

Do you claim this preference? _____ yes _____ no

Specify line number(s): _____

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- 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 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 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 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.

21. 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. 39:1604, each procurement officer, purchasing

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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, 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 State which are within 5% of the lowest bid, the bidder offering the lowest bid on such items is entitles 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:

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

22. Literature:

Literature and/or specifications must be submitted upon request; if requested, literature and/or specifications must be submitted within five business days of written request.

If bidding other than specified, sufficient information should be enclosed with the bid in order to determine quality, suitability, and compliance with the specifications.

Failure to comply with this request may eliminate your bid from consideration.

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23. 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.

24. 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 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.

25. Renewal Option:

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

26. 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.

27. Termination for Non-Appropriate 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.

28. 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.

29. Method of Award:

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

30. 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.

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31. Contractor's Responsibility:

During the course of the contract, any price reduction in the contract price must be immediately extended to the State by the Contractor. Failure to offer the benefit of the price reductions to the State within two weeks after general announcement may result in the cancellation of the contract. These price reductions must be granted on any order not shipped. The Contractor must maintain a list of equipment on order and be able to provide a list to the Office of State Procurement within 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.

32. 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.

33. Single Point of Contact:

At a minimum, the Contractor shall assign one person and at least one 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 and contract, training coordination. This designated contact person should be prepared to handle routine task, answer inquiries, and resolve problems that arise on a daily basis. The Contractor shall designate this single point of contact within 14 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.

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.

The 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 property caused by the 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.

The Contractor will indemnify, defend and hold the State harmless, **without limitation**, from and against any and all damages, expenses (including reasonable attorneys' fees), claims judgements, liabilities and costs which may be finally assessed against the State in any action for infringement of a United States Letter Patent with respect to the Products, Materials, or Services furnished, 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, (ii) the opportunity take over, settle or defend such action, claim or suit at the Contractor's sole expense, and (iii) assistance in the defense of any

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such action at the expense of the Contractor. Where a dispute or claim arises relative to a real or anticipated infringement, the State may require the Contractor, at its sole expense, to submit such information and documentation, including 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 a Product, Material, or Service; (ii) State's use of the Product, Material, or Service in combination with other products, materials, or services not furnished by the Contractor; (iii) State's use 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 the Contractor believes that it may be enjoined, the Contractor shall have the right, at its own expense and sole discretion as the State's exclusive remedy to take action no later than six months after the issuance of an injunction 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 this contract. Any injunction that is issued against the State which prevents the State from utilizing the Contractor's product in excess of six months and for which the Contractor has not obtained for the State or provided to the State one of the alternatives set forth in the foregoing sentence is cause for the State to terminate this contract. In the event of such termination, the State will not be obligated to compensate the Contractor for any costs incurred by the Contractor.

For all other claims against the Contractor where liability is not otherwise set forth in this contract as being "without limitation", and regardless of the basis on which the claim is made, the Contractor's liability **for direct damages, shall be the greater of \$100,000, the dollar amount of this contract, or two times the charges for services rendered by the Contractor under this 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 (unless the Contractor is required to back-up the data or records as part of the work plan), 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 them at law or equity and upon notice to the Contractor, retain such monies from amounts due the 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. Packaging and Labeling:

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

36. Contract Utilization:

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

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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 exceed 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.
 - 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.

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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 entrepreneurships 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.

37. Escalation Clause:

The prices set forth in the contract shall remain effective for the duration of the contract period. Price adjustments will be considered for subsequent annual contract renewals. The Contractor must submit a written request for price adjustments to the Office of State Procurement at least 60 days prior to the contract anniversary. No adjustments shall be effective until approved by the Office of State Procurement. The State reserves the right to accept the adjustment or re-bid the contract. Orders shall be invoices at the contract price in effect on the date of the purchase order. Price adjustments shall be based on the Consumer Price Index (CPI) for series ID CUUR0000SS61023, Photographic Equipment as published by the US Department of Labor Bureau of Labor Statistics, Washington, DC. The base index shall be allied to the original price accepted. Price adjustments for each subsequent contract renewal will be calculated from the base index re-established at the time of any previously approved price adjustments.

38. 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.

39. 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 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.

40. 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.

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41. 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.

42. 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.

43. 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.

44. Contract Controversies:

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

45. Cybersecurity Training:

A. In accordance with La. R.S. 42:1267(B)(3) and the State of Louisiana’s Information Security Policy, if the Contractor, any of its employees, agents, or subcontractors will have access to State government information technology assets, the Contractor’s employees, agents, or subcontractors with such access must complete cybersecurity training annually, and the Contractor must present evidence of such compliance annually and upon request. The Contractor may use the cybersecurity training course offered by the Louisiana Department of State Civil Service without additional cost.

B. For purposes of this Section, “access to State government information technology assets” means the possession of credentials, equipment, or authorization to access the internal workings of State information technology systems or networks. Examples would include but not limited to State-issued laptops, VPN credentials to credentials to access the State network, badging to access the State’s telecommunications closets or systems, or permissions to maintain or modify IT systems used by the State. Final determination of scope inclusions or exclusions relative to access to State government information technology assets will be made by the Office of Technology Services.

46. 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 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.

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2. Workers Compensation and Employers Liability Coverages

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. 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, 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.

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.

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2. The Certificate Holder shall be listed as follows:
State of Louisiana
1201 North Third St.
Claiborne Bldg., Suite 2-160
Baton Rouge, LA 70802
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, 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

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 the 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 this 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 omission of the Contractor, its agents, servants, and employees, or any and all costs, expenses and/or attorney fees incurred by the Contractor as a result of any claims, demands, suits or causes

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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.