Attachment A - Special Terms and Conditions

RFx # 3000026895 **Title: *Fax Bid* Optical Equip & Install - DOC**

1. **Bid Delivery Instructions for State Procurement:**

Bids may be submitted online by accessing the link on page 1 of the invitation to 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 chosen means of online bid delivery. 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.

Or Fax quotations may be submitted:

Via fax to: (225) 342-9756

In order for your fax quotation to be considered, it must be received no later than the opening date and time shown on the first page of this solicitation.

If your fax quotation is submitted via fax, the date and time marked by the receiving fax machine will be the official fax quotation receipt time. Fax quotations submitted by hand or courier delivery or mailed to the Office of State Procurement will be time-stamped.

Vendor is solely responsible for the timely delivery of its fax quotation. Failure to meet the fax quotation opening date and time shall result in rejection of the fax quotation.

Or Bids may be mailed or delivered by hand or courier service to our physical location as follows:

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

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 our 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 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.

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

2. **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.

3. **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.

4. **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.

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

6. **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.

7. **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.

8. **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 the vendor and to the address as shown on the purchase order.

9. **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.

10. **Prohibition Against Advance Payments:**
No compensation or payment of any nature shall be made in advance of the delivery of the contract commodities or in advance of services actually performed, unless allowed by law or otherwise stated therein.

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

12. **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. Purchase 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 upon 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.

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.

Payment Type	**Will Accept**	**Already Enrolled**
LaCarte	_____	_____
EFT	_____	_____

_____
Printed Name of Individual Authorized

_____ _____
Authorized Signature for payment type chosen Date

_____
Email address and phone number of authorized individual

13. 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.

(a) Do you have a Louisiana Business workforce? ☐ Yes ☐ No

(b) 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): _____

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.

14. 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.)

15. Literature:

Literature and/or specifications must be submitted upon request; if requested, literature and/or specifications must be submitted within 5 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.

16. Right to Inspect:

The agency reserves the right to inspect and test the delivered merchandise for compliance with the bid specifications. If merchandise is in compliance, cost of all testing will be paid by the Using Agency.

17. Method of Award:

It is the intent of the State to award this contract on an all-or-none basis to the overall lowest responsive, responsible bidder meeting the specifications. The State further reserves the right to reject individual line items from the award.

18. Record Retention:

The successful vendor shall retain all books, records, and other relevant documents associated with the contract for at least 5 years after final payment.

19. 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 5 years from the date of final payment or as required by applicable State and Federal Law. Records shall be made available during normal working hours for this purpose.

20. Applicable Law

The contract shall be governed by and interpreted in accordance with the laws of the State of Louisiana; specifically, the Louisiana Procurement Code (La. R.S. 39:1551-1755) and its corresponding rules and regulations and, to the extent applicable, the Information Technology Procurement Code (La. R.S. 39:196-200) and its corresponding rules and regulations.

Venue of any action for judicial review brought with regard to the contract, after exhaustion of administrative remedies, shall be in the Nineteenth Judicial District Court, Parish of East Baton Rouge, State of Louisiana, which shall exercise its appellate jurisdiction in accordance with the Louisiana Procurement Code.

21. 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, 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. 10-day written notice of cancellation is acceptable for non-payment of premium. Notifications shall comply with the standard cancellation provisions in the Contractor's policy. In addition, Contractor is required to notify agency of policy cancellations or reductions in limits.

b. The acceptance of the completed work, payment, failure of the Agency to require proof of compliance, or agency's acceptance of a non-compliant Certificate of Insurance shall not release the Contractor from the obligations of the insurance requirements or indemnification agreement.

c. The insurance companies issuing the policies shall have no recourse against the Agency for payment of premiums or for assessments under any form of the policies.

d. Any failure of the Contractor to comply with reporting provisions of the policy shall not affect coverage provided to the Agency, its officers, agents, employees and volunteers.

D. Acceptability of Insurers

1. All required insurance shall be provided by a company or companies lawfully authorized to do business in the jurisdiction in which the Project is located. Insurance shall be placed with insurers with an A.M. Best's rating of **A-:VI or higher**. This rating requirement may be waived for workers' compensation coverage only.
2. If at any time an insurer issuing any such policy does not meet the minimum A.M. Best rating, the Contractor shall obtain a policy with an insurer that meets the A.M. Best rating and shall submit another Certificate of Insurance within 30 days.

E. Verification of Coverage

1. Contractor shall furnish the Agency with Certificates of Insurance reflecting proof of required coverage. The certificates for each insurance policy are to be signed by a person authorized by that insurer to bind coverage on its behalf. The certificates are to be received and approved by the Agency before work commences and upon any contract renewal or insurance policy renewal thereafter.
2. The Certificate Holder should be listed as follows:

   State of Louisiana

   Office of State Procurement

   1201 N. Third St. Suite 2-160

   Baton Rouge, LA 70802
3. In addition to the certificates, Contractor shall submit the declarations page and the cancellation provision for each insurance policy. The Agency reserves the right to request complete certified copies of all required insurance policies at any time.
4. Upon failure of the Contractor to furnish, deliver and maintain such insurance, this contract, at the election of the Agency, may be suspended, discontinued or terminated. Failure of the Contractor to purchase and/or maintain any required insurance shall not relieve the Contractor from any liability or indemnification under the contract.

F. Subcontractors

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 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.

22. Termination for Non-Appropriation of Funds

The continuation of this 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 the 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 appropriation 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.

23. 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.

24. Contract Controversies

Any claim or controversy arising out of the contract shall be resolved by the provisions of La. R. S. 39:1671-1673, as applicable.