

Attachment A – Special Terms and Conditions
RFx 3000023120

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 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.

Attachment A – Special Terms and Conditions
RFx 3000023120

Calendar of Events:

Deadline to receive written inquiries: **June 11, 2024**

Deadline to answer written inquiries: **June 18, 2024**

Bid Opening Date and Time: **June 25, 2024 @ 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: **Kim Mulder**
1201 North Third St.
Claiborne Bldg., Suite 2-160
Baton Rouge, LA 70802

E-Mail: kim.mulder@la.gov
Phone: (225) 342-6808
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

Attachment A – Special Terms and Conditions
RFx 3000023120

addenda that may be issued. The Office of State Procurement is not responsible for a bidder's failure to download any addenda documents required to complete the bid.

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

To receive the email notification, vendors must register in the LaGov portal. Registration is intuitive at the following link:

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

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

Terms and Conditions:

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

Vendor's Forms:

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

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.

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.

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.

Attachment A – Special Terms and Conditions
RFx 3000023120

Contractual Period:

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

Contract Renewal:

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 60 months.

USDA and FDA Compliance:

All items furnished under the contract must be in compliance with United States Department of Agriculture (USDA) and Food and Drug Administration (FDA) requirements and laws, including labeling requirements.

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 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.

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

Attachment A – Special Terms and Conditions
RFx 3000023120

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

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

Printed Name of Individual Authorized

Authorized Signature for payment type chosen

Date

Email address and phone number of authorized individual

Non-Exclusivity Clause:

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

Termination for Non-Appropriation of Funds:

The continuation of the contract is contingent upon the appropriation of funds to fulfill the requirements of the contract by the legislature. If the legislature fails to appropriate sufficient monies to provide for the continuation of a contract or if such appropriation is reduced by the veto of the Governor or by any means provided in the Appropriations Act or Title 39 of the Louisiana Revised Statutes of 1950 to prevent the total appropriations for the year from exceeding revenues for that year or for any other lawful purpose and the effect of such reduction is to provide insufficient monies for the continuation of the contract, the contract shall terminate on the date of the beginning of the first fiscal year for which funds are not appropriated.

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.

Orders:

LDAF is to issue contract purchase orders for the items required, as and when needed.

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.

Attachment A – Special Terms and Conditions
RFx 3000023120

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.

Attachment A – Special Terms and Conditions
RFx 3000023120

- 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, 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

Attachment A – Special Terms and Conditions
RFx 3000023120

2. to be received and approved by the Agency before work commences and upon any contract renewal or insurance policy renewal thereafter.
3. The Certificate Holder shall be listed as follows:
Louisiana Department of Agriculture and Forestry
Food Distribution Division
5825 Florida Blvd., Baton Rouge, LA 70806
Warehouse Services and Storage - LDAF
4. 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.
5. 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 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 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

Attachment A – Special Terms and Conditions
RFx 3000023120

2. 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.
3. 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.

Usage Reporting Requirements:

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

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

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

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

Specialty Termination Clauses:

- A. LDAF shall have the right to cancel the contract immediately if it is determined that the contract was obtained by fraud, collusion, conspiracy, or other unlawful means, or the contract conflicts with any statutory or constitutional provision of the State of Louisiana or Federal law.
- B. LDAF shall have the right to cancel the contract for any of the following reasons listed below, unless corrected within 30 days of receipt of notice by the Warehouseman. Such notice shall be sent in writing by LDAF by certified or registered mail, return receipt requested, postage paid, and properly addressed to the last known business address of the Warehouseman.
 - a. Breach of contract.
 - b. Failure of the Warehouseman to furnish a satisfactory performance bond within the time specified.
 - c. Failure of the Warehouseman to make available both book inventory and the physical inventory records as required, and to hold all public records pertaining to the Food Distribution Program for a period of three years from the date on which the records were

Attachment A – Special Terms and Conditions
RFx 3000023120

made or until USDA claims action or litigation involving the records is closed.

- d. Failure of the Warehouseman to provide and maintain proper temperatures for the various types of commodity foods as explained in the contract.
- e. Failure of the Warehouseman to make proper restitution for commodities damaged or lost due to negligence.
- f. Failure of the Warehouseman to obtain and hold a valid permit from the Food and Drug Section of the Louisiana Department of Health and to adhere to the Louisiana State Sanitary Code.
- g. Failure of the Warehouseman to identify commodities by lot and to adhere to first-in-first-out requirements, or any other requirement specified in his contract proposal or its attachments, to safeguard the quality of USDA donated food stored under his care and supervision.
- h. Failure of the Warehouseman to submit timely and accurate monthly records of inventories and billings.
- i. Failure of the Warehouseman to operate on regular business days without obtaining prior approval to close from LDAF.
- j. Failure of the Warehouseman to have personnel available to transact LDAF business during normal business hours as established by LDAF.
- k. No condition of the contract shall be construed and affected in violation of Federal or State laws or Local statutes. Any provision of the contract in conflict with Federal or State laws or Local statutes applicable to the transaction in question shall be invalid with regard to the transaction and in no way affects the legality of any other provision or transaction.