# Attachment A, Standard RFP Terms and Conditions

**Standard terms and conditions SHALL NOT be altered or removed.**

This RFP and Proposer’s participation therein is subject to the following terms and conditions. **In the event of a conflict between the Standard RFP Terms and Conditions and the Special RFP Terms and Conditions, the Special RFP Terms and Conditions shall govern.**

## Definitions

* 1. **Agency** means any department, commission, council, board, office, bureau, committee, institution, agency, government, corporation, or other establishment of the executive branch of the State of Louisiana authorized to participate in any contract resulting from this RFP.
	2. **Award** means the issuance of a “Notice of Award” to all Proposers.
	3. **Can** denotes a permissible action.
	4. **Contract** means a legal binding agreement, resulting from this RFP, between the State and the awarded Contractor(s).
	5. **Contractor** means a Proposer with whom the State executes a Contract resulting from this RFP.
	6. **Day** means a calendar day, unless explicitly identified otherwise.
	7. **Deliverable** means a good, product, service, solution, result, labor, or other effort being sought through this RFP.
	8. **Discussions** means a formal, structured means of conducting written or oral negotiations with selected responsible Proposer(s) who submit proposals in response to this RFP.
	9. **DOA** means the Louisiana Division of Administration.
	10. **LESA** means Louisiana eProcurement Solutions by Ariba.
	11. **May** denotes an advisory or permissible action per La. R.S. 39:1556(34).
	12. **Must** denotes mandatory requirements.
	13. **Negotiation** means the formulation of a contractual relationship through discussions as may be allowed under the Louisiana Procurement Code.
	14. **OSP** means the Louisiana Office of State Procurement.
	15. **Proposal** means the document(s), data, information, and other media submitted by a Proposer in response to this RFP, including information submitted directly through the RFP Website and information submitted after the proposal opening date at the request of the State.
	16. **Proposer** means an entity or individual submitting a proposal in response to this RFP. The successful Proposer responsive to this RFP is also described as the Contractor in this document.
	17. **RFP** means this request for proposals, including all attachments and exhibits and any information posted by the State to the RFP Website, as amended.
	18. **RFP Website** means the location of this RFP in LESA.
	19. **Shall** denotes mandatory requirements per La. R.S. 39:1556(53).
	20. **Should** denotes a desirable action.
	21. **State** means the State of Louisiana and its departments, agencies (including the Using Agency), boards, and commissions as well as their officers, agents, servants, employees, and volunteers.
	22. **Using Agency** means the governmental body of the State (including any authorized users) which is procuring any supplies, services, or major repairs, or any professional, personal, consulting, or social services under this RFP pursuant to the Louisiana Procurement Code, La. R.S. 39:1551-1755.
	23. **Will** denotes mandatory requirements.

Governing Law and Venue

* 1. All activities associated with this procurement shall be interpreted under Louisiana Law, including but not limited to La. R.S. 39:1551-1736 (Louisiana Procurement Code) and La. R.S. 39:196-200 (Information Technology Procurement Code), if applicable; purchasing rules and regulations; executive orders; terms and conditions; and specifications listed in this RFP.
	2. Venue of any action brought with regard to all activities associated with this procurement shall be in the Nineteenth Judicial District Court, Parish of East Baton Rouge, State of Louisiana.
	3. Proposer and Proposer’s participation in this RFP must comply with all applicable federal, state, and local laws, rules, and policies.
	4. All Deliverables proposed by Proposer must comply with all applicable federal, state, and local laws, rules, and policies.

RFP Documents

* 1. **RFP Website.**
		1. The RFP Website is the sole source for official RFP documents and updates.
		2. Documents from this RFP may be posted on multiple websites, including Using Agency websites and non-State procurement solicitation boards, or distributed through other channels, such as email. Such distribution is for advertising and informational purposes only, and documents and information from sources other than the RFP Website should not be relied upon to develop or submit a proposal. Proposals or questions submitted through any means other than those specified in this RFP may not be addressed or considered by the State.
	2. **RFP Addenda.**
		1. The State reserves the right to change the Schedule of Events or issue addenda to this RFP at any time. Information shared orally or in informal communications will not be considered an addendum unless documented in writing on the RFP Website.
		2. It is the Proposer’s responsibility to check the RFP Website frequently for any possible addenda that may be issued.
		3. Proposer is wholly responsible for reviewing addenda and updates to the RFP Website, acknowledging addenda as required, and submitting a proposal that is responsive to and compliant with this RFP as amended.
		4. The State is not responsible for a Proposer’s failure to review or download any addenda documents required to complete and submit a proposal.
	3. **Waiver of Administrative Informalities.**
		1. The State reserves the right, at its sole discretion, to waive administrative informalities contained in any proposal.
	4. **Conflicts and Issues.**
		1. The following should be brought to the attention of the State using the process described in this RFP for asking questions or, if applicable, by filing a protest using the process described in Attachment F, **Protest Information**:
			1. Any alleged conflict among the materials comprising this RFP; and
			2. Any alleged issue relating to the content of this RFP, including instructions, requirements, or specifications alleged to be ambiguous, unduly restrictive, erroneous, anticompetitive, or unlawful.
		2. Any protest, claim, dispute, or action based upon a conflict or issue described in 1.a or 1.b of this paragraph shall be filed no later than two days prior to the proposal opening date.
		3. Proposers shall be responsible for determining that there will be no conflict or violation of the Louisiana Ethics Code if their company is awarded the Contract. The Louisiana Board of Ethics shall be the only entity which can officially rule on ethics issues.
	5. **Blackout Period.** The Blackout Period is a specified period of time during a competitive sealed procurement process in which any Proposer, Bidder, or its Agent or Representative, is prohibited from communicating with any State employee or Contractor of the State involved in any step in the procurement process about the affected procurement. The Blackout Period applies not only to State employees, but also to any Contractor of the State. “Involvement” in the procurement process includes but may not be limited to project management, design, development, implementation, procurement management, development of specifications, and evaluation of proposals for a particular procurement. All solicitations for competitive sealed procurements will identify a designated contact person. All communications to and from potential Proposers, Bidders, Vendors and/or their representatives during the Blackout Period must be in accordance with this solicitation’s defined method of communication with the designated contact person. The Blackout Period will begin upon posting of this solicitation. The Blackout Period will end when the Contract is awarded.

In those instances in which a prospective Proposer is also an incumbent Contractor, the State and the incumbent Contractor may contact each other with respect to the existing contract only. Under no circumstances may the State and the incumbent Contractor and/or its representative(s) discuss the blacked-out procurement.

Any Bidder, Proposer, or State Contractor who violates the Blackout Period may be liable to the State in damages and/or subject to any other remedy allowed by law. Further, failure to comply with these requirements may result in the Proposal’s disqualification.

Any costs associated with cancellation or termination will be the responsibility of the Proposer or Bidder.

Notwithstanding the foregoing, the Blackout Period shall not apply to:

1. A protest to a solicitation submitted pursuant to La. R.S. 39:1671;
2. Duly noticed site visits and/or conferences for Bidders or Proposers;
3. Written or oral clarifications/presentations during the evaluation process;
4. Communications regarding a particular solicitation between any person and staff of the procuring agency provided the communication is limited strictly to matters of procedure. Procedural matters include deadlines for decisions or submission of proposals and the proper means of communicating regarding the procurement, but shall not include any substantive matter related to the particular procurement or requirements of this RFP; or
5. Contract negotiation for this RFP with the selected responsible Proposer.

Proposals

* 1. **Late Delivery or Non-delivery of Proposal.** Proposer is wholly responsible for ensuring Proposer’s proposal is complete and submitted timely to the State in the format required by this RFP. The State will not accept a proposal after the proposal opening date and time.
	2. **Legibility/Clarity.** Responses to the requirements of this RFP in the formats requested are desirable with all questions answered in as much detail as practicable. The Proposer’s response is to demonstrate an understanding of the requirements. Proposals prepared simply and economically, providing a straightforward, concise description of the Proposer’s ability to meet the requirements of this RFP is also desired. Each Proposer is solely responsible for the accuracy and completeness of its proposal.
	3. **Errors and Omissions in Proposal.** The State will not be liable for any errors or omissions in the proposal. Proposer will not be allowed to alter proposal documents after the deadline for proposal submission, except under the following condition: The State reserves the right to make corrections or clarifications due to patent errors identified in proposals by the State or the Proposer. The State, at its option, has the right to request clarification or additional information from the Proposer.
	4. **Proposal Changes Prior to Proposal Opening.**
		1. **LESA Proposals.** The Proposer may make changes within LESA at any time prior to proposal opening by editing the response.
		2. **Hard Copy Proposals.** See Attachment G, **Hard Copy Proposal Submittal** for details regarding changes prior to proposal opening.
	5. **Withdrawal of Proposal Prior to Proposal Opening.**
		1. **LESA Proposals.** A Proposer may withdraw a proposal that has been submitted at any time up to the proposal opening date and time. To accomplish this, a message must be sent through LESA requesting withdrawal of the submitted proposal.
		2. **Hard Copy Proposals.** See Attachment G, **Hard Copy Proposal Submittal** for details regarding withdrawal of the proposal prior to proposal opening.
	6. **Material in the RFP.** Proposals shall be based only on the material contained in this RFP. The RFP includes official responses to questions, addenda, and other material, which may be provided by the State pursuant to this RFP.
	7. **Use of Subcontractors.**
		1. Each Contractor shall serve as the single prime Contractor for all work performed pursuant to its contract. The prime Contractor shall be responsible for all deliverables referenced in this RFP.
		2. This general requirement notwithstanding, Proposers may enter into subcontractor arrangements. Proposers may submit a proposal in response to this RFP, which identifies subcontract(s) with others, provided that the prime Contractor acknowledges total responsibility for the entire contract.
	8. **Financial Proposal.**
		1. Proposer must complete all required elements of Part 3: Financial Proposal of Attachment H, **Proposal**. The format and structure of the Financial Proposal is intended to allow for a fair evaluation of like costs among Proposers. Deviation from the format or structure of the Financial Proposal may result in Proposer’s proposal being deemed non-responsive.
		2. Proposer is wholly responsible for ensuring figures and calculations submitted in Proposer’s completed Financial Proposal are accurate, even if formulas have been provided by the State as a courtesy.
		3. Any taxes, other than State and local sales and use taxes, from which the State is exempt, shall be assumed to be included within the Proposer’s cost.
		4. Inclusion of cost or pricing information in any document other than the Financial Proposal may result in Proposer’s proposal being deemed non-responsive.
	9. **Proposed Modifications to the Sample Contract.**
		1. The State may, but is not obligated to, consider proposed modifications to Attachment E, **Sample Contract**.
		2. Proposer-specific modifications to Attachment E, **Sample Contract**, may be proposed as part of Proposer’s proposal in Part 5: Proposed Modifications to Sample Contract of Attachment H, **Proposal**, but are strongly discouraged. Proposing excessive or overly restrictive modifications, or proposing modifications upon which Proposer’s proposal is conditioned, may result in Proposer’s proposal being deemed non-responsive.
		3. The following will not be considered by the State:
			1. Any proposed modification of a non-negotiable term listed in Part 5: Proposed Modifications to Sample Contract of Attachment H, **Proposal**;
			2. Any proposed modification not submitted with Proposer’s proposal in Part 5: Proposed Modifications to Sample Contract of Attachment H, **Proposal**;
			3. Any proposed modification not accompanied by an explanation as required in Part 5: Proposed Modifications to Sample Contract of Attachment H, **Proposal**;
			4. Any proposed modification not reflected in redlined edits to the Sample Contract and submitted with Proposer’s proposal; and
			5. Any proposed modification merely referencing another document or a URL.
		4. Proposers may propose additional terms but must include them in Part 5: Proposed Modifications to Sample Contract of Attachment H, **Proposal** and must clearly identify where any terms conflict with the Sample Contract.
	10. **Proposal Contact.** Proposers should ensure that the contact information associated with the Proposer’s SAP Ariba Business Network account is current throughout the RFP process. The Proposal Contact identified by Proposer in Part 1, Proposer Information, Acknowledgements, and Certifications of Attachment H, **Proposal**, must be able to respond timely to communications from the State. Proposer must, within 24 hours, notify the State of any change to Proposer’s Proposal Contact. Proposer is wholly responsible for ensuring communications received by Proposer’s Proposal Contact are reviewed and addressed timely by the appropriate personnel.
	11. **Proposal Development Costs.** The State shall not be liable for any costs incurred by prospective Proposers or Contractors prior to issuance of or entering into a Contract. Costs associated with developing the proposal, preparing for oral presentations, and any other expenses incurred by the Proposer in responding to this RFP shall be entirely the responsibility of the Proposer, and shall not be reimbursed in any manner by the State of Louisiana.
	12. **Proposal Validity.** All proposals shall be considered valid for acceptance until such time an award is made. Award should be made within 180 days.
	13. **Ownership of Proposals.** All materials submitted in response to this RFP become the property of the State. Selection or rejection of a proposal does not affect this right. All proposals submitted will be retained by the State and not returned to Proposers. Any copyrighted materials in the proposal are not transferred to the State.
	14. **Business Confidentiality, Trade Secrets, and Proprietary Information.**
		1. The designation of certain information as trade secrets and/or privileged or confidential proprietary information shall only apply to the technical portion of the proposal. The Financial Proposal will not be considered confidential under any circumstance. Any proposal copyrighted or marked as confidential or proprietary in its entirety may be rejected without further consideration or recourse.
		2. For the purposes of this procurement, the provisions of the Louisiana Public Records Act (La. R.S. 44.1 et. seq.) shall be in effect. Pursuant to this Act, all proceedings, records, contracts, and other public documents relating to this procurement shall be open to public inspection. Proposers are reminded that while trade secrets and other proprietary information they submit in conjunction with this procurement may not be subject to public disclosure, protections must be claimed by the Proposer at the time of submission of its Technical Proposal. Proposers should refer to the Louisiana Public Records Act for further clarification.
		3. If Proposer is claiming any portion of its proposal as confidential, proprietary, or protected, Proposer must complete the required sections of Part 6: Claim of Business Confidentiality of Attachment H, **Proposal**, and submit with Proposer’s proposal a redacted copy of Proposer’s proposal, which must be clearly marked as such.
		4. If the Proposer does not submit the redacted copy, it will be assumed that any claim to keep information confidential is waived.
		5. Proposers must be prepared to defend the reasons why the material should be held confidential. By submitting a proposal with data, information, or material designated as containing trade secrets and/or privileged or confidential proprietary information, or otherwise designated as “confidential”, the Proposer agrees to indemnify and defend (including attorney’s fees) the State and hold the State harmless against all actions or court proceedings that may ensue which seek to order the State to disclose the information.
		6. The State reserves the right to make any proposal, including proprietary information contained therein, available to OSP personnel, the Office of the Governor, or other State Agencies or organizations for the sole purpose of assisting the State in its evaluation of the proposal. The State shall require said individuals to protect the confidentiality of any specifically identified proprietary information or privileged business information obtained as a result of their participation in these evaluations.
		7. Additionally, any proposal that fails to follow this section and/or La. R.S. 44:3.2.(D)(1) shall have failed to properly assert the designation of trade secrets and/or privileged or confidential proprietary information and the information may be considered public records.
	15. **Evaluation and Selection.** A consensus-based evaluation process shall be used to evaluate responses. The State Evaluation Committee will determine which proposals are reasonably susceptible of being selected for award. If required, written or oral clarifications/presentations may be conducted with any or all of the Proposers to make this determination. The committee reserves the right to make an award recommendation without further written or oral clarifications/presentations of the proposal submitted based on the initial offers received.
	16. **Written or Oral Clarifications/Presentations.**
		1. The State, at its sole discretion, may require all Proposers who submit proposals determined to be reasonably susceptible of being selected for the award to provide an oral presentation of how they propose to meet the Using Agency’s objectives.
		2. Any commitments or representations made by the Proposer during clarifications/presentations, if conducted, may become formally recorded in the final Contract.
		3. Written or oral clarifications/presentations may be conducted to enhance the State’s understanding of any or all of the proposals submitted. No changes, modifications, or additions to the proposals will be allowed during clarifications.
		4. The State reserves the right to adjust the original scores based on the information received in the oral presentations, if conducted, using the original evaluation criteria. The cost score will remain unchanged.
	17. **Best and Final Offers (BAFO).**
		1. The State reserves the right to conduct a BAFO with one or more Proposers determined by the committee to be reasonably susceptible of being selected for award. If conducted, the Proposers selected to participate will receive written notification of their selection, with a list of specific items to be addressed in the BAFO along with instructions for submittal. The BAFO negotiation may be used to assist the State in clarifying the scope of work or to obtain the most cost effective pricing available from the Proposers.
		2. The written invitation to participate in a BAFO will not obligate the State to enter into a contract.
	18. **Contract Negotiations.**
		1. This RFP, including any addenda, and the proposal of the responsible Proposer will become part of any contract initiated by the State. The mandatory RFP requirements shall become contractual obligations. The State reserves the right to contract for all or a partial list of supplies and/or services offered in the proposal.
		2. Negotiation may include revision of pricing, and clarification of the scope of work, as well as any non-mandatory terms or conditions included in Part 5: Proposed Modifications to Sample Contract of Attachment H, **Proposal** as deemed to be in the best interest of the State.
		3. If for any reason, the responsible Proposer does not agree to a contract, that proposal shall be rejected and the State may negotiate with the next most advantageous responsible Proposer.
		4. If the contract negotiation period exceeds 30 days or if the selected Proposer fails to sign the Contract within seven calendar days of delivery of it, the State may elect to reject the proposal and negotiate the Contract with the next most advantageous responsible Proposer.
		5. OSP must approve the final Contract to complete the process.
	19. **Notice of Award.**
		1. The “Notice of Award” is the notification of successful negotiations and award of the Contract.
		2. OSP will notify all unsuccessful Proposers as to the outcome of the evaluation process. The proposals received (except for that information appropriately designated as confidential in accordance with La. R.S. 44.1 et. seq.) along with the evaluation factors, points, evaluation committee member names, and the completed evaluation summary and recommendation report are public record and shall be made available, upon request, to all interested parties after the “Notice of Award” has been issued.
		3. Any person aggrieved by the award has the right to submit a protest by using the process described in Attachment F, **Protest Information**. Issuance of the “Notice of Award” starts the protest period.
	20. **Secretary of State Requirements.**
		1. In accordance with Louisiana law, all corporations (see La. R.S. 12:262.1) and limited liability companies (see La. R.S. 12:1308.2) must be registered and in good standing with the Louisiana Secretary of State in order to hold a purchase order and/or a contract with the State.

Rights Reserved To the State

* 1. **Rejection of Proposals.**
		1. Issuance of this RFP in no way constitutes a commitment by the State to award a contract. The State reserves the right to accept or reject any or all proposals submitted or to cancel this RFP if it is in the best interest of the State to do so. Further, the State reserves the right to cancel or decline to enter into a contract with the successful Proposer at any time after the award is made and before the Contract receives final approval from the Division of Administration, Office of State Procurement.
		2. In accordance with the provisions of La. R.S. 39:2192, in awarding contracts, any public entity is authorized to reject a proposal or bid from, or not award the Contract to, a business in which any individual with an ownership interest of five percent or more, has been convicted of, or has entered a plea of guilty or nolo contendere to any State felony or equivalent federal felony crime committed in the solicitation or execution of a contract or bid awarded under the laws governing public contracts under the provisions of Chapter 10 of Title 38 of the Louisiana Revised Statutes of 1950, or the Louisiana Procurement Code under the provisions of Chapter 17 of Title 39.
	2. **Cancellation.**
		1. The State may cancel this RFP at any time if the State determines that cancellation is in the best interest of the State.
	3. **Proposer’s Cooperation.**
		1. Any Proposer has the duty to fully cooperate with the State and provide any and all requested information, documentation, etc. to the State when requested. This applies even if an eventual contract is terminated and/or a lawsuit is filed. Specifically, the Proposer shall not limit or impede the State’s right to audit or to withhold State owned documents.
	4. **No Guarantee of Quantities.**
		1. The quantities referenced in this RFP are estimated to be the amount needed. In the event a greater or lesser quantity is needed, the right is reserved by the State to increase or decrease the amount, at the unit price stated in the proposal, if applicable.
		2. Neither the State nor Using Agency obligates itself to contract for or accept more than their actual requirements during the period of the Contract, as determined by actual needs and availability of appropriated funds.