



TEXAS LOTTERY COMMISSION

REQUEST FOR PROPOSALS

FOR

SCRATCH TICKET MANUFACTURING AND SERVICES

ISSUED December 13, 2021 4:00 P.M. CENTRAL TIME
Request for Proposal No. 362-2022-0005



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GLOSSARY OF TERMS

This Glossary assigns definitions to the listed terms. The definition given to a term listed in this Glossary applies whenever the term appears in this Request for Proposals (RFP) and in any response, including a Proposal, to this Request for Proposals.

Term	Definition
Apparent Successful Proposer	The Proposer(s) recommended by the evaluation committee and approved by the Executive Director, subject to the execution of a completed Contract.
Automated Scratch Sales Solution	An automated system that integrates with a Retailer's point-of-sale system and the Lottery Gaming System to enable the sale of lottery scratch games using a smart dispensing unit that accounts for, secures and reports on Scratch Ticket sales.
Base Price	Includes any and all requirements, goods and services described in this RFP or included in a Proposer's Proposal that are not specified as an "option."
Business Hours	The Texas Lottery's business hours are 8:00 a.m. to 5:00 p.m. CT, Monday through Friday, except State holidays.
Contract	The agreement entered into by the Texas Lottery and the Successful Proposer, which will incorporate the contents of this RFP and the Successful Proposer's Proposal, except as specifically provided to the contrary in the Contract and any amendments to the Contract.
Contract Award	The day of the contract announcement after the signing of a Contract between the Texas Lottery and the Successful Proposer.
Customer Specifications Document	Document prepared by the Successful Proposer and approved by the Texas Lottery that details standard production requirements for all Texas Lottery scratch ticket games. This document includes general information, standard printing specifications, data processing specifications, packaging specifications, validation information, deliverables, Texas Lottery contact information and additional requirements. The Successful Proposer is responsible for updating the Customer Specifications Document throughout the Contract term if production requirements change.
CPA	Texas Comptroller of Public Accounts.
Day	A calendar day.
End of Validation Date	The last date that players can redeem prizes for any scratch ticket, which is 180 days after the announced closing date for that ticket.
Executive Director	The Executive Director of the Texas Lottery Commission or an employee of the Texas Lottery Commission authorized to act on behalf of the Executive Director.
Executive Management	The Executive Director of the Texas Lottery Commission and the Charitable Bingo Operations Director.
Fiscal Year	The Texas Lottery's fiscal year, which begins on September 1 and ends on August 31 of the following year.
Historically Underutilized Business (HUB)	A Historically Underutilized Business is a business that is certified by the State of Texas that (1) is at least 51% owned by an Asian Pacific



	American, Black American, Hispanic American, Native American, American women, and/or Veteran (as defined by 38 U.S.C. Section 101(2)) who have suffered at least a 20 percent service-connected disability as defined by 38 U.S.C. Section 101(16); (2) is a for-profit entity that has not exceeded the size standards prescribed by 34 Texas Administrative Code (TAC) §20.294, and has its principal place of business in Texas; and (3) has an owner residing in Texas with a proportionate interest who actively participates in the control, operations and management of the entity's affairs. For further explanation, see the Comptroller of Public Accounts (CPA) HUB rule definitions at 34 TAC §20.282.
HSP	The Historically Underutilized Business Subcontracting Plan (HSP) required by Chapter 2161 of the Texas Government Code and by Texas Lottery Commission Rule, 16 TAC §403.301 (See Attachment C.).
Incident	An event or occurrence.
Intellectual Property Rights	The worldwide legal rights or interests evidenced by or embodied in: (i) any idea, design, concept, personality right, method, process, technique, apparatus, invention, discovery, enhancement or improvement, including any patents, trade secrets, and know-how; (ii) any work of authorship, including any copyrights, moral rights, reversionary rights or neighboring rights; and any derivative work thereto (iii) any trademark, service mark, trade dress, trade name, or other indicia of source or origin; (iv) domain names (v) any other proprietary or similar rights, and (vi) any applications, provisionals, registrations, renewals, continuations, continuations-in-part, or divisionals relating thereto. The Intellectual Property Rights of a party include all worldwide legal rights or interests that the party may have acquired by assignment or license with the right to grant sublicenses.
Invited Option	An Invited Option is identified as being of specific interest to the Texas Lottery; however, the Texas Lottery makes no commitment to quantity or timing for acquisition. The Proposer is not obligated to include an Invited Option in the Proposal.
Lottery Gaming System	The system to be provided by the Texas Lottery's Lottery Operations and Services vendor that includes the set of Lottery software, Lottery network, Lottery equipment and any other components that perform all Lottery functions, including, but not limited to, sales, validations, inventory and retailer management, claims processing, marketing support, Instant Ticket warehousing and distribution, and reporting. These systems will provide the ability to control, monitor and report all lottery activity.
Major and Prime Contracts	The following Texas Lottery contracts are considered major or prime contracts: lottery operations and services, scratch (instant) ticket manufacturing and services, advertising services, lottery drawings certified public accounting services, document management services, drawings studio and production services, promotional products, TLC Headquarters lease, TLC warehouse lease, internal control system, security management system and monitoring services, risk review and compliance monitoring, security officer services, website hosting



	services, Houston claim center lease, retailer bonus payment management services, promotional and sponsorship agreement for Irving Music Factory, trademark license and promotional agreements with the Dallas Cowboys and the Houston Texans. The Texas Lottery may add or delete major or prime contracts at its sole option.
Offered Option	Offered Options are not requested in the response to this RFP, but may be identified by the Proposer and included in its Proposal. A Proposer is not obligated to include an Offered Option in the Proposal. This is an opportunity for Proposers to offer options that the Texas Lottery may not have been aware of at the time the RFP was written. The Texas Lottery makes no commitment to quantity or timing for acquisition of Offered Options and offered options are not considered during evaluation of Proposals.
Operating Hours	The period of time during a Day that the Texas Lottery designates, in its sole discretion, that scratch ticket and draw game sales, validations, reporting, and management functions are available. The Texas Lottery's current operating hours are daily from 12:30 a.m. to midnight Central Time.
Pack	A shrink-wrapped package of scratch tickets.
Prize Fund	The monies allocated to be returned to players presenting winning tickets within a specific game. It is calculated by multiplying the total sales of the game by the overall prize payout percentage.
Proposal	All information and materials submitted by a Proposer in response to this RFP. This includes the sealed Cost Proposal, Technical Proposal, and other information and materials provided to the Texas Lottery by the Proposer prior to Contract Award.
Proposer	An individual or entity that submits a Proposal. The term includes anyone acting on behalf of the individual or entity that submits a Proposal, such as agents, employees and representatives.
Responsive Proposal	A Proposal submitted which conforms in all material respects to the RFP, as determined solely by the Texas Lottery.
RFP	This Request for Proposals.
Retailer	A Texas Lottery sales agent, licensed by the Texas Lottery to sell lottery tickets, as contemplated by Texas Government Code, Chapter 466.
Sales	Any full or partial pack of scratch tickets that has been settled.
Scratch Ticket	As defined in Texas Lottery Commission Rule 16 TAC 401.301(47), a scratch ticket lottery game, developed and offered for sale to the public in accordance with commission rules, that is played by revealing the ticket play symbols. Sometimes, scratch ticket games are called "instant games."
Scratch Ticket Game Plan	The Scratch Ticket Game Plan is a schedule of planned game releases by date which identifies all elements of the games to be introduced in a Fiscal Year including, but not limited to, the draft working papers deadline, launch date, price point, theme, and print quantity. The plan is used by the Scratch Ticket Print Vendors for planning print production.



SPD	Statewide Procurement Division (SPD) is a division of the Texas Comptroller of Public Accounts.
Specified Option	A Specified Option must be proposed by the Proposer; however, the Texas Lottery does not commit to any quantity or timing for acquisition of a Specified Option. A Proposal may be rejected if a Specified Option is not included.
State	The State of Texas and its agencies, boards and commissions, officers and employees.
Subcontractor	A person who contracts with the Successful Proposer to work, to supply commodities, or to contribute toward completing work for the Texas Lottery.
Successful Proposer	The Proposer(s) with whom the Texas Lottery executes a Contract to provide the goods and services that this RFP requires.
Texas Lottery Commission, Texas Lottery, Lottery or TLC	That agency created by Chapters 466 and 467, Texas Government Code. The Texas Lottery Commission may be referred to as the Texas Lottery, Lottery, TLC, or agency throughout this document.
Working Days	Business Days occurring Monday through Friday except for the legal holidays observed by the State of Texas. The terms "Working Days" and "Business Days" may be used interchangeably.
Works	Any tangible or intangible items or things that have been or will be prepared, created, maintained, serviced or developed by a Successful Proposer (or such third parties as the Successful Proposer may be permitted to engage) at any time following the effective date of the Contract, for or on behalf of TLC under the Contract, including but not limited to any (i) works of authorship (such as literary works, musical works, dramatic works, choreographic works, pictorial, graphic and sculptural works, motion pictures and other audiovisual works, sound recordings and architectural works, which includes but is not limited to lottery games, game names, game designs, ticket format and layout, manuals, instructions, printed material, graphics, artwork, images, illustrations, photographs, computer software, scripts, object code, source code or other programming code, HTML code, data, information, multimedia files, text web pages or web sites, other written or machine readable expression of such works fixed in any tangible media, and all other copyrightable works and any derivative works thereto), (ii) trademarks, service marks, trade dress, trade names, logos, or other indicia of source or origin, (iii) ideas, designs, concepts, personality rights, methods, processes, techniques, apparatuses, inventions, formulas, discoveries, enhancements or improvements, including any patents, trade secrets and know-how, (iv) domain names, (v) any copies, and similar or derivative works to any of the foregoing, (vi) all documentation and materials related to any of the foregoing, (vii) all other goods, services or deliverables to be provided to TLC under the Contract, and (viii) all Intellectual Property Rights in any of the foregoing.



1. GENERAL INFORMATION

1.1. Purpose

- 1.1.1. The Texas Lottery Commission is issuing this Request for Proposals (RFP) to obtain Proposals from qualified Proposers to provide scratch ticket manufacturing and services.
- 1.1.2. Proposers must have a minimum five (5) years of related lottery experience in scratch ticket printing in North America and at least three current clients who are members of the North American Association of State and Provincial Lotteries.
- 1.1.3. The Texas Lottery currently contracts with three vendors (Scientific Games, Inc., Pollard Banknote Limited, and IGT Corporation) for scratch ticket manufacturing and services. Unlike many other North American lotteries, the Texas Lottery does not require traditional marketing support from its scratch ticket vendors as such marketing support is already provided to the Texas Lottery via the Lottery Operations and Services contract.
- 1.1.4. From the Texas Lottery's launch in May 1992 to August 2021, total transfers by the Texas Lottery to the Foundation School Fund equal more than \$27.6 billion and total transfers by the Texas Lottery to the State of Texas equal more than \$33.6 billion. The Texas Lottery continues to explore new and better ways to generate revenue for the State.
- 1.1.5. In Fiscal Year 2021, Texas Lottery sales totaled \$8.11 billion. Approximately 81.6% of the sales were from the scratch ticket product category. During the past two (2) years, the Lottery has seen average annual scratch ticket sales of \$6.09 billion.
- 1.1.6. The Texas Lottery currently has scratch ticket price points at \$1, \$2, \$3, \$5, \$10, \$20 and \$50 and plans on introducing a \$100 price point ticket in May 2022. During Fiscal Year 2021, the Texas Lottery produced approximately ninety-seven (97) scratch ticket games. The Texas Lottery anticipates similar price points, number of games and overall ticket production going forward.
- 1.1.7. The Texas Lottery, in its sole discretion, shall make all final decisions regarding scratch ticket strategy and overall product mix consistent with its statutory charge to produce revenues for the State of Texas.
- 1.1.8. The Texas Lottery's objective is to maximize revenue to the State of Texas through the selection of "industry best" games and those consistent with the Texas Lottery's current product mix and scratch ticket strategy. The Texas Lottery evaluates games based on a variety of criteria including, but not limited to, sales performance, ticket



theme, play style, planned start date and overall fit within the overall scratch ticket portfolio and budget authority. Using these criteria and others, the Texas Lottery also includes branded, proprietary or licensed games which it believes present the best opportunity for maximizing ticket sales and generating revenues for the State.

1.1.9. Goals of the Texas Lottery include the following:

- (a) In working toward its objective to maximize revenue to the State of Texas through the selection of “industry best” games and those consistent with the Texas Lottery’s current product mix and scratch ticket strategy, the Texas Lottery believes that utilizing multiple vendors for scratch ticket manufacturing and services promotes competition, optimizes vendor performance and enhances business resumption capabilities.
- (b) The Texas Lottery desires to select multiple Successful Proposers that demonstrate superior technical quality and service and that offer competitive pricing.
- (c) The Texas Lottery, through negotiations with all Apparent Successful Proposers, desires to establish common prices for the goods/services included in the Base Price and certain Specified Options as identified in the Sealed Cost Proposal (Attachment H).
- (d) As an incentive to accept the common prices established by the Texas Lottery and at the agency’s sole discretion, Successful Proposers may be offered an opportunity to produce a comparable number of games for a set period (as determined by the Texas Lottery in its sole discretion) following Contract Award. The Texas Lottery, in its sole discretion, will determine the quantity and volume of ticket production awarded to each Successful Proposer and expressly reserves the right to decrease or increase game orders consistent with the considerations in Sections 1.1.7 and 1.1.8, together with other factors including, but not limited to, technical quality and customer service; however, the Texas Lottery does not intend to establish comparability by price point, ticket size, print quantities and other similar factors.

- 1.1.10. Any Proposer(s) that rejects the Texas Lottery’s common prices may still be awarded a Contract in the Lottery’s sole discretion, principally to allow the Texas Lottery to use the Proposer’s proprietary printing process(es) and licensed game inventory -- but is not assured a certain number of games.

1.2. Our Vision and Mission

- 1.2.1. Vision – To be the preeminent Lottery and Charitable Bingo agency through innovative leadership.
- 1.2.2. Texas Lottery Mission – The Texas Lottery is committed to generating revenue for the State of Texas through the responsible management and sale of entertaining lottery products. The Texas Lottery will incorporate the highest standard of security, integrity and responsible gaming principles, set and achieve challenging goals, provide quality customer service and utilize a TEAM approach.



- 1.2.3. Charitable Bingo Mission – Provide authorized organizations the opportunity to raise funds for their charitable purposes by conducting bingo. Determine that all charitable bingo funds are used for a lawful purpose. Promote and maintain the integrity of the charitable bingo industry throughout Texas.

1.3. Our Core Values

- 1.3.1. Integrity and Responsibility — The Texas Lottery Commission works hard to maintain the public trust by protecting and ensuring the security of our lottery games, systems, drawings and operational facilities. We value and require ethical behavior by our employees, licensees and vendors. We promote the integrity of charitable bingo in Texas for the benefit of charitable organizations.
- 1.3.2. Innovation — We strive to incorporate innovation into our products to provide the citizens of Texas with the best entertainment experience available through our products. We pursue the use of technology that enhances the services that we provide to our customers and reduces our operating expenses. All proposed innovations must be authorized by Texas law, and do not include video lottery, casino gaming, internet-based lottery sales, fantasy sports, or any other activities not authorized by law.
- 1.3.3. Fiscal Accountability — We emphasize fiscal accountability by ensuring that all expenditures directly or indirectly generate revenue, enhance security, fulfill regulatory requirements, improve customer service and/or boost productivity. We recognize our responsibility in generating revenue for the State of Texas without unduly influencing players to participate in our games. We maximize benefits to charities through the continual examination and review of charitable bingo operations.
- 1.3.4. Customer Responsiveness — The Texas Lottery Commission takes pride in providing exemplary service to the people of Texas through the courteous dissemination of clear and accurate information about our products, services and regulatory functions. We seek and respond to feedback expressed by our employees, retailers, licensees and the playing and non-playing public. We apply this feedback in the development of our products and in the services that we provide.
- 1.3.5. Teamwork — We are committed to creating an environment of mutual respect where open, honest communication is our cornerstone. We embrace the diversity of our team and individual perspectives in working together to achieve our common goals.
- 1.3.6. Excellence — We strive for excellence by taking a position of leadership on issues that impact the Texas Lottery Commission and achieve challenging goals by focusing on our core values.



1.4. Schedule of Events

The following time periods are set forth for informational and planning purposes only. The Texas Lottery reserves the right to change any of the time periods and will post all changes on the Electronic State Business Daily, <http://txsmartbuy.com/sp>, and/or the Texas Lottery website, <http://www.texaslottery.com/> (Click on About, Doing Business with TLC, Procurement).

Date	Event
December 13, 2021 (4:00 p.m., CENTRAL TIME)	Issuance of RFP
January 11, 2022 (1:30 p.m., CENTRAL TIME)	Pre-Proposal Conference (Virtual conference see Section 2.3)
January 18, 2022 (4:00 p.m., CENTRAL TIME) (Late Questions will not be answered)	Written Questions Due
On or before January 27, 2022	Responses to Written Questions Issued
February 8, 2022 (4:00 p.m., CENTRAL TIME) (Late Questions will not be answered)	Written Questions Due (Round 2)
On or before February 17, 2022	Responses to Written Questions Issued (Round 2)
March 8, 2022 (4:00 p.m., CENTRAL TIME)	Final date for submission of draft HSP forms and final date to conduct one-on-one workshops (Zoom, TEAMS or telephone conference)
March 23, 2022 (4:00 p.m., CENTRAL TIME) (Late Proposals will not be considered)	Deadline for Proposals
on or before May 16, 2022 (or as soon as possible thereafter)	Announcement of Apparent Successful Proposer

1.5. Successful Proposer's / Lottery Relationship

- 1.5.1. The Texas Lottery Commission is a part of the Executive Branch of Texas State Government. The Texas Lottery will not relinquish control over lottery operations.
- 1.5.2. The Texas Lottery may rely upon the guidance of the Successful Proposer in all matters related to scratch ticket game development and manufacturing services, but



reserves the sole right to reject that guidance for any reason. The Successful Proposer, conversely, must accept and support the decisions of the Texas Lottery.

- 1.5.3. The Successful Proposers(s) shall function under the supervision of the Texas Lottery and must operate in a manner that will not cause any embarrassment to the Texas Lottery and the State of Texas. The Lottery is a publicly owned and managed institution. Although the Successful Proposer comes from the private sector, its operations will be subject to the same scrutiny and oversight that would exist if all operations were performed by Texas Lottery employees. All operations must be conducted in adherence to applicable statutes and the highest ethical standards.
- 1.5.4. Final decisions regarding the direction or control of the Lottery are always the prerogative of the Texas Lottery in its sole discretion as an agency of the State of Texas. In order to enhance communication and sharing of information, the Successful Proposer's word processing, spreadsheet, presentation, project management and e-mail applications must be compatible with Texas Lottery applications. (See Section 3.7, Relationship of the Parties, for further information.)

1.6. Procurement Authority

- 1.6.1. This RFP and all activities leading toward the execution of a written contract under this RFP are being conducted in accordance with the State Lottery Act (Tex. Gov't Code. §§ 466.001, et seq.), as amended; the Texas Lottery's administrative regulations (16 TAC §§ 401.101, et seq.); and other applicable laws of the State of Texas. All Proposers should read and be familiar with the State Lottery Act and 16 TAC §401.101.

1.7. Proposals Subject to The Texas Public Information Act

- 1.7.1. The Texas Lottery is subject to the Texas Public Information Act (Act) (Chapter 552, Government Code). Proposals submitted to the Texas Lottery in response to this RFP are subject (in their entirety) to release by the Texas Lottery as public information. A Proposal, or specific parts thereof, may, however, be shown by the Proposer to fall within one or more of the exceptions to disclosure provided in the Act, the State Lottery Act or other applicable law. **Marking an entire Proposal as "confidential" or "copyrighted" is unacceptable.** If a Proposer believes that parts of its Proposal are confidential under the Act, it should specify the confidential information by marking "Confidential" on each page or by each paragraph containing such information prior to submitting the Proposal to the Texas Lottery. In response to this section, Proposers shall provide the Texas Lottery with specific and detailed reasons for each item marked "Confidential". Vague and general claims to confidentiality are not acceptable. This detail is necessary so that the Texas Lottery will have sufficient information to provide to the Attorney General of Texas, if a ruling regarding the confidentiality of such information is requested. Failure of a Proposer to respond to such notification



may result in the release of all or part of the Proposal as public information. It is the Proposer's obligation to submit briefing to the Attorney General setting forth the basis upon which the requested information should remain confidential. The Attorney General may determine all or part of a Proposal to be public information even though parts of the Proposal were marked "Confidential" by the Proposer. Additionally, see Sec. 552.0222 of the Act relating to contracting information that is considered public and must be released.

- 1.7.2. The Texas Lottery assumes no responsibility for asserting legal arguments to the Attorney General on behalf of Proposers.
- 1.7.3. Proposers are advised to consult with their legal counsel concerning disclosure issues resulting from this procurement process and to take precautions to safeguard trade secrets and other proprietary information.
- 1.7.4. The requirements of Subchapter J of the Act may apply to this Proposal and the Proposer, contractor, or vendor agrees that the contract can be terminated if the Proposer, contractor or vendor knowingly or intentionally fails to comply with a requirement of that subchapter. See Attachment I.

1.8. Misunderstanding or Lack of Information

By submitting a Proposal, a Proposer covenants and agrees that it fully understands and will abide by the terms and conditions of the RFP and it will not make any claims for, or have any rights to, cancellation or relief without penalty because of any misunderstanding or lack of information. The Executive Director reserves the right to accept Proposals by waiving minor technicalities if the Executive Director, within his or her sole discretion, determines it to be in the best interests of the Texas Lottery. The decision of the Executive Director shall be conclusive, and subject to protest under Section 2.17 of this RFP.

1.9. Rejection of Proposals and Cancellation of RFP

Issuance of this RFP and/or retention of Proposals does not constitute a commitment on the part of the Texas Lottery to award a Contract. The Texas Lottery maintains the right to reject any or all Proposals, and to cancel this RFP, if the Texas Lottery, in its sole discretion, considers it to be in its best interests to do so.

1.10. Ownership of Proposals

All materials submitted by a Proposer will become the property of the Texas Lottery and may be used as the Texas Lottery deems appropriate.



1.11. Incurred Expenses

The Texas Lottery accepts no obligations for costs incurred in preparing and submitting a Proposal. Proposals shall be submitted at the sole expense of the Proposer. All Proposals shall be prepared simply and economically, providing a straightforward, concise delineation of the Proposer's capabilities to satisfy the requirements of this RFP.

1.12. Proposal Tenure

All Proposals shall be valid for a period of one hundred and eighty (180) Days from the deadline for submitting Proposals.

1.13. No Texas Lottery Obligations

The Texas Lottery reserves the right to select qualified Proposals to this RFP without discussion of the Proposals with Proposers. It is understood that all Proposals will become a part of the Texas Lottery's official procurement files after the Contract has been awarded or the procurement has been terminated, and will be available for public inspection except for portions that the Proposer has designated as proprietary and confidential (see Sections 552.110 and 552.305 of the Public Information Act and RFP Section 1.7 above).

1.14. Successful Proposer's Obligations

The Successful Proposer shall always be responsible for the performance of any contractual obligations that may result from the award of the Contract and shall be liable for the non-performance of any or all Subcontractors.

1.15. Captions

The captions to the sections of this RFP are for convenience only and are not part of the RFP's substantive terms.

1.16. Parts Incorporated

All attachments listed in the Table of Contents are incorporated into and expressly made a part of this RFP.



2. PROPOSAL PROCESS

2.1. Contact Person

- 2.1.1. The sole point of contact for communications concerning this RFP will be Angela Zgabay-Zgarba, whose mailing address and email address, are as follows:

Angela Zgabay-Zgarba CTCD, CTCM
Contracts & Facilities Manager
Texas Lottery Commission
P. O. Box 16630
Austin, TX 78761-6630
Phone (512) 344-5215
contracts@lottery.state.tx.us

- 2.1.2. The Texas Lottery Headquarters physical address for deliveries is:

Angela Zgabay-Zgarba CTCD, CTCM
Contracts & Facilities Manager
Texas Lottery Commission
611 East 6th Street
Austin, TX 78701

2.2. Prohibition Against Unauthorized Contact

- 2.2.1. The Texas Lottery is committed to a procurement process that maintains the highest level of integrity. Accordingly, Proposers, as well as their agents, liaisons, advocates, lobbyists, "legislative consultants," representatives or others promoting their position, are limited to those communications authorized by and described in this RFP. Any attempt to influence any of the participants, whether that attempt is oral or written, formal or informal, direct or indirect, outside of this RFP process is strictly prohibited.
- 2.2.2. Should allegations of improper contact be made prior to Contract Award, the Executive Director may investigate those allegations and, in his sole discretion, disqualify a Proposer.

2.3. Pre-Proposal Conference

Prospective Proposers should plan to attend a virtual Pre-Proposal Conference. See the Schedule of Events for the date and time. The Pre-Proposal Conference will include an overview of the RFP and a presentation on the HUB Subcontracting Plan (HSP) requirements. A question-and-answer session will also take place regarding general, technical and HSP questions. Attendance at the Pre-Proposal Conference is



recommended, but not mandatory. A link to the virtual Pre-Proposal Conference will be posted on the Texas Lottery website at www.texaslottery.com and on the Electronic State Business Daily (ESBD), <http://txsmartbuy.com/sp> in advance of the day and time listed in the Schedule of Events. The Texas Lottery intends to use Microsoft Teams for the conference. A video of the Pre-Proposal Conference will be posted on the Texas Lottery website. All prospective Proposers are highly encouraged to view the video.

2.4. Inquiries

- 2.4.1. Written inquiries concerning this RFP will be accepted and responses posted on the Electronic State Business Daily (ESBD), <http://txsmartbuy.com/sp>, and the Texas Lottery website, www.texaslottery.com, according to the timetable established in the Schedule of Events. Inquiries received after the deadlines set in the Schedule of Events may be reviewed by the Texas Lottery, but will not be answered. Any addenda or amendments, whether made as a result of a prospective Proposer's written inquiries or otherwise, will be posted on the ESBD and the Texas Lottery website. It is the responsibility of the Proposer to check these websites for any additional information regarding this RFP.
- 2.4.2. Inquiries shall be submitted by email by the inquiry submission deadline to:

contracts@lottery.state.tx.us
- 2.4.3. A Proposer shall inquire in writing and should obtain clarification as to any ambiguity, conflict, discrepancy, exclusionary specification, omission or error in this RFP (collectively, errors) prior to submitting a Proposal, but in no event shall be entitled to additional compensation, relief or time by reason of any error or its later correction. If a Proposer fails to obtain written clarification of any errors, the Proposer shall submit a Proposal at its own risk; and, if awarded a Contract, the Proposer shall be deemed to have waived any claim to contest the Texas Lottery's interpretation thereof.

2.5. Submission of Proposal

- 2.5.1. Proposals must be delivered to Angela Zgabay-Zgarba at the address provided in Section 2.1 and received no later than the deadline established in the Schedule of Events. Late Proposals will not be considered. No exceptions will be made.
- 2.5.2. The Proposer shall submit one (1) signed original and fifteen (15) copies of its Proposal. For Part 5 only, Proposers shall provide one (1) signed original and two (2) copies of all required HSP documentation. All Proposals submitted must be bound in a three-ring binder, organized and arranged to correspond directly with the numbered sections of this RFP, and all pages must be numbered. For Parts 1, 2 and 3 only, Proposers may provide a blanket acknowledgment and acceptance in lieu of a section-by-section response, unless a section requires a specific detailed answer from the



Proposer. For Parts 4, 6, 7 and 8 only, Proposers shall provide a section-by-section response to the RFP. For Part 5, Proposers shall follow the instructions for completing and submitting an HSP.

- 2.5.3. If a Proposer is claiming any part(s) of its Proposal is confidential, the Proposer must provide a detailed response to Section 1.7 and clearly mark each item of the claimed material as "Confidential".
- 2.5.4. A Proposer may not amend a commitment to comply with a specific section of this RFP by a later reference back to that section.
- 2.5.5. The Proposer's Commitment (Attachment A) and the Background Information Certification (Attachment D-1) shall be signed by an officer or agent of the Proposer with authority to contractually bind the Proposer, and the attachments must be included with the original Proposal.
- 2.5.6. Proposers are required to propose a complete solution, in their Proposal, to the Texas Lottery's requirements. Any items not specifically requested, but integral to the requested services, shall be included in the Proposal and identified in the appropriate sections thereof.
- 2.5.7. Proposers responding to this RFP must fully and completely address all goods, services and other requirements described in this RFP. Incomplete or partial Proposals will not be considered. The Proposer shall provide all information that the Proposer believes would be helpful to the Texas Lottery in evaluating the Proposer's ability to fulfill the RFP requirements.
- 2.5.8. In addition to the printed Proposal, the Proposer must also submit one copy of the text portion of its Proposal, excluding the Sealed Cost Proposal, on a USB drive in a searchable PDF file. If there is any disparity between the contents of the printed Proposal and the contents of the Proposal contained on the USB drive, the contents of the printed Proposal shall take precedence. The content on the USB drive or soft copy required herein will not be accepted in lieu of the signed original and copies as required in Section 2.5.2.
- 2.5.9. Proposals that have been copyrighted, in whole or in part, by any Proposer are unacceptable and may be rejected as non-responsive.

2.6. Response Format & Contents

The Proposer must demonstrate its understanding of the requested goods and services and must address specifically in writing the Proposer's approach to providing each requirement in this RFP. Each Proposal must be organized in the manner described below:



- a. Letter of Transmittal;
- b. Executive Summary;
- c. Section-by-section response to the RFP (see Section 2.5.2 above);
- d. Sealed Cost Proposal (Attachment to the original Proposal only);
- e. Proposer's Commitment (Attachment A); and
- f. Background Information Certification (Attachment D-1).

2.7. Letter of Transmittal

- 2.7.1. Proposers must submit a Letter of Transmittal that identifies the entity submitting the Proposal and includes a commitment by that entity to provide the goods and services required by the Texas Lottery in this RFP. The Letter of Transmittal must state that the Proposal is valid for one hundred and eighty (180) Days from the Day after the deadline for submitting Proposals. Any Proposal containing a term of less than one hundred and eighty (180) Days for acceptance shall be rejected. The Letter of Transmittal must be signed by a person(s) legally authorized to bind the Proposer to the representations in the Proposal. The Proposer should also indicate, in its Letter of Transmittal, why it believes it is the most qualified Proposer to provide the goods and services required by the Texas Lottery in this RFP.
- 2.7.2. The Letter of Transmittal must include a statement of acceptance of the terms and conditions set forth in Part 3 of this RFP that will be included in the Contract. If the Proposer takes exception to any of the proposed terms and conditions, those exceptions must be noted in the Letter of Transmittal. Proposers shall provide specific and detailed reasons for each exception, together with suggested alternative language. Vague and general exceptions are not acceptable. Proposers should realize, however, that failure to accept the terms and conditions specified in Part 3 of the RFP may result in disqualification of the Proposal.

2.8. Executive Summary

- 2.8.1. Proposers must provide an executive summary of their Proposal (excluding cost information) that asserts that the Proposer is providing, in its Proposal, all the requirements of this RFP. If the Proposer is providing goods or services beyond those specifically requested, those goods or services must be identified. If the Proposer is offering goods or services that do not meet the specific requirements of this RFP, but in the opinion of the Proposer are equivalent or superior to those specifically requested, any such differences must be noted in the Executive Summary. The Proposer should realize, however, that failure to provide the goods and services specifically requested may result in disqualification.
- 2.8.2. The Proposer must demonstrate its understanding of the requested goods and services and must address specifically, in writing, the Proposer's approach to providing each requirement in this RFP.



- 2.8.3. The Executive Summary must not exceed five (5) pages and should represent a full and concise summary of the contents of the Proposal.

2.9. Proposer's Contracting Authority

The Proposer warrants and represents that the person named on the Proposer's Commitment (Attachment A) has the full right, power and is legally authorized to execute the Contract resulting from this RFP on behalf of the Proposer. Commitments must be unqualified, not limited, and fully commit the Proposer to provide the goods and services required under this RFP.

2.10. Proposer's Cost Proposal

- 2.10.1. The Proposer must state its pricing for all goods and services rendered during the course of the proposed Contract, including any and all costs involved that are to be paid or reimbursed by the Texas Lottery. The pricing for the required goods and services is to be presented only in the format set forth in Attachment H of the RFP. Pricing information shall include all costs associated with providing the required goods and services and must be submitted in a separate, sealed envelope clearly marked as such, attached to the original Proposal only. No reimbursement is available to the Successful Proposer beyond the amount agreed to be paid for the goods and services provided. Pricing agreed to in any resulting Contract shall be firm and remain constant through the life of the Contract.
- 2.10.2. The Proposer shall not disclose its Cost Proposal or other cost information in the body of its written Proposal. Including cost information in the written Proposal may be cause for disqualification.

2.11. Multiple Proposals

Each Proposer may submit only one Proposal. If a Proposer submits more than one Proposal, all Proposals from that Proposer may be rejected.

2.12. Changes, Modifications and Cancellation

The Texas Lottery reserves the right to make changes to and/or cancel this RFP and will post all changes and modifications, whether made as a result of a potential Proposer's written inquiries or otherwise, and cancellation notices on the Electronic State Business Daily and the Texas Lottery websites. **It is the responsibility of the Proposer to check these websites for any additional information regarding this RFP. If the Proposer fails to monitor the ESBD and TLC websites for any changes or modifications to the RFP, such failure will not relieve the Proposer of its obligation to fulfill the requirements as posted.**



2.13. Updates to Information Supporting a Proposal

Following the submission of Proposals and prior to the signing of a Contract, the Proposer is under a continuing obligation to notify the Texas Lottery in writing of any updates or changes to information offered in support of its Proposal that might reasonably be expected to affect the Texas Lottery's consideration of the Proposal. Nothing in this section shall be interpreted to permit the unilateral modification by a Proposer of its commitment to provide goods and services described in its Proposal as filed for the cost stated therein.

2.14. Additional Information

By submitting a Proposal, the Proposer grants the Executive Director the right to obtain any information from any lawful source regarding the past history, practices, conduct, ability and eligibility under the State Lottery Act of the Proposer to supply goods, services and to fulfill requirements under this RFP, and the past history, practices, conduct, ability and eligibility of any director, officer or key employee of the Proposer. By submitting a Proposal, the Proposer generally releases from liability and waives all claims against any party providing information about the Proposer at the request of the Executive Director. Such information may be taken into consideration in evaluating Proposals.

2.15. Proposal Evaluation and Contract Award

- 2.15.1. The Texas Lottery Commission intends to conduct a fair, comprehensive and impartial evaluation of all Proposals received in response to this RFP using an evaluation committee. The evaluation committee will be selected by the Executive Director and may consist of Texas Lottery employees or outside individuals with expertise in particular areas. In addition, the Texas Lottery's General Counsel, other in-house legal counsel, and outside legal counsel may assist by advising the evaluation committee. Texas Lottery employees and consultants may also assist in the process as technical non-voting members of the evaluation committee.
- 2.15.2. Each member of the evaluation committee will independently score each Proposal responsive to this RFP. Evaluation committee members may seek, obtain and consider the opinions of other committee members or subject matter experts (including Texas Lottery staff, staff from other Texas agencies and consultants retained by the Texas Lottery) when evaluating and independently scoring particular areas of the Proposals.
- 2.15.3. The evaluation committee may request clarification of information or representations in a Proposal before completing the initial evaluation. Requests for clarification and responses to requests for clarification will be in writing and will become part of the evaluation record.



2.15.4. The procurement process will be conducted in accordance with 16 TAC §401.101.

2.15.5. At a minimum, the factors to be considered by the evaluation committee in evaluating Proposals shall include:

- (i) the proposer's price to provide the goods or services;
- (ii) the probable quality of the offered goods or services;
- (iii) The agency's evaluation of the likelihood of the proposal to produce the desired outcome for the agency, considering, among other criteria:
 - (I) the quality of the proposer's past performance in contracting with the agency, with other state entities, or with private sector entities;
 - (II) the qualifications of the proposer's personnel;
 - (III) the experience of the proposer in providing the requested goods or services;
 - (IV) the financial status of the proposer; and
- (iv) whether the proposer performed the good faith effort required by the HUB subcontracting plan, when the agency has determined that subcontracting is probable.

The evaluation committee also may consider vendor performance reviews maintained by the Texas Comptroller of Public Accounts under Tex. Gov't Code §2262.055.

A copy of the scoring matrix is included as Attachment G.

2.15.6. A written notice of Contract Award will be posted on the ESBD and sent to all Proposers immediately following execution of the Contract.

2.16. Site Visits and/or Oral Presentations

The Texas Lottery, in its sole discretion, reserves the right to conduct site visits and/or to require Proposers to make oral presentations prior to the Contract Award and may consider such presentations and visits when evaluating Proposals. Proposers will be notified in writing and will be provided with equal advance notification of site visits and/or oral presentation assignments and guidelines.

2.17. Protest Procedure

Any protest shall be governed by Tex. Gov't Code §466.101 and 16 TAC §§ 401.102-103.



3. CONTRACTUAL TERMS AND CONDITIONS

3.1. Introduction

This part sets forth terms and conditions applicable to the procurement process as well as terms and conditions that will become part of the Contract. The Texas Lottery reserves the right to incorporate additional provisions in the Contract in the best interest of the Texas Lottery.

3.2. Governing Law and Venue

The procurement process, the award procedure, and the Contract shall be governed by, construed and interpreted in accordance with the applicable laws of the State of Texas. Any and all actions or suits brought by a Proposer or any related party regarding this RFP or the Contract shall be brought in the state district court located in Austin, Travis County, Texas. By submitting a Proposal, a Proposer is deemed to waive the right to bring any action in any other court. This section is purely a venue provision and shall not be deemed a waiver of sovereign immunity.

3.3. Contract Elements

- 3.3.1. The Contract between the Texas Lottery and the Successful Proposer will follow the general format specified by the Texas Lottery. The Texas Lottery reserves the right to negotiate provisions in addition to those stipulated in this RFP. The contents of this RFP, as modified by published addenda or amendments, and the Successful Proposer's Proposal, will be incorporated into the Contract. In the event of any conflict or contradiction between or among these documents, the documents shall control in the following order of precedence: the written Contract, the RFP, and the Successful Proposer's Proposal. Specific exceptions to this general rule may be noted in the Contract.
- 3.3.2. The Texas Lottery has determined that subcontracting opportunities are probable under this RFP. Therefore, the Texas Lottery requires the submission of an HSP as a part of each Proposal, as discussed further in Part 5 of this RFP. The HSP, if accepted by the Texas Lottery, will become a provision of the Contract.
- 3.3.3. If any term or provision of this RFP or the Contract is determined by a court of competent jurisdiction to be invalid, void or unenforceable, the remainder of the RFP or Contract shall remain in full force and effect and shall in no way be affected, impaired or invalidated.



3.4. Amendments

The Contract may be amended only by written agreement signed by both parties. The Parties may by mutual agreement modify the scope, personnel and prices set forth in the Contract. Any such modification must be in writing, recite that it is a modification pursuant to this RFP Section 3.4, and be signed by individuals having the authority to bind the parties.

In no event shall the Successful Proposer be paid for work not authorized by the Contract or any of its written modifications.

3.5. Non-Waiver

The failure of the Texas Lottery to object to, or to take affirmative action with respect to, any conduct of the Successful Proposer which is in violation or breach of the terms of the Contract shall not be construed as a waiver of the violation or breach, or of any future violation or breach. Nothing in this RFP, or the Contract, shall constitute or be construed as a waiver of any of the privileges, rights, defenses, remedies, or immunities available to the Texas Lottery Commission, as an agency of the State of Texas. The failure to enforce, or any delay in the enforcement, of any privileges, rights, defenses, remedies, or immunities available to the Texas Lottery Commission under this contract or under applicable law shall not constitute a waiver of such privileges, rights, defenses, remedies, or immunities, or be considered as a basis for estoppel.

3.6. Clarification of Texas Lottery's Intent

It is the responsibility of the Successful Proposer to address and resolve all questions with the Texas Lottery's designated points of contact, and to achieve a clear understanding of all Texas Lottery requirements during each stage of the Contract term. The Texas Lottery will use reasonable efforts to provide timely responses to questions of policy or procedure as they may affect the Successful Proposer's performance. Key Texas Lottery staff will be available to the Successful Proposer on a reasonable basis, but may not be available on weekends, or State or national holidays, as defined in Tex. Gov't Code §662.003.

3.7. Relationship of the Parties

The Successful Proposer and the Texas Lottery agree and understand that the Successful Proposer shall render the goods, services and requirements under the Contract as an independent contractor, and nothing contained in the Contract will be construed to create or imply a joint venture, partnership, employer/employee relationship, principal agent relationship or any other relationship between the parties. Employees of the Successful



Proposer will not be considered employees of the Texas Lottery within the meaning of any federal, state, or local law, ordinance, or regulation including, but not limited to, laws, ordinances, or regulations concerning unemployment insurance, social security benefits, workers compensation, or withholding requirements. The Successful Proposer shall be responsible for complying with any such laws, ordinances, or regulations, and shall indemnify and hold harmless the Texas Lottery from any costs or damages, including attorney's fees, sustained by the Texas Lottery resulting from the Successful Proposer's breach of its obligations under this section. The Texas Lottery will withhold indemnified losses from payments to the Successful Proposer, or, if no payments are made, the Texas Lottery will make demand of payment of indemnified losses. The Successful Proposer must make payment within thirty (30) Days of the Texas Lottery's demand.

3.8. Payment

- 3.8.1. All payments will be made in accordance with TEX. GOV'T CODE ch. 2251 (Payments for Goods and Services). The Successful Proposer shall submit invoices for each game, noting the date of services, Contract number and detailing services rendered, including game name, game number, quantity of tickets shipped, cost per thousand per executed working papers and/or any costs associated with the game. Invoices must also include the individual purchase order number provided by the Texas Lottery for that particular game.
- 3.8.2. Invoices may be submitted by mail to the Texas Lottery Commission, P. O. Box 16630, Austin, Texas 78761-6630, Attn: Accounts Payable or by e-mail to AccountsPayable@lottery.state.tx.us. Emailed invoices are preferred. Payments will be made only upon the completion of services or after the delivery of goods authorized in an approved invoice.
- 3.8.3. Under Tex. Gov't Code §2251.025, interest is not due on a payment until it becomes "overdue." A payment is not overdue until the 31st day after the latter of: (1) the date the Texas Lottery receives the goods covered by the contract; (2) the date the performance of service under the contract is completed; or (3) the date the Texas Lottery receives an invoice for the goods or services, according to Tex. Gov't Code §2251.021. Services are "completed" when accepted by the Texas Lottery.
- 3.8.4. The Successful Proposer agrees that if the Texas Comptroller of Public Accounts is prohibited from issuing a warrant to the Successful Proposer under Tex. Gov't Code §403.055, any payments owed to the Successful Proposer under the Contract will be applied towards the debt or delinquent taxes that the Successful Proposer owes the State of Texas until the debt or delinquent taxes are paid in full.



3.9. Assignments

- 3.9.1. No right or obligation of the Successful Proposer under the Contract may be assigned by the Successful Proposer without the prior written approval of the Texas Lottery, and in the event of any such approval, the terms and conditions hereof shall apply to and bind the party or parties to whom the right or obligation is assigned as fully and completely as the Successful Proposer is hereunder bound and obligated. No assignment shall operate to release the Successful Proposer from its liability for the timely and effective performance of its obligations hereunder. Assignments made in violation of this provision shall be null and void.
- 3.9.2. Subject to the limitations on assignment contained herein, the Contract shall inure to the benefit of, and be binding upon, the successors and assigns of the respective parties hereto.

3.10. Subcontracting

- 3.10.1. If any part of the Contract between the Texas Lottery and the Successful Proposer is to be subcontracted, the Successful Proposer must obtain prior written approval from the Texas Lottery, and the Subcontractor must comply with all applicable requirements of the Texas Lottery. The Texas Lottery reserves the sole right to require the Successful Proposer to terminate any Subcontractor with or without cause.
- 3.10.2. In the event the Texas Lottery approves of the use of any Subcontractor under an approved HUB Subcontracting Plan in accordance with Part 5, the Successful Proposer is not relieved of its responsibility and obligation to meet all the requirements of this RFP.
- 3.10.3. The Texas Lottery will incur no additional obligations and the obligations of the Successful Proposer will not be reduced as a result of any such subcontracts.
- 3.10.4. The Successful Proposer agrees to indemnify and hold the Texas Lottery harmless from all claims and actions of the Successful Proposer's Subcontractors. The Texas Lottery will withhold indemnified losses from payments to the Successful Proposer, or, if no payments are made, the Texas Lottery will make demand of payment of indemnified losses. The Successful Proposer must make payment within thirty (30) Days of the Texas Lottery's demand.
- 3.10.5. The Successful Proposer's obligation to pay Subcontractors is governed by Tex. Gov't Code §2251.022 (Time for Payment by Vendor), as it may be amended.

3.11. Lottery Approval of Staffing

- 3.11.1. The Successful Proposer shall not employ or contract with or permit the employment of unfit or unqualified persons or persons not skilled in the tasks assigned to them. The



Successful Proposer shall at all times employ sufficient labor to carry out functions and services in the manner and time prescribed by the Contract. "Unfit" is defined as any person convicted of a felony, criminal fraud, gambling or gambling-related offense or a person convicted of a misdemeanor involving moral turpitude whose sentence, parole, mandatory supervision or probation ended less than ten (10) years ago. (See Section 3.12.) The Successful Proposer shall be responsible to the Texas Lottery for the acts and omissions of the Successful Proposer's employees, agents (including, but not limited to, lobbyists) and Subcontractors and the Successful Proposer shall enforce strict discipline among the Successful Proposer's employees, agents (including, but not limited to, lobbyists) and Subcontractors performing the services under the Contract.

- 3.11.2. The Successful Proposer shall provide the Texas Lottery written notification and justification within three (3) Working Days of any changes involving the Successful Proposer's key personnel (as defined by Proposer in Section 4.2) assigned to the Texas Lottery account. The Successful Proposer shall provide the Texas Lottery with the resume of the person who is to be hired or placed on the Texas Lottery account and must receive written approval from the Texas Lottery prior to the person's working on the account.
- 3.11.3. Notwithstanding anything herein to the contrary, any person employed by the Successful Proposer shall, at the written request of the Texas Lottery, and within the Texas Lottery's sole discretion, be removed immediately by the Successful Proposer from work relating to the Contract.

3.12. Background Investigations

- 3.12.1. Under Tex. Gov't Code §466.103, the Executive Director of the Texas Lottery is prohibited from awarding a contract for goods or services related to lottery operations to a person or legal entity who would not qualify for a sales agent license under the requirements of Tex. Gov't Code §466.155.
- 3.12.2. The Texas Lottery Commission may initiate investigations into the backgrounds of (a) the Successful Proposer; (b) any of the Successful Proposer's officers, directors, investors, owners, partners and other principals, as more particularly described in Tex. Gov't Code §466.155 (collectively, Successful Proposer Principals); (c) any of the Successful Proposer's employees; (d) any of the Successful Proposer's Subcontractors, or any of the Subcontractors' officers, directors, investors, owners, partners, principals or employees (collectively, Subcontractor Personnel); or (e) any other associates of the Successful Proposer it deems appropriate. The Texas Lottery Commission may also request background information for a spouse, child, brother, sister or parent residing as a member of the same household in the principal place of residence of the Successful Proposer, any Successful Proposer Principals, or Successful Proposer employees described above. Such background investigations may



include fingerprint identification by the Texas Department of Public Safety, the Federal Bureau of Investigation, and any other law enforcement agency. The Texas Lottery may terminate the Contract based solely upon the results of these background investigations. (See Attachment D.)

- 3.12.3. The Successful Proposer agrees that, during the term of the Contract and any renewal thereof, it shall be obligated to provide such information about any Successful Proposer Principals, Successful Proposer employees, and Subcontractor Personnel as the Texas Lottery may prescribe. The Successful Proposer also agrees that the Texas Lottery may conduct background investigations of such persons.
- 3.12.4. Upon notification by the Texas Lottery to the Successful Proposer that the Texas Lottery objects to an employee based on the results of a background investigation, the Successful Proposer shall prevent that employee from working on the Texas Lottery account and shall deny that employee access to the Texas Lottery systems.

3.13. Compliance

The Successful Proposer agrees to comply with all applicable laws, rules and regulations, including without limitation those involving non-discrimination on the basis of race, color, religion, national origin, age, sex and disability.

3.14. Term of Contract

- 3.14.1. The Contract will commence upon September 1, 2022 and continue through August 31, 2034 subject to the termination provisions in this RFP and subject to the Texas Lottery being continued and funded by the Texas Legislature.
- 3.14.2. Notwithstanding the Contract commencement date, all Scratch Ticket manufacturing and services hereunder, including associated pricing, shall commence on September 1, 2024; except that the Texas Lottery in its sole discretion may exercise the Automated Scratch Sales Solution Specified Option effective September 1, 2022, and in that event all other provisions of the Contract necessary for the full implementation and deployment of such Specified Option shall commence on that date.
- 3.14.3. At the end of the initial term or any renewal period, the Texas Lottery, at its sole discretion, reserves the right to extend the Contract for up to six (6) additional months, in one-month intervals, at the Contract rate or rates as modified during the term of this Contract.
- 3.14.4. The Texas Lottery reserves the right to re-negotiate prices at any time during the Contract term.



- 3.14.5. At the end of the Contract term, or upon earlier termination under any provision of this Contract, the Successful Proposer shall, in good faith and with reasonable cooperation, aid in the transition to any new arrangement and provider, if requested by the Texas Lottery.

3.15. Termination at Will

The Texas Lottery, in its sole discretion, may terminate, in whole or in part, the Contract at will and without cause, upon no less than thirty (30) Days' advance written notice. The Texas Lottery also may terminate the Contract immediately with written notice if the Executive Director, in his or her sole judgment, believes that the integrity or security of the Texas Lottery is in jeopardy and it is in the best interest of the Texas Lottery to do so. The Texas Lottery's right to terminate for convenience the Contract is cumulative of all rights and remedies which exist now or in the future.

3.16. Termination for Cause

The Texas Lottery reserves the right to terminate the Contract, in whole or in part unless otherwise provided by the Federal Bankruptcy Code or any successor law, upon no less than five (5) Days' notice under any of the following conditions:

- a. A receiver, conservator, liquidator or trustee of the Successful Proposer, or of any of its property, is appointed by order or decree of any court or agency or supervisory authority having jurisdiction; or an order for relief is entered against the Successful Proposer under the Federal Bankruptcy Code; or the Successful Proposer is adjudicated bankrupt or insolvent; or any portion of the property of the Successful Proposer is sequestered by court order and such order remains in effect for more than thirty (30) Days after such party obtains knowledge thereof; or a petition is filed against the Successful Proposer under any state, reorganization, arrangement, insolvency, readjustment of debt, dissolution, liquidation, or receivership law of any jurisdiction, whether now or hereafter in effect, and such petition is not dismissed within thirty (30) Days, or
- b. The Successful Proposer makes an assignment for the benefit of its creditors, or admits in writing its inability to pay its debts generally as they become due, or consents to the appointment of a receiver, trustee, or liquidator of the Successful Proposer or of all or any part of its property; or judgment for the payment of money in excess of fifty thousand dollars (\$50,000.00) (which is not covered by insurance) is rendered by any court or governmental body against the Successful Proposer, and the Successful Proposer does not discharge the same or provide for its discharge in accordance with its terms, or procure a stay of execution thereof within thirty (30) Days from the date of entry thereof, and within said thirty-day period or such longer period during which execution of such judgment shall have been stayed, appeal therefrom and cause the execution thereof to be stayed during such appeal while



providing such reserves therefore as may be required under generally accepted accounting principles; or a writ or warrant of attachment or any similar process shall be issued by any court against all or any material portion of the property of the Successful Proposer, and such writ or warrant of attachment or any similar process is not released or bonded within thirty (30) Days after its entry, or

- c. A court of competent jurisdiction finds that the Successful Proposer has failed to adhere to any laws, ordinances, rules, regulations or orders of any public authority having jurisdiction, or
- d. The Successful Proposer fails to communicate with the Texas Lottery as required by the Contract, or
- e. The Successful Proposer fails to remove any person from work relating to the Contract upon written notice from the Texas Lottery, or
- f. The Successful Proposer breaches the RFP's standard of confidentiality with respect to this RFP or the goods or services provided thereunder, or
- g. The Texas Lottery makes a written determination that the Successful Proposer has failed to substantially perform under the Contract and specifies the events resulting in the Texas Lottery's determination thereof, or
- h. The Successful Proposer fails to comply with any of the terms, conditions or provisions of the Contract, in any manner whatsoever, or
- i. The Successful Proposer engages in any conduct that results in a negative public impression including, but not limited to, creating even an appearance of impropriety with respect to the Texas Lottery, Texas Lottery games, the Successful Proposer, or the State of Texas.

3.17. Termination Related to Availability of Legislative Appropriations

All obligations of the Texas Lottery are subject to the availability of legislative appropriations, and are subject to statutory restrictions of the Texas Legislature and the Texas Constitution. The Successful Proposer acknowledges the ability of the Texas Lottery to make payments under the Contract is contingent upon the continued availability and authorization for expenditure of funds. The Successful Proposer further acknowledges funds may not be specifically appropriated for the Contract and the Texas Lottery's continual ability to make payments under the Contract is contingent upon the funding levels appropriated to the agency. The Texas Lottery will use all reasonable and lawful efforts to ensure funds are available. The Successful Proposer agrees if future levels of funding for the Texas Lottery are not sufficient to continue operations without operational reductions, the Texas Lottery, in its sole discretion, may terminate the Contract, either in whole or in part. In the event of such termination, the Texas Lottery will not be considered to be in default or breach under the Contract, nor shall it be liable for any damages or other amounts caused by or associated with such termination. The Texas Lottery shall make reasonable best efforts to provide advance written notice of Contract termination to the Successful Proposer. In the event of termination, the Successful Proposer shall, unless otherwise mutually agreed upon in writing, cease all



work immediately. The Texas Lottery shall be liable for payments limited only to the portion of work the agency authorized in writing before the termination date that the Successful Proposer has completed, delivered to the agency, and that is accepted by the agency.

3.18. Termination Without Penalty

Under Tex. Gov't Code §466.014(c), the Executive Director is permitted to terminate the Contract, without penalty, if an investigation reveals that the Successful Proposer would not be eligible for a sales agent license under Tex. Gov't Code §466.155.

3.19. Effect of Termination – Executed Working Papers

The Texas Lottery, in its sole discretion, may require the Successful Proposer to complete production and delivery of scratch tickets for which working papers have been executed prior to expiration or termination of any Contract resulting from this RFP, even if such production and delivery extends beyond the Contract term.

3.20. No Liability Upon Termination

If the Contract is terminated for any reason, the Texas Lottery and the State of Texas shall not be liable to the Successful Proposer for any damages, losses, financial obligations, breach of contract, or any other claims or amounts arising from or related to any such termination. However, the Successful Proposer may be entitled to the remedies provided in Tex. Gov't Code ch. 2260.

3.21. Warranties

- 3.21.1. The Successful Proposer warrants and agrees that it is lawfully organized and constituted under all applicable national, international, state and local laws, ordinances and other authorities of its domicile and is otherwise in full compliance with all legal requirements of its domicile.
- 3.21.2. The Successful Proposer warrants and agrees that it has the legal authority and capacity to enter into and perform the Contract, and that it has the financial ability to perform its obligations under such Contract.
- 3.21.3. The Successful Proposer warrants and agrees that it is duly authorized to operate and do business in all places where it will be required to do business under the Contract; that it has obtained or will obtain all necessary licenses and permits required in connection with such Contract; and that it will fully comply with all laws, decrees, labor standards and regulations of its domicile and wherever performance occurs during the term of such Contract.



- 3.21.4. The Successful Proposer warrants and agrees that it has no present interest and shall not acquire, or assign to any third party, any interest that would conflict in any manner with its duties and obligations under the Contract.
- 3.21.5. The Successful Proposer warrants and agrees that all goods and services it supplies in its performance under the Contract shall meet the performance standards required thereunder and shall be performed in a prompt, high quality, professional and competent manner using only qualified personnel.
- 3.21.6. The Successful Proposer warrants and agrees that its tickets, games, goods and services shall in all respects be free of any errors, and conform to, and function in accordance with, Texas Lottery-approved specifications and designs.
- 3.21.7. The Successful Proposer warrants and agrees to pay the apparent prize value of misprinted, quality control or omitted tickets that do not validate as winners. Altered tickets are not misprinted tickets.
- 3.21.8. The Successful Proposer warrants and agrees that scratch tickets and games it manufactures for the Texas Lottery shall comply with all requirements specified in this RFP through the “end of validation” date of each game.
- 3.21.9. The Successful Proposer warrants and agrees that it shall not take any action inconsistent with any of the terms, conditions, agreements, or covenants set forth in this RFP without the express written consent of the Texas Lottery.
- 3.21.10. The Successful Proposer warrants that it is eligible for a sales agent license under Tex. Gov’t Code §466.155. (See Attachments D and D-1.)
- 3.21.11. The Successful Proposer warrants and agrees that it shall not sell, assign, lease, transfer, pledge, hypothecate, or otherwise dispose of any component of any goods or system proposed in response to the RFP or any interest therein, or permit any of it to become a fixture or accession to other goods or property.

3.22. Licenses and Permits

The Successful Proposer shall obtain, maintain and pay for all licenses, permits and certificates, including all professional licenses required by any statute, ordinance, rule or regulation. The Successful Proposer shall immediately notify the Texas Lottery of any suspension, revocation or other detrimental action against its licenses, permits or certificates.



3.23. Successful Proposer Site Visits

The Texas Lottery shall have the free and unrestricted right, acting by itself or through its authorized representatives, to enter the premises of the Successful Proposer and any Subcontractors, and to enter any other sites involved in providing goods and/or services under the Contract, to examine their operations and to inspect and copy the records of the Successful Proposer and/or Subcontractors pertaining to goods and services provided under the Contract. The Successful Proposer agrees that the Successful Proposer and its Subcontractors shall implement all reasonable quality control and security procedures requested by the Texas Lottery or representatives as designated by the Texas Lottery. The Texas Lottery will use reasonable efforts not to disrupt the normal business operations of the Successful Proposer (or Subcontractor, as applicable) during site visits announced or unannounced.

3.24. Intellectual Property Rights

- 3.24.1. *Ownership.* As between the Successful Proposer and the Texas Lottery, the Works and Intellectual Property Rights in the Works are and shall be owned exclusively by the Texas Lottery, and not the Successful Proposer. The Successful Proposer specifically agrees that all Works shall be considered “works made for hire” and that the Works shall, upon creation, be owned exclusively by the Texas Lottery. To the extent that the Works, under applicable law, may not be considered works made for hire, the Successful Proposer hereby agrees that the Contract transfers, grants, conveys, assigns, and relinquishes exclusively to the Texas Lottery all right, title and interest in and to the Works, and all Intellectual Property Rights in the Works, without the necessity of any further consideration, and the Texas Lottery shall be entitled to obtain and hold in its own name all Intellectual Property Rights in and to the Works, subject to any exceptions with respect to pre-existing or third party rights as set forth below.
- 3.24.2. *Ownership of Prior Rights by the Texas Lottery.* All property and tangible or intangible items, including the Intellectual Property Rights therein, that were created, developed or owned by the Texas Lottery prior to the issuance of this RFP or execution of the Contract (e.g., copyrights, trademarks, etc.) shall continue to be exclusively owned by the Texas Lottery, and the Successful Proposer shall have no ownership thereof, and no rights thereto, other than the limited, non-exclusive right to use such property or tangible and intangible items solely for the purposes set forth in this RFP or the Contract, if any, and only for the duration of such Contract.
- 3.24.3. *Ownership of Prior Rights by the Successful Proposer.* All property and tangible or intangible items, including the Intellectual Property Rights therein, that were created, developed or owned by the Successful Proposer prior to the issuance of this RFP shall continue to be exclusively owned by the Successful Proposer, and the Texas Lottery



shall have no ownership thereof, and no rights thereto, other than the limited, non-exclusive right to use such property or tangible or intangible items solely for the purposes set forth in this RFP or the Contract. All intellectual property relating to the goods and/or services set forth herein or under the Contract, including the Intellectual Property Rights in those goods and/or services, that was created, developed or licensed by the Successful Proposer prior to the issuance of this RFP or the execution of the Contract, or during the term of the Contract, to the extent such intellectual property is not considered "Works" as defined above, shall be, and is, licensed to the Texas Lottery on a non-exclusive, perpetual, irrevocable, royalty-free, worldwide basis, to allow the Texas Lottery or its designees to provide, and continue to provide, the goods and services set forth herein or under the Contract, including after the expiration or termination of the Contract.

- 3.24.4. *Further Actions.* The Successful Proposer, upon request and without further consideration, shall perform any acts that may be deemed necessary or desirable by the Texas Lottery to evidence more fully the transfer of ownership of all Works to the Texas Lottery to the fullest extent possible, including but not limited to the execution, acknowledgement and delivery of such further documents in a form determined by the Texas Lottery. In the event the Texas Lottery shall be unable for any reason to obtain the Successful Proposer's signature on any document necessary for any purpose set forth in the foregoing sentence, the Successful Proposer hereby irrevocably designates and appoints the Texas Lottery and its duly authorized officers and agents as the Successful Proposer's agent and the Successful Proposer's attorney-in-fact to act for and in the Successful Proposer's behalf and stead to execute and file any such document and to do all other lawfully permitted acts to further any such purpose with the same force and effect as if executed and delivered by the Successful Proposer.
- 3.24.5. *Waiver of Moral Rights.* The Successful Proposer hereby irrevocably and forever waives, and agrees never to assert, any Moral Rights in or to the Works which the Successful Proposer may now have or which may accrue to the Successful Proposer's benefit under U.S. or foreign copyright laws and any and all other residual rights and benefits which arise under any other applicable law now in force or hereafter enacted. The term "Moral Rights" shall mean any and all rights of paternity or integrity of the Works, the right to object to any modification, translation or use of the Works, any automatic reversion or right to demand a reversion of ownership of the Works or Intellectual Property Rights therein from the Texas Lottery to the Successful Proposer, and any similar rights existing under the judicial or statutory law of any country in the world or under any treaty, regardless of whether or not such right is denominated or referred to as a moral right.
- 3.24.6. *Confidentiality.* All Works and all materials forwarded to the Successful Proposer by the Texas Lottery for use in and preparation of the Works, shall be deemed the confidential information of the Texas Lottery, and the Successful Proposer shall not



use, disclose, or permit any person to use or obtain the Works, or any portion thereof, in any manner without the prior written approval of the Texas Lottery.

- 3.24.7. *Injunctive Relief.* The RFP and the Contract are intended to protect the Texas Lottery's proprietary rights pertaining to the Works, and the Intellectual Property Rights therein, and any misuse of such rights would cause substantial and irreparable harm to the Texas Lottery's business. Therefore, the Successful Proposer acknowledges and stipulates that a court of competent jurisdiction should immediately enjoin any material breach of the intellectual property, licensing, and confidentiality provisions of the RFP or Contract, upon a request by the Texas Lottery, without requiring a bond or proof of irreparable injury as same should be presumed.
- 3.24.8. *Return of Works.* Upon the request of the Texas Lottery, but in any event upon expiration or termination of the Contract, the Successful Proposer shall surrender to the Texas Lottery all documents and things pertaining to the Works, including but not limited to drafts, memoranda, notes, records, drawings, manuals, computer software, reports, data, and all other documents or materials (and copies of same) generated or developed by the Successful Proposer or furnished by the Texas Lottery to the Successful Proposer, including all materials embodying the Works, any Texas Lottery confidential information, or Intellectual Property Rights, regardless of whether complete or incomplete. This section is intended to apply to all Works made or compiled by the Successful Proposer, as well as to all documents and things furnished to the Successful Proposer by the Texas Lottery or by anyone else that pertains to the Works.
- 3.24.9. *Successful Proposer's Name or Logo.* The Successful Proposer shall not affix its company name, label, logo, or any other similar identifying information to, or assert a copyright on any products, equipment or any other goods provided under the Contract.

3.25. Pre-existing and Third-Party Rights

- 3.25.1. To the extent that any pre-existing rights and/or third-party rights or limitations are embodied, contained, reserved or reflected in the Works, the Successful Proposer shall either (a) grant to the Texas Lottery the irrevocable, perpetual, non-exclusive, worldwide, royalty-free right and license to (i) use, execute, reproduce, display, perform, distribute copies of, and prepare derivative works based upon such pre-existing rights and any derivative works thereof in connection with the sale, offering for sale, marketing, advertising, and promotion of the Texas Lottery's goods and services, and in all forms of media, media channels and/or publicity that may now exist or hereafter be created or developed, including but not limited to television, radio, print, Internet, and social media (e.g., Facebook, Twitter, YouTube, etc.) and (ii) authorize others to do any or all of the foregoing, or (b) where the obtaining of the aforementioned rights is not reasonably practical or feasible, provide written notice to the Texas Lottery of such pre-existing or third party rights or limitations, request the



Texas Lottery's approval of the use of materials containing such pre-existing or third party rights, obtain a limited right and license to use such pre-existing or third party rights on such terms as may be reasonably negotiated, and obtain the Texas Lottery's written approval of such pre-existing or third party rights and the limited use of same. The Successful Proposer shall provide the Texas Lottery with documentation indicating a third party's written approval for the Successful Proposer to use any pre-existing or third-party rights that may be embodied, contained, reserved or reflected in the Works. The Successful Proposer shall indemnify, defend and hold the Texas Lottery harmless from and against any and all claims, demands, regulatory proceedings and/or causes of action, and all losses, damages, and costs (including attorneys' fees and settlement costs) arising from or relating to, directly or indirectly, any claim or assertion by any third party that the Works infringe any third party rights. The foregoing indemnity obligation shall not apply to instances in which the Texas Lottery either (y) exceeded the scope of the limited license that was previously obtained by the Successful Proposer and agreed to by the Texas Lottery, or (z) obtained information or materials, independent of the Successful Proposer's involvement or creation, and provided such information or materials to the Successful Proposer for inclusion in the Works, and such information or materials were included by the Successful Proposer, in an unaltered and unmodified fashion, in the Works.

- 3.25.2. The Successful Proposer agrees that it shall have and maintain, during performance of the Contract, written agreements with all employees, Subcontractors, or agents engaged by the Successful Proposer in performance hereunder, granting the Successful Proposer rights sufficient to support all performance and grants of rights by the Successful Proposer. Copies of such agreements shall be provided to the Texas Lottery promptly upon request.

3.26. Remediation

If the Works or the Intellectual Property Rights therein become the subject of a lawsuit or claim of infringement, or the Successful Proposer becomes aware that such items are likely to become the subject of a lawsuit or claim of infringement, the Successful Proposer shall exercise one (1) of the following two (2) options in order to provide the Texas Lottery with continued and uninterrupted use of the Works and Intellectual Property Rights therein: (a) obtain for the Texas Lottery the right to continue the use of the alleged infringing Works at no additional cost to the Texas Lottery, or (b) obtain alternative, substitute or new Works for the allegedly infringing Works, which are of equivalent or superior quality to the allegedly infringing Works, at no additional cost to the Texas Lottery, and subject to the acceptance of the Texas Lottery in its sole discretion.



3.27. Intellectual Property Search

The Successful Proposer, at its expense, shall conduct all appropriate intellectual property searches (e.g., full copyright, trademark or service mark or patent searches) for all proposed Works, to ensure that the proposed Works are protectable by the Texas Lottery and do not infringe the Intellectual Property Rights of any third person or entity. The Successful Proposer holds the Texas Lottery harmless from the infringement of such Works, as set forth above. The Texas Lottery retains the right and option to obtain or secure registration of the Works in its own name, and on its own behalf, without the substantive involvement of the Successful Proposer. The Texas Lottery will withhold indemnified losses from payments to the Successful Proposer, or, if no payments are made, the Texas Lottery will make demand of payment of indemnified losses. The Successful Proposer must make payment within thirty (30) Days of the Texas Lottery's demand.

3.28. Personality Rights

The Successful Proposer hereby warrants and represents to the Texas Lottery that individuals or characters appearing or depicted in any scratch ticket game have provided their written consent for the use of their persona or personality rights, including name, biographical information, picture, portrait, likeness, performance, voice and/or identity ("Personality Rights"), and have been compensated for such Personality Rights, if appropriate. If such permission has been obtained for a limited time, the Successful Proposer shall be responsible for any costs associated with claims resulting from the use of the Personality Rights after the expiration of those time limits. The Successful Proposer agrees to hold the Texas Lottery harmless from any claims, including, without limitation, claims for invasion of privacy, infringement of the right of publicity, libel, unfair competition, false advertising, intentional or negligent infliction of emotional distress, copyright or trademark infringement, and/or claims for attorney's fees, resulting from use of the Personality Rights.

3.29. Accounting Records

The Successful Proposer and its Subcontractors are required to maintain and retain their books, records, information and any and all other supporting fiscal documents relevant to showing any payments under the Contract were expended in accordance with the laws and regulations of the State of Texas, including, but not limited to, requirements of the Texas Comptroller of Public Accounts and the Texas State Auditor. These records shall be available to the Texas Lottery, its internal auditors or external auditors (and other designees) and the Texas State Auditor at all times during the Contract period and for a



period of seven (7) full years after (i) the expiration date of the Contract, or (ii) final payment under the Contract, whichever is later.

3.30. Right to Audit

The Successful Proposer understands that acceptance of state funds under this Contract acts as acceptance of the authority of the State Auditor's Office to conduct an audit or investigation in connection with those funds. The Successful Proposer further agrees to cooperate fully with the State Auditor's Office in the conduct of the audit or investigation, including providing all records requested. The Successful Proposer will ensure that this clause concerning the State Auditor's Office's authority to audit state funds and the requirement to cooperate fully with the State Auditor's Office is included in any subcontracts it awards. Additionally, the State Auditor's Office shall at any time have access to and the rights to examine, audit, excerpt, and transcribe any pertinent books, documents, audit documentation, and records of the Successful Proposer relating to this Contract for any purpose.

3.31. Indemnification

- 3.31.1. **THE SUCCESSFUL PROPOSER SHALL INDEMNIFY, DEFEND AND HOLD THE TEXAS LOTTERY, ITS COMMISSION MEMBERS, THE STATE OF TEXAS, AND ITS AGENTS, ATTORNEYS, EMPLOYEES, REPRESENTATIVES AND ASSIGNS (THE INDEMNIFIED PARTIES) HARMLESS FROM AND AGAINST ANY AND ALL CLAIMS, DEMANDS, CAUSES OF ACTION, LIABILITIES, LAWSUITS, LOSSES, DAMAGES, COSTS, EXPENSES OR ATTORNEYS' FEES (COLLECTIVELY, CLAIM), AND INCLUDING ANY LIABILITY OF ANY NATURE OR KIND ARISING OUT OF A CLAIM FOR OR ON ACCOUNT OF THE WORKS, OR OTHER GOODS, SERVICES OR DELIVERABLES PROVIDED AS THE RESULT OF THE CONTRACT, WHICH MAY BE INCURRED, SUFFERED, OR REQUIRED IN WHOLE OR IN PART BY AN ACTUAL OR ALLEGED ACT OR OMISSION OF THE SUCCESSFUL PROPOSER, OR A SUBCONTRACTOR OF THE SUCCESSFUL PROPOSER, OR ANY PERSON DIRECTLY OR INDIRECTLY EMPLOYED BY THE SUCCESSFUL PROPOSER OR A SUBCONTRACTOR OF THE SUCCESSFUL PROPOSER, WHETHER THE CLAIM IS BASED ON NEGLIGENCE, STRICT LIABILITY, INTELLECTUAL PROPERTY INFRINGEMENT OR ANY OTHER CULPABLE CONDUCT, WHETHER FRIVOLOUS OR NOT. THE FOREGOING INDEMNITY OBLIGATIONS OF THE SUCCESSFUL PROPOSER SHALL NOT APPLY TO CLAIMS ARISING OUT OF OR RELATED TO THE EXCEPTIONS (Y) AND (Z) SET FORTH IN SECTION 3.25.1 ABOVE.**



- 3.31.2. **THE SUCCESSFUL PROPOSER'S LIABILITY SHALL EXTEND TO AND INCLUDE ALL REASONABLE COSTS, EXPENSES AND ATTORNEYS' FEES INCURRED OR SUSTAINED BY THE INDEMNIFIED PARTIES IN: (A) MAKING ANY INVESTIGATION AND IN PROSECUTING OR DEFENDING ANY CLAIM ARISING OUT OF OR IN CONNECTION WITH THE WORKS, OR OTHER GOODS, SERVICES OR DELIVERABLES PROVIDED UNDER THE CONTRACT (INCLUDING BUT NOT LIMITED TO ANY CLAIM THAT ALL OR ANY PORTION OF THE WORKS INFRINGES THE PATENT, COPYRIGHT, TRADE SECRET, TRADEMARK, CONFIDENTIAL INFORMATION, OR OTHER INTELLECTUAL PROPERTY RIGHTS OF ANY THIRD PARTY); (B) OBTAINING OR SEEKING TO OBTAIN A RELEASE THEREFROM; OR (C) ENFORCING ANY OF THE PROVISIONS CONTAINED IN THIS RFP OR THE CONTRACT. THE TEXAS LOTTERY WILL WITHHOLD ALL INDEMNIFICATION COSTS AND RELATED EXPENSES AND FEES (INCURRED OR SUSTAINED BY THE INDEMNIFIED PARTIES) FROM PAYMENTS TO THE SUCCESSFUL PROPOSER UNDER THE CONTRACT, OR IF NO CONTRACT PAYMENTS ARE TO BE MADE, THE TEXAS LOTTERY WILL MAKE DEMAND OF PAYMENT FROM THE SUCCESSFUL PROPOSER OR SEEK RECOVERY AGAINST THE SUCCESSFUL PROPOSER'S PERFORMANCE BOND. THE INDEMNIFIED PARTIES, UPON GIVING NOTICE TO THE SUCCESSFUL PROPOSER, SHALL HAVE THE RIGHT IN GOOD FAITH TO PAY, SETTLE OR COMPROMISE, OR LITIGATE ANY CLAIM UNDER THE BELIEF THAT THE CLAIM IS WELL FOUNDED, WHETHER IT IS OR NOT, WITHOUT THE CONSENT OR APPROVAL OF THE SUCCESSFUL PROPOSER. THE TEXAS LOTTERY HAS SOLE DISCRETION AS TO THE CHOICE AND SELECTION OF ANY ATTORNEY WHO MAY REPRESENT THE TEXAS LOTTERY. TO THE EXTENT THAT THE SUCCESSFUL PROPOSER MAKES ANY PAYMENTS TO OR ON BEHALF OF THE INDEMNIFIED PARTIES UNDER THE CONTRACT, AND TO THE EXTENT PERMISSIBLE BY LAW, THE SUCCESSFUL PROPOSER SHALL BE FULLY SUBROGATED TO ALL RIGHTS AND CLAIMS OF THE INDEMNIFIED PARTIES IN CONNECTION THEREWITH. IN ANY EVENT, THE INDEMNIFIED PARTIES SHALL PROVIDE REASONABLE NOTICE TO THE SUCCESSFUL PROPOSER OF ANY CLAIM KNOWN TO THE INDEMNIFIED PARTIES TO ARISE OUT OF THE CONTRACT.**

3.32. Insurance

- 3.32.1. At minimum, at all times during the Contract, the Successful Proposer shall maintain the insurance coverage required in RFP Sections 3.32 – 3.39. The Successful Proposer shall not cause any insurance required under the Contract to cancel nor permit any insurance to lapse during the term of the Contract.



- 3.32.2. All required insurance must be issued by companies or financial institutions which are financially rated Excellent or better by A.M. Best Company and duly licensed, admitted, and authorized to do business in Texas by the Texas Department of Insurance.
- 3.32.3. Each insurance policy, except those for crime insurance, workers' compensation, employer's liability and professional liability, must name the Texas Lottery (and its officers, agents and employees) as an additional insured on the original policy and all renewals or replacements.
- 3.32.4. Each insurance policy except for crime insurance must include a waiver of subrogation in favor of the Texas Lottery, its officers, and employees for any and all insured losses, including bodily injury (including death) and property damage.
- 3.32.5. The insurance shall be evidenced by delivery to the Texas Lottery of certificates of insurance executed by the insurer or its authorized agency stating coverage, limits, expiration dates, and compliance with all applicable required provisions. Upon request, the Texas Lottery shall be entitled to receive, without expense, certified copies of the policies and all endorsements. Except as otherwise expressly provided herein, required coverage must remain in full force and effect throughout the term of the Contract and any extensions thereof, and provide adequate coverage for incidents discovered after termination of the Contract. Successful Proposer shall provide the Texas Lottery thirty (30) days written notice of erosion of any aggregate limit. Insurance coverage shall not be canceled, non-renewed or materially changed except after thirty (30) Days' notice by certified mail to the Texas Lottery. Actual losses not covered by insurance as required by this Contract shall be paid by the Successful Proposer.
- 3.32.6. The Successful Proposer must submit original certificates of insurance for each required insurance contract, and any renewals thereof, within fifteen (15) Days after Contract execution. Renewal certificates shall be submitted prior to or within fifteen (15) Days after expiration of the existing policy.
- 3.32.7. The Texas Lottery reserves the right to review the insurance requirements of this section during the effective period of the Contract and to make reasonable adjustments to insurance coverage and its limits when deemed necessary and prudent by the Texas Lottery based upon changes in statutory law, court decisions or the claims history of the industry as well as the Successful Proposer (such adjustments shall be commercially available to the Successful Proposer).

3.33. Self-Insurance

The Successful Proposer may not elect to provide entirely or in part for the insurance protections described in this RFP through self-insurance. A deductible provision



contained in an insurance policy that meets the requirements of this RFP is not considered as self-insurance unless the deductible amount exceeds six percent (6%) of the face amount of the insurance policy.

3.34. Commercial General Liability Insurance

The Successful Proposer must maintain general liability insurance coverage with limits of not less than two million dollars (\$2,000,000) per occurrence, four million dollars (\$4,000,000) aggregate, two million dollars (\$2,000,000) products/completed operations aggregate, two million dollars (\$2,000,000) personal and advertising injury, fifty thousand dollars (\$50,000) damage to premises rented to you, and five thousand dollars (\$5000) medical expense each person.

3.35. Workers' Compensation & Employer's Liability Insurance

The Successful Proposer must maintain Workers' Compensation insurance coverage in accordance with statutory limits, and Employer's Liability insurance coverage with minimum limits for bodily injury:

- a. one million dollars (\$1,000,000) per each accident;
- b. by disease, one million dollars (\$1,000,000) per employee; and
- c. by disease, policy limit one million dollars (\$1,000,000).

Coverage must include a waiver of subrogation in favor of the Texas Lottery Commission, its officers and employees.

3.36. Professional Liability (Errors and Omissions) Insurance

The Successful Proposer must maintain professional liability (including errors and omissions) insurance coverage for the rendering of, or failure to render, professional services with minimum limits of two million dollars (\$2,000,000) per occurrence, to be in full force and effect during the term of the Contract and one year thereafter. Coverage must indemnify the Texas Lottery for direct loss due to errors, omissions, printing or production problems of any type caused by the Successful Proposer, its officers, employees, agents, or Subcontractors of the Successful Proposer regardless of negligence. Claims against the insurance may be invoked when the over-redemption exceeds one hundred percent (100%) of the anticipated prize payout based on the number of tickets actually sold. The insurance for over-redemption shall be enforced through thirteen (13) months following the official "announced end of game" for each game.



3.37. Property Insurance

The Successful Proposer must maintain All Risk insurance on all furniture, fixtures, computer and communications equipment used in operating and supporting the Successful Proposer's operation in an amount equal to or greater than the actual replacement cost thereof. Coverage must include coverage against fire, theft, collision, flood, etc. The Texas Lottery will not be responsible for insuring any equipment or facilities included in or associated with the Successful Proposer's operations.

3.38. Crime Insurance

The Successful Proposer must maintain crime insurance with a limit of not less than two million dollars (\$2,000,000) protecting the Texas Lottery against losses, including lost income, lost profits, extra expenses and other consequential losses suffered by the Texas Lottery, resulting from loss of property (including money, securities and Texas Lottery tickets) by robbery, burglary, or theft, or the loss of money, securities or Texas Lottery tickets because of destruction or disappearance and employee dishonesty. This policy shall cover any loss to the Texas Lottery due to any fraudulent or dishonest act on the part of the officers and/or employees of the Successful Proposer and (through insurance carried by Subcontractors) officers and/or employees of any Subcontractors. Policy(ies) must be endorsed to include third party property.

3.39. Performance Bond

- 3.39.1. The Successful Proposer shall provide an original performance bond (as shown in Attachment F attached hereto and incorporated for all purposes) in the amount of one million (\$1,000,000) within fifteen (15) Days of execution of the Contract. Failure to have and keep a bond in place shall constitute a breach of the Contract.
- 3.39.2. All required bonds must be issued by companies or financial institutions which are financially rated Excellent or better by A.M. Best Company and duly licensed, admitted, and authorized to do business in Texas by the Texas Department of Insurance. The Texas Lottery shall be named as the obligee in each required bond.
- 3.39.3. The bond must be maintained in full force and effect for the initial term and any renewal term of the Contract. The bond shall be forfeited to the Texas Lottery if the Successful Proposer fails to perform as required by the Contract, pay sanctions or liquidated damages, or indemnify the Texas Lottery. Any alterations to the bond language as shown in Attachment F must be approved in advance by the Texas Lottery.



3.40. Disclosure of Litigation

- 3.40.1. The Proposer must include in its Proposal a complete disclosure of any material civil or criminal litigation or indictment either threatened or pending involving the Proposer. "Threatened litigation" as used herein shall include governmental investigations and civil investigative demands. "Litigation" as used herein shall include administrative enforcement actions brought by governmental agencies. The Proposer must also disclose any material litigation threatened or pending involving Subcontractors, consultants, and/or lobbyists. For purposes of this section, "material" refers, but is not limited, to any action or pending action that a reasonable person knowledgeable in the gaming industry would consider relevant to any gaming operation or any development such a person would want to be aware of in order to stay fully apprised of the total mix of information relevant to the gaming industry and its operations, together with any litigation threatened or pending that may result in a substantial change in the Proposer's financial condition, as described in Section 4.6.
- 3.40.2. This is a continuing disclosure requirement; any litigation commencing after submission of a Proposal (and for the Successful Proposer, after Contract Award) must be disclosed in a written statement to the Texas Lottery's General Counsel within fifteen (15) Days of its occurrence.
- 3.40.3. The Successful Proposer shall be required to file with the Texas Lottery comprehensive monthly reports regarding all threatened or pending litigation involving the Successful Proposer's Texas operations and all threatened or pending litigation that may be considered material to the overall operations of the Successful Proposer.

3.41. Disclosure of Sanctions and Liquidated Damages

The Texas Lottery reserves the right to request, and the Successful Proposer must provide, a complete list of all sanctions and liquidated damages assessed against the Successful Proposer during any calendar year for the following: (i) a single sanctionable event under any contract that occurred five (5) times or more in a rolling calendar year; (ii) any sanction or liquidated damage assessment under any contract totaling fifty thousand dollars (\$50,000) or more; and (iii) a complete account of all goods or services provided in consideration of contract sanctions or liquidated damages that would have been assessed, including the jurisdiction, the reason for the penalty or liquidated damages and the goods or services provided in lieu of the assessment.

3.42. Changes in Ownership

During the term of the Contract or any extension or renewal thereof, the Successful Proposer shall notify the Texas Lottery in writing of any substantial change in the



ownership or control of the Successful Proposer as soon as possible, but no later than fifteen (15) Days after its occurrence.

3.43. Force Majeure / Delay of Performance

- 3.43.1. Except as otherwise provided, neither the Successful Proposer nor the Texas Lottery shall be liable to the other for any delay in, or failure of performance of, any covenant contained herein caused by force majeure. The existence of such causes of delay or failure shall extend the period of performance in the exercise of reasonable diligence until after the causes of delay or failure have been removed. For purposes of this RFP and the Contract, "force majeure" is defined as "an act of God or any other cause of like kind not reasonably within a party's control and which, by the exercise of due diligence of such party, could not have been prevented or is unable to be overcome." The Successful Proposer must inform the Texas Lottery in writing within three (3) Days of the existence of any such force majeure or otherwise waives this right as a defense.
- 3.43.2. The Successful Proposer shall immediately upon discovery notify the Executive Director in writing of any delays in performance regardless of responsibility, fault or negligence. If the Successful Proposer contends that the delay is the responsibility, fault or negligence of Texas Lottery staff, the Successful Proposer must provide written notice within three (3) Days of the discovery, and to the extent possible, identify the event or individual responsible so that the Executive Director may take appropriate action to remedy the situation. Failure to provide such notice to the Executive Director as required in this section shall constitute a waiver of the Successful Proposer's right to assert the Texas Lottery's action/inaction as a defense.

3.44. Security Requirements

- 3.44.1. Prior to beginning operations under any Contract awarded pursuant to this RFP, the Successful Proposer shall establish a physical and software security program, subject to the prior written approval of the Texas Lottery as specified in this RFP.
- 3.44.2. The Texas Lottery reserves the right to require at any time such further and additional security measures as deemed necessary or appropriate to ensure the integrity of the Successful Proposer's scratch ticket games.

3.45. Taxes, Fees and Assessments

- 3.45.1. The Texas Lottery shall have no responsibility whatsoever for the payment of any federal, state or local taxes which become payable by the Successful Proposer or its Subcontractors, or their agents, officers or employees. The Successful Proposer shall pay and discharge when due all such taxes, license fees, levies, and other obligations or charges of every nature.



- 3.45.2. The Successful Proposer shall be responsible for payment of all taxes attributable to the Contract and any and all such taxes shall be identified under the Successful Proposer's federal tax identification number. The Successful Proposer shall pay all federal, state and local taxes of any kind, including without limitation income, franchise, ad valorem personal property, sales, use, lease, payroll, consumption, distribution and storage taxes, for the goods, services and systems relating thereto provided by the Successful Proposer, whether or not such taxes are in effect as of the date the Contract is signed or scheduled to go into effect, or become effective during the initial Contract term and any and all renewal terms, if any.

3.46. Media Releases

The Successful Proposer shall not issue any media releases or publish information to the public, including on social media platforms, pertaining to this procurement process or the performance of the Contract without prior written approval of the Texas Lottery. For any required disclosure or any public release of information of any kind, including a non-required disclosure, that is under a deadline imposed by any statutory or regulatory authority, the Successful Proposer shall seek approval from the Texas Lottery no less than two (2) Working Days prior to the deadline for the release of the information. In any case in which a deadline for the release of information exists, approval of the release by the Texas Lottery shall neither be construed as an endorsement of the release, as assent to the content of the release, as an indication of the accuracy of the information in the release, nor as any admission of any kind regarding any subject covered in the release.

3.47. Advertising

- 3.47.1. The Successful Proposer agrees not to use the Texas Lottery's name, logos, images, nor any data or results arising from this procurement process or the Contract as a part of any commercial advertising, or to promote the Successful Proposer in another jurisdiction's procurement process, without prior written approval by the Texas Lottery.
- 3.47.2. Any advertising, promotions and point of sale material must be pre-approved by the Texas Lottery.

3.48. Hiring of Texas Lottery Personnel

- 3.48.1. At all times following issuance of this RFP and ending with either the award of a Contract or the rejection of all Proposals, prospective Proposers are prohibited from officially or unofficially making any employment offer or proposing any business arrangement whatsoever to any Texas Lottery employee involved in the evaluation of Proposals, the Contract Award, or contract negotiations. A prospective Proposer making such an offer or proposition may be disqualified from further consideration.



- 3.48.2. At all times following the issuance of this RFP and ending with either the award of a Contract or the rejection of all Proposals, Proposers shall not engage the services of any State of Texas employee while such person remains employed by the State without the written consent of the Texas Lottery. During the term of the Contract, the Successful Proposer shall not engage the services of any State of Texas employee while such person remains employed by the State without the written consent of the Lottery.
- 3.48.3. Under Tex. Gov't Code §572.069, the Successful Proposer certifies that it has not employed and will not employ a former state officer or employee of the Texas Lottery who participated in a procurement or contract negotiation for the Texas Lottery involving the Successful Proposer before the second anniversary of the date the contract was signed or the procurement was terminated or withdrawn.

3.49. Hiring of Lobbyist, Consultant and/or Advisor; Supplemental Information

The Proposer shall list the names, addresses and telephone numbers for all lobbyists, consultants, and/or advisors who will perform services related to the Proposer's operations or interests in the State of Texas, under previously executed contracts, or during the three (3) years prior to the issuance of the RFP, who have performed services related to the Proposer's operations or interests in the State of Texas for the Proposer or any Subcontractors of the Proposer. The Successful Proposer shall immediately notify the Texas Lottery in the event of change of lobbyist, consultant, or advisor information.

3.50. Notices

The Proposer shall indicate in its Proposal the name and address of the person to whom any notices shall be given. Notices to the Texas Lottery shall be made by personal delivery or by certified (or registered) mail return receipt requested to the Texas Lottery at the address below unless the Proposer is notified in writing by the Texas Lottery of any change:

Texas Lottery Commission
Attention: Contracts Management and Procurement
P.O. Box 16630
Austin, Texas 78761-6630
Fax (512) 344-5058
Contracts@lottery.state.tx.us



3.51. Non-Disclosure

The Successful Proposer shall maintain as confidential, and shall not disclose to third parties without the Texas Lottery's prior written consent, any Texas Lottery information including but not limited to the Texas Lottery's business activities, practices, systems, conditions, products, services, public information and education plans and related materials, and game and marketing plans.

3.52. Usufruct

If, for any reason other than breach of contract by the Texas Lottery, the Successful Proposer should lose its ability to service the Contract, the Texas Lottery shall acquire a usufruct in all contractual items owned by the Successful Proposer in conjunction with the Contract and which are necessary to provide such services. Said usufruct shall be limited to the right of the Texas Lottery to possess and make use of such contractual items solely for the use and benefit of the Texas Lottery in operating, maintaining, altering, replacing and improving the programs and systems being used by the Texas Lottery under the Contract. Such usufruct shall be limited in time to the duration of the Contract and any extension thereof, and in scope for programs, systems, and other items being used by the Texas Lottery under the Contract.

3.53. Ticket Purchase

- 3.53.1. Under Tex. Gov't Code §466.254 (Purchase of Ticket by or Payment of Prize to Certain Persons), no member, officer or employee of the Successful Proposer directly involved in selling or leasing the goods or performing the services that are the subject of the Contract shall purchase a Texas Lottery ticket or be paid a prize in any Texas Lottery game. No spouse, child, brother, sister, or parent of such member, officer or employee who resides in the same household in the principal place of residence of such member, officer or employee (collectively, Family Members), shall purchase a Texas Lottery ticket or be paid a prize in any Texas Lottery game. The Successful Proposer shall ensure that these statutory prohibitions are made known to each member, officer and employee of the Successful Proposer, prior to that person becoming involved in selling or leasing the goods or performing the services that are the subject of the Contract. The Successful Proposer shall require its members, officers and employees to make the statutory prohibition known to Family Members. The Successful Proposer shall promptly notify the Texas Lottery of any violation of Tex. Gov't Code §466.254.
- 3.53.2. TLC considers "directly involved" to mean, by way of illustration only, responsible for and/or actively participating in (1) Contract negotiations (including Contract signatories); (2) Contract administration (e.g., regular or direct contact with TLC staff); or (3) Contract performance (including assigned project/team leaders and



members and anyone else who oversees or performs the work or provides the services). Again, by way of illustration, support staff (such as clerical, accounting or delivery employees) are not considered to be “directly involved” unless they also serve in the roles listed above for “directly involved” employees.

3.54. Sanctions and Remedies Schedule

- 3.54.1. **General.** Section 2261.101 of Tex. Gov’t Code requires that all state contracts contain a remedies schedule, a graduated sanctions schedule, or both. Pursuant to that statutory provision, sanctions and remedies will apply for the incidents specified in this section. The sanctions and remedies will be referred to as “sanctions.” Sanctions are not intended to be exclusive of any other available remedy or penalty under the Contract.
- 3.54.2. **Assessment of Sanctions.** Once the Texas Lottery has determined that sanctions are to be assessed, the Executive Director or Executive Director’s designee may notify the Successful Proposer of the assessment(s). Failure to notify does not impact the Texas Lottery’s assessment of sanctions and is not a condition precedent thereto. The Texas Lottery will withhold sanctions from payments to the Successful Proposer, or, if no payments are to be made, the Texas Lottery will make demand of payment of sanctions. The Successful Proposer must make payment within thirty (30) Days of the Texas Lottery’s demand. In the event the Successful Proposer fails to pay within the thirty (30) day period, the Texas Lottery may make a claim for payment against the performance bond, with or without notice to the Successful Proposer.
- 3.54.3. **Failure to Assess Sanctions.** The failure of the Texas Lottery to assess sanctions in any instance where the Texas Lottery is entitled to sanctions under the terms of this RFP or the Contract shall not constitute waiver in any fashion of the Texas Lottery’s rights to assess sanctions.
- 3.54.4. **Severability of Individual Sanctions Clauses.** If any portion of these sanctions provisions are determined to be unenforceable, the other portions of these provisions shall remain in full force and effect.
- 3.54.5. **Failure to Disclose Litigation.** The failure of the Successful Proposer to disclose litigation as required by RFP Section 3.40 of this RFP may result in the Successful Proposer being assessed sanctions in the amount of one thousand dollars (\$1,000) per incident.
- 3.54.6. **Failure to Obtain Prior Written Approval before Issuing Media Release.** The failure of the Successful Proposer to comply with RFP Section 3.46 regarding the issuance of news releases may result in the Successful Proposer being assessed sanctions in the amount of one thousand dollars (\$1,000) per incident.
- 3.54.7. **Purchase of Texas Lottery Tickets.** The failure of the Successful Proposer to comply with RFP Section 3.53 regarding the purchase of Texas Lottery tickets may result in



the Successful Proposer being assessed sanctions in the amount of five thousand dollars (\$5,000) per incident.

- 3.54.8. ***Failure to Comply with the RFP Code of Conduct Requirements and/or Report Significant Incidents and Anomalies.*** The failure of the Successful Proposer to comply with the code of conduct requirements in Section 3.65 of this RFP may result in the Successful Proposer being assessed sanctions in the amount of one thousand dollars (\$1,000) per incident. The failure of the Successful Proposer to report all significant incidents and anomalies to the Texas Lottery as required by Section 3.67 of this RFP may result in the Successful Proposer being assessed sanctions in the amount of one thousand dollars (\$1,000) per Day for each Day not reported.
- 3.54.9. ***Failure to Notify the Texas Lottery of a Change of Ownership or Control or Change in Financial Condition.*** The failure of the Successful Proposer to notify the Texas Lottery of a change of ownership or control or change in financial condition as required by RFP Sections 3.42 and 4.6 may result in the Successful Proposer being assessed sanctions in the amount of one thousand dollars (\$1,000) per incident.
- 3.54.10. ***Unauthorized Disclosure.*** The failure of the Successful Proposer to comply with the non-disclosure requirement in Section 3.51 of this RFP may result in the Successful Proposer being assessed sanctions in the amount of five thousand dollars (\$5,000) per incident.
- 3.54.11. ***Failure to Provide Written Notification of Staffing Changes Timely.*** The failure of the Successful Proposer to provide written notification of staffing changes as required by RFP Section 3.11 may result in the Successful Proposer being assessed sanctions in the amount of one hundred dollars (\$100) per Day for each Day the written notification is not received.
- 3.54.12. ***Failure to Notify the Texas Lottery of changes in Lobbyist Information.*** The failure of the Successful Proposer to inform the Texas Lottery of any change of lobbyist information as required by RFP Section 3.49 may result in the Successful Proposer being assessed sanctions in the amount of one thousand dollars (\$1,000) per Day for each Day that the filing is not provided.
- 3.54.13. ***Failure to Permit Examination, Produce Requested/Required Records or Information, or Provide an Answer.*** Unless otherwise specified in this RFP or any Contract resulting therefrom, the Successful Proposer must permit an examination, produce requested records or information, or provide an answer in response to a Texas Lottery inquiry within five (5) Working Days. Failure to respond before the deadline may result in the assessment of liquidated damages in the amount of five thousand dollars (\$5,000) per Day for each Day the examination is not permitted, the information or records are not produced or the answer is not provided.



- 3.54.14. ***Failure to Cooperate with and/or Produce Records or Information as part of Background Investigation.*** The failure of the Successful Proposer to cooperate with and/or produce records or information as part of a background investigation conducted pursuant to Section 4.7 of this RFP may result in the Successful Proposer being assessed sanctions in the amount of one hundred dollars (\$100) per Day for each Day the records/information are not produced or answers are not provided.
- 3.54.15. ***Missing/Incomplete Intellectual Property Search.*** The failure of the Successful Proposer to adequately conduct an intellectual property search as required by this RFP may result in the Successful Proposer being assessed sanctions in the amount of ten thousand dollars (\$10,000) per incident. The foregoing is in addition to, and shall not supplant the other rights and remedies accorded to TLC, or the obligations of the Successful Proposer in the event of a Claim.
- 3.54.16. ***Omitted Packs and Quality Control Packs/Tickets and Misprinted Tickets.*** The failure of the Successful Proposer to comply with the requirement of this RFP regarding omissions may result in the Successful Proposer being assessed sanctions in the amount of the face value of the pack(s) shipped. In addition, the Successful Proposer shall also be responsible for payment of the prize amount of any apparent winning ticket from omit packs or quality control packs/ticket, or the apparent prize value of a misprinted ticket, presented to the Texas Lottery by a player, except in the event of theft, fraud or wrongdoing. The Texas Lottery will notify the Successful Proposer once an apparent winning ticket from omit packs and/or quality control packs/ticket for an otherwise valid claim, or a misprinted ticket with an apparent prize value, has been presented. The Successful Proposer will be provided with contact information for the player and must notify the Texas Lottery in writing once the prize amount has been paid. All such payments resulting from this provision shall be paid directly by the Successful Proposer to the player within ten (10) Days from the date of notification by the Texas Lottery.
- 3.54.17. ***Test Packs.*** The failure of the Successful Proposer to comply with the requirements of this RFP regarding delivery of sample packs for security testing may result in the Successful Proposer being assessed sanctions in the amount of five hundred dollars (\$500) per Day per game.
- 3.54.18. ***Late Deliverables.*** The failure of the Successful Proposer to provide any deliverables according to the deadlines/schedules set forth in this RFP, Scratch Ticket Game Plan, executed working papers or approved Customer Specifications Documents may result in the Successful Proposer being assessed sanctions at the rate of five hundred dollars (\$500) per Day, per deliverable until the deliverable is provided by the Successful Proposer and accepted by the Texas Lottery. (Deliverables include, but are not limited to, draft artwork, prize structures, working papers, press sheets, pack insert pieces, void ticket samples, etc.) The sanction for late delivery in this Section 3.54.18 will apply unless there is a specific sanction otherwise set forth in the Sanction and



Remedies Schedule (Section 3.54), e.g., late reports and game files (Section 3.54.19), scheduled delivery of tickets (Section 3.54.22), etc.

- 3.54.19. ***Late Reports and Game Files, Including Validation Media.*** The failure of the Successful Proposer to provide any reports and game files in accordance with the deliverables schedule specified in the executed working papers and/or the Customer Specifications Document may result in the Successful Proposer being assessed sanctions at the rate of one thousand dollars (\$1,000) per Day or part of a Day, per game file, report or information until correct, complete and usable data, reports or information are provided. The failure of the Successful Proposer to deliver timely reports and/or game files no later than twenty-one (21) Days prior to the game's scheduled launch date, may result in the Successful Proposer being assessed sanctions at the rate of twenty-five thousand dollars (\$25,000) per game per Day or part of a Day up to a maximum of one-hundred thousand dollars (\$100,000).
- 3.54.20. ***Faulty Reports and Game Files, Including Validation Media.*** The failure of the Successful Proposer to provide correct, complete, and usable reports, and game files agreed to in the executed working papers and/or the Customer Specifications Document, may result in the Successful Proposer being assessed sanctions at the rate of one thousand dollars (\$1000) per Day for each game report or information, until correct, complete and usable data, reports or information are provided. The failure of the Successful Proposer to correct faulty reports and/or game files at least twenty-one (21) Days prior to the game's scheduled launch date, may result in the Successful Proposer being assessed sanctions at the rate of twenty-five thousand dollars (\$25,000) per game per Day or part of a Day for the game up to a maximum of one-hundred thousand dollars (\$100,000).
- 3.54.21. ***Incorrect Validation Media Prohibiting Validation of Game.*** The failure of the Successful Proposer to provide validation media for a specific game that conforms to the specifications set forth in the executed working papers and/or the Customer Specifications Document, which prohibits validation of tickets or correct validation of tickets, may result in the Successful Proposer being assessed sanctions at the rate of twenty-five thousand dollars (\$25,000) per game per Day or part of a Day that the validation media is not operating properly. In addition, the Texas Lottery may assess sanctions against the Successful Proposer in the amount of any prizes improperly paid due to the non-conforming validation media.
- 3.54.22. ***Scheduled Delivery of Tickets.*** The failure of the Successful Proposer to meet the delivery deadline for a game as required in the executed working papers may result in the Successful Proposer being assessed sanctions in the amount of ten thousand dollars (\$10,000) per game per Day, or part of a Day, the tickets are delivered past the required delivery date up to a maximum of forty thousand dollars (\$40,000) per game.
- 3.54.23. ***End of Production Variance.*** The failure of the Successful Proposer to deliver the tickets ordered within the variances allowed by this RFP may result in the Successful



Proposer being assessed sanctions in the amount of ten thousand dollars (\$10,000) per game.

- 3.54.24. ***Partial, Broken, Miscut or Incomplete Packs.*** The failure of the Successful Proposer to comply with the requirements of this RFP regarding partial, broken, miscut or incomplete packs may result in the Successful Proposer being assessed sanctions in the amount of one hundred dollars (\$100) per pack.
- 3.54.25. ***Non-conforming Delivered Tickets or Tickets Containing Errors.*** The failure of the Successful Proposer to comply with the requirements of this RFP regarding tickets which have been delivered to the Texas Lottery and determined to be non-conforming or defective, or to contain errors, may result in the Successful Proposer being assessed sanctions in the amount of one hundred dollars (\$100) per pack, up to a maximum of fifty thousand dollars (\$50,000). In the event the entire game is determined by the Texas Lottery to be non-conforming or to contain errors, the Successful Proposer shall be responsible for the secure destruction of that game and shall be required to replace the non-conforming or error-containing game at no additional charge to the Texas Lottery. In the event that the sale of the game is delayed, sanctions may be assessed at a rate of twenty-five thousand dollars (\$25,000) per Day or part of a Day from the scheduled launch date for the game up to a maximum of one-hundred thousand dollars (\$100,000). This sanction is not intended to apply where the Successful Proposer discovers the manufacturing or other error post-production, re-prints the order and delivers the conforming tickets to the Texas Lottery on or before the scheduled delivery date.
- 3.54.26. ***Non-conforming Scratch Ticket Artwork.*** The failure of the Successful Proposer to produce scratch tickets that conform to all elements specified in the executed working papers for artwork and color may result in the Successful Proposer being assessed sanctions in the amount of ten thousand dollars (\$10,000) per incident. In the event the entire delivered game is determined to be non-conforming and the Texas Lottery, in its sole discretion, determines not to distribute the game, the Successful Proposer shall be responsible for the secure destruction of that game and shall be required to replace the non-conforming game at no additional charge to the Texas Lottery. In the event that the sale of the game is delayed, sanctions may be assessed at a rate of twenty-five thousand dollars (\$25,000) per Day or part of a Day from the scheduled launch date for the game up to a maximum of one-hundred thousand dollars (\$100,000). This sanction is not intended to apply where the Successful Proposer discovers the manufacturing error post-production, re-prints the order and delivers the conforming tickets to the Texas Lottery on or before the scheduled delivery date.
- 3.54.27. ***Failure to Conduct Promotional Drawings in accordance with Texas Lottery-approved Procedures.*** The failure of the Successful Proposer to conduct promotional drawings in accordance with procedures approved by the Texas Lottery may result in the Successful Proposer being assessed sanctions in the amount of ten thousand dollars (\$10,000) per incident.



- 3.54.28. ***Invalidated Drawing.*** If, as a result of the Successful Proposer's failure to follow approved procedures, the Texas Lottery invalidates the results of a completed promotional drawing, then, at the Lottery's sole discretion, the Successful Proposer i) may be assessed sanctions in an amount equal to the total of any prize amounts paid to players whose entries were selected in the drawing, or, ii) the Successful Proposer instead shall be required to pay such apparent prize amounts directly to players whose entries were selected in the drawing. In these cases, the Successful Proposer will be provided with contact information for the player and must notify the Texas Lottery in writing once the prize amount has been paid. All such prize amounts payments resulting from this provision shall be paid directly by the Successful Proposer to the player within ten (10) Days from the date of notification by the Texas Lottery.
- 3.54.29. ***Failure to Provide Entry Data Timely.*** The failure of the Successful Proposer to provide the entry data to timely conduct each individual internet entry promotional drawing, in accordance with procedures and drawing dates approved by the Texas Lottery, may result in the Successful Proposer being assessed sanctions in the amount of five hundred dollars (\$500) per drawing for the day of the scheduled draw and an additional two thousand dollars (\$2,000) per drawing for each day thereafter until the entry data is provided.
- 3.54.30. ***Failure to meet the Print Date Specified in Working Papers.*** The failure of the Successful Proposer to print a game in accordance with the dates specified in the working papers will result a credit in the amount of the total cost of the game to be utilized at the Texas Lottery's discretion. If working papers for a game specify that the game must print by August 31 of a Texas Lottery Fiscal Year and the game is not off-press with printing completed by that date, the Successful Proposer will provide the Texas Lottery with a credit for the following Fiscal Year for the total cost of the game.
- 3.54.31. ***Failure of the Automated Scratch Sales Solution at Retail.*** If the system that supports the Automated Scratch Sales Solution is unable to process or sell Scratch Tickets due to a problem with the Solution, as determined by the Texas Lottery, the Successful Proposer may be assessed sanctions in the amount of two thousand dollars (\$2,000) per incident. If any individual Automated Scratch Sales Solution deployed at a Retailer location is unable to process or sell Scratch Tickets due to a problem with the Solution, as determined by the Texas Lottery, the Successful Proposer may be assessed sanctions in the amount of fifty dollars (\$50) per incident if the problem is not remedied within a 24-hour period.

3.55. Dispute Resolution

The dispute resolution process provided for in Tex. Gov't Code ch. 2260, and 16 TAC Ch. 403 must be used by the Successful Proposer to attempt to resolve any disputes brought by the Successful Proposer arising under this Contract.



3.56. Certifications

- 3.56.1. Under Tex. Gov't Code §466.103, the Executive Director may not award a contract for the purchase or lease of facilities, goods or services related to lottery operations to a person who would be denied a license as a sales agent under Tex. Gov't Code §466.155. All Proposers must read and be familiar with Tex. Gov't Code §466.155, attached hereto as Attachment D. All Proposals shall include a completed Background Information Certification Form, attached hereto as Attachment D-1, which certifies that the Proposer has reviewed Tex. Gov't Code §466.155 and neither the Proposer nor any of the following persons would be denied a license as a sales agent under said section: (a) Proposer's officers, directors, investors, owners, partners and other principals, as more particularly described in Tex. Gov't Code §466.155 (collectively, Proposer Principals); or (b) any spouse, child, brother, sister or parent residing as a member of the same household in the principal place of residence of the Proposer or any of the Proposer Principals.
- 3.56.2. Under §231.006 of the Tex. Fam. Code, the Proposer certifies that the individual or business entity named in the Proposal or Contract is not ineligible to receive the specified grant, loan or payment and acknowledges that the Contract may be terminated, and payment may be withheld if this certification is inaccurate. Furthermore, any Proposer subject to §231.006 must include names and social security numbers of each person with at least 25% ownership of the business entity submitting the Proposal. This information must be provided prior to Contract Award.
- 3.56.3. Under §2261.053 of the Tex. Gov't Code, a state agency may not accept a bid or award a contract that includes proposed financial participation by a person who, during the five-year period preceding the date of the bid or award, has been: (1) convicted of violating a federal law in connection with a contract awarded by the federal government for relief, recovery, or reconstruction efforts as a result of Hurricane Rita, as defined by Section 39.459, Utilities Code, Hurricane Katrina, or any other disaster occurring after September 24, 2005; or (2) assessed a penalty in a federal civil or administrative enforcement action in connection with a contract awarded by the federal government for relief, recovery, or reconstruction efforts as a result of Hurricane Rita, as defined by Section 39.459, Utilities Code, Hurricane Katrina, or any other disaster occurring after September 24, 2005; or convicted of any offense related to the direct support or promotion of human trafficking. In submitting a Proposal under this RFP, the Proposer certifies as follows: "Under Section 2261.053 of the Texas Government Code, the contractor certifies that the individual or business entity named in this bid or contract is not ineligible to receive the specified contract and acknowledges that this contract may be terminated and payment withheld if this certification is inaccurate."
- 3.56.4. The Proposer certifies that: (a) the Proposer has not given, offered to give, nor intends to give at any time hereafter any economic opportunity, future employment, gift, loan,



gratuity, special discount, trip, favor, or service to a public servant in connection with the submitted Proposal; and (b) neither the Proposer nor the firm, corporation, partnership, or institution represented by the Proposer, nor anyone acting for such firm, corporation, partnership, or institution has violated the antitrust laws of the State of Texas (Tex. Bus. & Comm. Code §15.01, et seq.), or the antitrust laws of the United States (15 U.S.C.A. Section 1, et seq.), nor communicated directly or indirectly the submitted Proposal to any competitor or any other person engaged in such line of business.

- 3.56.5. The Proposer certifies that it is in compliance with Tex. Gov't Code §669.003, relating to contracting with the executive head of a state agency. If §669.003 applies, the Proposer will complete the following information in order for the Proposal to be evaluated:

Name of Former Executive
Name of State Agency
Date of Separation from State Agency
Position with Proposer
Date of Employment with Proposer

- 3.56.6. The Proposer certifies that if a Texas address is shown as the address of the Proposer, the Proposer qualifies as a Texas Resident Bidder as defined in Tex. Gov't Code §2252.001.

- 3.56.7. The Texas Lottery is federally mandated to adhere to the directions provided in the President's Executive Order (EO) 13224, Executive Order on Terrorist Financing – Blocking Property and Prohibiting Transactions With Persons Who Commit, Threaten to Commit, or Support Terrorism, effective 9/24/2001 and any subsequent changes made to it via cross-referencing respondents/vendors with the Federal Government's System for Award Management (SAM, <https://www.sam.gov/>), which is inclusive of the United States Treasury's Office of Foreign Assets Control (OFAC) Specially Designated National (SDN) list.

- 3.56.8. Under §2155.004 of the Tex. Gov't Code, the Proposer has not received compensation from the Texas Lottery for participating in the preparation of the specifications for this RFP and certifies as follows: "Under Section 2155.004, Government Code, the vendor certifies that the individual or business entity named in this bid or contract is not ineligible to receive the specified contract and acknowledges that this contract may be terminated and payment withheld if this certification is inaccurate."

- 3.56.9. Under §2252.907 of the Tex. Gov't Code, the Successful Proposer is required to make any information created or exchanged with the State under this Contract, and not otherwise excepted from disclosure under the Texas Public Information Act, available in a format that is accessible by the public at no additional charge to the State.



- 3.56.10. Under §2271.002 of the Tex. Gov't Code, the Executive Director may not award a contract for goods or services unless the contract contains a written verification from the Proposer that it: (1) meets exemption criteria under §2271.002; or (2) will not boycott Israel during the term of the contract. Proposer shall state any facts that make it exempt from the boycott certification in its bid. By signing and submitting a Proposal, the Proposer certifies that it does not boycott Israel and will not boycott Israel during the term of the Contract.
- 3.56.11. Under §2252.152 of the Tex. Gov't Code, a state agency may not award a contract to a company engaged in business with Iran, Sudan, or known to have contracts with or provide supplies or services to a foreign terrorist organization. The Proposer certifies it is not ineligible to receive a state contract under Texas Gov't Code §2252.152.
- 3.56.12. Under §2155.0061 of the Tex. Gov't Code, a state agency may not accept a Proposal or award a contract if the contract includes the financial participation who, within a five-year period from the date of the Proposal or award, has been convicted of any offense related to the direct support or promotion of human trafficking. The Proposer certifies that the individual or business entity named in this Proposal is not ineligible to receive the specified contract and acknowledges that this contract may be terminated and payment withheld if this certification is inaccurate.
- 3.56.13. Under Tex. Gov't Code §2274.002, a state agency may not award a contract for goods or services unless the contract contains a written verification from the bidder that it: (1) does not boycott energy companies; and (2) will not boycott energy companies during the term of the contract. By signing and submitting a Proposal, the Proposer certifies that it does not boycott energy companies and will not boycott energy companies during the term of the Contract.
- 3.56.14. Under Tex. Gov't Code §2274.002, a state agency may not award a contract for goods or services unless the contract contains a written verification from the bidder that it: (1) does not have a practice, policy, guidance, or directive that discriminates against a firearm entity or firearm trade association; and (2) will not discriminate during the term of the contract against a firearm entity or firearm trade association. By signing and submitting a Proposal, the Proposer certifies that it does not discriminate against a firearm entity or firearm trade association and will not discriminate against a firearm entity or firearm trade association during the term of the Contract.
- 3.56.15. The Proposer agrees to comply with Tex. Gov't Code §2155.4441, pertaining to service contract use of products produced in the State of Texas.
- 3.56.16. Under §161.0085 of the Health and Safety Code, a state agency may not enter into a contract payable with state funds with a business in this state that requires a customer to provide any documentation certifying the customer's COVID-19 vaccination or post-transmission recovery on entry to, to gain access to, or to receive services. By signing and submitting a Proposal, the Proposer certifies that it does not require a



customer to provide any documentation certifying a customer's COVID-19 vaccination or post-transmission recovery upon entry to, to gain access to, or to receive services and will not require such during the term of the Contract.

3.57. Preferences

Any Proposer entitled to a preference(s) under Texas law shall claim the preference(s) in its Proposal.

3.58. Deceptive Trade Practices; Unfair Business Practices

The Successful Proposer represents and warrants that it has not been the subject of allegations of Deceptive Trade Practices violations under Tex. Bus. & Com. Code, Chapter 17, or allegations of any unfair business practice in any administrative hearing or lawsuit and that the Successful Proposer has not been found to be liable for such practices in such proceedings. The Successful Proposer certifies that it has no officers who have served as officers of other entities that have been the subject of allegations of Deceptive Trade Practices violations or allegations of any unfair business practices in an administrative hearing or lawsuit and that such officers have not been found to be liable for such practices in such proceedings.

3.59. Immigration

The Successful Proposer represents and warrants that it shall comply with the requirements of the Immigration Reform and Control Act of 1986, the Immigration Act of 1990 and the Illegal Immigrant Reform and Immigrant Responsibility Act of 1996 regarding employment of any individual who will perform labor or services under the Contract.

3.60. Electronic and Information Resources Accessibility Standards, as Required by 1 TAC Chapters 206 and 213 (Applicable to State Agency and Institution of Higher Education Purchases Only).

- 3.60.1. Effective September 1, 2006, state agencies and institutions of higher education shall procure products which comply with the State of Texas Accessibility requirements for Electronic and Information Resources specified in 1 TAC Chapters 206 and 213 when such products are available in the commercial marketplace or when such products are developed in response to a procurement solicitation.
- 3.60.2. Upon request, but not later than thirty (30) calendar days after request, the Successful Proposer shall provide TLC with a completed Voluntary Product Accessibility Template (VPAT) of the specified product or a URL to the VPAT for reviewing



compliance with the State Accessibility requirements (based on the federal standards established under Section 508 of the Rehabilitation Act).

3.61. Cybersecurity Training, Cloud Computing and Data Protection

- 3.61.1. Under Tex. Gov't Code §2054.5192, any contractor with access to a TLC computer system or database shall complete a cybersecurity training program certified under Texas Gov't Code §2054.519. The Successful Proposer shall verify completion and sign the Texas Lottery's Information Security Agreement with TLC prior to receiving access to computer systems or databases.
- 3.61.2. Under Tex. Gov't Code §2054.0593, any cloud computing services utilized by the Proposer under the Contract resulting from this RFP shall comply with the requirements of the state risk and authorization management program. The Proposer shall maintain program compliance and certification throughout any Contract term and shall be required to demonstrate compliance with program requirements upon request by the TLC.
- 3.61.3. Under Tex. Gov't Code §2054.138, any Proposer authorized to access, transmit, use, or store data for the TLC shall meet the designated security controls as established by TLC and determined to be proportionate with the contract risk and the sensitivity of the data. The Proposer must periodically provide evidence of compliance with the security controls required under the Contract upon request by the TLC.
- 3.61.4. The Successful Proposer agrees that all products and/or services provided hereunder that are equipped with data storage (i.e. computers, telephones, printers, fax machines, scanners, multifunction devices, etc.) shall have the capability to securely erase data written to the data storage device prior to final disposition of such products and/or services, either at the end of the product's useful life or the end of the related services contract for such products and/or services, in accordance with 1 TAC 202.

3.62. False Statements; Breach of Representations

By submitting a Proposal, the Proposer makes all the representations, warranties, guarantees, certifications and affirmations included in its Proposal. If a Proposer signed its Proposal with a false statement or is selected as the Apparent Successful Proposer and signs the Contract with a false statement, or it is subsequently determined that the Proposer has violated any of the representations, warranties, guarantees, certifications or affirmations included in the RFP or the Contract, the Proposer shall be in default and if the determination is made before Contract Award, the Texas Lottery may reject the Proposal or if the determination is made after Contract Award, the Texas Lottery may terminate the Contract for cause and pursue all other remedies available to the Texas Lottery under the RFP, the Contract and applicable law.



3.63. Limitation on Authority; No Other Obligations

The Successful Proposer shall have no authority to act for or on behalf of the Texas Lottery or the State of Texas except as expressly provided for in this RFP or the Contract. The Successful Proposer is not authorized to sign any contract or subcontracts as the Texas Lottery's agent; any such contract or subcontract is invalid and cannot be enforced against the Texas Lottery. The Successful Proposer may not incur any debts, obligations, expenses or liabilities of any kind on behalf of the State of Texas or the Texas Lottery.

3.64. Proposer Assignment

The Successful Proposer hereby assigns to the Texas Lottery any and all claims for overcharges associated with the Contract arising under the antitrust laws of the United States, 15 U.S.C.A. Section 1, et seq., and the antitrust laws of the State of Texas, Tex. Bus. & Comm. Code §15.01, et seq.

3.65. Code of Conduct

The Texas Lottery is an extremely sensitive enterprise because its success depends on maintaining the public trust by protecting and ensuring the security of lottery products. The Texas Lottery incorporates the highest standards of security and integrity in the management and sale of entertaining lottery products, and lottery vendors are held to the same standards. Therefore, it is essential that operation of the Texas Lottery, and the operation of other enterprises which would be linked to it in the public mind, avoid not only impropriety, but also the appearance of impropriety. Because of this, the Successful Proposer shall:

- a. Offer goods and services only of the highest quality and standards.
- b. Use its best efforts to prevent the industry from becoming embroiled in unfavorable publicity.
- c. Make presentations in a responsible manner and when it is felt necessary to point out the superiority of its goods or services over those of its competitors, do so in such a manner as to avoid unfavorable publicity for the industry.
- d. Avoid activities, operations, and practices that could be interpreted as improper and cause embarrassment to the Texas Lottery and/or to the industry.
- e. Report security problems or potential security problems with any services provided pursuant to this RFP immediately and only to the Texas Lottery.
- f. Otherwise comply with the State Lottery Act (Tex. Gov't Code Ch. 466) and Texas Lottery rules, procedures and policies.
- g. Provide best practices related to security and integrity standards within the industry.



3.66. Contact with Texas Lottery Commission

- 3.66.1. Employees, Subcontractors and agents of all prospective Proposers and employees, Subcontractors and agents of the Successful Proposer may not offer or give a gift to a Texas Lottery employee. For purposes of this section, “gift” has the meaning as defined in Tex. Gov’t Code §467.001(4) and as may be subsequently changed or amended by acts of the Texas Legislature.
- 3.66.2. Employees, Subcontractors and agents of all prospective Proposers and employees, Subcontractors and agents of the Successful Proposer should not engage in nonprofessional socialization (socialization outside of a work context) with a Texas Lottery employee. There may be circumstances, however, in which nonprofessional socialization is acceptable, for example, because of family relationships, common acquaintances, or common outside activities. The restrictions on nonprofessional socialization are not meant to apply to unplanned, incidental social contact. In such circumstances, employees, Subcontractors and agents of all prospective Proposers and employees, Subcontractors and agents of the Successful Proposer should not discuss Texas Lottery business with any Texas Lottery employee.
- 3.66.3. Professional socialization at activities, such as industry trade conferences and site visits, is permitted.

3.67. Incidents and Anomalies

The Successful Proposer shall report immediately all significant incidents and anomalies to the Texas Lottery, followed by a written report to be submitted within one workday of the incident or anomaly. At a minimum, incident and anomaly reporting shall include a description of the incident, its cause, and corrective action taken. For purposes of this section, “significant” incidents include, by way of illustration only, any occurrence that affects the Texas Lottery, lottery retailers, or players, and deviation from established procedures and those items where sanctions or liquidated damages are applicable.

3.68. U.S. Department of Homeland Security’s E-Verify System

By entering into this Contract, the Successful Proposer certifies and ensures that it utilizes and will continue to utilize, for the term of this Contract, the U.S. Department of Homeland Security’s E-Verify system to determine the eligibility of:

1. All persons employed to perform duties within Texas, during the term of the Contract; and
2. All persons (including subcontractors) assigned by the Successful Proposer to perform work pursuant to the Contract, within the United States of America.



3.69. Non-Exclusive Contract

The Texas Lottery intends to enter into a non-exclusive contract with the Successful Proposer to provide the services described in this RFP and expressly reserves the right to engage other vendor(s) to perform similar services and/or to conduct such services itself.

3.70. Survival

Provisions of this RFP which of their nature and effect are necessary to enable the Lottery to function normally and to meet all of its obligations shall survive any termination of the Contract. These provisions include, but are not limited to, all of the warranties and representations and any provision that by its terms provides for applicability beyond the end of any Contract period.



4. REQUIRED INFORMATION

4.1. Experience of Proposer

- 4.1.1. Each Proposer shall provide the following information relating to its experience:
- 4.1.2. Years of Experience. Proposers must indicate the number of years' experience the Proposer has in manufacturing scratch tickets and providing related services as specified in this RFP. Each Proposer shall include descriptions and verifiable references (including names, titles, addresses and telephone numbers) documenting its experience for all engagements of comparable complexity and sensitivity for the past five (5) years.
- 4.1.3. Proposers must indicate any previous State of Texas or other lottery experience providing similar services, including name of agency or lottery, type of work performed, and duration of project. Proposers must have a minimum five (5) years of related lottery experience in scratch ticket printing in North America and at least three (3) current clients who are members of the North American Association of State and Provincial Lotteries (NASPL). Proposers with less than the minimum required lottery experience and fewer than three (3) current NASPL clients will be disqualified and their Proposals will be rejected and not evaluated.
- 4.1.4. Each Proposer shall provide descriptions for all engagements of comparable complexity and sensitivity to the requirements of this RFP that have been conducted within the past five (5) years. The description of comparable engagements shall be detailed and cover the contracts the Proposer and any subcontractors have had and all experience similar to this Contract which qualifies the Proposer to meet the requirements of this Contract, including but not limited to:
 - a. Size of contract (including value).
 - b. Reason for contract termination/expiration, if contract is no longer in effect.
 - c. Types of services directly provided by the Proposer and whether the Proposer was the contractor or subcontractor.
 - d. Term and type of contract, including effective dates.
 - e. Any problems encountered.
- 4.1.5. The Proposer shall state whether or not any of the following have occurred during the last five (5) years:
 - a. The Proposer has had a contract terminated, and, if so, shall provide full details, including the other party's name, address and telephone number.



- b. The Proposer has been assessed any penalties or liquidated damages under any existing or past contracts, and, if so, note the reason for and the amount of the penalty or liquidated damages for each incident.
 - c. The Proposer was the subject of (i) any disciplinary action for substandard work and unethical practices or (ii) any order, judgment or decree of any federal or state authority barring, suspending or otherwise limiting the right of the Proposer to engage in any business, practice or activity.
 - d. The Proposer has been involved in any litigation related to contract performance.
- 4.1.6. The Proposer must demonstrate its understanding of the requested services and must address specifically, in writing, the Proposer's approach to providing each requirement in this RFP.

4.2. Experience of Key Personnel

- 4.2.1. The Successful Proposer must provide a dedicated account services team to assist with scratch ticket game development.
- 4.2.2. Each Proposer must provide the resumes and supporting information for key personnel (including name, title and detailed job experience) who will be assigned to the Texas Lottery Account Team. The Account Team shall include, but not be limited to, the following positions:
- Account Manager - responsible for managing the Successful Proposer's relationship with the Texas Lottery. Coordinates, directs and implements the Successful Proposer's scratch ticket game development processes. Confers with Texas Lottery to assess needs, determine goals and establish plans while ensuring the accuracy of each phase of the production process.
 - Account Services Representative(s) - responsible for serving as the day-to-day liaison with the Texas Lottery ensuring the successful and timely completion of working papers and/or Customer Specifications Document and any and all communications between the Texas Lottery and the Successful Proposer as related to scratch ticket game development.
 - Quality Control individual or team - responsibilities include accuracy of all content and ensuring there are no errors in the working papers and/or Customer Specifications Document, printing processes and continuous quality inspection of final product.
 - Information Technology individual or team - responsibilities include the accuracy of all game data in each scratch ticket game as specified in the working papers and/or the Customer Specifications Document and security requirements.



- Graphic Artists - responsible for creative design and final ticket graphic output.

4.2.3. At a minimum, the Account Team members must demonstrate knowledge and experience as it applies to the following job functions:

- (a) Prize structure design
- (b) Game design elements including names, themes, play formats, color selection, proprietary production processes, etc.
- (c) Graphic design
- (d) Secure computer game tape/production file generation
- (e) Production scheduling
- (f) Secure scratch ticket manufacturing processes
- (g) Quality control and assurance
- (h) Packaging and distribution
- (i) Lottery sales, industry trends and market analysis relating to game recommendations
- (j) Product management
- (k) Information technology
- (l) Ticket Accounting
- (m) Security

4.2.4. The Texas Lottery does not rely on its scratch ticket manufacturers for traditional marketing support. Therefore, the Texas Lottery does not require personnel assigned to this account to be based in Austin, Texas.

4.2.5. In accordance with Section 3.11, the Successful Proposer shall provide the Texas Lottery written notification of any key personnel changes involving the Account Manager or Account Services Representative(s).

4.3. Proposer References

A minimum of five (5) verifiable references must be provided that include the contact person, name of company, phone, e-mail address and descriptions of services provided. Proposers' references shall include references for which the Proposer has provided similar services as described in Parts 6, 7 and 8 of this RFP within the last five (5) years. The Texas Lottery reserves the right to verify all information in the Proposal submitted by the Proposer and seek other information it deems necessary to conduct a thorough review.



4.4. Contact Person

- 4.4.1. Each Proposer shall provide the name, address, telephone number, and email address of a person to contact concerning questions regarding its Proposal.
- 4.4.2. Each Proposer shall provide the name, address, telephone number, and email address of a person to contact (if different than the person identified in Section 4.4.1) concerning the Contract.

4.5. Conflict of Interest

- 4.5.1. The Proposer must disclose any actual, potential or perceived conflict of interest relative to the performance of the requirements of this RFP. The Proposer must disclose any personal or business relationship of (a) itself; (b) any of its principals, officers, directors, investors, owners, partners, and employees (collectively, Proposer Personnel); (c) any spouse, child, brother, sister, or parent residing as a member of the same household in the principal place of residence of any Proposer Personnel; (d) any affiliate; or (e) any Subcontractor with (1) any employee or representative of the Texas Lottery (including the Texas Lottery Executive Director and its commissioners) or (2) the Lottery's vendors with contracts over \$100,000. The list for all Texas Lottery contracts over \$100,000, including major and prime contracts, is regularly updated at the following website link:

[https://www.texaslottery.com/export/sites/lottery/About_Us/Doing_Business_with_TLC/Contracts_Over_\\$100x000/](https://www.texaslottery.com/export/sites/lottery/About_Us/Doing_Business_with_TLC/Contracts_Over_$100x000/)

Failure to promptly disclose any such relationship may be a cause for disqualification of a Proposal.

- 4.5.2. This is a continuing disclosure requirement. The Successful Proposer shall disclose to the Texas Lottery in writing any actual, potential or perceived conflict of interest, relative to the performance of the requirements of this RFP, both prior to Contract Award and after Contract Award, at the time the conflict is identified. Failure to promptly notify the Texas Lottery may be a cause for rejecting the Proposal, sanctioning the Successful Proposer, or exercising any other appropriate remedy under the Contract.

4.6. Financial Soundness

- 4.6.1. Each Proposer must provide evidence of financial responsibility and stability for performance of the Contract and must demonstrate the ability to finance the project described in its submission.
- 4.6.2. Each Proposer shall provide evidence of financial responsibility and stability based on any and/or all of the following:



1. If the Proposer is the sole source of financial resources, the Proposer must submit financials showing the Proposer's ability to finance the project on its own with current resources;
2. If the Proposer is the subsidiary of a parent corporation and the parent corporation is providing financial resources or assurance, the parent corporation must complete Attachment B, and the Proposer must submit financials for both the Proposer and the parent;
3. If the Proposer is a joint venture or a group of affiliated companies, the Proposal must include financials for each member or affiliate of such joint venture or group, as applicable.

If 1, 2 or 3 applies, then the Proposer shall submit the following documentation with its Proposal:

(a) Copies of audited financial statements and/or complete tax returns for each of the Proposer's (and its parent corporation, if applicable, or joint venture member or affiliate, if applicable) two (2) most recently ended Fiscal Years; and/or

(b) If documentation under (a) is not available, the Proposer shall provide other proof of financial assurance.

4. If the Proposer is relying on financial resources other than items 1 through 3 above, then the Proposer shall submit the following documentation with its Proposal:

(a) Other proof of financial assurance that is verified by a third-party financial institution. Examples of such items are as follows:

- I. Unaudited financial statements accompanied by a line of credit from a third-party financial institution stating the credit amount and available balance.
- II. Unaudited financial statements accompanied by a bank statement provided by a third-party financial institution confirming the Proposer's average bank balance for at least the previous six (6) months.
- III. Any other financial information Proposer would like to be considered.

4.6.3. If the information in Section 4.6.2 is not available at the time of submission, the Proposer shall provide other proof of financial responsibility acceptable to the Texas Lottery prior to the deadline for submission of Proposals.

4.6.4. The Texas Lottery reserves the right to require any additional information necessary to determine the financial responsibility and stability of the Proposer.



- 4.6.5. The Proposal must include a certification that the Proposer will notify the Texas Lottery of a change in financial condition during the Contract term and any renewal thereof. If a Proposer experiences a substantial change in its financial condition prior to the award of the Contract, or if the Successful Proposer experiences a substantial change in its financial condition during the term of the Contract or any extension thereof, the Texas Lottery must be notified of the change in writing at the time the change occurs or is identified. Failure to notify the Texas Lottery of such substantial change in financial condition will be sufficient grounds for rejecting the Proposal or terminating the Contract. For the purposes of this section, examples of a substantial change in financial condition are events such as insolvency, bankruptcy or receivership.

4.7. Background Investigations

- 4.7.1. **Vendor Background Investigation.** Under Tex. Gov't Code §466.103, the Executive Director of the Texas Lottery is prohibited from awarding a contract for goods or services related to lottery operations to a person or legal entity who would not qualify for a sales agent license under the requirements of §466.155.

The Texas Lottery Commission may initiate investigations into the backgrounds of (a) any Apparent Successful Proposer; (b) any of the Apparent Successful Proposer's officers, directors, investors, owners, partners and other principals, as more particularly described in Tex. Gov't Code §466.155 (collectively, Apparent Successful Proposer Principals); (c) any of the Apparent Successful Proposer's employees; (d) any of the Apparent Successful Proposer's Subcontractors, or the Subcontractors' officers, directors, investors, owners, partners, principals or employees (collectively, Subcontractor Personnel); or (e) any other associates of the Apparent Successful Proposer it deems appropriate. The Texas Lottery Commission may also request background information for a spouse, child, brother, sister or parent residing as a member of the same household in the principal place of residence of the Apparent Successful Proposer, any Apparent Successful Proposer Principals, or Apparent Successful Proposer employees described above. Such background investigations may include fingerprint identification by the Texas Department of Public Safety and the Federal Bureau of Investigation, and any other law enforcement agency.

The Apparent Successful Proposer shall be obligated to provide such information about any Apparent Successful Proposer Principals, Apparent Successful Proposer employees, and Subcontractor Personnel as the Texas Lottery may prescribe. The Apparent Successful Proposer also agrees that the Texas Lottery may conduct background investigations of such persons. The Texas Lottery may reject a Proposal and/or terminate the Contract based solely upon the Apparent Successful Proposer's failure to provide information to complete a background investigation or the results of these background investigations.



4.7.2. **Contractually Defined Vendor Principal(s) Background Investigation.** The Texas Lottery may initiate background investigations on the Apparent Successful Proposer Principals who will be directly involved in selling or leasing the goods or performing the services that are the subject of this RFP or the Contract. This includes any oversight function performed by such individuals. For purposes of this section and the attachments, these individuals are called “contractually defined vendor principals.”

4.7.3. **Vendor Employee Background Investigations.** The Successful Proposer agrees that, during the term of the Contract and any extension thereof, it shall be obligated to provide such information about any principals, employees, and Subcontractor Personnel as the Texas Lottery may prescribe. The Successful Proposer also agrees that the Texas Lottery may conduct background investigations of such persons.

The Texas Lottery will conduct vendor employee background investigations on any of the Successful Proposer’s principals, employees, and Subcontractor Personnel who meet one (1) or more of the following criteria:

- they perform services that may impact the security and integrity of the core gaming business as determined by the Texas Lottery;
- they provide audit, financial, legal, or compliance services;
- they provide goods and/or services that control or monitor access to lottery premises;
- they have unescorted access to TLC facilities; and/or
- they have direct access to TLC information systems.

4.7.4. **Apparent Successful Proposer.** If requested by the Texas Lottery, the Apparent Successful Proposer may be required to complete and return the following forms within ten (10) Working Days, or as otherwise directed by the Texas Lottery, after the written Announcement of the Apparent Successful Proposer is issued:

- a. Vendor Background Investigation Form (Attachment E).
- b. Certified List of Vendor Principals Form (Attachment E-1).
- c. Certified List of Contractually Defined Vendor Principals Form (Attachment E-2).
- d. Consent to Background Investigation and Release of Personal Information Form (Attachment E-4). A separate form shall be completed for each vendor principal included on *Attachment E-2 Certified List of Contractually Defined Vendor Principals Form* and each vendor/Subcontractor employee included on *Attachment E-3 Vendor Employee Background Investigation List*.
- e. Vendor Employee Background Investigation List (Attachment E-3).

4.8. Disclosure of Interested Parties

Tex. Gov’t Code §2252.908 states that a governmental entity or state agency may not enter into certain contracts with a business entity unless the business entity submits a



disclosure of interested parties (Form 1295) to the governmental entity or state agency at the time the business entity submits the signed contract to the governmental entity or state agency. The Texas Ethics Commission has adopted rules requiring the business entity to file Form 1295 electronically with the Ethics Commission (See <https://www.ethics.state.tx.us/rules/commission/ch46.php>). If requested by the Texas Lottery, the Apparent Successful Proposer may be required to complete and file the Form 1295 with the Ethics Commission after the written Announcement of the Apparent Successful Proposer is issued and prior to contract execution.



5. HISTORICALLY UNDERUTILIZED BUSINESS (HUB) PARTICIPATION

5.1. HUB Requirement

The Texas Lottery has adopted the rules promulgated by the Comptroller of Public Accounts (CPA) regarding Historically Underutilized Businesses (HUBs) in 34 Texas Administrative Code (TAC) §§ 20.281 – 20.298 (See [http://texreg.sos.state.tx.us/public/readtac\\$ext.ViewTAC?tac_view=5&ti=34&pt=1&ch=20&sch=D&div=1&rl=Y](http://texreg.sos.state.tx.us/public/readtac$ext.ViewTAC?tac_view=5&ti=34&pt=1&ch=20&sch=D&div=1&rl=Y)). By submitting a Proposal, the Proposer certifies that it has reviewed 34 TAC §§ 20.281 - 20.298. Rule 20.285 addresses the specific requirements of Historically Underutilized Business subcontracting plans (HSPs).

5.2. HSP Submission and Texas Lottery Review

- 5.2.1. All Proposals must include an HSP (Attachment C, including Method A or B, if applicable) in the format required by the CPA. Proposers may access the HSP forms on-line at the following CPA website link: <https://www.comptroller.texas.gov/purchasing/vendor/hub/forms.php>. The forms must be printed, signed and submitted with your Proposal. The HSP is a pass/fail requirement. PROPOSALS THAT DO NOT INCLUDE A COMPLETED HUB SUBCONTRACTING PLAN PREPARED IN ACCORDANCE WITH 34 TAC §20.285 SHALL BE REJECTED AND WILL NOT BE EVALUATED.
- 5.2.2. The HSP form is provided in Attachment C of this RFP. To determine whether a Proposer has performed a good faith effort in preparing its HSP as required by the CPA's HUB rules, the Texas Lottery may request clarifications, if necessary. The HSP will be reviewed based on the Proposer's submission and any clarifications requested by the agency.

5.3. Assistance for Preparation of HSP

- 5.3.1. *Pre-Proposal Conference.* Proposers are encouraged to attend the pre-Proposal conference, which will include a brief overview of the HSP requirements. Proposers may ask questions at the pre-Proposal conference regarding the HSP. A copy of the TLC's Pre-Bid/Proposal Conference Booklet regarding HSP requirements is available on the agency's website at:

https://www.texaslottery.com/export/sites/lottery/About_Us/Doing_Business_with_TLC/Procurement/ Proposers should review the HSP booklet thoroughly to ensure they fill out and submit all forms correctly.



- 5.3.2. *HSP Quick Check List and HUB Subcontracting Opportunity Notification Form.* Attached to this RFP are an HSP Quick Check List (Attachment C-1) prepared by the CPA and a HUB Subcontracting Opportunity Notification Form (Attachment C-2). Attachment C-1 is intended to assist Proposers in preparing the HSP forms, but is not required to be submitted with Proposals. Proposers are encouraged to use Attachment C-2 when sending notice of subcontracting opportunities.
- 5.3.3. *Additional TLC Assistance.* As stated above, if an HSP is rejected, the Proposal will be disqualified and will not be considered. **Therefore, Proposers are strongly encouraged to start preparing HSP forms as soon as possible and take advantage of the following TLC assistance. Please note there are deadlines associated with this process and Proposers have a limited amount of time to cure any deficiencies.**
- Written questions regarding the HSP can be submitted at any time up until the Proposal deadline. The TLC will compile and post a separate HSP question-and-answer document on the TLC website. The document will be updated as questions are submitted. It is the Proposer's responsibility to check the TLC website for this information.
 - The TLC will conduct one-on-one HSP workshops with Proposers upon request. The workshops will cover detailed information on how to complete the HSP forms. Workshops must be concluded by the date and time listed in the Schedule of Events. Workshops, due to gathering restrictions, may be conducted via Zoom, TEAMS or telephone conference. Proposers are responsible for contacting the Texas Lottery to schedule a workshop during the specified time period. Proposers may schedule a workshop up until the final date listed in the Schedule of Events.
 - The TLC will review and provide individual written feedback on draft HSP forms submitted by Proposers. Draft HSP forms must be submitted by the date and time listed in the Schedule of Events. Upon request, the TLC may also provide verbal feedback.

Note that "draft HSP forms" consist only of the forms included in Attachments C, C-1 and C-2 of the RFP and documentation related to performance of the good faith effort. In reviewing draft forms, the TLC will not comment on responses to any other sections of the RFP, even if they are referred to in the HSP forms. Proposers are instructed not to submit any other portions of their Proposal to the TLC as part of the draft HSP.

One-on-one workshops and the TLC's review of draft HSP forms do not guarantee that the HSP submitted with the Proposal will pass.



5.4. Requirements for Completing the HSP Forms

- 5.4.1. TLC's HUB Participation Goal. The goods and/or services requested in this RFP are classified in the category of Other Services Contracts. The agency's HUB participation goal for this RFP is 24.30%.
- 5.4.2. Requirements of the HUB subcontracting plan. Each Proposer shall complete the HSP forms prescribed by the CPA (Attachment C) and provide the following:
- a certification the Proposer has made a good faith effort to meet the requirements of 34 TAC § 20.285;
 - the names of the subcontractors that will be used during the course of the Contract;
 - the expected percentage of work to be subcontracted; and
 - the approximate dollar value of that percentage of work.

Each Proposer shall provide all documentation required by the agency to demonstrate the Proposer's compliance with the good faith effort requirements prior to Contract Award. If a Proposer fails to provide supporting documentation (phone logs, fax transmittals, electronic mail, etc.) by the deadline specified by the agency, the Proposal shall be rejected for material failure to comply with Tex. Gov't Code §2161.252 (b).

5.4.3. Proposer Intends to Subcontract

Proposers who intend to subcontract any portion of the Contract must indicate in the HSP form that they intend to subcontract, and must perform one of the three good faith effort methods identified below.

- Method A (1): Using 100% HUB Subcontractors. Proposer will use only Texas-certified HUBs for all identified subcontracting opportunities.
- Method A (2): Meeting the Specified HUB Contract Goal. Proposer will meet the HUB contract goal by using only Texas-certified HUBs with whom the Proposer has contracted for five years or less.
- Method B: Good Faith Effort Outreach. Proposer will perform good faith effort outreach for each identified subcontracting opportunity by contacting at least three Texas-certified HUBs and two trade organizations or development centers that serve members of the HUB groups. Proposers using this method must perform the outreach even for areas where a Proposer has a pre-existing subcontracting relationship.

PROPOSERS WHO INTEND TO SUBCONTRACT, AT A MINIMUM, MUST USE ONE OF THE METHODS OUTLINED ABOVE. FAILURE TO DO SO WILL RESULT IN DISQUALIFICATION.



5.4.4. **Proposer Does Not Intend to Subcontract**

Proposers who intend to fulfill the entire Contract using only their own existing resources and employees, without subcontracting, should check the appropriate box in Section 2 of the HSP form and complete Sections 3 and 4 of the form.

The Proposer must explain how all functions of the Contract will be performed without the use of Subcontractors and should refer to Section 3 of the HSP form.

5.5. **Subcontracting Opportunities**

- 5.5.1. The Texas Lottery has identified the following potential subcontracting opportunities under this RFP. Proposers intending to subcontract any work under this RFP must perform the good faith effort detailed in the HSP instructions and include a compliant HSP with the Proposal.

CLASS 560: MATERIAL HANDLING, CONVEYORS, STORAGE EQUIPMENT AND ACCESSORIES

Item Numbers and Commodity Descriptions:

560-54 Pallets and Skids: Metal, Plastic, Wood

CLASS 640: PAPER AND PLASTIC PRODUCTS, DISPOSABLE

Item Numbers and Commodity Descriptions:

640-25 Corrugated Boxes and Sheets, Including Fillers

CLASS 645: PAPER, FOR OFFICE AND PRINT SHOP USE

Item Numbers and Commodity Descriptions:

645-64 Offset Paper, Including Recycled

CLASS 665: PLASTICS, RESINS, FIBERGLASS: CONSTRUCTION, FORMING, LAMINATING, AND MOLDING EQUIPMENT, ACCESSORIES, AND SUPPLIES

Item Numbers and Commodity Descriptions:

665-82 Shrink Film Packaging Equipment and Supplies

CLASS 700: PRINTING PLANT EQUIPMENT AND SUPPLIES, EXCEPT PAPER

Item Numbers and Commodity Descriptions:

700-57 Printing Accessories and Supplies, Including Electrostatic Types: Blankets, Chemicals, Gum, Inks, Mats, Negatives, Plates, Roller Covers, Rubber Rejuvenators, Sleeves, etc. (See 700-30 for Graphic Art Supplies)



CLASS 915: COMMUNICATIONS AND MEDIA RELATED SERVICES

Item Numbers and Commodity Descriptions:

915-48 Graphic Arts Services, Not Printing

CLASS 946: FINANCIAL SERVICES

Item Numbers and Commodity Descriptions:

946-20 Audit Services

946-31 Certified Public Accountant (CPA) Services

CLASS 961: MISCELLANEOUS SERVICES, NO. 1 (NOT OTHERWISE CLASSIFIED)

Item Numbers and Commodity Descriptions:

961-49 Legal Services, Attorneys

961-50 Legal Services Including Depositions and Expert Witness Testimony

961-53 Marketing Services (Inc. Distribution, Research, Sales Promotions, etc.)

961-78 Travel Agency Services (Inactive, please see commodity code 958-92 effective January 1, 2016)

CLASS 962: MISCELLANEOUS SERVICES, NO. 2 (NOT OTHERWISE CLASSIFIED)

Item Numbers and Commodity Descriptions:

962-69 Personnel Services, Temporary

962-86 Transportation of Goods, Shipping and Handling, and Other Freight Services

CLASS 966: PRINTING AND TYPESETTING SERVICES

Item Numbers and Commodity Descriptions:

966-61 Offset Printing, Large Production Runs (Quan. Over 100,000); 4 Color Process or Close Registration Required: Color Brochures, Maps, etc.

CLASS 971: REAL PROPERTY RENTAL OR LEASE

Item Numbers and Commodity Descriptions:

971-45 Office Space Rental or Lease

- 5.5.2. The potential subcontracting opportunities listed above may or may not be areas that a Proposer would subcontract, depending on that Proposer's existing resources, employees, and business model. Further, Proposers are not limited to the list above, and may identify additional areas of subcontracting. Proposers who intend to subcontract are responsible for identifying all areas that will be subcontracted and shall submit a completed HSP demonstrating evidence of good faith effort in developing that plan.



- 5.5.3. A list of HUB vendors registered with the CPA for the subcontracting opportunities identified above is included under the HUB/CMBL tab of this RFP. This list is provided as a resource to assist Proposers in preparing and submitting an HSP. The Texas Lottery Commission does not endorse, recommend or attest to the capabilities of any company or individual listed. Note that currently active certified HUBs will have a status code of "A." All other status codes indicate that a vendor is inactive or not a HUB.
- 5.5.4. Please refer to the HUB/CMBL Directory Instructions and HUB Vendor Reference Lists under the HUB/CMBL tab of this RFP to locate potential HUB Subcontractors.

5.6. Post-Contract Award

5.6.1. Notification of Subcontractors

Following Contract Award, the Successful Proposer must provide notice to all subcontractors (HUBs and Non-HUBs) of their selection for the awarded Contract. The Successful Proposer is also required to provide a copy of each notice to the agency's HUB Coordinator for the Contract no later than ten (10) Working Days after the Contract is awarded. Proposers should refer to Section 4 of the HSP form for additional information about this requirement.

5.6.2. HSP Changes

Following Contract Award, any proposed changes to the HSP must be submitted, in writing, by the Successful Proposer to the Texas Lottery for prior review and must be approved by the Texas Lottery in writing before becoming effective under the Contract.

5.6.3. HSP Reporting

Following Contract Award, if the Successful Proposer is subcontracting, the Successful Proposer shall maintain business records documenting compliance with the HSP and shall submit a monthly compliance report in the format required by the Texas Lottery. The monthly compliance report shall be submitted to the Texas Lottery by the 10th of the following month or on the date requested by the agency's HUB Coordinator or his/her designee. The submission of the monthly compliance report is required as a condition of payment.



6. TEXAS LOTTERY'S OBJECTIVES, GOALS AND EXPECTATIONS

6.1. Overview

Part 6 of this RFP contains the Texas Lottery's objectives, goals and expectations for this procurement. Parts 7 and 8 comprise the Scope of Services for any Contract resulting from this RFP.

6.2. Texas Lottery Objective

The Texas Lottery's objective is to maximize revenue to the State of Texas through the selection of "industry best" games and those consistent with the Texas Lottery's current product mix and scratch ticket strategy. The Texas Lottery evaluates games based on a variety of criteria including, but not limited to, sales performance, ticket theme, play style, planned start date and overall fit within the overall scratch ticket portfolio and budget authority. Using these criteria and others, the Texas Lottery also includes branded, proprietary or licensed games which it believes present the best opportunity for maximizing ticket sales and generating revenue for the State.

6.3. Texas Lottery Goals and Expectations

- 6.3.1. In working toward its objective to maximize revenue to the State of Texas through the selection of "industry best" games and those consistent with the Texas Lottery's current product mix and scratch ticket strategy, the Texas Lottery believes that utilizing multiple vendors for scratch ticket manufacturing and services promotes competition, optimizes vendor performance and enhances business resumption capabilities.
- 6.3.2. The Texas Lottery desires to select multiple Successful Proposers that demonstrate superior technical quality and service and that offer competitive pricing.
- 6.3.3. The Texas Lottery, through negotiations with all Apparent Successful Proposers, desires to establish common prices for the goods/services included in the Base Price and certain Specified Options as identified in the Sealed Cost Proposal (Attachment H).
- 6.3.4. As an incentive to accept the common prices established by the Texas Lottery and at the agency's sole discretion, Successful Proposers may be offered an opportunity to produce a comparable number of games for a set period (as determined by the Texas Lottery in its sole discretion) following Contract Award. The Texas Lottery, in its sole



discretion, will determine the quantity and volume of ticket production awarded to each Successful Proposer and expressly reserves the right to cancel or increase game orders consistent with the considerations in Sections 1.1.7 and 1.1.8, together with other factors including, but not limited to, technical quality and customer service; however, the Texas Lottery does not intend to establish comparability by price point, ticket size, print quantities and other similar factors.

- 6.3.5. Any Proposer(s) that rejects the Texas Lottery's common prices still may be awarded a Contract in the Lottery's sole discretion, principally to allow the Texas Lottery to use the Proposer's proprietary printing process(es) and licensed game inventory – but is not assured a certain number of games.

6.4. Innovation and Creativity

- 6.4.1. The Texas Lottery does not intend to limit the creativity of interested parties or preclude contracted vendors from bringing forward new products or product enhancements during the life of the Contract. The Texas Lottery continually evaluates operations to determine the most cost-effective, reliable, market-oriented solutions that offer the best value to the State, and to identify innovations that 1) meet Texas Lottery requirements, 2) maximize revenue to the state of Texas, and 3) are clearly within the statutory authority of the Texas Lottery. Throughout the Contract term, the Successful Proposer shall promptly notify the Texas Lottery of changes, service/product enhancements, new product offerings, and innovations that were not available at the time of Contract Award and not required under another Contract provision.

The Texas Lottery makes no commitment to quantity or timing for acquisition or deployment of such changes, service/product enhancements, new product offerings, or innovations. However, should the Texas Lottery determine any such changes, service/product enhancements, new product offerings, or innovations are of potential value to the State (and meet the aforementioned criteria), the Texas Lottery and the Successful Proposer shall meet in good faith to mutually develop and agree on detailed specifications, prices, terms, and conditions for the deployment of such items, including incorporating any associated cost in the Base Price, if appropriate. All proposed innovations must be authorized by Texas law, and do not include video lottery, casino gaming, internet-based lottery sales, fantasy sports, or any other activities not authorized by law.



7. SCRATCH TICKET GAME DEVELOPMENT

7.1. Staffing

At a minimum, the Successful Proposer must provide the positions required under Section 4.2 of this RFP for the Texas Lottery account. If any staff proposed under Section 4.2 change during the term of any Contract resulting from this RFP, the Successful Proposer shall replace such staff with staff comparable in experience and training. That replacement shall be made subject to the Texas Lottery's approval. The Successful Proposer shall provide the resume of the person who is proposed to be hired or placed on the Texas Lottery's Account Team and shall receive written approval from the Texas Lottery prior to the person working on the account.

7.2. Game Planning

7.2.1. Game planning services support will be required of the Successful Proposer. The Successful Proposer shall work closely with the Texas Lottery to identify scratch ticket games that meet the criteria and requirements of the Texas Lottery. The Successful Proposer shall provide suggested game designs for inclusion in the plan. At a minimum, the Successful Proposer shall provide:

- 1) Recommendations for each price point and theme, including the game name and play style, together with an album of representative tickets produced by the Successful Proposer. The recommendations should be made for tickets that are considered "industry best", have had positive responses in focus testing, have strong sales performance in other jurisdictions, and/or have indexed well in comparison with other games. Recommendations should be supported by trend and data analysis.
- 2) Game Development Services to include but not be limited to graphic design, game design, artwork, prize structures and play style.

In addition, newly developed ticket design concepts without prior sales history may be presented to the Texas Lottery for consideration.

7.2.2. The Texas Lottery works directly with the Texas Lottery Operations and Services vendor (currently IGT Texas) in the development of its comprehensive Scratch Ticket Game Plan. The comprehensive Scratch Ticket Game Plan will identify all elements of the games to be introduced, including the deadline to receive working papers, launch date, price point, top prize, theme, and print quantity. The Scratch Ticket Game Plan will be provided to the Successful Proposer and updated as deemed necessary by



the Texas Lottery. The Texas Lottery shall make all final decisions regarding the selection and inclusion of scratch ticket games in the Game Plan.

- 7.2.3. At the request of the Texas Lottery, the Successful Proposer may be required to attend marketing planning meetings and commission meetings at the Texas Lottery headquarters or virtually.

7.3. Individual Scratch Ticket Game Development Schedule

- 7.3.1. For those games within a Fiscal Year Scratch Ticket Game Plan, it is the expectation of the Texas Lottery that each Successful Proposer designated to produce their games will prepare and deliver draft working papers according to the deadline noted in the Scratch Ticket Game Plan for each game.
- 7.3.2. Upon request, each Successful Proposer shall provide the total estimated cost for their games listed in the Scratch Ticket Game Plan.
- 7.3.3. Upon request, each Successful Proposer shall provide draft artwork and prize structure for games not included in the Scratch Ticket Game Plan to the Texas Lottery within five (5) Working Days from the request. These games may subsequently be added to the Scratch Ticket Game Plan and will follow the required deadlines in the Scratch Ticket Game Plan.
- 7.3.4. The Texas Lottery must review and approve all artwork (scratch ticket and pack insert) and prize structures prior to the Successful Proposer providing draft working papers to the Texas Lottery.
- 7.3.5. The Successful Proposer shall provide accurate and complete draft working papers that are free of errors for the Texas Lottery's review. The Texas Lottery conducts a thorough review of draft working papers. This may result in multiple rounds of review and requested changes. When the Texas Lottery has completed a review and provided requested changes, the Successful Proposer must provide the next version of working papers to the Texas Lottery within two (2) Working Days. If the Successful Proposer believes that any of the Texas Lottery's requested changes would not be beneficial or appropriate, the Successful Proposer must contact the Texas Lottery to discuss the concern. The Successful Proposer must deliver tickets to the Texas Lottery's warehouse no later than the delivery date specified in the final executed working papers.
- 7.3.6. Post Executed Changes. Any changes to the final executed working papers must be in writing and approved by the Executive Director or his designee. Post executed changes must be executed by the Texas Lottery Executive Director or his designee prior to production of the game.



7.4. Creative Game Design

The Successful Proposer shall provide creative game and graphic design of scratch ticket games including mechanical artwork and specifications of the game ticket layout consistent with Texas Lottery security requirements and methods.

7.5. Graphic Capabilities & Data Transfer

- 7.5.1. To provide for timely graphic design and approval of artwork, it is necessary for the Successful Proposer to maintain compatibility and efficient communication with the Texas Lottery. The Successful Proposer shall be required to archive the final artwork for each scratch ticket game for the duration of the Contract.
- 7.5.2. The Successful Proposer must either use compatible software or provide software to transmit data, to the Texas Lottery's specifications, to exchange artwork files and other files with the Texas Lottery. The cost to acquire or upgrade the application software shall be the responsibility of the Successful Proposer and shall not be included in the Proposal. The Successful Proposer must utilize the Texas Lottery's Scratch Workflow Automation Program (SWAP) to securely transmit working paper versions and issues. The Successful Proposer will be provided with technical specifications and access for SWAP.

7.6. Artwork

- 7.6.1. Upon execution of the final working papers for each game, the Successful Proposer must provide color artwork in electronic format including an unscratched version of the ticket, a scratched version of the ticket revealing a top prize winning combination of play symbols, and the back of the ticket which includes the UPC code, and all other elements specified in the final working papers and/or approved Customer Specifications Document. This artwork must be provided within three (3) Working Days of the execution of the final working papers. Artwork must be provided in an Adobe Illustrator file with all font information converted to outline, and linked files provided in a Photoshop TIF file.
- 7.6.2. The Successful Proposer shall provide images of the approved artwork from the executed working papers to be used to support each scratch ticket game produced. The size and format of the image will be indicated in the working papers for each game or in the approved Customer Specifications Document. The Texas Lottery may also request the layered artwork files for product marketing support.



7.7. Production Schedule Report

The Successful Proposer shall be required to develop and provide to specified Texas Lottery staff a weekly report that provides current updates on production schedules for all games, including, at a minimum:

- (a) Game number
- (b) Game name
- (c) Ticket quantity
- (d) Ticket size
- (e) Pack size
- (f) Scheduled press date
- (g) Scheduled ship date
- (h) Scheduled delivery date
- (i) Number of trucks for delivery
- (j) Date of shipment of test packs to the Texas Lottery's testing vendor.

The dates listed on the production schedule report are for planning purposes only. In the event of any conflict or contradiction between or among the dates listed on the production schedule report and the deliverables schedule in the executed working papers, the working papers will control.

7.8. Working Papers

- 7.8.1. Working papers for each scratch ticket game will be generated by the Successful Proposer in a format approved by the Texas Lottery. Executed working papers must be complete and free of any errors. Production of any scratch ticket game will not proceed until the Texas Lottery Executive Director or their designee approves and executes the final working papers and the working papers are executed by the Successful Proposer. Any changes made after the execution of working papers must be approved through the execution of a post executed change and signed by the Texas Lottery Executive Director or designee. Scratch ticket game development schedules will be established by the Texas Lottery and working papers executed in order to facilitate an orderly process for the production and delivery of scratch ticket games. The Texas Lottery reserves the right to cease production of any executed game that has not been printed yet. The Successful Proposer may invoice the Texas Lottery for actual costs incurred up to the cancellation date; the Texas Lottery agrees to pay such costs up to a maximum of \$4,000 per game.
- 7.8.2. Working papers for each Texas Lottery scratch ticket game will at a minimum include, but not be limited to, specifications for the following:
 - (a) Game name, number, date and version.



- (b) Color version of ticket, covered, uncovered and overlay at 100% and for tickets under 5", at a larger resolution for legibility purposes.
- (c) Back of ticket at 100% and for tickets under 5", at a larger resolution for legibility purposes.
- (d) Ticket size and paper stock to be used.
- (e) Universal Product Code (UPC) number, which is unique to each game.
- (f) Placement of bar code on uncovered ticket.
- (g) Front display colors, overprint colors, and security tint colors.
- (h) Description of play style.
- (i) Quantity ordered.
- (j) Orientation of ticket front and back, and press layout configuration.
- (k) Pack size and configuration.
- (l) Prize structure including: game name, number, date and version, ticket price point, production quantity, percent of prize payout, net revenue generated, each tier level for prizes and play action indicating how each tier is won, odds per prize level, overall odds of winning any prize in the game and consolidated odds if there is more than one (1) way to win a prize, winners per pack and per pool, prize cost and percent of prize fund dedicated to each prize level, and percent of prize fund dedicated to low-, mid- and high-tier prize levels, designation of low, G-tier (if included), mid- and high-tier prizes, Guaranteed Low-End Prize Structure (GLEPS) for each pack of tickets - broken out into a minimum of four (4) different GLEPS patterns and number of winners per pack. Prize structure may include information pertaining to prizes awarded via promotional second-chance drawings, if applicable. Prize structure may be required to show a statement that all top prizes and combinations of prizes totaling the top prize are guaranteed.
- (m) Ticket layout for front and back imaging.
- (n) Description of location and/or float of the validation number, bar code and UPC code.
- (o) Detail of all actual size of legends, play spots, captions, numbers/symbols, and prize spots
- (p) Programming parameters or constraints as directed by the Texas Lottery.
- (q) Deliverables schedule.
- (r) Order and price confirmation page. (The Texas Lottery SWAP system will provide electronic means for sign-off approval by the Texas Lottery.)
- (s) Color ink details, including proposed options such as varnish, tints, metallic inks, fluorescent inks, etc.
- (t) Any other production requirements, including but not limited to holographic material applications, alternative ticket stock, hologram applications, etc.
- (u) As required, licensed property documentation, promotion details, non-cash prize details, etc.



7.9. Customer Specifications Document

Each game must adhere to the requirements detailed in the Customer Specifications Document and the executed working papers. The Customer Specifications Document must be complete and free of any errors.



8. SCRATCH TICKET MANUFACTURING AND SERVICES

8.1. Overview of Ticket Manufacturing Methods

Proposers must provide a detailed description of the methods to be employed in the manufacturing of tickets. Each of the major manufacturing steps must be identified and described. The Texas Lottery is committed to ensuring the highest standards of security and integrity are incorporated in its products. Proposers should provide details regarding security procedures and controls.

8.2. Manufacturing Specifications

The Successful Proposer must manufacture individual game tickets that meet the following minimum requirements.

8.3. Ticket Stock

Tickets may be printed on various stocks, including but not limited to: 10 point virgin/recyclable coated two (2) sides, 10 point stock coated one (1) side and foil laminate one (1) side, 10 point stock coated one (1) side and holographic laminate one (1) side. All ticket stock must not curl, separate, or be easily split.

All products provided by the Successful Proposer under the Contract must conform to the Texas Lottery's requirements. In addition, if required by the Texas Lottery, the Successful Proposer must produce proof to the Texas Lottery's satisfaction that its ticket stock meets the guidelines specified in this RFP.

Requirements for ticket stock may vary per game and will be specified by the Texas Lottery in the executed working papers.

The Texas Lottery, in its sole discretion, reserves the right to modify ticket stock requirements at any time during the Contract with notice to the Successful Proposer. All tickets produced by the Successful Proposer under the Contract must be compatible with the ticket dispensing systems utilized now or in the future by the Texas Lottery.

8.3.1. Pack Insert Pieces

Except as otherwise specified by the Texas Lottery, the Successful Proposer shall be required to provide one (1) Pack Insert piece which shall be included in each shrink-wrapped pack of tickets. The size of the Pack Insert piece is based upon the size of the ticket dispenser. Currently the dispenser sizes require a 4" x 4", 4" x 8" or 4" x 12" Pack Insert piece.



An additional 500 Pack Inserts must be delivered two (2) weeks prior to ticket delivery. The Pack Inserts must be printed on front and back according to Texas Lottery specifications as indicated in the working papers for a specific game. The working papers must include sample draft artwork of the Pack Insert.

8.3.2. Retail Samples (Voids)

At the Texas Lottery's request, the Successful Proposer may be required to supply approximately one thousand (1,000) (depending upon pack size) voided, non-winning ticket samples delivered in full pack quantities of actual size tickets for each game produced with quantities as detailed in the Customer Specifications Document. Such tickets shall have the word "VOID" printed prominently on the back of the ticket. The word VOID will also replace the ticket number on the front of the ticket. All void samples must be shrink-wrapped in pack sizes equal to those of the actual game. The number of retail (void) samples to be produced is subject to change at the Texas Lottery's sole discretion during the Contract period, based on the use of these samples in the field.

8.3.3. Ticket and Pack Sizes

The Successful Proposer shall be required to produce tickets and packs in various sizes. Ticket and pack size (number of tickets per pack) will vary and will be determined by the Texas Lottery on a game-by-game basis and will be specified in the executed working papers. Ticket and pack sizes may be modified at the Texas Lottery's sole discretion and will be specified in the executed working papers.

8.3.4. Ticket Orientation

The Texas Lottery will require tickets to be printed in either horizontal or vertical formats.

8.3.5. Perforations

Perforations must be placed on the side equal to the width of the dispenser for the ticket regardless of the vertical or horizontal format. Current dispenser widths are 4", 8" and 12". Typically, the 4" size is used unless otherwise requested by the Texas Lottery.

The perforations between tickets must be deep enough, and must contain adequate space between perforations, to allow retailers and/or self-service vending machines to separate the tickets without damage. However, the perforations must not be so deep as to allow unintentional detachment of the tickets during normal handling or dispensing.



8.3.6. Font Generation

All imaged data (computer controlled) or graphic fonts (display printing) produced by the Successful Proposer for Texas Lottery scratch tickets -- whether the data or fonts are standard, customized or licensed -- must be approved by the Texas Lottery. The Successful Proposer shall be required to provide the Texas Lottery with samples of all imaged fonts and symbols that are available for use on tickets. In addition, the Successful Proposer shall be required to create any imaged data or graphic fonts, whether or not provided as samples, as specified in the executed working papers.

8.3.7. Imaged Data

The game data will include, but not be limited to the following items: symbols, legends, captions, ticket numbers, pack numbers, validation numbers, and standard bar codes. These must be printed using a computer-controlled imaging printer. Imaged data must meet the following requirements:

- (a) printed in black or colored ink approved by the Texas Lottery on the display printing side.
- (b) uniformly positioned and aligned on the tickets, unless otherwise specified in the executed working papers to prevent potential pick-out problems associated with said positioning and alignment.
- (c) the imaged symbols must be printed clearly, easily readable and distinguishable, and the images shall not bleed, be distorted or smeared.
- (d) accompanied by appropriate captions and legends for play and prize symbols to provide redundancy for security reasons, to prevent consumer disputes and/or to preserve alignment between play and prize symbols and their relative position on the ticket. Captions and legends must spell out or abbreviate the play and prize symbols in smaller font size than the actual play and prize symbols, in a different but recognizable format. The captions and legends used in each game must be specified in the executed working papers and agreed to by the Texas Lottery.
- (e) no scratch ticket will contain more game data than authorized in the executed working papers.
- (f) all game data must meet Texas Lottery security guidelines as specified in this RFP and as may be required during the Contract term with respect to compromise and resistance to alteration.
- (g) the imaged data must not be damaged to a degree where the imaging is made illegible in the course of removing the scratch ticket coating, using normal pressure. The protective coating/seal coat must remain intact. In addition, after removal of the scratch ticket coating, by application of any commonly-occurring solvent, perspiration, saliva, water, soft drinks, coffee, etc., and then moderate rubbing (a minimum of ten (10) strokes) with a tissue, cotton swab or other soft object, the imaged data must remain readable.



- (h) each and every imaged symbol on the front of the ticket must be completely covered by scratch ticket coating with the exception of the quality control inspection window(s) on each ticket. Additionally, an exception to this requirement is granted for any game where the imaging is duplicated on the security coating, visible through translucent security coating or any other process so players know where to scratch.
- (i) any and all imaging must meet the requirements as specified in the executed working papers regardless of design, ticket size and press layout.

8.3.8. Game Pack Numbers

Each pack of tickets within a game must be identified with a unique consecutive and non-duplicating pack number (except for omissions that occur in production) for use in controlling ticket distribution, retailer inventory and accounting. Game and pack numbers must appear on the back of the ticket above the bar code image.

8.3.9. Ticket Numbers

Each ticket within a pack must display a unique sequential number and reverse ticket count such that the ticket count left in the pack is to be included as part of the ticket number. For example, numbering will begin on a 250 ticket pack with 001(250), 002(249) . . . 250(001). The ticket numbers must be consecutive and non-duplicating in the pack and no omissions are allowed within the pack. Ticket numbers must appear on the back of the ticket and must follow the game and pack number printed above the bar code.

In addition, a quality control inspection window must be placed on the front of all tickets. Some printing processes may require more than one (1) ticket window. This window must contain the three-digit ticket number as printed on the back of the ticket. Proposers must document the procedures used to assure that ticket numbers are consecutive and must not appear more than one (1) time per pack.

8.3.10. Validation Number

A unique “validation” number will be imaged on the front of the ticket. The format of the validation number will be detailed in the Customer Specifications Document. This validation number must be covered with a scratch ticket coating and must meet the requirements of the Texas Lottery. The location of the validation number will be at the approval of the Texas Lottery.

8.3.11. Validation Algorithm

The Successful Proposer must use the low-tier algorithm the Texas Lottery currently has in use, subject to change/revision during the Contract term in the Texas Lottery’s sole



discretion. The Texas Lottery Operations and Services vendor (currently IGT Texas) will provide the software code to the Successful Proposer. The Successful Proposer must provide a compatible mid/high-tier algorithm within two (2) Days of Contract execution if the algorithm has changed or the Successful Proposer has not recently done business with the Texas Lottery. Otherwise, the Successful Proposer must use the mid/high-tier algorithm provided by the Texas Lottery.

8.3.12. Back of Ticket Bar Codes

Each ticket must contain a bar code imaged on the back of the ticket. The bar code will consist of a game ID, the pack number, and the individual ticket number. The Successful Proposer must place the bar code in a location suitable for reading by the validation equipment used by the Texas Lottery. If any restrictions on placement apply, the Proposer must state such restrictions in its Proposal. The bar code will have a quiet zone at each end. The format of the bar code will be detailed in the Customer Specifications Document. The bar code must meet ANSI specifications, achieve a first-time read rate of 95%, achieve a third-time read rate of 99% and be printed to Texas Lottery specifications. The Successful Proposer must be able to support standard bar codes.

8.3.13. PDF 417 Bar Codes

The Successful Proposer shall be required to print PDF 417 or other bar codes in the play area for all Texas Lottery scratch tickets. The addition of this bar code to the ticket design will be at no additional cost to the Texas Lottery. The bar codes shall comply with the standards agreed to by the Texas Lottery.

8.3.14. Universal Product Codes (UPC)

UPC bar codes must be printed on the back of all scratch tickets as specified in the executed working papers and the Customer Specifications Document.

8.3.15. Screened Price Point

The price point of each scratch ticket game must be screened on the back of the ticket in no more than a 25% screen of the same ink color as the ticket back.

8.3.16. Scratch Ticket Coating

The scratch ticket coating must be opaque and of such quality as to maintain the security of the ticket symbols and validation information. (Refer to Section 8.27.1 regarding security expectations.) The border between the scratch surface and the uncovered portion of the ticket must be sharp and even, i.e., the scratch ticket coating may not "drip" onto the display printing. The scratch ticket coating must be smooth and regular to the touch.



The scratch ticket coating must be readily removable with a reasonable degree of resistance when scratched with commonly used items (scrapers, knives, keys, coins, etc.). After the scratch ticket coating is removed, significant residue must not be present. Scratch ticket coating must remain readily removable for a minimum shelf life of thirty-six (36) months under normal warehouse conditions. The scratch ticket coating must be non-toxic and not irritating to the skin. It must cover the play area and overlay into the display area.

The design of the overprint must be such that virtually all of the scratch ticket coating is covered by an overprint color (either a "Full" or "Screened Down" intensity). The overprint must extend up to or beyond the edges of the play area onto the paper, foil or holographic and must be regular so that the consumer may easily detect any irregularities in the ticket.

Any and all scratch ticket coating areas must meet the requirements as specified in the executed working papers regardless of design, ticket size and press layout.

8.3.17. Protective Coating/Seal Coat

The game data under the opaque scratch ticket coating must be covered by a transparent coating in a manner such that the symbols are protected when the consumer rubs off the scratch ticket coating. If the seal coat is removed, it must exhibit evidence of tampering and be non-repairable.

8.3.18. Display Printing

Display colors on the front of the ticket must be printed using either four-color process or spot colors or both. Spot colors may be specified by the Texas Lottery as PMS (Pantone® Matching System) colors or equivalents. One (1) color must be available for printing on the back of the ticket. The Successful Proposer is required to employ the necessary production processes in order to produce the game tickets as represented in the executed working papers.

Inks must be of such nature that there is no "offsetting" or picking from the front of tickets to the back of tickets on an adjacent page, and vice versa.

Subject to normal printing trade tolerances and practices, the display printing must be properly registered.

8.3.19. Overprint

The overprint colors must be printed on top of the scratch ticket coating. The overprint must consist of an artistic design that covers at least the same dimensions as the scratch



ticket coating. The overprint must be well defined, un-blurred and sharp in order to highlight any tampering of the ticket.

Inks must be of such nature that there is no "offsetting" or picking from the front of tickets to the back of tickets on an adjacent page, and vice versa.

Subject to normal printing trade tolerances and practices, the scratch ticket coating and overprint must be properly registered.

8.3.20. Ink Colors

The Successful Proposer must be able to produce a total of up to ten (10) colors projected to be five (5) front display colors, with one (1) display color being a full bleed, one (1) back color, three (3) overprint colors and one (1) ultraviolet ink for benday patterns. When using a four-color process method of printing one (1) design across the display graphics and the overprint area, colors must be consistent from one surface to the other, i.e., the same ink used for display and overprint colors. The printing method (or process) must be approved by the Texas Lottery.

8.3.21. Benday Patterns

The benday patterns used for all games must be printed in a configuration approved by the Texas Lottery. Unless previously authorized by the Texas Lottery, the benday pattern must be printed using the maximum number of patterns used based on the number of tickets across the web and the number of repeats on the press in each game. The use of ultraviolet or fluorescent inks that are visible only under a specialized light source are required to print the benday pattern. Benday patterns must cross every symbol and prize and must be applied in such a manner as to cause detection if an alteration has taken place.

8.3.22. Security Tint or Primer

Each game must include a security tint in the play area on either or both the lily pad or seal coat which provides security against color copying. The design must be such that removal or tampering of the lily pad and/or seal coat will exhibit evidence of tampering. Security tints are required regardless of paper stock or printing process. The color tint used will be agreed upon by the Texas Lottery and the Successful Proposer and specified in the executed working papers. If the Successful Proposer believes that any of the Texas Lottery's requested changes would not be beneficial or appropriate, the Successful Proposer must contact the Texas Lottery to discuss the concern. Proposers must submit sample draw-downs of all security tint colors available on specified paper stock at the time of submission of response to this RFP, with a breakdown of the components that make up each color (e.g., white lily pad and yellow security tint).



8.4. Omissions

- 8.4.1. If any part of a pack fails to meet the quality requirements specified in this RFP, the entire pack must be omitted. Omitted packs must be reflected in the validation and inventory media, and the Successful Proposer shall provide an independently audited report showing the disposition of all omitted tickets. Actual packs omitted must be pulled from the shipping cartons and not delivered to the Texas Lottery. Proposers must provide a detailed overview of the system used to track omitted packs, including, but not limited to, the use of automation, audit tools, etc.
- 8.4.2. The number of omitted packs must not result in a variation unacceptable under Section 8.8 (Prize Guarantees) between the End of Production Prize Structure and the executed working papers prize structure as specified in this RFP.

8.5. Scratch Ticket Coating Quality

- 8.5.1. Neither winning tickets nor non-winning tickets shall be recognizable from any characteristic of the ticket other than by the symbols concealed by the scratch ticket coating or other exposing material.
- 8.5.2. To maximize the security and integrity of the game and to maximize consumer confidence in the game, the Texas Lottery deems it essential to minimize the possibility of tampering. Ticket design must be such that tampering or attempts to tamper are evident. Accordingly, visible scratches, holes or pitting in the scratch ticket coating that expose any portion of the underlying ticket stock (whether or not any portion of the imaged symbols are exposed) may be cause for the Texas Lottery's rejection of games produced by the Successful Proposer.
- 8.5.3. The Successful Proposer must make a continuous and best effort to ensure that the risk of ticket or game compromise is minimized.

8.6. Randomization

- 8.6.1. The odds of winning any prize of any level on a given ticket must not vary from the odds of winning that prize as stated in the final approved prize structure by reason of deficiencies of randomization including, without limitation, by virtue of the ticket's location in its pack, shipping box, pool, or game; or by virtue of the contents (whether exposed or covered with scratch ticket coating) of any other ticket in the same pack, shipping box, or pool.
- 8.6.2. High-tier winners must be randomly distributed within the pools of tickets or the game as a whole as specified by the Texas Lottery in the executed working papers. The size of said pools must be agreed to by the Texas Lottery and the Successful Proposer.



- 8.6.3. The Successful Proposer must be able to limit the number of consecutive non-winning tickets in a pack. The maximum number of consecutive non-winning tickets within a pack will be specified in the executed working papers by the Texas Lottery.
- 8.6.4. The Texas Lottery reserves the right to inspect the methodology and implementation of such randomization on its own or with the aid of an independent consultant at any time. In accordance with the Texas Public Information Act and State Lottery Act, any information gathered throughout this process will be held in confidence by the Texas Lottery and/or its representative.

8.7. Guaranteed Low End Prize Structure (GLEPS)

Each pack of tickets must contain a guaranteed dollar value of low-tier prizes as specified by the Texas Lottery in the executed working papers. A minimum of four (4) different configurations of low-tier prizes must be equally and randomly incorporated in each pool and throughout all pools in the game. The different ways to win a low-tier prize within a GLEPS configuration will be randomly placed within a pack of tickets. Each configuration must have the same total dollar value of low-tier winners when mathematically possible, but each will have varying numbers of winners of various denominations. Low-tier is currently defined as a prize value of \$24.99 or less. For higher price point games that do not contain low-tier or adequate low-tier prizes, a comparable structure for lower value prizes will be required as specified by the Texas Lottery in the executed working papers and/or the Customer Specifications Document. These are currently referred to as G-tier prizes. The low-tier and G-tier values will be defined in the Customer Specifications Document and executed working papers.

8.8. Prize Guarantees

The Successful Proposer shall be required to submit a standard audit letter by a certified public accounting firm relating to game production within two (2) weeks prior to the delivery of each game. The Successful Proposer must guarantee the following:

- 1) Winning tickets are distributed with no discernible pattern throughout the entire population.
- 2) Unless otherwise agreed to in the working papers, ticket quantities will be guaranteed within $\pm 2\%$ from the quantity stated in the executed working papers, and all prize levels will be guaranteed within $\pm 2\%$ of the percentage of prize fund within the final executed prize structure from the executed working papers proportionate to actual quantity shipped. Overall prize payout will be within $\pm .005$ (1/2 percent). Prize Payout tolerance example: 65.00% payout converts to a decimal of .6500. The $\pm .005$ tolerance would allow for a range of .645 to .655 which converts to a percentage of 64.50% to 65.50%.



- 3) Overall odds of the game should not vary more than $\pm .0005$ (1/20 percent) from the final executed prize structure from the executed working papers.
- 4) Top or other tier-level prizes that are specified in the executed working papers as a guaranteed quantity will be verified and guaranteed in the End of Production Prize Structure for the game produced.

8.9. Security Specifications

- 8.9.1. It is intended that all sections of this RFP have implied the essential need for security, though such may not be explicitly stated. The Proposal must make clear and specify the precautions, safeguards, inspections, reporting and other measures that will attend the entire program and its parts.
- 8.9.2. The Proposer must demonstrate the capability and integrity required to maintain constant vigilance against any breach of security. Failure to meet or to maintain security standards acceptable to the Texas Lottery may be grounds for Contract termination.

8.10. Ticket Testing Samples

- 8.10.1. Together with its Proposal, each Proposer that has not previously printed tickets for the Texas Lottery must submit one thousand (1,000) constructed samples of scratch lottery tickets: five hundred (500) on coated two-side paper stock, five hundred (500) samples on foil stock and five hundred (500) samples on holographic stock. Each Proposer that has not previously printed tickets for the Texas Lottery must provide sample tickets that represent each printing process currently in use (e.g., flexographic, gravure, offset or combination printing). These samples must have all required bar codes on the ticket. The tickets submitted will be used for security testing by the Texas Lottery, and for examination of the appearance and overall quality of the construction of the proposed ticket. Conforming lottery tickets or similar tickets produced for other lotteries will be acceptable. No samples will be accepted other than those produced by the proposed manufacturing process.
- 8.10.2. Notwithstanding anything herein to the contrary, acceptance of sample tickets as part of a Proposal does not limit or restrict the Texas Lottery's authority to test tickets manufactured and submitted by the Successful Proposer under any Contract resulting from this RFP. Acceptance of sample tickets as part of a Proposal shall not be deemed approval of tickets manufactured under any Contract resulting from this RFP.

8.11. Test Game

- 8.11.1. Any Successful Proposer that has not previously printed tickets for the Texas Lottery must provide, at no additional cost to the Texas Lottery, a test game that includes the



high-tier algorithm, inventory, high- and low-tier validation media and sample tickets and/or bar codes of high-, mid-, low-tier and non-winning tickets to verify compatibility and functionality of information and systems. The Successful Proposer shall develop working papers for the test game. The compatibility and functionality of information and systems must be approved by the Texas Lottery prior to production of the first game under the Contract. The test game must be delivered to the Texas Lottery no later than eight (8) weeks from the date of execution of the Contract resulting from this RFP.

- 8.11.2. If at any time the Texas Lottery decides to change ticket, bar code or validation media formats, it shall be the responsibility of the Successful Proposer to provide additional test games at no additional cost to the Texas Lottery.

8.12. Ticket Reconstruction

- 8.12.1. Upon request of the Texas Lottery, the Successful Proposer must provide only to authorized Texas Lottery security personnel a report reconstructing the play data of any ticket. The reconstruction may be accomplished by using the game, pack and ticket numbers, validation number or bar code or portions or combinations of those items. The reconstruction report must be submitted by secure electronic transfer or, upon request, by fax and must contain the following information:
- 1) The complete game number, pack number, ticket and validation number;
 - 2) An indication of whether the ticket was a winning or non-winning ticket; and
 - 3) In the case of a winning ticket, the prize amount.
 - 4) A representation of the play area as it would have appeared on the actual ticket.
- 8.12.2. The Successful Proposer must maintain an audit log of each ticket reconstructed that will provide the requestor, game/ticket information, date requested, date of reply, non-winning or winning ticket, amount of prize and person responding.
- 8.12.3. A monthly reconciliation report listing all reconstructions requested by the Texas Lottery shall be provided to the Texas Lottery Security Manager no later than the 10th Day of the following month.

8.13. Employee Security

The Successful Proposer must prevent its employees involved in game production and Texas Lottery retailers involved in the sale of scratch tickets from ascertaining or learning the location of winning tickets, and at the Texas Lottery's request, the Successful Proposer shall provide its employee security procedures.



8.14. Security Breach

Upon discovery of any breach of security, especially theft or disappearance of any paper stock, tickets, waste, printing plates, imaged media, program files or the like, the Successful Proposer must immediately notify by telephone the Texas Lottery Security Manager and the Texas Lottery designated contacts in the Customer Specifications Document. The Successful Proposer must promptly follow up with written notification to the Texas Lottery detailing the specifics of the occurrence and what steps have been taken by the Successful Proposer to correct the problem. If a breach of security occurs, the Successful Proposer must provide to the Texas Lottery Security Manager and/or the assigned Texas Lottery Enforcement investigator any and all information and documentation requested during the investigation of the breach. The Texas Lottery will be the sole judge of the adequacy of the steps taken and reserves the right to specify other steps to be taken.

8.15. Production and Transfer of Game Production Data

In the event that the game tickets are produced at a location different than the production media, the Texas Lottery requires secure transfer of the game production data. Any production media data that is transported via telecommunications must be encrypted and transferred using a method approved by the Texas Lottery.

8.16. Plant and System Security

- 8.16.1. The Successful Proposer must understand the overriding importance of security in all phases of design, material procurement, production, transportation, storage, validation and disposition of game tickets.
- 8.16.2. The Successful Proposer and each Subcontractor, at minimum, must provide the following security measures for each area where game tickets and waste are produced or stored:
 - 1) Adequate security procedures to prevent unauthorized entry to computer areas, ticket production and storage area(s) through window and door entry points. Locking and alarm devices must secure each critical computer production and storage area (including computer media) through all possible entry points. The Texas Lottery Enforcement Director or designated representative must approve the Successful Proposer's and, if applicable, any Subcontractor's plant security prior to first production under any Contract resulting from this RFP and reserves the right to request changes in plant and system security procedures at any time during the Contract term. The Successful Proposer and its Subcontractors must implement all Texas Lottery-requested modifications prior to production taking place.



- 2) A visitors' log for all facilities where Texas Lottery scratch tickets are manufactured or stored. A log of the destination and disposition of Texas Lottery imaged material, and omitted tickets by shredding, burning, or dissolving at the Successful Proposer's facility. Such material must not leave the Successful Proposer's facility until it has been processed and is no longer identifiable as Texas Lottery material. The Successful Proposer must use an auditable record system to account for all ticket stock and materials destroyed.
 - 3) Access to the area where lottery tickets are produced or stored must be approved by the Texas Lottery. A system of identification of such individuals (such as badges, cards, etc.) is required. If the area is part of a larger plant, it must be possible to limit this access and to secure the area outside normal work hours.
- 8.16.3. The Successful Proposer shall notify the Texas Lottery Enforcement Director of any and all significant changes to the plant security.
- 8.16.4. Unless specifically authorized to be kept for a specific period of time by the Texas Lottery, all production computer generated media must be sanitized by an appropriate method to make data irretrievable at the completion of production of the game(s) for which they were used. Computer generated media not scheduled for erasure at the end of the production run must be kept in a secure manner as specified by the Texas Lottery.
- 8.16.5. The Successful Proposer must provide an information security plan approved by the Texas Lottery Security Manager, Texas Lottery Information Technology Manager, and the Texas Lottery Information Security Officer detailing the information security, during development and production, of all computer-generated media, software, systems, and any other information designated by the Texas Lottery. This is to include any encryption methods required for validation of winning tickets. Any and all changes to the data security plan must be pre-approved by the Texas Lottery Security Manager, Texas Lottery Information Technology Manager, and the Texas Lottery Information Security Officer. The Information Security Plan must include at a minimum:
- 1) INFORMATION SECURITY ORGANIZATION
 - 2) ROLES AND RESPONSIBILITIES
 - 3) POLICY AND STANDARDS MANAGEMENT
 - 4) RISK MANAGEMENT
 - 5) INCIDENT RESPONSE
 - 6) SECURITY AWARENESS AND TRAINING
 - 7) INFORMATION SECURITY PROCEDURES
- 8.16.6. The Successful Proposer must provide any information security audits and remediation of findings on request to the Texas Lottery Security Manager, Texas



Lottery Information Technology Manager and the Texas Lottery Information Security Officer.

- 8.16.7. The Successful Proposer must provide a Business Continuity Plan to the Texas Lottery Business Continuity Coordinator.
- 8.16.8. The Successful Proposer must provide an annual SOC 2 Type 2 report. In compliance with Standards of Attestations Engagement No. 16, System and Organizations Controls Report 2, Type 2 (SSAE-16 SOC 2 Type 2) requirements, a complete internal control audit ("SOC 2 Audit") shall be conducted annually by an independent certified public accounting firm on any facility producing and storing scratch tickets for the Texas Lottery, including facilities outside of the United States.
- 8.16.9. The Texas Lottery's Internal Auditor and Executive Director shall be given a copy of all reports including any management letters issued as a result of the SOC 2 Audit within ten (10) Days of issuance. The first such SOC 2 Audit report shall be provided prior to the production of any scratch tickets for the Texas Lottery under any contract resulting from the RFP.
- 8.16.10. To the extent any SOC 2 Audit reports provided to the Texas Lottery do not satisfy the Texas Lottery's reporting or audit requirements, the Texas Lottery reserves the right to conduct its own audits.
- 8.16.11. The Successful Proposer must reimburse travel expenses for Texas Lottery staff to inspect printing facilities.

8.17. Pre-Production Certification and Color Proof Approval

- 8.17.1. The Texas Lottery incorporates the highest standards of security and integrity and reserves the right to inspect all tickets produced under any Contract to ensure compliance with the RFP specifications.
- 8.17.2. The Successful Proposers shall certify the accuracy of the game prize structure, and that all Texas Lottery requirements including any parameters and/or constraints have been met, via email to specified Texas Lottery staff, prior to game production.
- 8.17.3. Upon written request by the Texas Lottery Operations Director, the Successful Proposer shall furnish all of the actual game computer and related program reports to the Texas Lottery prior to production.
- 8.17.4. Upon written request by the Texas Lottery Operations Director, the Successful Proposer also must provide, for each game, an image of the computer-generated printout from the test pools illustrating each of the four (4) GLEP patterns and the reconstruction reports of these packs. Also upon request, the Successful Proposer shall also provide all information pertinent to the test pools, including any summary reports.



- 8.17.5. The Successful Proposer shall provide to the Texas Lottery Scratch Ticket Strategy Coordinator a color proof of the ticket image for each game for approval.
- 8.17.6. The Successful Proposer shall not produce any game until the Texas Lottery receives the preproduction certification email, approves the ticket color proof, and authorizes game production.

8.18. Production Audit

The Successful Proposer, at its expense, shall engage a qualified and independent certified public accountant to review the procedures and controls employed by the Successful Proposer for each game. The certified public accountant shall render a letter to the Texas Lottery stating the results of the audit performed on the Successful Proposer's production procedures and controls. The procedures for these audits are as follows:

- 1) randomly select two (2) pools prepared for printing;
- 2) review the audit program reports for the two (2) pools selected for agreed conformity of such results with the game specifications and prize structure in the final executed working papers, noting any and all exceptions;
- 3) review test data and the audit error report to determine whether the audit program detected errors corresponding to the programming parameters and game specifications, noting any and all exceptions;
- 4) compare the recorded date and time stamp of the audit program used in the performance of the above reports, including updates, to the date and time stamp of the audit program used in the production of the game tickets, noting any and all exceptions;
- 5) review print image data for each possible character image used and determine whether the correct character is set to print, noting any and all exceptions;
- 6) review End of Production Prize Structure and agreed high-tier seeded prizes with the prize structure in the final executed working papers, noting any and all exceptions.

The Successful Proposer shall provide the following documentation to the Texas Lottery Products Manager prior to the arrival of a printed game at the Texas Lottery warehouse facility:

- i. Letter from the certified public accountant stating results of the audit performed.



- ii. Executed working papers for the game being audited.

8.19. Security Testing Sample Packs

Upon completion of a press run, the Successful Proposer must place live ticket packs in omit status per the Customer Specifications Document or executed working papers and ship via overnight delivery to the Texas Lottery's independent laboratory testing facility and/or directly to the Texas Lottery. Tickets will be tested in accordance with Section 8.26. The ticket packs must not be drilled, stamped or rubbed. Additionally, the Successful Proposer must provide a minimum number of representative packs to reflect samples of the beginning, middle and end of the press run for the game. The Successful Proposer shall be responsible for its own test costs associated with testing not required by the Texas Lottery.

8.20. End of Production Prize Structure

Prior to the arrival of a printed game at the Texas Lottery warehouse facility, the Successful Proposer must submit an End of Production Prize Structure report for the game. This report is a listing of the summary of the prize value in the game by prize level. The End of Production Prize Structure report must be e-mailed as specified by the Texas Lottery with the low and mid/high-tier electronic validation files, and all must be received by the Texas Lottery prior to actual delivery of tickets to the warehouse. The Texas Lottery will review the Successful Proposer's end of game prize structure for each game and if any errors are detected, the Successful Proposer must correct the errors as soon as identified. However, in no event shall the deadline for scratch ticket delivery specified in the executed working papers be extended. Should the End of Production variance cause the odds or other statements on the printed tickets to be incorrect, the Texas Lottery may determine the game to be non-conforming and, in accordance with Section 3.54.25, withhold any amounts due to the Successful Proposer under the Contract.

8.21. Packaging

Packaging specifications will be detailed in the Customer Specifications Document or executed working papers. No breaks in packs will be permitted with the exception of properly omitted packs. The number of tickets per pack in a game must be specified in the executed working papers. Partial, broken, miscut or incomplete packs are not acceptable. In addition, the tickets within each pack must be in the numerical sequence prescribed by the Texas Lottery (e.g., 001 to 250; 001 to 125).



8.22. Shrink Wrapping

All packs produced must be individually shrink-wrapped in pack sizes determined by the Texas Lottery on a game-by-game basis. Subject to normal printing trade tolerances and practices, the packs of tickets must be properly trimmed and slit. The Texas Lottery requires all ticket packs be wrapped in a manner such that the sealing seam of the pack does not obscure the bar code when packs are scanned. Individual shrink-wrapped packs must be able to withstand normal handling during distribution. Shrink-wrapped packs shall not contain more than a minimal amount of scratch ticket coating, foil or paper residue or other material that falls out upon opening. Shrink-wrapping must remain intact through the shelf life of the game and packs must be assembled in a uniform manner.

8.23. Shipping Cartons

- 8.23.1. Carton sizes will vary dependent upon ticket sizes as specified in the executed Customer Specifications Document. Shipping carton sizes must be pre-approved by the Texas Lottery.
- 8.23.2. Cartons must be consecutively numbered and labeled with a computer-produced label showing game name, game number, shipping carton number, range of pack numbers, omissions (if any) and a bar code showing the game number and beginning and ending pack numbers for the carton. Labels should be color coded by game or an additional color-coded sticker should be placed on the box. The sticker should not obscure the shipping label. There will be "Full Packing" in each shipping carton. If, during the balancing process, a carton contains less than the required number of packs per carton for that game, the omitted pack(s) should be replaced by a cardboard filler. "Full Packing" may vary dependent upon ticket sizes.
- 8.23.3. The Successful Proposer shall be required to pack each carton so that the lowest numbered pack of tickets is visible when the carton is opened from the top. The lowest pack number must be in the front left corner and the highest pack number must be in the right back. Packing tape should not obscure the shipping label. Shipping cartons must be numbered starting with 00001. Shipping cartons are to be 275-lb. test.

8.24. Pallets

- 8.24.1. Currently, for a 4" x 2.4" ticket, the pallet contains 56-60 cartons. Cartons must be packed with the lowest carton number on the top layer of the pallet, highest carton number on the bottom layer of the pallet. The pallet size must be 48" x 40" and provide four-way entry with bottom boards and center brace to allow a forklift to enter 40" sides. Pallets loaded with tickets must be able to be transported, moved and double stacked without damage to pallets or product. The four corners of the pallet must be stabilized by cardboard brackets, or similar means, running the height of the pallet.



Cartons must be tightly stretch-wrapped and secured to the pallet so not to topple in transit. Carton labels must face outward and must be color-coded by game. The label must be placed on narrow side of carton (packs of tickets inside carton will face label). Pallets must contain bar-coded labels indicating game name, game number, pallet number, range of carton numbers and pack numbers on the pallet. The bar codes must show the game number and the beginning and ending pack number for the pallet. Pallet labels must also be color-coded to match the same color as the carton label. Omits must be legibly written on the pallet label when applicable. Labels must be placed on both 40" sides. Other pallet sizes and configurations may vary dependent upon ticket sizes and must be specified in the executed working papers for each game. The use of pallets other than 48" x 40" must be pre-approved by the Texas Lottery.

- 8.24.2. Pallets of finished tickets must be loaded with the lowest numbered pallet in the "nose" of the trailer and the highest numbered pallet at the rear of the trailer. Texas Lottery Commission-required shipping documentation must be placed on the highest numbered pallet at the rear of each trailer. Shipping documentation must be placed in a sealed envelope and labeled "Texas Lottery Commission Shipment Report" or delivered to the Texas Lottery in an alternate method approved by the Texas Lottery. The format of each report must be pre-approved by the Texas Lottery.

8.25. Delivery of Tickets to Lottery Warehouse(s)

- 8.25.1. After production when the game is ready to be shipped to the Texas Lottery Commission, the Successful Proposer must e-mail a "Shipment Departure Notification" to the Texas Lottery contacts identified in the executed working papers and/or Customer Specifications Document. The "Shipment Departure Notification" must include, at a minimum, the following: date, Successful Proposer name, shipment date and time, expected delivery date and time, game number and name, transportation carrier, trailer number, all seal numbers per trailer, total pallets per trailer, total number of trailers and total number of pallets. The Successful Proposer must provide a primary and secondary contact with name, title, e-mail address and phone number.
- 8.25.2. All ticket shipments must represent the whole game per the executed working papers. Split shipments of game and validation media will not be accepted unless pre-approved by the Texas Lottery. Deliveries of packaged tickets are to be F.O.B. destination to the Texas Lottery Commission scratch ticket distribution warehouse, Austin, Texas, or such other location(s) in Texas as designated by the Texas Lottery Commission. The Successful Proposer must make continuous and uninterrupted delivery of scratch ticket games, without storage. All scratch ticket games must be transported on a sealed and dedicated vehicle, i.e., no other customer's products may be on board. The seal requirements must be approved by the Texas Lottery Commission. The seal must be broken only by an authorized representative of the Texas Lottery; failure to adhere to this requirement may be grounds for rejection of the entire shipment. Upon discovery of any breach of the truck seal, the Successful Proposer must immediately notify by



telephone the Texas Lottery Security Manager and the Texas Lottery designated contacts in the Customer Specifications Document. Each game shipment must include retail void samples. Each trailer delivered must have Texas Lottery Commission shipping documentation on the last pallet loaded on the trailer. The shipping documentation shall consist of two (2) reports: 1) Texas Lottery Commission Shipment Summary Report and 2) Texas Lottery Commission Shipment Detail Report. The Texas Lottery Commission Shipment Summary Report shall include game number and name, date shipped, number of tickets per pack, number of packs per carton, number of tickets per carton, number of pallets per trailer, number of cartons per pallet. The Texas Lottery Commission Shipment Detail Report shall include game number and name, date shipped, pallet number, starting carton number per pallet, ending carton number per pallet, number of packs on pallet, starting pack number per pallet, ending pack number per pallet and total tickets per pallet. At the end of the Texas Lottery Commission Shipment Detail Report, the Successful Proposer must include the total number of packs and the total number of tickets in the shipment.

- 8.25.3. The Successful Proposer must immediately notify, by e-mail and telephone, the Scratch Ticket Strategy Coordinator, the Scratch Ticket Production Coordinator and the Products Manager of the Texas Lottery of any changes to scheduled delivery dates of scratch ticket games. All changes in scheduled delivery dates must be in writing and pre-approved by the Texas Lottery.

8.26. Scratch Ticket Testing

The Texas Lottery contracts with an independent laboratory to test all scratch ticket games for compliance with quality, security and durability standards set by the Texas Lottery. In the event a scratch ticket game fails testing or is not accepted by the Texas Lottery, all testing costs for any new production run of the same game will be at the Successful Proposer's expense, and the Successful Proposer shall reimburse the Texas Lottery for all test expenses.

8.27. Testing Protocols

Scratch tickets are subjected to an array of tests to ensure their security, integrity, and "playability." Tickets are tested for consistency from ticket to ticket and from pack to pack within each game. The Texas Lottery tests all games and reserves the right to require additional tests on any scratch ticket game. The Texas Lottery conducts a series of tests that fall into the categories detailed below.

The Texas Lottery will regularly review the tests and at any time may consider the addition or elimination of one (1) or more tests based on necessity, and/or benefits or



effectiveness of substituted methods. Subsequent tests may be developed based upon newly acquired industry information or advancements in ticket technology.

Scratch tickets may be subject to additional tests after initial release as deemed necessary by the Texas Lottery.

Upon Contract Award the Texas Lottery will provide to the Successful Proposer a copy of the scratch ticket testing procedures.

8.27.1. Guidelines for Scratch Ticket Testing

Tickets are tested to determine if they meet the following criteria:

Durability Criteria. Tickets are expected to withstand temperature variations; accidental washing; and exposure to heating appliances commonly found in convenience stores and homes (e.g., microwaves, heat lamps, hot dog cookers, etc.) and still be readily saleable. Proposers shall provide detailed criteria to assess the ticket's ability to withstand likely environmental conditions. Items to consider include, but are not limited to, ink density, scratch ticket coating and scratch ticket paper stock.

Security Criteria (Security Risk). The Texas Lottery strives to limit compromises of the game data by those attempting to pre-determine if tickets are winning tickets. All reasonable measures are taken to ensure the highest quality and most secure ticket is offered for Texas Lottery players. Therefore, tickets must be evaluated to determine what security risk they have. Proposers shall provide detailed criteria to assess attempts at exposing game data which leaves little or no apparent evidence of tampering, but still leaves the ticket in a saleable condition. Criteria to consider should include the amount of time it takes to compromise the ticket data, whether the supplies used are readily available, and the simplicity or complexity of the technique.

Alterability Criteria. Tickets will be evaluated to determine if they are sufficiently secure to withstand attempts to change a non-winning ticket into a redeemable winning ticket and/or increase the prize amount on a winning ticket. Common alteration methods include cut and paste, ink alterations, reproduction and game data removal. The information gathered from the evaluations will be used to improve future game designs.

8.27.2. A summary of the current tests is identified below:

- 1) Scratch Ticket Coating Removal Test: Purpose is to determine the amount of force needed to remove the scratch ticket coating.
- 2) Environmental Exposure Tests: Purpose is to determine the durability of the tickets and their susceptibility to compromise following exposures to intense light, heat, humidity, water, and/or steam.



- 3) Washing Test: Purpose is to determine the durability of tickets when exposed to conditions that would simulate “accidental” machine washing.
- 4) Bar Code Measurements and Evaluations: Purpose is to ensure the quality of all bar codes is sufficiently compatible with the electronic equipment that reads the bar code and is not susceptible to compromise. (TLC will provide the Successful Proposer with equipment currently used by Retailers.)
- 5) Micro-scratching: Purpose is to determine if a ticket’s play design, overprint layers and protective coatings are capable of preventing determination of winning status by micro-scratching the ticket.
- 6) Chemical Exposure Tests: Purpose is to determine susceptibility to compromise with commonly available chemicals and chemical fumes. The testing should include delamination of the tickets and use of various light sources following exposure.
- 7) Electrostatic/Magnetic Test: Purpose is to determine the potential for compromise of game data after electrical charging or exposures to magnetic sources.
- 8) Mechanical Lift Tests: Purpose is to determine the scratch ticket coating’s susceptibility to compromise by lifting and replacing it onto the ticket using tools, sprays or other items.
- 9) Ultraviolet Examination: Purpose is to evaluate the ultraviolet security features that may or may not be present on the ticket.
- 10) Light Source Examinations: Purpose is to assure that the scratch ticket coating provides sufficient protection to prevent decoding game data using the naked eye, an instrument using magnification, and/or various light sources. The testing should include delamination of the ticket.
- 11) Alterations: Purpose is to determine if a ticket’s play design is capable of preventing or exposing alteration attempts such as cut and paste, hand alterations, color copy reproduction and computer counterfeiting.

8.28. Non-Conforming Tickets

- 8.28.1. If the result of any test or inspection establishes that any ticket(s), pack(s) or the entire game fails to meet the requirements specified in this RFP, the ticket(s), pack(s) or the entire game may be deemed non-conforming by the Texas Lottery and, in accordance with Section 3.54.25, the Texas Lottery may withhold any amounts due to the Successful Proposer under the Contract.



- 8.28.2. If the Successful Proposer makes the recommendation to pull selected packs of nonconforming tickets and the Texas Lottery agrees, the Texas Lottery may assess sanctions for these packs, pursuant to section 3.54.25 of this RFP.

8.29. Computer System Compatibility

The Successful Proposer must maintain compatibility with the Texas Lottery's and the Texas Lottery Operations and Services vendor's computer systems. Detailed programming specifications, including but not limited to production and validation, will be developed in joint meetings between the Successful Proposer and the Texas Lottery. Programming specifications will be approved by the Texas Lottery before any systems work or programming begins.

8.30. High-Tier Winner Validation Media

Tickets must be manufactured in such a manner that there is no record of any kind, in the validation media, that connects the location of high-tier winning tickets in the game with the exposed pack number on the ticket.

8.31. Electronic Data Transfer Process

- 8.31.1. The validation files must be transferred using an electronic data transfer process as defined by the Texas Lottery. The Successful Proposer will be provided with the procedures for this electronic data transfer process.
- 8.31.2. If the electronic data transfer process cannot be completed, the Texas Lottery may request the Successful Proposer provide original validation CD(s) in a sealed container meeting all the requirements in this RFP. The numbers of all single use seals applied must be recorded. The seal information must be sent via encrypted email to the Texas Lottery Operations Security Manager. The seal number must be verified by telephone and encrypted e-mail. All CD's must be delivered as soon as possible by approved courier. If a CD is requested, all validation media (mid/high and low-tier), inventory and balancing reports must be provided on CD or in a format prescribed by the Texas Lottery.

8.32. Back-Up Capabilities

The Successful Proposer must have internal and external backup capability that exists for all phases of ticket manufacturing which must ensure delivery of game tickets by the dates specified in the executed working papers.



8.33. Specified Options

A Specified Option must be proposed by the Proposer; however, the Texas Lottery does not commit to any quantity or timing for acquisition of a Specified Option. A Proposal may be rejected if a Specified Option is not included.

8.33.1. As a specified option, the Successful Proposer must be able to provide the following ticket manufacturing options:

- 1) Reduction for colors less than ten (10)
- 2) Fluorescent inks (other than required fluorescent benday)
- 3) Metallic inks
- 4) Dual color game data imaging - Proposer must specify colors available.
- 5) Multiple scenes or continuous scene game
- 6) Color pulsing/color changes within a press run
- 7) Full ultraviolet coating
- 8) Marking process other than full opaque scratch ticket coating
- 9) Cylinder or plate changes before and during production
- 10) Multiple games across the web
- 11) Hourly rate for programming test games for software changes
- 12) Holographic Paper Stock
- 13) Foil Paper Stock
- 14) Hole Drilling
- 15) Additional Pack Inserts
- 16) Special Stock Pack Inserts

8.33.2. Internet Entry Promotional Second-Chance Drawings

The Texas Lottery may use internet entry promotional second-chance drawings. The Successful Proposer may be required to conduct drawings at Texas Lottery Headquarters or another location, as specified by the Texas Lottery in its sole discretion. The



Successful Proposer shall provide and utilize an automated drawing solution/Random Number Generator (RNG) to select winning entries for these drawings. The Successful Proposer shall provide written certification from an independent third party, approved by the Texas Lottery, that the drawing solution/RNG has been tested and certified. The Successful Proposer thereafter shall have the drawing solution/RNG tested and recertified each time updates, if any, are made. Prior to the date of the first internet entry second-chance drawing, the Successful Proposer shall ensure that three (3) drawing solution/RNGs are delivered to the Texas Lottery. The Texas Lottery shall store such drawing solutions/RNGs in a secure room provided by the Texas Lottery and shall provide the Successful Proposer's drawing personnel with access to a drawing solution/RNG upon their arrival to conduct each drawing. The Texas Lottery shall return the drawing solution/RNG to the designated secure room for storage between drawings. The Successful Proposer shall provide, at no additional cost to the Texas Lottery, an independent certified public accountant selected by the Successful Proposer to observe and certify each internet entry second-chance drawing. On the day of each internet entry second-chance drawing and under the observation of the independent certified public accountant, the Texas Lottery shall provide the Successful Proposer with a secure internet connection to enable the Successful Proposer to transfer and verify the drawing entry records for the drawing. After the drawing entry records have been transferred via a secure internet connection and verified by the Successful Proposer, the Successful Proposer shall securely transfer the drawing entry records file to the drawing solution/RNG being used for the drawing. In the event that the foregoing method of transferring drawing entry records becomes impracticable (e.g., the electronic file containing the entry records becomes too large to fully download the day of a particular drawing), the parties agree to collaboratively consult on alternative methods for the transfer of drawing entry records. Currently, these services are provided by the Texas Lottery Operations and Services vendor.

The Successful Proposer a) shall develop, maintain and host web pages for internet second-chance entries; b) shall provide customized database management systems including player account management and entry management; c) shall provide real-time entry validation; d) shall provide files of drawing entry records for the Successful Proposer to conduct promotional second-chance drawings as approved by Texas Lottery security; and e) if requested by the Texas Lottery, shall provide geo-location services for in-state address verification of all entries submitted. The Successful Proposer must securely store all electronic internet entries for each drawing and securely transfer the appropriate drawing entry records for the appropriate drawings according to all agreed upon entry deadlines and drawing schedules. Currently, these services are provided by the Texas Lottery Operations and Services vendor.

The Successful Proposer may also be required to provide a web page(s) that outlines the features of each game that offers internet entry promotional second-chance drawings.



The web page will include the drawing rules and regulations and show available prizes and other features for the specific game, including information on claiming prizes and links to related information.

8.33.3. Other Promotional Drawings

The Texas Lottery may require the Successful Proposer to sponsor a game promotion, or a promotion for a family of games, including a second-chance promotion, that includes drawings other than internet entry drawings that the Successful Proposer will conduct to award prizes. In those promotional drawings, the Successful Proposer shall provide and utilize an automated drawing solution/Random Number Generator (RNG) to select the winning entries. The Successful Proposer shall provide written certification from an independent third party, approved by the Texas Lottery, that the drawing solution/RNG has been tested and certified. The Successful Proposer thereafter shall have the drawing solution/RNG tested and recertified each time updates, if any, are made. Details about the Successful Proposer's promotion, including the prizes to be awarded and the number of drawings and winners, will be set forth in the working papers for the applicable game or family of games. The Successful Proposer shall provide all services for such drawings, including to set up, monitor and support the draw system, at no additional cost to the Texas Lottery.

8.33.4. Branded, Proprietary and Licensed Games with Experiential and/or Merchandise Prizes, and Successful Proposer Sponsored Promotions or Contests.

The Texas Lottery may use branded (including personality rights), proprietary or licensed games as part of its game portfolio.

These games may include experiential and/or merchandise prizes or opportunities to participate in Successful Proposer-sponsored promotions or contests. In accordance with the executed working papers, the Texas Lottery may require prize fulfillment, promotional or contest services for any games manufactured by the Successful Proposer.

After Contract Award, for branded (including personality rights), proprietary and licensed games, and Successful Proposer-sponsored promotions or contests, the Successful Proposer shall be required to provide, in writing, to the Texas Lottery the fee amount for each new game within thirty (30) days of acquiring that brand, license or proprietary process. Exclusive pricing rates should be categorized in a cost table based on product strength/recognition and priced accordingly. Proposers shall provide separate tables for licensed games that utilize licensing fees, licensed games that utilize experiential and/or merchandise allocations and licensed games that use a hybrid model (licensing fee + experiential and/or merchandise allocation). Licensed property games, whether utilizing the licensing fee, experiential/merchandise allocation model



or hybrid model, shall include print costs and any necessary fulfillment services (including shipping and handling). Proposers should provide any volume discounts.

Further, at the Texas Lottery's request, the Successful Proposer shall attempt to acquire rights to specific branded (including personality rights), proprietary or licensed properties to allow Texas Lottery to use the requested name, likeness and images on Texas Lottery games in Texas only and in connection with game promotions and advertising. The Successful Proposer shall attempt to obtain all rights customary for a licensed property game, including, as an example, any applicable territory restrictions. The Successful Proposer shall prepare written estimates for all licensed agreement costs and must obtain prior written approval from the Texas Lottery before finalizing any agreement. The Texas Lottery may be responsible for payment of all license fees and may reimburse the Successful Proposer for all reasonable agreement costs for specific branded, proprietary, or licensed properties obtained by the Successful Proposer at Texas Lottery's request to be used in Texas only. The Texas Lottery may require the Successful Proposer provide prize fulfillment services for games manufactured by the Successful Proposer in accordance with the executed working papers. Proposers should detail their capabilities in providing such services and submit samples with the Proposal.

8.33.5. Non-Licensed Games with Experiential and/or Merchandise Prizes, and Successful Proposer Sponsored Promotions or Contests.

At the Texas Lottery's request, for non-licensed games with experiential and/or merchandise prizes and Successful Proposer Sponsored Promotions or Contests, the Successful Proposer shall be required to provide, in writing, to the Texas Lottery the cost of each game within thirty (30) days of finalizing the proposed prize package. The cost table shall identify the total cost for the prizes and the Successful Proposer's charge for any necessary fulfillment services (including shipping and handling). The executed working papers shall include any specific payment schedules and structures for each game or for multiple games, and any prize fulfillment, promotional or contest services. The Texas Lottery may develop suites (families) of non-licensed games that are included in common experiential and/or merchandise prizes, promotions or contests.

8.33.6. Automated Scratch Sales Solution

- 1) As a specified option the Successful Proposer must provide either an Automated Scratch Sales Solution or a credit value (as used in this section and in Attachment H Cost Proposal, the Credit).
- 2) The Automated Scratch Sales Solution shall be an automated system that integrates with a Retailer's point-of-sale system and the Lottery Gaming System to enable the sale of lottery scratch games using a smart dispensing unit that accounts for, secures and reports on Scratch Ticket sales.



- 3) The Automated Scratch Sales Solution shall meet industry, state and Texas Lottery security standards for transaction processing and reporting, and shall also meet physical security standards necessary to satisfy Retailers that wish to deploy it. The Successful Proposer shall provide Retailers and the Texas Lottery the details of such standards for each installation. Each Automated Scratch Sales Solution shall include a scratch-game smart dispensing unit to be placed at or near the retail checkout counter and a customer-facing display highlighting available Scratch Tickets for sale. The Automated Scratch Sales Solution shall provide sales and inventory analytics to the Retailer and the Lottery Gaming System. The Successful Proposer shall be responsible for the Automated Scratch Sales Solution, including but not limited to, hardware, software, smart dispensers and ongoing maintenance.
- 4) The Successful Proposer shall provide all required support and services to integrate, directly or indirectly, the Automated Scratch Sales Solution with the Lottery Gaming System (or any future gaming systems, including system upgrades) and with the Retailer's point-of-sale system. The Texas Lottery will be migrating to a new Lottery Gaming System which will be implemented in three phases with all applications anticipated to be fully implemented by June 30, 2024. The Successful Proposer shall not be responsible for any software and/or programming on the Lottery Gaming System or Retailer point-of-sale system that supports such integration.
- 5) The Successful Proposer shall provide all required support and services to implement and deploy the Automated Scratch Sales Solution. The Successful Proposer shall work with the Texas Lottery to identify and support potential Retailer locations for deployment, and shall work with the Texas Lottery and each approved Retailer to develop a schedule for Retailer rollout. The Successful Proposer shall provide, and the Texas Lottery will approve, any signage, marketing materials, or supplies required to facilitate Lottery sales using the Automated Scratch Sales Solution.
- 6) The Texas Lottery may exercise this Specified Option upon execution of the Contract, and in that event, in each year of the four state Fiscal Year period beginning September 1, 2022 and ending August 31, 2026 (as used in this section and in Attachment H Cost Proposal, the Four-Year Period), the Successful Proposer shall provide the Texas Lottery either (a) an Automated Scratch Sales Solution for three thousand (3,000) units deployed as determined by the Texas Lottery, or (b) the Credit.
- 7) The Credit shall be equal to the cost included in Table 1 of two Scratch Ticket games, with a ticket size of 10"x4", 17 million print run, 25 pack size, including holographic foil stock, two scenes, full UV, continuous 4 color process, and 2 fluorescent inks. The Texas Lottery may apply the Credit to future Scratch Ticket



printing services or to other goods and services hereunder, as determined by the Texas Lottery, at any time over the term of the Contract.

- 8) If the Successful Proposer does not propose an Automated Scratch Sales Solution, then in each year of the Four-Year Period the Successful Proposer shall provide the Credit.
- 9) If, for any reason, a proposed Automated Scratch Sales Solution is not deployed, or is only partially deployed, in any month or part of a month during the Four-Year Period, the Successful Proposer shall provide a reimbursement for each unit (of the three thousand (3,000) units) not deployed equal to the unit price in the Cost Proposal. The Texas Lottery may apply reimbursements to future Scratch Ticket printing services or to other goods and services hereunder, as determined by the Texas Lottery, at any time over the term of the Contract. The Texas Lottery and Successful Proposer may mutually agree to apply a reimbursement from a previous Fiscal Year to a planned deployment for an upcoming Fiscal Year.
- 10) In the event the Automated Scratch Sales Solution is deployed for more than three thousand (3,000) units for any Fiscal Year or part of a Fiscal Year during the Four-Year Period, the Texas Lottery will pay the applicable rate specified in the Cost Proposal.
- 11) In addition, the Texas Lottery may continue the deployment of the Automated Sales Solution at Retailer locations past the end of the Four-Year Period, and in that event the cost shall be at the applicable rate specified in the Cost Proposal.
- 12) The Successful Proposer is responsible for maintaining all systems, operations and support for each deployed Automated Scratch Sales Solution, and may contract with the Lottery Operations and Services vendor in Texas or another third-party vendor for such services. The Automated Scratch Sales Solution must be operational 365 days (24/7/365) each year. Failure to maintain operation may result in sanctions being applied in accordance with Section 3.54.31.
- 13) At such time as the Texas Lottery transitions to another provider for the Automated Scratch Sales Solution, or a different Solution, the Successful Proposer shall, in good faith and with reasonable cooperation, aid in the transition to any new arrangement and provider, if requested by the Texas Lottery.

8.34. Invited Options

An Invited Option is identified as being of specific interest to the Texas Lottery; however, the Texas Lottery makes no commitment to quantity or timing for acquisition. The Proposer is not obligated to include an Invited Option in the Proposal.



As an invited option, Proposers may offer the following scratch ticket manufacturing options:

- 1) Die-cut tickets
- 2) Additional inserts in each pack of tickets
- 3) Pouch Tickets
- 4) Holograms
- 5) Continuous image four-color process – unbroken graphic image covers entire ticket including rub-off area.
- 6) Four-color process printing on ticket back
- 7) One (1) additional color printed on ticket back
- 8) Stub tickets with horizontal or vertical perforations with or without imaging
- 9) Scored tickets
- 10) Scented ink
- 11) Break-open tickets with perforated window
- 12) Additional ticket samples
- 13) Four-color game data imaging
- 14) Pull-tab style tickets
- 15) Large panel break-open tickets
- 16) Hourly programming for unique game
- 17) Merchandise fulfillment for non-licensed property games.
- 18) Oversized Tickets

8.35. Offered Options

Recognizing that the lottery industry is dynamic and that technology will change, the Texas Lottery will, on a continuing basis, evaluate the most cost effective, reliable, market oriented and secure operations. The Texas Lottery does not intend to limit the creativity of the Successful Proposer from bringing forward new products or product enhancements not described in the RFP. Proposers are encouraged to describe offered options for other types of ticket manufacturing technology and specialized games.



**ATTACHMENT A
PROPOSER'S COMMITMENT**

I hereby commit _____

(Company Name)

to provide the goods and services described in the attached Proposal for Scratch Ticket Manufacturing and Services required by the Request for Proposals for the Texas Lottery Commission.

Signature: _____

Title: _____

Date: _____



ATTACHMENT B FINANCIAL COMMITMENT AND RESPONSIBILITY

This financial commitment and responsibility statement is to be completed by the parent corporation's chief financial officer.

_____ is a fully-owned subsidiary of
(Subject)

_____ and that as such _____
(Parent) (Parent)

is fully responsible for any and all financial obligations under this RFP or resulting contract of

_____.
(Subject)

Signature: _____

Title: _____

Date: _____



ATTACHMENT C
HUB SUBCONTRACTING PLAN



HUB Subcontracting Plan (HSP)

In accordance with Texas Gov't Code §2161.252, the contracting agency has determined that subcontracting opportunities are probable under this contract. Therefore, all respondents, including State of Texas certified Historically Underutilized Businesses (HUBs) must complete and submit this State of Texas HUB Subcontracting Plan (HSP) with their response to the bid requisition (solicitation).

NOTE: Responses that do not include a completed HSP shall be rejected pursuant to Texas Gov't Code §2161.252(b).

The HUB Program promotes equal business opportunities for economically disadvantaged persons to contract with the State of Texas in accordance with the goals specified in the 2009 State of Texas Disparity Study. The statewide HUB goals defined in 34 Texas Administrative Code (TAC) §20.284 are:

- **11.2 percent for heavy construction other than building contracts,**
- **21.1 percent for all building construction, including general contractors and operative builders' contracts,**
- **32.9 percent for all special trade construction contracts,**
- **23.7 percent for professional services contracts,**
- **26.0 percent for all other services contracts, and**
- **21.1 percent for commodities contracts.**

- - Agency Special Instructions/Additional Requirements - -

*In accordance with 34 TAC §20.285(d)(1)(D)(iii), a respondent (prime contractor) may demonstrate good faith effort to utilize Texas certified HUBs for its subcontracting opportunities if the total value of the respondent's subcontracts with Texas certified HUBs meets or exceeds the statewide HUB goal or the agency specific HUB goal, whichever is higher. When a respondent uses this method to demonstrate good faith effort, the respondent must identify the HUBs with which it will subcontract. If using existing contracts with Texas certified HUBs to satisfy this requirement, only the aggregate percentage of the contracts expected to be subcontracted to HUBs with which the respondent **does not** have a **continuous contract*** in place for **more than five (5) years** shall qualify for meeting the HUB goal. This limitation is designed to encourage vendor rotation as recommended by the 2009 Texas Disparity Study.*

SECTION 1: RESPONDENT AND REQUISITION INFORMATION

- a. Respondent (Company) Name: _____ State of Texas VID #: _____
Point of Contact: _____ Phone #: _____
E-mail Address: _____ Fax #: _____
- b. Is your company a State of Texas certified HUB? ☐ - Yes ☐ - No
- c. Requisition #: _____ Bid Open Date: _____
(mm/dd/yyyy)

Enter your company's name here: _____ Requisition #: _____

SECTION 2: RESPONDENT'S SUBCONTRACTING INTENTIONS

After dividing the contract work into reasonable lots or portions to the extent consistent with prudent industry practices, and taking into consideration the scope of work to be performed under the proposed contract, including all potential subcontracting opportunities, the respondent must determine what portions of work, **including contracted staffing, goods and services will be subcontracted**. Note: In accordance with 34 TAC §20.282, a "Subcontractor" means a person who contracts with a prime contractor to work, to supply commodities, or to contribute toward completing work for a governmental entity.

a. Check the appropriate box (Yes or No) that identifies your subcontracting intentions:

- ☐ - *Yes*, I will be subcontracting portions of the contract. (If *Yes*, complete Item b of this SECTION and continue to Item c of this SECTION.)
- ☐ - *No*, I will not be subcontracting any portion of the contract, and I will be fulfilling the entire contract with my own resources, including employees, goods and services. (If *No*, continue to SECTION 3 and SECTION 4.)

b. List all the portions of work (subcontracting opportunities) you will subcontract. Also, based on the total value of the contract, identify the percentages of the contract you expect to award to Texas certified HUBs, and the percentage of the contract you expect to award to vendors that are not a Texas certified HUB (i.e., Non-HUB).

Item #	Subcontracting Opportunity Description	HUBs		Non-HUBs
		Percentage of the contract expected to be subcontracted to HUBs with which you do not have a continuous contract* in place for more than five (5) years .	Percentage of the contract expected to be subcontracted to HUBs with which you have a continuous contract* in place for more than five (5) years .	Percentage of the contract expected to be subcontracted to non-HUBs.
1		%	%	%
2		%	%	%
3		%	%	%
4		%	%	%
5		%	%	%
6		%	%	%
7		%	%	%
8		%	%	%
9		%	%	%
10		%	%	%
11		%	%	%
12		%	%	%
13		%	%	%
14		%	%	%
15		%	%	%
Aggregate percentages of the contract expected to be subcontracted:		%	%	%

(Note: If you have more than fifteen subcontracting opportunities, a continuation sheet is available online at <https://www.comptroller.texas.gov/purchasing/vendor/hub/forms.php>.)

c. Check the appropriate box (Yes or No) that indicates whether you will be using **only** Texas certified HUBs to perform **all** of the subcontracting opportunities you listed in SECTION 2, Item b.

- *Yes* (If *Yes*, continue to SECTION 4 and complete an "HSP Good Faith Effort - Method A (Attachment A)" for **each** of the subcontracting opportunities you listed.)
- *No* (If *No*, continue to Item d, of this SECTION.)

d. Check the appropriate box (Yes or No) that indicates whether the aggregate expected percentage of the contract you will subcontract **with Texas certified HUBs** with which you **do not** have a **continuous contract*** in place with for **more than five (5) years**, **meets or exceeds** the HUB goal the contracting agency identified on page 1 in the "Agency Special Instructions/Additional Requirements."

- *Yes* (If *Yes*, continue to SECTION 4 and complete an "HSP Good Faith Effort - Method A (Attachment A)" for **each** of the subcontracting opportunities you listed.)
- *No* (If *No*, continue to SECTION 4 and complete an "HSP Good Faith Effort - Method B (Attachment B)" for **each** of the subcontracting opportunities you listed.)

***Continuous Contract:** Any existing written agreement (including any renewals that are exercised) between a prime contractor and a HUB vendor, where the HUB vendor provides the prime contractor with goods or service under the same contract for a specified period of time. The frequency the HUB vendor is utilized or paid during the term of the contract is not relevant to whether the contract is considered continuous. Two or more contracts that run concurrently or overlap one another for different periods of time are considered by CPA to be individual contracts rather than renewals or extensions to the original contract. In such situations the prime contractor and HUB vendor are entering (have entered) into "new" contracts.

Enter your company's name here: _____

Requisition #: _____

SECTION 2: RESPONDENT'S SUBCONTRACTING INTENTIONS (CONTINUATION SHEET)

This page can be used as a continuation sheet to the HSP Form's page 2, Section 2, Item b. Continue listing the portions of work (subcontracting opportunities) you will subcontract. Also, based on the total value of the contract, identify the percentages of the contract you expect to award to Texas certified HUBs, and the percentage of the contract you expect to award to vendors that are not a Texas certified HUB (i.e., Non-HUB).

Item #	Subcontracting Opportunity Description	HUBs		Non-HUBs
		Percentage of the contract expected to be subcontracted to HUBs with which you do not have a <u>continuous contract*</u> in place for <u>more than five (5) years</u> .	Percentage of the contract expected to be subcontracted to HUBs with which you have a <u>continuous contract*</u> in place for <u>more than five (5) years</u> .	Percentage of the contract expected to be subcontracted to non-HUBs.
16		%	%	%
17		%	%	%
18		%	%	%
19		%	%	%
20		%	%	%
21		%	%	%
22		%	%	%
23		%	%	%
24		%	%	%
25		%	%	%
26		%	%	%
27		%	%	%
28		%	%	%
29		%	%	%
30		%	%	%
31		%	%	%
32		%	%	%
33		%	%	%
34		%	%	%
35		%	%	%
36		%	%	%
37		%	%	%
38		%	%	%
39		%	%	%
40		%	%	%
41		%	%	%
42		%	%	%
43		%	%	%
Aggregate percentages of the contract expected to be subcontracted:		%	%	%

***Continuous Contract:** Any existing written agreement (including any renewals that are exercised) between a prime contractor and a HUB vendor, where the HUB vendor provides the prime contractor with goods or service under the same contract for a specified period of time. The frequency the HUB vendor is utilized or paid during the term of the contract is not relevant to whether the contract is considered continuous. Two or more contracts that run concurrently or overlap one another for different periods of time are considered by CPA to be individual contracts rather than renewals or extensions to the original contract. In such situations the prime contractor and HUB vendor are entering (have entered) into "new" contracts.

Enter your company's name here: _____ Requisition #: _____

SECTION 3: SELF PERFORMING JUSTIFICATION (If you responded "No" to SECTION 2, Item a, you must complete this SECTION and continue to SECTION 4.) If you responded "No" to SECTION 2, Item a, in the space provided below **explain how** your company will perform the entire contract with its own employees, supplies, materials and/or equipment.

SECTION 4: AFFIRMATION

As evidenced by my signature below, I affirm that I am an authorized representative of the respondent listed in SECTION 1, and that the information and supporting documentation submitted with the HSP is true and correct. Respondent understands and agrees that, if awarded any portion of the requisition:

- The respondent will provide notice as soon as practical to all the subcontractors (HUBs and Non-HUBs) of their selection as a subcontractor for the awarded contract. The notice must specify at a minimum the contracting agency's name and its point of contact for the contract, the contract award number, the subcontracting opportunity they (the subcontractor) will perform, the approximate dollar value of the subcontracting opportunity and the expected percentage of the total contract that the subcontracting opportunity represents. A copy of the notice required by this section must also be provided to the contracting agency's point of contact for the contract no later than ten (10) working days after the contract is awarded.
- The respondent must submit monthly compliance reports (Prime Contractor Progress Assessment Report – PAR) to the contracting agency, verifying its compliance with the HSP, including the use of and expenditures made to its subcontractors (HUBs and Non-HUBs). (The PAR is available at <https://www.comptroller.texas.gov/purchasing/docs/hub-forms/ProgressAssessmentReportForm.xls>).
- The respondent must seek approval from the contracting agency prior to making any modifications to its HSP, including the hiring of additional or different subcontractors and the termination of a subcontractor the respondent identified in its HSP. If the HSP is modified without the contracting agency's prior approval, respondent may be subject to any and all enforcement remedies available under the contract or otherwise available by law, up to and including debarment from all state contracting.
- The respondent must, upon request, allow the contracting agency to perform on-site reviews of the company's headquarters and/or work-site where services are being performed and must provide documentation regarding staffing and other resources.

Signature

Printed Name

Title

Date
(mm/dd/yyyy)

Reminder:

- If you responded "Yes" to SECTION 2, Items c or d, you must complete an "HSP Good Faith Effort - Method A (Attachment A)" for each of the subcontracting opportunities you listed in SECTION 2, Item b.
- If you responded "No" SECTION 2, Items c and d, you must complete an "HSP Good Faith Effort - Method B (Attachment B)" for each of the subcontracting opportunities you listed in SECTION 2, Item b.

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IMPORTANT: If you responded “Yes” to **SECTION 2, Items c or d** of the completed HSP form, you must submit a completed “HSP Good Faith Effort - Method A (Attachment A)” for **each** of the subcontracting opportunities you listed in **SECTION 2, Item b** of the completed HSP form. You may photo-copy this page or download the form at <https://www.comptroller.texas.gov/purchasing/docs/hub-forms/hub-sbcont-plan-gfe-achm-a.pdf>

Item Number: Description:

[illegible]

Page 1 of 1
(Attachment A)

HSP Good Faith Effort - Method B (Attachment B)

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Enter your company's name here: _____ Requisition #: _____

IMPORTANT: If you responded “No” to **SECTION 2, Items c and d** of the completed HSP form, you must submit a completed “HSP Good Faith Effort - Method B (Attachment B)” for **each** of the subcontracting opportunities you listed in **SECTION 2, Item b** of the completed HSP form. You may photo-copy this page or download the form at <https://www.comptroller.texas.gov/purchasing/docs/hub-forms/hub-sbcont-plan-gfe-achm-b.pdf>.

SECTION B-1: SUBCONTRACTING OPPORTUNITY

Enter the item number and description of the subcontracting opportunity you listed in SECTION 2, Item b, of the completed HSP form for which you are completing the attachment.

Item Number: _____ Description: _____

SECTION B-2: MENTOR PROTÉGÉ PROGRAM

If respondent is participating as a Mentor in a State of Texas Mentor Protégé Program, submitting its Protégé (Protégé must be a State of Texas certified HUB) as a subcontractor to perform the subcontracting opportunity listed in **SECTION B-1**, constitutes a good faith effort to subcontract with a Texas certified HUB towards that specific portion of work.

Check the appropriate box (Yes or No) that indicates whether you will be subcontracting the portion of work you listed in SECTION B-1 to your Protégé.

- Yes (If Yes, continue to SECTION B-4.)
- No / Not Applicable (If No or Not Applicable, continue to SECTION B-3 and SECTION B-4.)

SECTION B-3: NOTIFICATION OF SUBCONTRACTING OPPORTUNITY

When completing this section you **MUST** comply with items **a, b, c and d**, thereby demonstrating your Good Faith Effort of having notified Texas certified HUBs and trade organizations or development centers about the subcontracting opportunity you listed in SECTION B-1. Your notice should include the scope of work, information regarding the location to review plans and specifications, bonding and insurance requirements, required qualifications, and identify a contact person. When sending notice of your subcontracting opportunity, you are encouraged to use the attached HUB Subcontracting Opportunity Notice form, which is also available online at <https://www.comptroller.texas.gov/purchasing/docs/hub-forms/HUBSubcontractingOpportunityNotificationForm.pdf>.

Retain supporting documentation (i.e., certified letter, fax, e-mail) demonstrating evidence of your good faith effort to notify the Texas certified HUBs and trade organizations or development centers. Also, be mindful that a working day is considered a normal business day of a state agency, not including weekends, federal or state holidays, or days the agency is declared closed by its executive officer. The initial day the subcontracting opportunity notice is sent/provided to the HUBs and to the trade organizations or development centers is considered to be “day zero” and does not count as one of the seven (7) working days.

- a.** Provide written notification of the subcontracting opportunity you listed in SECTION B-1, to three (3) or more Texas certified HUBs. Unless the contracting agency specified a different time period, you must allow the HUBs at least seven (7) working days to respond to the notice prior to you submitting your bid response to the contracting agency. When searching for Texas certified HUBs and verifying their HUB status, ensure that you use the State of Texas’ Centralized Master Bidders List (CMBL) - Historically Underutilized Business (HUB) Directory Search located at <http://mycpa.cpa.state.tx.us/tpasscmbldsearch/index.jsp>. HUB status code “A” signifies that the company is a Texas certified HUB.
- b.** List the **three (3) Texas certified HUBs** you notified regarding the subcontracting opportunity you listed in SECTION B-1. Include the company’s Texas Vendor Identification (VID) Number, the date you sent notice to that company, and indicate whether it was responsive or non-responsive to your subcontracting opportunity notice.

Company Name	Texas VID (Do not enter Social Security Numbers.)	Date Notice Sent (mm/dd/yyyy)	Did the HUB Respond?
			- Yes - No
			- Yes - No
			- Yes - No

- c.** Provide written notification of the subcontracting opportunity you listed in SECTION B-1 to two (2) or more trade organizations or development centers in Texas to assist in identifying potential HUBs by disseminating the subcontracting opportunity to their members/participants. Unless the contracting agency specified a different time period, you must provide your subcontracting opportunity notice to trade organizations or development centers at least seven (7) working days prior to submitting your bid response to the contracting agency. A list of trade organizations and development centers that have expressed an interest in receiving notices of subcontracting opportunities is available on the Statewide HUB Program’s webpage at <https://www.comptroller.texas.gov/purchasing/vendor/hub/resources.php>.
- d.** List two (2) trade organizations or development centers you notified regarding the subcontracting opportunity you listed in SECTION B-1. Include the date when you sent notice to it and indicate if it accepted or rejected your notice.

Trade Organizations or Development Centers	Date Notice Sent (mm/dd/yyyy)	Was the Notice Accepted?
		- Yes - No
		- Yes - No

HSP Good Faith Effort - Method B (Attachment B) Cont.

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Enter your company's name here: _____ Requisition #: _____

SECTION B-4: SUBCONTRACTOR SELECTION

Enter the item number and description of the subcontracting opportunity you listed in **SECTION 2, Item b**, of the completed HSP form for which you are completing the attachment.

- a. Enter the item number and description of the subcontracting opportunity for which you are completing this Attachment B continuation page.

Item Number: _____ Description: _____

- b. List the subcontractor(s) you selected to perform the subcontracting opportunity you listed in **SECTION B-1**. Also identify whether they are a Texas certified HUB and their Texas Vendor Identification (VID) Number or federal Employer Identification Number (EIN), the approximate dollar value of the work to be subcontracted, and the expected percentage of work to be subcontracted. When searching for Texas certified HUBs and verifying their HUB status, ensure that you use the State of Texas' Centralized Master Bidders List (CMBL) - Historically Underutilized Business (HUB) Directory Search located at <http://mycpa.cpa.state.tx.us/tpasscmbsearch/index.jsp>. HUB status code "A" signifies that the company is a Texas certified HUB.

Company Name	Texas certified HUB	Texas VID or federal EIN <small>Do not enter Social Security Numbers. If you do not know their VID / EIN, leave their VID / EIN field blank.</small>	Approximate Dollar Amount	Expected Percentage of Contract
	- Yes - No		\$	%
	- Yes - No		\$	%
	- Yes - No		\$	%
	- Yes - No		\$	%
	- Yes - No		\$	%
	- Yes - No		\$	%
	- Yes - No		\$	%
	- Yes - No		\$	%
	- Yes - No		\$	%
	- Yes - No		\$	%

- c. If any of the subcontractors you have selected to perform the subcontracting opportunity you listed in **SECTION B-1** is not a Texas certified HUB, provide written justification for your selection process (attach additional page if necessary):

REMINDER: As specified in SECTION 4 of the completed HSP form, if you (respondent) are awarded any portion of the requisition, you are required to provide notice as soon as practical to **all** the subcontractors (HUBs and Non-HUBs) of their selection as a subcontractor. The notice must specify at a minimum the contracting agency's name and its point of contact for the contract, the contract award number, the subcontracting opportunity it (the subcontractor) will perform, the approximate dollar value of the subcontracting opportunity and the expected percentage of the total contract that the subcontracting opportunity represents. A copy of the notice required by this section must also be provided to the contracting agency's point of contact for the contract no later than ten (10) working days after the contract is awarded.



**ATTACHMENT C-1
HSP QUICK CHECK LIST**



HUB Subcontracting Plan (HSP)

QUICK CHECKLIST

While this HSP Quick Checklist is being provided to merely assist you in readily identifying the sections of the HSP form that you will need to complete, it is very important that you adhere to the instructions in the HSP form and instructions provided by the contracting agency.

- **If you will be awarding all of the subcontracting work you have to offer under the contract to only Texas certified HUB vendors, complete:**
 - Section 1 - Respondent and Requisition Information
 - Section 2 a. - Yes, I will be subcontracting portions of the contract.
 - Section 2 b. - List all the portions of work you will subcontract, and indicate the percentage of the contract you expect to award to Texas certified HUB vendors.
 - Section 2 c. - Yes
 - Section 4 - Affirmation
 - GFE Method A (Attachment A) - Complete an Attachment A for each of the subcontracting opportunities you listed in Section 2 b.
- **If you will be subcontracting any portion of the contract to Texas certified HUB vendors and Non-HUB vendors, and the aggregate percentage of all the subcontracting work you will be awarding to the Texas certified HUB vendors with which you do not have a continuous contract* in place for more than five (5) years meets or exceeds the HUB Goal the contracting agency identified in the "Agency Special Instructions/Additional Requirements", complete:**
 - Section 1 - Respondent and Requisition Information
 - Section 2 a. - Yes, I will be subcontracting portions of the contract.
 - Section 2 b. - List all the portions of work you will subcontract, and indicate the percentage of the contract you expect to award to Texas certified HUB vendors and Non-HUB vendors.
 - Section 2 c. - No
 - Section 2 d. - Yes
 - Section 4 - Affirmation
 - GFE Method A (Attachment A) - Complete an Attachment A for each of the subcontracting opportunities you listed in Section 2 b.
- **If you will be subcontracting any portion of the contract to Texas certified HUB vendors and Non-HUB vendors or only to Non-HUB vendors, and the aggregate percentage of all the subcontracting work you will be awarding to the Texas certified HUB vendors with which you do not have a continuous contract* in place for more than five (5) years does not meet or exceed the HUB Goal the contracting agency identified in the "Agency Special Instructions/Additional Requirements", complete:**
 - Section 1 - Respondent and Requisition Information
 - Section 2 a. - Yes, I will be subcontracting portions of the contract.
 - Section 2 b. - List all the portions of work you will subcontract, and indicate the percentage of the contract you expect to award to Texas certified HUB vendors and Non-HUB vendors.
 - Section 2 c. - No
 - Section 2 d. - No
 - Section 4 - Affirmation
 - GFE Method B (Attachment B) - Complete an Attachment B for each of the subcontracting opportunities you listed in Section 2 b.
- **If you will not be subcontracting any portion of the contract and will be fulfilling the entire contract with your own resources (i.e., employees, supplies, materials and/or equipment), complete:**
 - Section 1 - Respondent and Requisition Information
 - Section 2 a. - No, I will not be subcontracting any portion of the contract, and I will be fulfilling the entire contract with my own resources.
 - Section 3 - Self Performing Justification
 - Section 4 - Affirmation

***Continuous Contract:** Any existing written agreement (including any renewals that are exercised) between a prime contractor and a HUB vendor, where the HUB vendor provides the prime contractor with goods or service, to include under the same contract for a specified period of time. The frequency the HUB vendor is utilized or paid during the term of the contract is not relevant to whether the contract is considered continuous. Two or more contracts that run concurrently or overlap one another for different periods of time are considered by CPA to be individual contracts rather than renewals or extensions to the original contract. In such situations the prime contractor and HUB vendor are entering (have entered) into "new" contracts.



ATTACHMENT C-2
HUB SUBCONTRACTING OPPORTUNITY NOTIFICATION
FORM



HUB Subcontracting Opportunity Notification Form

In accordance with Texas Gov't Code, Chapter 2161, each state agency that considers entering into a contract with an expected value of \$100,000 or more shall, before the agency solicits bids, proposals, offers, or other applicable expressions of interest, determine whether subcontracting opportunities are probable under the contract. The state agency I have identified below in Section B has determined that subcontracting opportunities are probable under the requisition to which my company will be responding.

34 Texas Administrative Code, §20.14 requires all respondents (prime contractors) bidding on the contract to provide notice of each of their subcontracting opportunities to at least three (3) Texas certified HUBs (who work within the respective industry applicable to the subcontracting opportunity), and allow the HUBs at least seven (7) working days to respond to the notice prior to the respondent submitting its bid response to the contracting agency. In addition, at least seven (7) working days prior to submitting its bid response to the contracting agency, the respondent must provide notice of each of its subcontracting opportunities to two (2) or more trade organizations or development centers (in Texas) that serves members of groups (i.e., Asian Pacific American, Black American, Hispanic American, Native American, Woman, Service Disabled Veteran) identified in Texas Administrative Code, §20.11(19)(C).

We respectfully request that vendors interested in bidding on the subcontracting opportunity scope of work identified in Section C, Item 2, reply no later than the date and time identified in Section C, Item 1. Submit your response to the point-of-contact referenced in Section A.

SECTION A: PRIME CONTRACTOR'S INFORMATION

Company Name: _____

State of Texas VID #: _____

Point-of-Contact: _____

Phone #: _____

E-mail Address: _____

Fax #: _____

SECTION B: CONTRACTING STATE AGENCY AND REQUISITION INFORMATION

Agency Name: _____

Point-of-Contact: _____

Phone #: _____

Requisition #: _____

Bid Open Date: _____

(mm/dd/yyyy)

SECTION C: SUBCONTRACTING OPPORTUNITY RESPONSE DUE DATE, DESCRIPTION, REQUIREMENTS AND RELATED INFORMATION

1. Potential Subcontractor's Bid Response Due Date:

If you would like for our company to consider your company's bid for the subcontracting opportunity identified below in Item 2,

we must receive your bid response no later than _____ on _____ .
Central Time Date (mm/dd/yyyy)

In accordance with 34 TAC §20.14, each notice of subcontracting opportunity shall be provided to at least three (3) Texas certified HUBs, and allow the HUBs at least seven (7) working days to respond to the notice prior to submitting our bid response to the contracting agency. In addition, at least seven (7) working days prior to us submitting our bid response to the contracting agency, we must provide notice of each of our subcontracting opportunities to two (2) or more trade organizations or development centers (in Texas) that serves members of groups (i.e., Asian Pacific American, Black American, Hispanic American, Native American, Woman, Service Disabled Veteran) identified in Texas Administrative Code, §20.11(19)(C).

(A working day is considered a normal business day of a state agency, not including weekends, federal or state holidays, or days the agency is declared closed by its executive officer. The initial day the subcontracting opportunity notice is sent/provided to the HUBs and to the trade organizations or development centers is considered to be "day zero" and does not count as one of the seven (7) working days.)

2. Subcontracting Opportunity Scope of Work:

3. Required Qualifications:

- Not Applicable

4. Bonding/Insurance Requirements:

- Not Applicable

5. Location to review plans/specifications:

- Not Applicable



ATTACHMENT D
TEXAS GOVERNMENT CODE §466.155

(a) After a hearing, the director shall deny an application for a license or the commission shall suspend or revoke a license if the director or commission, as applicable, finds that the applicant or sales agent:

(1) is an individual who:

(A) has been convicted of a felony, criminal fraud, gambling or a gambling-related offense, or a misdemeanor involving moral turpitude, if less than 10 years has elapsed since the termination of the sentence, parole, mandatory supervision, or probation served for the offense;

(B) is or has been a professional gambler;

(C) is married to an individual:

(i) described in Paragraph (A) or (B); or

(ii) who is currently delinquent in the payment of any state tax;

(D) is an officer or employee of the commission or a lottery operator; or

(E) is a spouse, child, brother, sister, or parent residing as a member of the same household in the principal place of residence of a person described by Paragraph (D);

(2) is not an individual, and an individual described in Subdivision (1):

(A) is an officer or director of the applicant or sales agent;

(B) holds more than 10 percent of the stock in the applicant or sales agent;

(C) holds an equitable interest greater than 10 percent in the applicant or sales agent;

(D) is a creditor of the applicant or sales agent who holds more than 10 percent of the applicant's or sales agent's outstanding debt;

(E) is the owner or lessee of a business that the applicant or sales agent conducts or through which the applicant will conduct a ticket sales agency;

(F) shares or will share in the profits, other than stock dividends, of the applicant or sales agent; or

(G) participates in managing the affairs of the applicant or sales agent;

(3) has been finally determined to be delinquent in the payment of a tax or other money collected by the comptroller, the Texas Workforce Commission, or the Texas Alcoholic Beverage Commission;

(4) is a person whose location for the sales agency is:

(A) a location licensed for games of bingo under Chapter 2001, Occupations Code;

(B) on land that is owned by:

(i) this state; or

(ii) a political subdivision of this state and on which is located a public primary or secondary school, an institution of higher education, or an agency of the state; or

(C) a location for which a person holds a wine and malt beverage retailer's permit, mixed beverage permit, mixed beverage permit with a retailer late hours certificate, private club registration permit, or private club registration permit with a retailer late hours certificate issued under Chapter [25](#), [28](#), [29](#), or [32](#), Alcoholic Beverage Code, other than a location for which a person holds a wine and malt beverage retailer's permit issued under Chapter [25](#),



Alcoholic Beverage Code, that derives less than 30 percent of the location's gross receipts from the sale or service of alcoholic beverages; or

(5) has violated this chapter or a rule adopted under this chapter.

(b) If the director proposes to deny an application for a license or the commission proposes to suspend or revoke a license under this section, the applicant or sales agent is entitled to written notice of the time and place of the hearing. A notice may be served on an applicant or sales agent personally or sent by certified or registered mail, return receipt requested, to the person's mailing address as it appears on the commission's records. A notice must be served or mailed not later than the 20th day before the date of the hearing. The commission shall provide for a formal administrative hearings process.

(b-1) A hearing under this section must be conducted by the State Office of Administrative Hearings and is subject to Section 2001.058(e).

(c) At a hearing, an applicant or sales agent must show by a preponderance of the evidence why the application should not be denied or the license suspended or revoked.

(d) The director shall give an applicant or sales agent written notice of a denial of an application or a suspension or revocation of a license.

(e) The director may not issue a license to a person who has previously had a license under this chapter revoked unless the director is satisfied the person will comply with this chapter and the rules adopted under this chapter. The director may prescribe the terms under which a suspended license will be reissued.

(f) The director may not issue a license to an applicant who fails to certify to the director the applicant's compliance with the federal Americans with Disabilities Act of 1990 (42 U.S.C. Section 12101 et seq.).

(g) For purposes of Subsection (a)(3), the comptroller, Texas Workforce Commission, and Texas Alcoholic Beverage Commission shall each provide the executive director with a report of persons who have been finally determined to be delinquent in the payment of any money owed to or collected by that agency. The commission shall adopt rules regarding the form and frequency of reports under this subsection.

Added by Acts 1993, 73rd Leg., ch. 107, Sec. 4.03(b), eff. Aug. 30, 1993. Amended by Acts 1995, 74th Leg., ch. 76, Sec. 6.21, eff. Sept. 1, 1995; Acts 1995, 74th Leg., ch. 696, Sec. 1, eff. Sept. 1, 1995; Acts 1997, 75th Leg., ch. 1275, Sec. 51, eff. Sept. 1, 1997; Acts 2001, 77th Leg., ch. 394, Sec. 1, eff. Sept. 1, 2001; Acts 2001, 77th Leg., ch. 1420, Sec. 14.760, eff. Sept. 1, 2001; Acts 2013, 83rd Leg., R.S., Ch. 993 (H.B. [2197](#)), Sec. 5, eff. September 1, 2013; Acts 2017, 85th Leg., R.S., Ch. 141 (H.B. 1555), Sec. 1, eff. May 26, 2017; Acts 2019, 86th Leg., R.S., Ch. 506 (S.B. [37](#)), Sec. 6, eff. June 7, 2019; Acts 2019, 86th Leg., R.S., Ch. 1359 (H.B. [1545](#)), Sec. 391, eff. September 1, 2021.



ATTACHMENT D-1 BACKGROUND INFORMATION CERTIFICATION

Texas Government Code §466.155

Under Texas Government Code §466.103, the Executive Director of the Texas Lottery Commission may not award a contract for the purchase or lease of facilities, goods or services related to lottery operations to a person who would be denied a license as a sales agent under Texas Government Code §466.155.

(Company Name)

certifies that it has reviewed Texas Government Code §466.155 and that it would not be denied a license as a sales agent under said section.

(signature of person authorized to contractually bind the Proposer)

(printed name)

(title)

(date)



ATTACHMENT E TEXAS LOTTERY COMMISSION VENDOR BACKGROUND INVESTIGATION FORM

NOTE: This form is to be completed by the Apparent Successful Proposer, including the parent or subsidiary of the Apparent Successful Proposer.

GENERAL INFORMATION

- The Texas Lottery is authorized to obtain criminal history records from the Texas Department of Public Safety, the Federal Bureau of Investigation or any other law enforcement agency.
- This form is open to public inspection during normal business hours as required by the Texas Public Information Act, Tex. Gov't. Code §552.021.
- **For Assistance**, please call the Enforcement Division of the Texas Lottery at 512-344-5000.

SALES AGENT ELIGIBILITY STANDARDS

Section 466.103 of the Texas Government Code states that the Executive Director may not award a Contract to a person who would be denied a license as a sales agent under §466.155 of the Texas Government Code. An individual is not eligible for a sales license if:

- a. The individual or the individual's spouse has been convicted of a felony, criminal fraud, gambling or a gambling-related offense or a misdemeanor involving moral turpitude and less than 10 years have passed since the end of the sentence, parole, mandatory supervision or probation served for the conviction.
- b. The individual or the individual's spouse is a professional gambler.
- c. The individual's spouse is currently delinquent in the payment of any state tax.
- d. The individual is an officer or employee of the Texas Lottery Commission or a lottery operator.
- e. The individual's spouse, child, brother, sister or parent (1) lives in the same principal place of residence as the individual and (2) is an officer or employee of the Texas Lottery Commission or a lottery operator.
- f. The individual is delinquent in the payment of a tax or other money collected by the Texas Comptroller of Public Accounts, the Texas Workforce Commission, or the Texas Alcoholic Beverage Commission.

An entity is not eligible for a sales license if the entity includes any of the following individuals who would be ineligible for a sales license under item a, b, c, d or e above:

- An officer or director of the entity;
- An individual who holds more than 10 percent of the stock in the entity;
- An individual who holds an equitable interest greater than 10 percent in the entity;
- The creditor of the entity who holds more than 10 percent of the entity's outstanding debt;
- The owner or lessee of a business conducted by the entity or through which the entity will conduct a ticket sales agency;



- An individual who shares or will share in the profits, other than stock dividends, of the entity; or
- An individual who participates in managing the affairs of the entity.

An applicant is not eligible for a sales license if the proposed ticket sales location is:

- A location licensed for games of bingo, or
- On land that is owned by:
 - This state, or
 - On which is located a public primary or secondary school, an institution of higher education, or an agency of the state.

By signing below, I certify that the information provided on this form is correct to the best of my knowledge and _____ [*company name*]_____ is not ineligible for a sales license under the eligibility standards described above. I understand that providing false or incomplete information may be grounds for termination of any contract. _____ [*company name*]_____ has read and agrees to abide by the requirements of §466.155 of the Texas Government Code. I understand that owners /officers /partners /directors, as designated by the Texas Lottery, must furnish a complete legible set of fingerprints, and that failure to do so will result in the termination of any contract. The Texas Lottery is authorized to obtain criminal history records.

Sign

here

Signature of person
authorized to contractually bind Proposer

Title

Date

Corporation or Legal Business Name



**ATTACHMENT E-1
VENDOR BACKGROUND INVESTIGATION
CERTIFIED LIST OF VENDOR PRINCIPALS**

NOTE: This form is to be completed by the Apparent Successful Proposer, including the parent or subsidiary of the Apparent Successful Proposer.

The following is a list of vendor principals for _____ [*company name*] _____ as defined by Tex. Gov't Code §466.155 (attach additional sheets if necessary).

Name	Title

(signature of person authorized to contractually bind the Proposer)

(title)

(printed name)

(date)



ATTACHMENT E-2
VENDOR BACKGROUND INVESTIGATION
CERTIFIED LIST OF CONTRACTUALLY DEFINED VENDOR
PRINCIPALS

NOTE: This form is to be completed by the Apparent Successful Proposer, including the parent or subsidiary of the Apparent Successful Proposer.

The following is a list of vendor principals for _____ [*company name*] _____ who will be directly involved in selling or leasing the goods or performing the services that are the subject of the Contract with the Texas Lottery. This includes any oversight function performed by the vendor principal(s). These individuals also must meet eligibility requirements under Tex. Gov't Code §466.155.

(The contractually defined vendor principals noted below should also appear on *Attachment E-1 Certified List of Vendor Principals*.)

Name	Title

(signature of person authorized to contractually bind the Proposer)

(title)

(printed name)

(date)



ATTACHMENT E-3

VENDOR EMPLOYEE BACKGROUND INVESTIGATION LIST

NOTE: This form is to be completed by the Apparent Successful Proposer and shall include any principals, employees, and Subcontractor Personnel who meet the criteria defined below.

The following is a list of vendor employees for _____ *[company name]* _____.

Include on the list below all principals, employees, and Subcontractor Personnel who meet the following criteria and will perform the services or provide the goods identified in this RFP:

- perform services that may impact the security and integrity of the core gaming business as determined by the Texas Lottery;
- provide audit, financial, legal, or compliance services;
- provide goods and/or services that control or monitor access to Texas Lottery premises;
- have unescorted access to Texas Lottery premises;
- have direct access to Texas Lottery information systems.

Name	Title

(signature of person authorized to contractually bind the Proposer)

(title)

(printed name)

(date)



ATTACHMENT E-4

CONSENT TO BACKGROUND INVESTIGATION AND RELEASE OF PERSONAL INFORMATION

NOTE: A separate Consent to Background Investigation and Release of Personal Information form must be completed for each person listed on *Attachment E-2* and *Attachment E-3*. The Texas Lottery may request this form for all Vendor Principals identified on *Attachment E-1 Certified List of Vendor Principals*.

All persons contracting with the Texas Lottery Commission must meet the requirements of Tex. Gov't Code §466.155. Print or type all information in blue or black ink.

Vendor Principal - ☐ Vendor Employee/Subcontractor Employee - ☐

Company Name

Name _____
_____ Last _____ First _____ Middle .
Other Names Used _____ Phone # _____
(Maiden, Nicknames, Previous Married Names, etc.)
Alternate Phone # _____
Place of Birth: _____ Social Security No.: _____ Country of Citizenship _____
Driver's License # _____ State _____ Type _____
DOB: _____ Race _____ Sex _____ Ethnicity _____
Height _____ Weight _____ Eye Color _____ Hair Color _____
Scars, Marks, Tattoos, Amputations: _____
Current Address: _____
City _____ State/Country: _____ Zip code: _____

I understand and agree that:

The Texas Lottery Commission shall conduct an investigation of my personal background to include criminal history record information maintained by the Department of Public Safety, the Federal Bureau of Investigation, Identification Division, or any other law enforcement agency. The Executive Director may request that I provide a complete set of legible fingerprints and I further understand that I may be precluded from providing services for the Texas Lottery Commission for failing to provide such fingerprints on request.

I hereby give my voluntary consent to any investigation or any other inquiry into information described above. Further, I hereby consent to the release of any information including academic records to the Texas Lottery Commission, Enforcement Division, or persons conducting an investigation or inquiry on their behalf. I understand that certain information obtained through this investigation or inquiry may preclude me from providing services for the Texas Lottery Commission.

I further hold harmless and release the Texas Lottery Commission, its agents, officers or employees, from any and all liability for this investigation or inquiry, and any action taken as result of information obtained through the investigation or inquiry. I further hold harmless and release any person providing information in good faith to the Texas Lottery Commission or to any person conducting an investigation or inquiry on their behalf.

I further understand that any person or employee who intentionally, knowingly, recklessly, or with criminal negligence makes a material incorrect or deceptive oral or written statement to a person conducting an investigation commits a misdemeanor.

Signature

Date



ATTACHMENT F SAMPLE PERFORMANCE BOND

Bond No. _____

[company name, address], as Principal, and [surety company], a corporation licensed to do business in the State of Texas and admitted to write bonds, as Surety, are held and firmly bound unto the Texas Lottery Commission, P.O. Box 16630, Austin, Texas 78761-6630, as Obligee, in the full sum of [written amount] Dollars (\$) for the payment of which said Principal and Surety bind themselves, and their respective heirs, administrators, executors, successors, assigns, jointly and severally, firmly by these presents.

WHEREAS, the Principal has entered into a written Contract with Obligee dated the ____ day of _____, _____, for [type of services], which Contract is hereby referred to, as if fully and to the same extent as if copied at length herein.

NOW THEREFORE, the condition of this obligation is such that, if during the term of this Contract (or annual bond), the Principal shall faithfully perform such Contract, or shall indemnify and save harmless the Obligee from all cost and damage by reason of Principal's failure to do so, then this obligation shall be null and void, otherwise it shall remain in full force and effect. (If annual bond, add this paragraph.)

The term of this obligation is for the period commencing on _____ and expiring at 12:00 a.m. on _____. This bond may be renewed on an annual basis at the option of the Surety. If the Surety does not choose to renew this obligation, it will so notify the Obligee and Principal not later than 30 days prior to its expiration.

IN WITNESS WHEREOF, the Principal and Surety have signed and sealed this instrument this ____ day of _____, _____.

Principal:

(seal)

By:

Surety:

(seal)

By:

Attorney-in-Fact



ATTACHMENT G SCORING MATRIX

Scratch Ticket Manufacturing and Services RFP	Possible Points	% of Total	Points Awarded
The Proposer's price to provide the goods or services.	800	40%	
Cost Proposal Subtotal	800	40%	
The probable quality of the offered goods and/or services.	600	30%	
The agency's evaluation of the likelihood of the Proposal to produce the desired outcome for the agency, considering:			
The quality of the Proposer's past performance in contracting with the Texas Lottery Commission, with other state entities, or with private sector entities.	200	10%	
The qualifications of the Proposer's personnel.	200	10%	
The experience of the Proposer in providing the requested goods or services.	200	10%	
The financial status of the Proposer.	Pass/Fail	n/a	
Whether the Proposer performed the good faith effort required by the HUB subcontracting plan.	Pass/Fail	n/a	
Proposers must have a minimum five (5) years of related lottery experience in scratch ticket printing in North America and at least three (3) current clients who are members of the North American Association of State and Provincial Lotteries.	Pass/Fail	n/a	
Technical Proposal Subtotal	1200	60%	
TOTAL	2000	100%	

The Texas Lottery will review and consider all items in the Sealed Cost Proposals; some items may be given greater consideration than others.

The following formula will be used in scoring Cost Proposals:

Lowest Cost Proposal Amount / Other Cost Proposal Amount = % of total points available for the Cost Proposal.



ATTACHMENT H COST PROPOSAL

Proposer's Name

NOTE TO ALL PROPOSERS: THE COST PROPOSAL MUST BE SUBMITTED IN A SEPARATE AND LABELED SEALED ENVELOPE AND ATTACHED TO THE ORIGINAL PROPOSAL. PROPOSERS SHOULD ONLY SUBMIT ONE ORIGINAL OF THE COST PROPOSAL (NO COPIES ARE REQUIRED). IN ADDITION, PROPOSERS MUST SUBMIT THE COST PROPOSAL ON USB DRIVE IN THE SEALED ENVELOPE.

PROPOSERS MUST COMPLETE ALL SECTIONS OF THE COST PROPOSAL, INCLUDING TABLES 1, 2, AND 3 BELOW.

PAYMENT WILL BE BASED ON COST PER THOUSAND TICKETS MANUFACTURED, UNLESS OTHERWISE SPECIFIED.

OPTIONS

If the services represented in the Proposal are not clearly indicated as Specified, Invited or Offered Options, the cost for such services is included in the Base Price.

Offering a required item as an option may be cause for rejection of the Proposal.

EVALUATION OF THE COST PROPOSAL

For purposes of evaluation and comparison, all cost cells for the Base Price and the following five (5) Specified Options (Full UV Coating, Metallic Ink, Fluorescent Ink, Holographic Paper Stock and Foil Paper Stock) will be evaluated. While all cost cells will be evaluated, some may have greater weight.

COMMON PRICE

The Texas Lottery's objective is to maximize revenue to the State of Texas through the selection of industry best games and those consistent with the Texas Lottery's current product mix and scratch ticket strategy. The Texas Lottery evaluates games based on a variety of criteria including, but not limited to, sales performance, ticket theme, play style, planned start date and overall fit within the overall scratch ticket game portfolio and budget authority. Using these criteria and others, the Texas Lottery also includes branded, proprietary or licensed games which it believes present the best opportunity for maximizing ticket sales and generating revenue for the State.



In working toward its objective to maximize revenue to the State of Texas through the selection of industry best games and those consistent with the Texas Lottery's current product mix and scratch ticket strategy, the Texas Lottery believes that utilizing multiple vendors for scratch ticket manufacturing and services promotes competition, optimizes vendor performance and enhances business resumption capabilities.

The Texas Lottery desires to select multiple Successful Proposers that demonstrate superior technical quality and service and that offer competitive pricing.

The Texas Lottery, through negotiations with all Apparent Successful Proposers, desires to establish common prices for the goods/services included in the Base Price and five (5) specified options (Full UV Coating, Metallic Ink, Fluorescent Ink, Holographic Paper Stock and Foil Paper Stock).

As an incentive to accept the common prices established by the Texas Lottery and at the agency's sole discretion, Successful Proposers may be offered an opportunity to produce a comparable number of games for a set period (as determined by the Texas Lottery in its sole discretion) following Contract Award. The Texas Lottery, in its sole discretion, will determine the quantity and volume of ticket production awarded to each Successful Proposer and expressly reserves the right to decrease or increase game orders consistent with the considerations in sections 1.1.7 and 1.1.8, together with other factors including, but not limited to, technical quality and customer service; however, the Texas Lottery does not intend to establish comparability by price point, ticket size, price quantities and other similar factors.

BASE PRICE

Each Proposer should complete the following matrix utilizing cost per thousand tickets and provide pricing information for each quantity and actual ticket size printed on the identified ticket stock. Prices must be proposed to two (2) decimal places (example: \$6.60/thousand). Base Price includes any and all requirements (including inks up to ten (10) colors projected to be five (5) front display colors, with one (1) display color being a full bleed, one (1) back color, three (3) overprint colors and one (1) ultraviolet ink for benday patterns), goods and services described in this RFP that are not Invited, Offered or Specified Options as referenced in this RFP. Specifically, Base Price shall include insertion of pack inserts in each pack, four color processing, expanded imaging and any additional spot colors required to produce the game tickets as represented in the executed working papers.

NOTE: Use the format provided on the attached Table 1 for your response and see RFP Section 2.10 for additional instructions.

NOTE: INTERMEDIATE QUANTITIES WILL BE DETERMINED BY INTERPOLATION

**TABLE 1
BASE PRICE**

Table 1A - 10 Point Virgin/Recyclable-Coated Two Sides

Ticket Size	<u>A</u> 2.4" x 4"		<u>B</u> 3" x 4"		<u>C</u> 4" x 4"			<u>D</u> 6" x 4"				<u>E</u> 8" x 4"			
Pack Size	150	100	150	125	150	125	100	150	125	100	75	125	75	50	25
20,000															
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NOTE: INTERMEDIATE QUANTITIES WILL BE DETERMINED BY INTERPOLATION

Table 1B - 10 Point Virgin/Recyclable-Coated Two Sides

Ticket Size	<u>F</u> 10" x 4"				<u>G</u> 12" x 4"						<u>H</u> 14" x 4"				
Pack Size	75	50	25	20	75	50	25	20	15	10	50	25	20	15	10
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NOTE: INTERMEDIATE QUANTITIES WILL BE DETERMINED BY INTERPOLATION

TABLE 1
BASE PRICE

Table 1C - 10 Point Virgin/Recyclable-Coated Two Sides

Ticket Size	I 6" x 8"			J 8" x 8"			K 12" x 8"				L 12" x 12"			
Pack Size	75	50	25	75	50	25	50	25	20	10	50	25	20	10
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NOTE: INTERMEDIATE QUANTITIES WILL BE DETERMINED BY INTERPOLATION



In addition, Proposers shall show the cost breakdown of the following line items that **are included in the Base Price.**

1. 4 color processing Per square inch \$ _____per square inch
2. Expanded imaging Per square inch \$ _____ per square inch
3. Additional spot colors Per color per square inch \$ _____ per square inch
4. Includes pack inserts in each pack
 - a. Price Per Pack for insertion
 - i. 4" x 4" size \$_____ per pack
 - ii. 4" x 8" size \$_____ per pack
 - iii. 4" x 12" size \$_____ per pack
 - b. Price Per Pack for printing of pack insert (4CP printing, 10pt card)
 - i. 4" x 4" size \$_____ per pack
 - ii. 4" x 8" size \$_____ per pack
 - iii. 4" x 12" size \$_____ per pack



SPECIFIED OPTIONS

Prospective Proposers are required to submit specifications and pricing for the following options.

Each Proposer should indicate the additional cost per thousand (1,000) tickets for the options listed below.

Specified Options to be negotiated to establish a common price:

1. Cost per thousand tickets for any reduction for colors less than ten (10)

Price decrease per color \$ _____

2. Cost per thousand tickets for fluorescent inks (other than required by fluorescent benday)

Per color per square inch Add \$ _____ per square inch per color

3. Cost per thousand tickets for metallic inks

Per color per square inch Add \$ _____ per square inch per color

4. Cost per thousand tickets for dual color game data imaging

Per color per square inch Add \$ _____ square inch per color

5. Cost per thousand tickets for multiple scenes or continuous scene game

Add \$ _____

6. Cost per thousand tickets for color pulsing - color changes within a press run

Per color pulse Add \$ _____ per color pulse

7. Cost per thousand tickets for full ultraviolet coating in display area

Per color per square inch Add \$ _____ per square inch per color

8. Cost per thousand tickets for marking process other than full opaque security coating covering

Per square inch Add \$ _____ per square inch per color

9. Cost for cylinder or plate change before or during production

Add \$ _____ per cylinder change or plate change that results in a press stoppage



10. Cost per thousand tickets difference for multiple games across the web

Deduct \$ _____ lump sum for each additional game printed across the web.

11. Test Games

Hourly rate for software programming test games Add \$ _____ per hour.

12. Cost per thousand tickets for holographic ticket stock

Per square inch \$ _____ per square inch of ticket

13. Cost per thousand tickets for foil ticket stock

Per square inch Add \$ _____ per square inch of ticket

14. Hole drilling

Per 1,000 tickets Add \$ _____ per 1,000 tickets

15. Cost for additional pack inserts bundled in packs of 100.

Add \$ _____ per 1,000 additional pack inserts

16. Cost for special stock pack inserts

4.00" x 4.00" size

Foil – Add \$ _____ per 1,000 inserts

Holographic – Add \$ _____ per 1,000 inserts

4.00" x 8.00" size

Foil – Add \$ _____ per 1,000 inserts

Holographic – Add \$ _____ per 1,000 inserts

4.00" x 12.00" size

Foil – Add \$ _____ per 1,000 inserts

Holographic – Add \$ _____ per 1,000 inserts



BRANDED, PROPRIETARY AND LICENSED GAMES WITH EXPERIENTIAL AND/OR MERCHANDISE PRIZES, AND SUCCESSFUL PROPOSER-SPONSORED PROMOTIONS OR CONTESTS (See RFP Section 8.33.4)

Provide pricing tables for Branded, Proprietary and Licensed games with experiential and/or merchandise prizes. Also provide this same information for Successful Proposer-sponsored promotions or contests.

NON-LICENSED GAMES WITH EXPERIENTIAL AND/OR MERCHANDISE PRIZES, AND SUCCESSFUL PROPOSER-SPONSORED PROMOTIONS OR CONTESTS (See RFP Section 8.33.5)

Provide any known non-licensed game concepts with experiential and/or merchandise prizes. Also provide this same information for Successful Proposer-sponsored promotions or contests.

INTERNET ENTRY PROMOTIONAL SECOND-CHANCE DRAWINGS (See RFP Section 8.33.2)

The following fees will apply to Internet Entry Promotional Second-Chance Drawings:

- a. For branded or licensed property games produced by the Successful Proposer where the Texas Lottery pays the Successful Proposer directly as promotional second-chance drawing merchandise prizes are claimed (also known as the merchandise model and/or hybrid models which include experiential/merchandise allocations), the Successful Proposer waives all costs to set up, monitor and support the draw system and all drawing costs.
- b. For promotional second-chance drawing services for all other scratch ticket games (including, but not limited to, games that do not use the merchandise model, games produced by other Texas Lottery vendors, etc.), the Texas Lottery agrees to pay the Successful Proposer \$ _____ per game to set up, monitor and support the draw system (including all costs for the first promotional second-chance drawing in the game), plus an additional \$ _____ for the remaining drawings in the game.

**AUTOMATED SCRATCH SALES SOLUTION (See RFP Section 8.33.6)****Automated Scratch Sales Solution – Long-term Pricing Option (pricing in effect for 9/1/2024 – 8/31/2034)**

Proposers shall provide pricing that covers the implementation and deployment of the Automated Scratch Sales Solution, or the Credit, for the Four-Year Period. A separate Base Price cost (including Automated Scratch Sales Solution or Credit) spreadsheet (Table 2) must be provided for the Automated Scratch Sales Solution Long-term Pricing Specified Option.

These cost cells shall include the Base Price plus pricing for the Automated Scratch Sales Solution of three thousand (3,000) units, or the Credit, and shall be utilized through the period of the Contract term that covers Scratch Ticket Manufacturing and Services from 9/1/2024 to 8/31/2034. Pricing shall include all costs to implement the Automated Scratch Sales Solution, including but not limited to, hardware, software, smart dispensers and ongoing maintenance.

Automated Scratch Sales Solution – Short-term Pricing Option (pricing in effect for 9/1/2024 – 8/31/2026)

Proposers shall provide pricing that covers the implementation and deployment of the Automated Scratch Sales Solution, or the Credit, for the Four-Year Period. A separate Base Price cost (including Automated Scratch Sales Solution or Credit) spreadsheet (Table 3) must be provided for the Automated Scratch Sales Solution Short-term Pricing Specified Option. **Effective September 1, 2026 pricing for all scratch ticket manufacturing and services will revert to the Base Price (Table 1).**

These cost cells shall include the Base Price plus pricing for the Automated Sales Solution of three thousand (3,000) units, or the Credit, and shall be utilized through the period of the Contract term that covers Scratch Ticket Manufacturing and Services from 9/1/2024 to 8/31/2026. Pricing shall include all costs to implement the Automated Scratch Sales Solution, including but not limited to, hardware, software, smart dispensers and ongoing maintenance.

Credit In Lieu Of Automated Scratch Sales Solution

- ☐ Proposers shall indicate by checking this item if they are electing to provide the Credit in lieu of proposing an Automated Scratch Sales Solution. The Credit will be based on the formula described in RFP Section 8.33.6 (7). If the Credit is selected, then the Pricing per Unit Cost requested below is not applicable; however, the value of the Credit shall be included in Table 2 and Table 3 for the Long-Term Pricing Option and Short-Term Pricing Option. If a Proposer provides an Automated Scratch Sales Solution, this section can be marked not applicable (n/a).

TABLE 2
AUTOMATED SCRATCH SALES SOLUTION - LONG-TERM PRICING OPTION (pricing in effect for 9/1/2024 – 8/31/2034)

Table 1A - 10 Point Virgin/Recyclable-Coated Two Sides

Ticket Size	<u>A</u> 2.4" x 4"		<u>B</u> 3" x 4"		<u>C</u> 4" x 4"			<u>D</u> 6" x 4"				<u>E</u> 8" x 4"			
Pack Size	150	100	150	125	150	125	100	150	125	100	75	125	75	50	25
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NOTE: INTERMEDIATE QUANTITIES WILL BE DETERMINED BY INTERPOLATION

Table 1B - 10 Point Virgin/Recyclable-Coated Two Sides

Ticket Size	<u>F</u> 10" x 4"				<u>G</u> 12" x 4"						<u>H</u> 14" x 4"				
Pack Size	75	50	25	20	75	50	25	20	15	10	50	25	20	15	10
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NOTE: INTERMEDIATE QUANTITIES WILL BE DETERMINED BY INTERPOLATION

TABLE 2
AUTOMATED SCRATCH SALES SOLUTION - LONG-TERM PRICING OPTION (pricing in effect for 9/1/2024 – 8/31/2034)

Table 1C - 10 Point Virgin/Recyclable-Coated Two Sides

Ticket Size	<u>I</u> 6" x 8"			<u>J</u> 8" x 8"			<u>K</u> 12" x 8"				<u>L</u> 12" x 12"			
Pack Size	75	50	25	75	50	25	50	25	20	10	50	25	20	10
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NOTE: INTERMEDIATE QUANTITIES WILL BE DETERMINED BY INTERPOLATION

TABLE 3
AUTOMATED SCRATCH SALES SOLUTION - SHORT-TERM PRICING OPTION (pricing in effect for 9/1/2024 – 8/31/2026)

Table 1A - 10 Point Virgin/Recyclable-Coated Two Sides

Ticket Size	<u>A</u> 2.4" x 4"		<u>B</u> 3" x 4"		<u>C</u> 4" x 4"			<u>D</u> 6" x 4"				<u>E</u> 8" x 4"			
Pack Size	150	100	150	125	150	125	100	150	125	100	75	125	75	50	25
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NOTE: INTERMEDIATE QUANTITIES WILL BE DETERMINED BY INTERPOLATION

Table 1B - 10 Point Virgin/Recyclable-Coated Two Sides

Ticket Size	<u>F</u> 10" x 4"				<u>G</u> 12" x 4"						<u>H</u> 14" x 4"				
Pack Size	75	50	25	20	75	50	25	20	15	10	50	25	20	15	10
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NOTE: INTERMEDIATE QUANTITIES WILL BE DETERMINED BY INTERPOLATION

TABLE 3
AUTOMATED SCRATCH SALES SOLUTION - SHORT-TERM PRICING OPTION (pricing in effect for 9/1/2024 – 8/31/2026)

Table 1C - 10 Point Virgin/Recyclable-Coated Two Sides

Ticket Size	<u>I</u> 6" x 8"			<u>J</u> 8" x 8"			<u>K</u> 12" x 8"				<u>L</u> 12" x 12"			
Pack Size	75	50	25	75	50	25	50	25	20	10	50	25	20	10
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50,000,000														
75,000,000														
100,000,000														

NOTE: INTERMEDIATE QUANTITIES WILL BE DETERMINED BY INTERPOLATION

**Automated Scratch Sales Solution – Pricing per Unit**

Proposers shall provide unit prices for the Automated Scratch Sales Solution Specified Option. Pricing shall include all costs for the Automated Scratch Sales Solution, including but not limited to, hardware, software, smart dispensers and ongoing maintenance. Pricing per unit shall be utilized to calculate a reimbursement, to provide pricing for deployment of more than three thousand (3000) units, or for any units deployed after August 31, 2026.

Price for up to 3,000 units:

Monthly Price per Unit _____

Price for 3,001 – 4,000 units:

Monthly Price per Unit _____

Price for 4,001 – 5,000 units:

Monthly Price per Unit _____

Price for 5,001 – 6,000 units:

Monthly Price per Unit _____

Price for 6,001 or more units:

Monthly Price per Unit _____



INVITED OPTIONS

Proposers are **not required** to submit specifications and pricing for Invited Options. Each Proposer should indicate the additional cost per thousand (1,000) tickets, if any, for any options, including those listed below. Pricing should be noted as cost per square inch, if appropriate.

1. Cost per thousand for die-cut tickets. Add \$_____ per square inch of ticket
2. Cost per pack, if any, for additional pack inserts in each pack of tickets. Add \$_____ per pack for each additional insertion requirement, subject to restrictions
3. Cost per thousand for pouch tickets. (Insert pricing table for 4" and 8" with pouches in 50, 25 and 20 pack sizes.)
4. Cost per thousand for holograms on tickets. Add \$_____
5. Cost per thousand for continuous image four-color process covering entire ticket. Add \$_____ per square inch of ticket
6. Cost per thousand for four-color printed on ticket back. Add \$_____ per square inch of ticket
7. Cost per thousand for one (1) additional color printed on ticket back. Add \$_____ per square inch of ticket
8. Cost per thousand for perforated stub, with either horizontal or vertical perforations and with or without imaging. Add \$_____per 1,000 tickets
9. Cost per thousand for scored tickets. Add \$_____per 1,000 tickets
10. Cost per thousand for scented ink tickets. Add \$_____per square inch of ticket
11. Cost per thousand for break-open tickets with perforated window. Add \$_____
12. Cost per thousand for additional ticket samples. Add \$ _____
13. Cost per thousand for four color game data imaging. Add \$ _____
14. Cost per thousand for pull-tab styled tickets. Add \$ _____
15. Cost per thousand for large panel break open tickets Add \$ _____
16. Cost per hour for programming of unique games. Add \$_____per hour of programming
17. Merchandise fulfillment for non-licensed property games: Add \$_____



18. Oversized tickets –If you need additional tables for oversized tickets, please use the same format, quantities and pack sizes designated in Table 1.

OFFERED OPTIONS

Proposers should respond to this section on sheets attached hereto the price for Proposer-offered optional items. Proposers are free to describe offered options and the terms and pricing under which they are offered. Proposers are not required to submit any Offered Options under section 8.35 of this RFP.

(signature of person authorized to contractually bind the Proposer)

(printed name)

(title)

(date)



**ATTACHMENT I
TEXAS GOVERNMENT CODE
CHAPTER 552
SUBCHAPTER J.
ADDITIONAL PROVISIONS RELATED TO CONTRACTING
INFORMATION**

Sec. 552.371. CERTAIN ENTITIES REQUIRED TO PROVIDE CONTRACTING INFORMATION TO GOVERNMENTAL BODY IN CONNECTION WITH REQUEST. (a) This section applies to an entity that is not a governmental body that executes a contract with a governmental body that:

(1) has a stated expenditure of at least \$1 million in public funds for the purchase of goods or services by the governmental body; or

(2) results in the expenditure of at least \$1 million in public funds for the purchase of goods or services by the governmental body in a fiscal year of the governmental body.

(b) This section applies to a written request for public information received by a governmental body that is a party to a contract described by subsection (a) for contracting information related to the contract that is in the custody or possession of the entity and not maintained by the governmental body.

(c) A governmental body that receives a written request for information described by subsection (b) shall request that the entity provide the information to the governmental body. The governmental body must send the request in writing to the entity not later than the third business day after the date the governmental body receives the written request described by subsection (b).

(d) Notwithstanding section 552.301:

(1) a request for an attorney general's decision under section 552.301(b) to determine whether contracting information subject to a written request described by subsection (b) falls within an exception to disclosure under this chapter is considered

timely if made not later than the 13th business day after the date the governmental body receives the written request described by subsection (b);

(2) the statement and copy described by section 552.301(d) is considered timely if provided to the requestor not later than the 13th business day after the date the governmental body receives the written request described by subsection (b);

(3) a submission described by section 552.301(e) is considered timely if submitted to the attorney general not later than the 18th business day after the date the governmental body receives the written request described by subsection (b); and

(4) a copy described by section 552.301(e-1) is considered timely if sent to the requestor not later than the 18th business day after the date the governmental body receives the written request described by subsection (b).

(e) Section 552.302 does not apply to information described by subsection (b) if the governmental body:



(1) complies with the requirements of subsection (c) in a good faith effort to obtain the information from the contracting entity;

(2) is unable to meet a deadline described by subsection (d) because the contracting entity failed to provide the information to the governmental body not later than the 13th business day after the date the governmental body received the written request for the information; and

(3) if applicable and notwithstanding the deadlines prescribed by sections 552.301(b), (d), (e), and (e-1), complies with the requirements of those subsections not later than the eighth business day after the date the governmental body receives the information from the contracting entity.

(f) Nothing in this section affects the deadlines or duties of a governmental body under section 552.301 regarding information the governmental body maintains, including contracting information.

Sec. 552.372. BIDS AND CONTRACTS. (a) A contract described by section 552.371 must require a contracting entity to:

(1) preserve all contracting information related to the contract as provided by the records retention requirements applicable to the governmental body for the duration of the contract;

(2) promptly provide to the governmental body any contracting information related to the contract that is in the custody or possession of the entity on request of the governmental body; and

(3) on completion of the contract, either:

(A) provide at no cost to the governmental body all contracting information related to the contract that is in the custody or possession of the entity; or

(B) preserve the contracting information related to the contract as provided by the records retention requirements applicable to the governmental body.

(b) Unless section 552.374(c) applies, a bid for a contract described by section 552.371 and the contract must include the following statement: "the requirements of subchapter j, chapter 552, government code, may apply to this (include "bid" or "contract" as applicable) and the contractor or vendor agrees that the contract can be terminated if the contractor or vendor knowingly or intentionally fails to comply with a requirement of that subchapter."

(c) A governmental body may not accept a bid for a contract described by section 552.371 or award the contract to an entity that the governmental body has determined has knowingly or intentionally failed to comply with this subchapter in a previous bid or contract described by that section unless the governmental body determines and documents that the entity has taken adequate steps to ensure future compliance with the requirements of this subchapter.

Sec. 552.373. NONCOMPLIANCE WITH PROVISION OF SUBCHAPTER.

A governmental body that is the party to a contract described by Section 552.371 shall provide notice to the entity that is a party to the contract if the entity fails to comply with a requirement of this subchapter applicable to the entity. The notice must:

(1) be in writing;

(2) state the requirement of this subchapter that the



entity has violated; and

(3) unless section 552.374(c) applies, advise the entity that the governmental body may terminate the contract without further obligation to the entity if the entity does not cure the violation on or before the 10th business day after the date the governmental body provides the notice.

Sec. 552.374. TERMINATION OF CONTRACT FOR NONCOMPLIANCE.

(a) Subject to subsection (c), a governmental body may terminate a contract described by section 552.371 if:

(1) the governmental body provides notice under Section 552.373 to the entity that is party to the contract;

(2) the contracting entity does not cure the violation in the period prescribed by section 552.373;

(3) the governmental body determines that the contracting entity has intentionally or knowingly failed to comply with a requirement of this subchapter; and

(4) the governmental body determines that the entity has not taken adequate steps to ensure future compliance with the requirements of this subchapter.

(b) For the purpose of subsection (a), an entity has taken adequate steps to ensure future compliance with this subchapter if:

(1) the entity produces contracting information requested by the governmental body that is in the custody or possession of the entity not later than the 10th business day after the date the governmental body makes the request; and

(2) the entity establishes a records management program to enable the entity to comply with this subchapter.

(c) A governmental body may not terminate a contract under this section if the contract is related to the purchase or underwriting of a public security, the contract is or may be used as collateral on a loan, or the contract's proceeds are used to pay debt service of a public security or loan.

Sec. 552.375. OTHER CONTRACT PROVISIONS. Nothing in this subchapter prevents a governmental body from including and enforcing more stringent requirements in a contract to increase accountability or transparency.

Sec. 552.376. CAUSE OF ACTION NOT CREATED. This subchapter does not create a cause of action to contest a bid for or the award of a contract with a governmental body.

Acts of May 23, 2019, R.S., ch. 1216, §1, 2019 *Vernon's Texas Session Law Service*, effective January 1, 2020.