

**STATE LOTTERY AND GAMING**

**CONTROL AGENCY (MLGCA)**

REQUEST FOR PROPOSALS (RFP)

**RFP #2018-06**

**Issue Date: February 21, 2019**

***LOTTERY DRAWING MACHINES AND RELATED MAINTENANCE SERVICES***

NOTICE

A Prospective Offeror that has received this document from a source other than eMarylandMarketplace (eMM) <https://emaryland.buyspeed.com/bso/> should register on eMM. See Section 4.2.

A Prospective Offeror that has received this document from the MLGCA’s website or a source other than the Procurement Officer, and that wishes to assure receipt of any changes or additional materials related to this RFP should register on eMM and immediately contact the Procurement Officer and provide the Prospective Offeror’s name and mailing address so that amendments to the RFP or other communications can be sent to the Prospective Offeror.

Minority Business Enterprises Are Encouraged to Respond to this Solicitation

STATE OF MARYLAND

**VENDOR FEEDBACK FORM**

To help us improve the quality of State solicitations, and to make our procurement process more responsive and business friendly, take a few minutes and provide comments and suggestions regarding this RFP. Please return your comments with your response. If you have chosen not to respond to this RFP, please email or fax this completed form to the attention of the Procurement Officer (see Key Information Sheet below for contact information).

**Title: Lottery Drawing Machines and Related Maintenance Services**

**RFP No: 2018-06**

1. If you have chosen not to respond to this RFP, please indicate the reason(s) below:

 ( ) Other commitments preclude our participation at this time.

 ( ) The subject of the solicitation is not something we ordinarily provide.

 ( ) We are inexperienced in the work/commodities required.

 ( ) Specifications are unclear, too restrictive, etc. (Explain in REMARKS section.)

 ( ) The scope of work is beyond our present capacity.

( ) Doing business with the State of Maryland is simply too complicated. (Explain in REMARKS section.)

 ( ) We cannot be competitive. (Explain in REMARKS section.)

 ( ) Time allotted for completion of the Proposal is insufficient.

 ( ) Start-up time is insufficient.

( ) Bonding/Insurance requirements are restrictive. (Explain in REMARKS section.)

( ) Proposal requirements (other than specifications) are unreasonable or too risky.

 (Explain in REMARKS section.)

 ( ) MBE or VSBE requirements. (Explain in REMARKS section.)

( ) Prior State of Maryland contract experience was unprofitable or otherwise unsatisfactory. (Explain in REMARKS section.)

 ( ) Payment schedule too slow.

 ( ) Other: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

2. If you have submitted a response to this RFP, but wish to offer suggestions or express concerns, please use the REMARKS section below. (Attach additional pages as needed.)

REMARKS: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

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Contact Person: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ Phone (\_\_\_\_) \_\_\_\_\_ - \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

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STATE OF MARYLAND

**STATE LOTTERY AND GAMING CONTROL AGENCY (MLGCA)**

**RFP KEY INFORMATION SUMMARY SHEET**

##### Request for Proposals: SERVICES: LOTTERY DRAWING MACHINES AND RELATED MAINTENANCE SERVICES

**Solicitation Number: #2018-06**

###### RFP Issue Date: February 21, 2019

**RFP Issuing Office: Maryland State Lottery and Gaming Control Agency**

**Montgomery Park Business Center**

**1800 Washington Boulevard, Suite 330**

**Baltimore, MD 21230**

**Procurement Officer: Robert W. Howells**

**Maryland State Lottery and Gaming Control Agency**

**Montgomery Park Business Center**

**1800 Washington Boulevard, Suite 330**

**Baltimore, MD 21230**

**Telephone: 410-230-8789; Fax: 410-230-8727**

**E-mail Address: robert.howells@maryland.gov**

**Contract Monitor: Carole B. Gentry**

**Maryland State Lottery and Gaming Control Agency**

**Montgomery Park Business Center**

**1800 Washington Boulevard, Suite 330**

**Baltimore, MD 21230**

**Telephone: 410-230-8725; Fax: 410-230-8825**

**E-mail Address: carole.gentry@maryland.gov**

**Proposals are to be sent to: Maryland State Lottery and Gaming Control Agency**

**Montgomery Park Business Center**

**1800 Washington Boulevard, Suite 330**

**Baltimore, MD 21230**

**Attention: Robert W. Howells**

**Pre-Proposal Conference:** **March 8, 2019 @ 11:00 a.m. (Local Time)**

**Montgomery Park Business Center**

**1800 Washington Boulevard, Suite 330**

**Baltimore, MD 21230**

**(Note: This meeting will be primarily an opportunity for prospective offerors to inspect the MLGCA’s current inventory of Drawing Machines)**

**Proposal Due (Closing) Date and Time: March 20, 2019 at 2:00 p.m.(Local Time)**

**MBE Subcontracting Goal: N/A**

**VSBE Subcontracting Goal: N/A**

**Contract Type: Fixed Price and Fixed Unit Price Indefinite Quantity**

**Contract Duration: Five years plus one 5-year renewal option and a final renewal option period (for transitioning) of up to six (6) months**

 **Approximate Go-Live date June 1, 2019**

**SBR Designation: No**

**Federal Funding: No**

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# SECTION 1 – MINIMUM QUALIFICATIONS

## 1 Offeror Minimum Qualifications

The Offeror shall provide proof with its Proposal that the following Minimum Qualifications have been met. These Minimum Qualifications are requirements that shall be met by an Offeror in order to receive consideration of its Proposal. Any Offeror not meeting these Minimum Qualifications will not be included in the evaluation process.

1.1 The Offeror shall have a minimum of three (3) years of experience in the manufacturing of official lottery-industry standard ball-style Drawing machines for North American State and Provincial Lottery (NASPL) customers, including but not limited to Pick 3-, Pick 4- and Pick 5 ball-style Drawing machines.

1.2 The Offeror shall also have a minimum of three (3) years of experience with the maintenance and repair of these types of lottery Drawing machines for NASPL customers.

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# SECTION 2 – CONTRACTOR REQUIREMENTS: SCOPE OF WORK

##  Summary Statement

* + 1. The Maryland State Lottery and Gaming Control Agency (MLGCA) is issuing this Request for Proposals (RFP) to invite qualified Offerors to submit proposals to provide various types of ball-style lottery Drawing machines to be used in the live television broadcast for the Drawings of the MLGCA’s Draw Games, as well as all necessary Ball Sets, and preventive maintenance, repair, and emergency repair services, and repair parts for the Drawing machines obtained under this contract and the Drawing machines currently in the MLGCA’s inventory.
		2. It is the State’s intention to obtain services, as specified in this RFP, from a Contract between the selected Offeror and the State. The anticipated duration of services to be provided under this Contract is an initial term of approximately five (5) years tentatively beginning on June 1, 2019, and extending through May 31, 2024. The MLGCA, at its sole option, shall have the unilateral right to extend the Contract for one (1) additional five (5) year renewal period and a final renewal option period (for transitioning) of up to six (6) months , for a total potential contract term of ten (10) years and six (6) months.
		3. The MLGCA intends to make a single contract award as a result of this RFP (See RFP Section 4.9 and 6 for more Contract award information). The Contract that results from this RFP will be a combination Fixed Price and Fixed Unit Price Indefinite Quantity Contract as described in COMAR 21.06.03.02A (3).
		4. An Offeror, either directly or through Subcontractor(s), shall be able to provide all services and meet all of the requirements requested in this RFP and the successful Offeror (Contractor) shall remain responsible for Contract performance regardless of Subcontractor participation in the work.
		5. Amounts provided within the RFP are estimates only and are not a guarantee of any minimum or maximum amounts under this Contract(s).

## Background and Purpose

**2.2.1** **Background**

The MLGCA, an independent agency of the State of Maryland, began operations in January, 1973. Over the last forty-five years it has grown tremendously, while also frequently evolving to adapt to the challenging retail environment. The mission of the MLGCA is to raise revenue for the State’s good causes and MLGCA is now the fourth largest contributor to the State’s General Fund behind individual, corporate, and sales and use taxes. While raising revenue is its top priority, the MLGCA recognizes the importance of satisfying the public’s appetite for fun and entertaining games of chance which has led to the popularity and stability of the brand for more than four decades. The brand enjoys broad appeal, as approximately 71% of adult Marylanders have played the Lottery within the past 12 months. Even those who don’t play regularly view the MLGCA positively.

Televising the Drawings is beneficial in helping the MLGCA achieve its business objectives, to raise awareness of the Lottery among consumers and viewers, and to enhance confidence in the Drawing process by providing transparency. The functionality, appearance and dependability of the Drawing Machines are a key element in this process.

Drawing machines serve two important purposes for the MLGCA:

1. Drawing machines shall provide the functionality to enable the MLGCA to conduct each and every one of its daily, bi-weekly and weekly Drawings with accuracy and efficiency.
2. In addition to functionality, the Drawing machines shall be visually appealing. In an age where the public is media savvy, Drawing machines must be designed for aesthetic appeal using sleek, contemporary and sophisticated components in their design.

All of the visual elements in the television drawing studio where the Drawing machines will be utilized must mirror the aesthetics and high-production quality of current game shows in order to ensure that the public’s perception of MLGCA drawings is one of trust and confidence. The set is configured for high-definition television (HDTV) broadcasts using a virtual set design, including a backdrop and lighting specially designed for HDTV. Viewers, anxious to see if they hold the winning numbers, closely watch the balls ascend each tube in the Drawing machines, making those machines the star performers and thus, the most critical elements of this show. A Drawing set design and machines of noticeably lower quality than other programming will create mistrust and discourage viewers from tuning in to the Drawings.

## 2.3 Scope of Work - Requirements

**In response to Sections 2.3.1, 2.3.2, and 2.3.3 below, the Offeror must provide in its proposal a statement of intent to comply with the terms, conditions, and requirements of those specifications.**

**2.3.1 GENERAL REQUIREMENTS**

2.3.1.1The following sections describe the **SCOPE OF WORK** for the providing of Lottery Drawing machines and Related Maintenance Services. The Scope of Work is divided into Section 2.3.1- General Requirements; Section 2.3.2 – Services Required – Drawing machines and Ball Sets; and, Section 2.3.3 – Services Required – Maintenance and Repair.

2.3.1.2 The Contractor shall deliver all requirements outlined in this RFP, including this Section 2.3, and shall be responsible for all technical functionality and business support.

**2.3.2 SERVICES REQUIRED – DRAWING MACHINES AND BALL SETS**

The Contractor shall perform all requirements specified in this Section 2.3.2.

**2.3.2.1. Drawing Machines to be Provided**

The Contractor shall provide a total of six (6) Drawing machines of the following types:

* Pick 3 Drawing machines – Quantity = 2
* Pick 4 Drawing machines – Quantity = 2
* Bonus Match 5 Drawing machine – Quantity = 1
* Multi-Match/5 Card Cash Drawing machine – Quantity = 1

**2.3.2.2. Drawing Machine Specifications**

Each Drawing machine provided by the Contractor shall:

1. Meet all specifications stated in Appendix 2;
2. Be an off-the-shelf fully operational and tested model, and not a model in the concept or design stage;
3. Be new and not have been used for demonstration purposes;
4. Be delivered and installed not later than June 1, 2019 to the facility of the MLGCA’s Televised Drawings of Lottery Draw Games and Related Services Contractor (#2017-02), Hearst Stations, Inc., WBAL Division, 3800 Hooper Avenue, Baltimore, MD 21211;
5. Be fully operational upon delivery; and,
6. Be accompanied by the appropriate Ball Sets as described in Appendix 2.

**2.3.2.3. Training**

The Contractor shall provide all training necessary to the MLGCA’s staff to ensure that they are fully capable of operating the Drawing machines and shall also provide any operation or training documents necessary.

**2.3.2.4. Warranty**

The Contractor shall provide a warranty covering each Drawing machine for a minimum period of two (2) years from the date of acceptance by the MLGCA, as determined at the MLGCA’s sole discretion. The warranty shall cover all parts and labor (including travel) necessary for any repairs to the machine as well as a preventive maintenance program with periodic servicing of the machine at a minimum of once every three (3) months. The Contractor shall provide emergency repair service twenty-four (24) hours per day, seven (7) days a week, including weekends and holidays. Upon notification by the MLGCA of the need for repair of the Drawing machine, the Contractor shall respond within two (2) hours. If telephone consultation cannot resolve the problem, the Contractor shall provide a technician on-site within four (4) hours of notification for emergency repairs or within forty-eight (48) hours for non-emergency repairs.

**2.3.3 SERVICES REQUIRED – MAINTENANCE AND REPAIR**

The Contractor shall provide Maintenance and Repair Services, to include preventive maintenance, repair service, repair parts and emergency repair services, to the MLGCA’s Drawing machines as set forth in this Contract and as specified below.

**2.3.3.1 General Requirements**

The Contractor shall:

1. Furnish all labor, supplies, repair/replacement parts, and equipment necessary to maintain and repair all new Drawing machines provided under this Contract as well as the Drawing machines currently in the MLGCA’s inventory as specified in Appendix 3.

B. Perform all work in a neat and professional manner to the satisfaction of the MLGCA. All unacceptable replacement or repair parts shall be removed and satisfactorily replaced at no additional cost to the MLGCA. (See also Section 2.3.3.8)

C. Maintain and provide repair/replacement parts for all Drawing machines and stock spare parts or be capable of obtaining parts within twenty-four (24) hours. The Contractor shall use only new parts, certified exact replacement parts, or refurbished parts that are like new for all repair work performed.

D. Be responsible for the full-setup and installation of all parts and components and for the disconnection and reconnection of all peripheral items to a Drawing machine.

E. Not modify any Drawing machine without prior written approval by the MLGCA.

F. Perform functional operations testing at the specified locations for each on-site visit for preventive maintenance and repairs so that the MLGCA’s Drawings Manager can verify and approve completed preventive maintenance services and repairs.

G. Repair any damage to buildings or other equipment caused by the Contractor during the maintenance and repair of Drawing machines at no additional cost to the MLGCA.

H. Maintain preventive maintenance and repair records for each Drawing machine for the duration of the Contract. The Contractor shall provide to the MLGCA monthly, by the tenth (10th) day of the month following the month for which data is being reported, a report itemizing the telephonic and electronic consultations, preventive maintenance visits, non-emergency repair service calls, and emergency repair service calls performed during the month. Reports shall include date, time in, time out, name and title of MLGCA representative who reported the problem, description of problem, Machine number/identification, and resolution of the problem (i.e. cleared by telephonic consultation, or a detailed description of maintenance or service repair performed, list of parts used, and name of service technician.)

**2.3.3.2 Periodic Preventive Maintenance Service Visits**

A. The Contractor shall conduct periodic preventive maintenance service on each Drawing machine, whether the Drawing machine is located at the MLGCA’s headquarters or television Contractor’s facility, as applicable. This preventive maintenance service cycle shall be conducted once during every three (3) month period for the new Drawing machines provided under this Contract and once during every six (6) month period for the existing Drawing machines currently in the MLGCA’s inventory.

B. The Contractor shall submit to the MLGCA within ten (10) days after Contract award for its review and approval a preventive maintenance service plan which shall ensure that the life-cycle maintenance for each Drawing machine is maintained in accordance with manufacturer’s suggested specifications and the industry’s best practices. The preventive maintenance plan shall include, at a minimum, for each Drawing machine:

(1) Examine, clean, adjust, and lubricate all moving parts and motors for proper operation and, as needed, replace or refurbish these parts and components during this visit.

(2) Examine, clean, and adjust all switches and remote control devices, electronic or electrical parts, connections, and lines for proper operation and, as needed, replace or refurbish these parts and components during this visit. Check static eliminator for proper operation.

(3) Examine, clean, adjust and check for proper pressure all air compressors, blowers, vacuums, hoses, connections, and lines for proper operation and, as needed, replace or refurbish these parts and components during this monthly visit.

(4) Examine, clean, adjust, and, as needed, replace all acrylic chambers, stands, cabinets, and wheel base assembly, as well as associated component parts for proper operation during this visit.

(5) Inspect for signs of worn or defective component parts to prevent future damage or failure.

(6) Provide, included in the price for preventive maintenance services, all parts and supplies required for routine preventive maintenance services.

**2.3.3.3 Telephonic Consultation For Diagnosis & Troubleshooting**

A. The Contractor shall provide access to its technical support/repair center for telephonic consultation service calls via a local or 800-toll free telephone number. The support center shall be staffed to provide unlimited emergency telephonic consultation support to the MLGCA Drawings Manager seven (7) days a week from 7:00 a.m. to 12:00 midnight (Local Time).

1. The Contractor shall immediately provide telephonic technical assistance with diagnosing, troubleshooting, and advising MLGCA staff regarding repairing Drawing machines that do not perform according to the manufacturer’s instructions and specifications.
2. If telephonic consultation cannot resolve the problem, Contractor shall dispatch a service technician for on-site repair of the Machine as specified in subsections 2.3.3.4 and 2.3.3.5 below.

**2.3.3.4 Non-Emergency Repair Service Calls**

A. Upon being notified of a problem, the Contractor shall respond to oral or written non-emergency repair service calls within two (2) hours and arrive on-site at the specified location within forty-eight (48) hours after receipt of notification by the MLGCA to restore a Machine to functional operation.

B. Once dispatched to the Drawing machine’s location, the Contractor, supervised by a Lottery Official, shall immediately begin problem resolution and repair services to the Drawing machine and restore it to functional operation within two (2) hours after arrival on-site. If parts must be ordered to complete non-emergency repair services, the Contractor shall request a written waiver of the two (2) hour requirement, as necessary. The Contractor shall provide information on the parts required and the date on which the repairs will be completed.

* + - 1. **Emergency Repair Service Calls**

A. The Contractor shall provide emergency repair services calls, as requested by the MLGCA, twenty-four (24) hours a day, seven (7) days a week, to include weekends and holidays. The Drawings schedule listed below, which is subject to change during the Contract term, outlines the days and approximate times of the MLGCA’s Drawings and represents time periods for which emergency repair service may be required.

 **DRAWING SCHEDULE**

 **Drawing Days Times\_\_\_\_**

**Pick 3 & Pick 4 Midday Mon. – Sat. 12:27 p.m.**

 **Sun 12:28 p.m.**

**Pick 3 & Pick 4 Evening Mon. – Sat. 7:57 p.m.**

 **Sun. 8:22 p.m.**

**Bonus Match 5 Mon. – Sat. 7:58 p.m.**

 **Sun. 8:22 p.m.**

**Multi-Match Mon. & Thurs. 11:22 p.m.**

**5 Card Cash Mon. – Sun. 7:30 p.m.**

B. The Contractor shall respond to oral or written emergency repair service calls regarding an inoperable Drawing machine within two (2) hours and arrive on-site at the specified location within four (4) hours after receipt of notification by the MLGCA.

C. Once dispatched to the Drawing machine’s location, the Contractor shall immediately begin problem resolution and repair services to it and restore it to functional operation within two (2) hours after arrival on-site. If parts must be ordered to complete repair services, the Contractor shall request a waiver of the two (2) hour requirement, as necessary. The Contractor shall provide information on the parts required and the date on which the emergency repairs will be completed.

**2.3.3.6 Warranty**

The Contractor shall fully warranty all parts, products and labor supplied under this Contract for a minimum period of one (1) year from the date of installation and acceptance by the MLGCA, as determined at the MLGCA’s sole discretion. Any defects of design, workmanship, or materials that results in non-compliance with the Contract specifications shall be fully corrected by the Contractor (including parts, labor, travel and shipping cost) without cost to the MLGCA.

**2.3.3.7 Location of Machines**

The Contractor shall perform all maintenance and repair services required by this Contract at the present locations of the Drawing machines which, as specified in Appendix 3, are 1) the MLGCA’s headquarters, located at 1800 Washington Boulevard, Suite 330, Baltimore, MD 21230; and, 2) the facility of the MLGCA’s television Contractor, which is presently WBAL TV11 located at Television Hill, 3800 Hooper Avenue, Baltimore, Maryland 21211, or at any other location within the Baltimore metropolitan region as may be specified by the MLGCA during the term of this Contract.

**2.3.3.8 Removal of Defective Work**

Any work or materials which do not conform to the requirements of the Contract, whether the result of poor workmanship, use of defective materials, damage through carelessness, design error or omission by the Contractor or its subcontractors and suppliers at any tier, or any other cause, shall be promptly removed and replaced by the Contractor with work and materials which shall conform to the Contract requirement or shall be remedied otherwise in an acceptable manner authorized by the Procurement Officer. Upon failure by the Contractor to comply promptly with the provisions of this section, the MLGCA shall have authority to cause defective, unauthorized, or unacceptable work to be remedied, removed, or replaced at the Contractor’s expense.

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**SECTION 3 – CONTRACTOR REQUIREMENTS: GENERAL REQUIREMENTS**

## 3.1 Insurance Requirements

3.1.1 The Contractor shall maintain Commercial General Liability Insurance to cover losses resulting from, or arising out of, Contractor action or inaction in the performance of the Contract by the Contractor, its agents, servants, employees, or Subcontractors, with minimum limits of $100,000 per occurrence and $300,000 aggregate.

3.1.2 The Contractor shall maintain Automobile and/or Commercial Truck Insurance (including owned, leased, hired, and non-owned vehicles) as appropriate with Liability, Collision, and PIP limits no less than those required by the State where the vehicle(s) is registered, but in no case less than those required by the State of Maryland.

3.1.3 Within five (5) Business Days of recommendation for Contract award, and before any work begins, the Contractor shall provide the Procurement Officer with current certificates of insurance, and update such certificates periodically, but no less than annually in multi-year contracts, as directed by the Contract Monitor. Such copy of the Contractor’s current certificate of insurance shall contain at minimum the following:

a. Workers’ Compensation – The Contractor shall maintain such insurance as necessary and/or required under Workers’ Compensation Acts, the Longshore and Harbor Workers’ Compensation Act, and the Federal Employers’ Liability Act, to not be less than one million dollars ($1,000,000) per occurrence (unless a state’s law requires a greater amount of coverage). Coverage must be valid in all states where work is performed.;

b. Commercial General Liability as required in Section 3.1.1; and

d. Automobile and/or Commercial Truck Insurance as required in Section 3.1.2.

3.1.4 The State shall be listed as an additional insured on the faces of the certificates associated with the coverages listed above, including umbrella policies, excluding Workers’ Compensation Insurance and professional liability.

3.1.5 All insurance policies shall be endorsed to include a clause requiring the insurance carrier provide the Procurement Officer, by certified mail, not less than 30 days’ advance notice of any non-renewal, cancellation, or expiration. The Contractor shall notify the Procurement Officer in writing, if policies are cancelled or not renewed within five (5) days of learning of such cancellation or nonrenewal. The Contractor shall provide evidence of replacement insurance coverage to the Procurement Officer at least 15 days prior to the expiration of the insurance policy then in effect.

3.1.6 Any insurance furnished as a condition of the Contract shall be issued by a company authorized to do business in the State.

3.1.7 The recommended awardee must provide current certificate(s) of insurance with the prescribed coverages, limits and requirements set forth in this section within five (5) Business Days from notice of recommended award. During the period of performance for multi-year contracts, the Contractor shall provide certificates of insurance annually, or as otherwise directed by the Contract Monitor.

3.1.7 Subcontractor Insurance: The Contractor shall require any subcontractors to obtain and maintain comparable levels of coverage and shall provide the Contract Monitor with the same documentation as is required of the Contractor.

## 3.2 Security Requirements

3.2.1 **Employee Identification**

1. Each person who is an employee or agent of the Contractor or Subcontractor shall display his or her company ID badge at all times while on State premises. Upon request of authorized State personnel, each such employee or agent shall provide additional photo identification.
2. At all times at any facility, the Contractor’s personnel shall cooperate with State site requirements that include but are not limited to being prepared to be escorted at all times, providing information for badge issuance, and wearing the badge in a visible location at all times.
	* 1. **Contingency/Disaster Recovery Plans**
3. The Contractor and any relevant Subcontractor(s) shall have robust contingency and disaster recovery plans in place to ensure that the services provided under this Contract will be maintained in the event of disruption to the Contractor/Subcontractor’s operations (including, but not limited to, disruption to information technology systems), however caused.
4. The contingency and disaster recovery plans shall be designed to ensure that services under this Contract are restored after a disruption within 24 hours in order to avoid unacceptable consequences due to the unavailability of services.
5. The Contractor and any relevant Subcontractor(s) shall test the contingency/disaster recovery plans at least twice annually to identify any changes that need to be made to the plan(s) to ensure a minimum interruption of service. Coordination shall be made with the State to ensure limited system downtime when testing is conducted. At least one annual test shall include backup media restoration and failover / fallback operations.
6. Such contingency and disaster recovery plans shall be available for the MLGCA to inspect and practically test at any reasonable time, and subject to regular updating, revising, and testing throughout the term of the Contract.

## 3.3 Problem Escalation Procedure

3.3.1 The Contractor shall provide and maintain a Problem Escalation Procedure (PEP) for both routine and emergency situations. The PEP shall state how the Contractor will address problem situations as they occur during the performance of the Contract, especially problems that are not resolved to the satisfaction of the MLGCA within appropriate timeframes.

3.3.2 The Contractor shall provide contact information to the Contract Monitor, as well as to other MLGCA personnel as directed, should the Contract Monitor not be available.

3.3.3 The Contractor shall provide the PEP no later than ten (10) Business Days after notice of recommended award. The PEP, including any revisions thereto, must also be provided within ten (10) Business Days after the start of each Contract year and within ten (10) Business Days after any change in circumstance which changes the PEP. The PEP shall detail how problems with work under the Contract will be escalated in order to resolve any issues in a timely manner. The PEP shall include:

1. The process for establishing the existence of a problem;
2. Names, titles, and contact information for progressively higher levels of personnel in the Contractor’s organization who would become involved in resolving a problem;
3. For each individual listed in the Contractor’s PEP, the maximum amount of time a problem will remain unresolved with that individual before the problem escalates to the next contact person listed in the Contractor’s PEP;
4. Expedited escalation procedures and any circumstances that would trigger them;
5. The method of providing feedback on resolution progress, including the frequency of feedback to be provided to the MLGCA;
6. Contact information for persons responsible for resolving issues after normal business hours (e.g., evenings, weekends, holidays, etc.) and on an emergency basis; and
7. A process for updating and notifying the Contract Monitor of any changes to the PEP.

3.3.4 Nothing in this section shall be construed to limit any rights of the Contract Monitor or the MLGCA which may be allowed by the Contract or applicable law.

## 3.4 Invoicing

3.4.1 **General**

1. All invoices for services shall be verified by the Contractor as accurate at the time of submission, signed by the Contractor and submitted to the Contract Monitor.
2. All invoices must be a Proper Invoice (as defined at COMAR 21.06.09.01 and .02) and shall include the following information, without error:
3. Contractor name and address;
4. Remittance address;
5. Federal taxpayer identification number (or if sole proprietorship, the individual’s social security number);
6. Invoice period (i.e. time period during which services covered by invoice were performed);
7. Invoice date;
8. Invoice number;
9. State assigned Contract number;
10. State assigned (Blanket) Purchase Order number(s);
11. Detailed back-up to support all charges, including signed estimates or authorizations, documentation from Subcontractors, etc.; and
12. Amount due.

Invoices submitted without the required information cannot be processed for payment until the Contractor provides the required information.

3.4.2 **Travel**

The MLGCA does not reimburse for travel related expenses to include, but not limited to, maintenance/repair or delivery to the MLGCA headquarters, the TV Drawings station, or any other location.

3.4.3 The MLGCA reserves the right to reduce or withhold Contract payment in the event the Contractor does not provide the MLGCA with all required deliverables within the time frame specified in the Contract or otherwise breaches the terms and conditions of the Contract until such time as the Contractor brings itself into full compliance with the Contract. Also see the “Living Wage” provision of the Contract, if applicable, which allows for withholding of payment under certain circumstances. Any action on the part of the MLGCA, or dispute of action by the Contractor, shall be in accordance with the provisions of Md. Code Ann., State Finance and Procurement Article §§ 15-215 through 15-223 and with COMAR 21.10.04.

3.4.4 See also Attachment M – Contract, Paragraph #4, for additional information regarding Invoices.

## 3.5 SOC 2 Type 2 Audit Report

Not Applicable

## 3.6 MBE Reports

Not Applicable

## 3.7 VSBE Reports

Not Applicable

## 3.8 Liquidated Damages

3.8.1 **General** - It is agreed by the Contractor and the MLGCA that:

1. If the Contractor does not provide or perform the requirements specified in Section 3.8.5, damage(s) to the MLGCA will result.
2. Proving such damage(s) will be costly, difficult, and time consuming.
3. The damage figures listed below represent a good-faith effort to quantify the range of harm that could reasonably be anticipated at the time of the making of the Contract and is not considered a penalty.
4. Liquidated damages shall become due within thirty (30) calendar days after written notification by the MLGCA to the Contractor. The MLGCA may, at its sole discretion, deduct liquidated damages from payments due to the Contractor, and such deduction(s) shall not be a ground upon which the Contractor may file a contract dispute. The Contractor’s surety shall be liable under the Performance Bond for all liquidated damages assessed against the Contractor.
5. Nothing in this provision shall be construed as relieving the Contractor from performing all Contract requirements whether listed herein or not, nor is the MLGCA’s right to enforce or to seek other remedies from failure to perform any other Contract duty hereby diminished.
6. Remedies of the MLGCA specified in this section or elsewhere in the Contract for breach or failure of performance by the Contractor shall in no way limit any other remedies available to the MLGCA under the Contract; under any statute or regulation; or at law or in equity including, without limitation, all remedies of a buyer under the Uniform Commercial Code. All rights, powers and remedies shall be cumulative and concurrent. Any failure of the MLGCA to exercise a remedy shall not be a waiver of any breach or non-performance by the Contractor nor shall it prevent the MLGCA from later exercising that or any other remedy.
7. The Contract will be used by the MLGCA to monitor Contractor performance and will provide the basis for determining liquidated damages.
	* 1. **Liquidated Damages Assessment: Collections, Withholds**
8. Once the MLGCA has determined that liquidated damages are to be assessed, the MLGCA Director shall notify the Contractor of the assessment (or assessments). At the Director’s discretion, the assessment notice may direct payment of the assessment by the Contractor. If payment is thus directed, the Contractor shall pay the assessment within thirty (30) calendar days of receipt of the assessment notice unless directed otherwise by the Director. If the Director determines that any damage was caused in part by the MLGCA, the Director shall reduce damage assessment against the Contractor proportionately.
9. Any liquidated damages assessment may also be collected, at the Director’s discretion, by withholding the funds from any payment (or payments) due the Contractor after the date of assessment.
	* 1. **Conditions for Termination of Liquidated Damages**

As determined appropriate by the Director, the following are the conditions under which the Contractor may obtain relief from the continued assessment of liquidated damages which have been imposed.

1. Except as waived by the Director, no liquidated damages imposed on the Contractor shall be terminated or suspended until the Contractor issues a written notice of correction to the Director verifying the correction of condition(s) for which liquidated damages were imposed.
2. The necessary level of documentation to verify corrections will be determined by the Director, who is the sole judge of the accuracy of any documentation provided.
3. The Contractor shall certify that each defect is corrected.
	* 1. **Severability of Individual Liquidated Damages Clauses**

If any portion of any provision on liquidated damages in this Contract is determined to be unenforceable in one or more of its applications, the remaining portion remains in effect in all applications not determined to be invalid that are severable from the invalid applications. If any portion of this liquidated damages provision is determined to be unenforceable in total, the other portions shall remain in full force and effect.

* + 1. **Damages Imposed**

3.8.5.1 Failure to Meet Required Delivery Date for Drawing Machine

In the event the Contractor fails to meet a required date for the completion or delivery of a Drawing machine, without the prior written approval of the MLGCA, the Director may impose liquidated damages in the amount of up to Five Hundred Dollars ($500.00) per day for each day that the Contractor does not meet the specified completion or delivery date.

3.8.5.2 Failure to Arrive On-Site: Non-Emergency Repair

In the event the Contractor fails to arrive on-site at a specified location within forty-eight (48) hours after receipt of a non- emergency repair service call from the MLGCA, the Director may impose liquidated damages of Two Hundred Fifty Dollars ($250.00) for each day or fraction thereof during which the Contractor fails to arrive on-site.

3.8.5.3 Failure to Arrive On-Site: Emergency Repair

In the event the Contractor fails to arrive on-site at a specified location within four (4) hours after receipt of an emergency repair service call from the MLGCA, the Director may impose liquidated damages of Five Hundred Dollars ($500.00) for each day or fraction thereof during which the Contractor fails to arrive on-site.

3.8.5.4 Failure to Make Machine Operable

In the event the Contractor fails to make a Machine operable within twenty-four (24) hours after arrival on-site at the Machine’s location, the Director may impose liquidated damages of Two Hundred Fifty Dollars ($250.00) for each day or fraction thereof during which the Contractor is unable to make any Machine operable.

* + 1. **MBE Liquidated Damages**

Inapplicable because there is no MBE goal for this RFP.

## 3.9 End of Contract Transition

The Contractor shall cooperate in the orderly transition of services from the Contract awarded under this RFP to any subsequent contract for similar services. The transition period shall begin ninety (90) days before the Contract end date, or the end date of any final exercised option or contract extension. The Contractor shall work toward a prompt and timely transition, proceeding in accordance with the directions of the Contract Monitor.  The Contract Monitor may provide the Contractor with instructions to meet specific transition requirements prior to the end of Contract.

## 3.10 Substitution of Personnel

3.10.1 **Continuous Performance of Key Personnel**

Unless substitution is approved per paragraphs 3.10.2-3.10.4 of this section, Key Personnel shall be the same personnel proposed in the Contractor’s Technical Proposal, which will be incorporated into the Contract by reference. Such identified Key Personnel shall perform continuously for the duration of the Contract, or such lesser duration as specified in the Technical Proposal. Key Personnel may not be removed by the Contractor from working under this Contract, as described in the RFP or the Contractor’s Technical Proposal, without the prior written approval of the Contract Monitor.

If the Contract is task order based, the provisions of this section apply to Key Personnel identified in each task order proposal and agreement.

3.10. 2 **Definitions**

For the purposes of this section, the following definitions apply:

**Extraordinary Personal Circumstance** – Any circumstance in an individual’s personal life that reasonably requires immediate and continuous attention for more than fifteen (15) days and precludes the individual from performing his/her job duties under this Contract. Examples of such circumstances may include, but are not limited to: a sudden leave of absence to care for a family member who is injured, sick, or incapacitated; the death of a family member, including the need to attend to the estate or other affairs of the deceased or his/her dependents; substantial damage to, or destruction of, the individual’s home that causes a major disruption in the individual’s normal living circumstances; criminal or civil proceedings against the individual or a family member; jury duty; and military service call-up.

**Incapacitating** – Any health circumstance that substantially impairs the ability of an individual to perform the job duties described for that individual’s position in the RFP or the Contractor’s Technical Proposal.

**Sudden** – When the Contractor has less than thirty (30) days’ prior notice of a circumstance beyond its control that will require the replacement of any Key Personnel working under the Contract.

3.10.3 **Key Personnel General Substitution Provisions**

The following provisions apply to all of the circumstances of staff substitution described in paragraph 3.10.4 of this section.

1. The Contractor shall demonstrate to the Contract Monitor’s satisfaction that the proposed substitute Key Personnel have qualifications at least equal to those of the Key Personnel proposed to be replaced.
2. The Contractor shall provide the Contract Monitor with a substitution request that shall include:
3. A detailed explanation of the reason(s) for the substitution request;
4. The resume of the proposed substitute personnel, signed by the substituting individual and his/her formal supervisor;
5. The official resume of the current personnel for comparison purposes; and
6. Any evidence of any required credentials.
7. The Contract Monitor may request additional information concerning the proposed substitution. In addition, the Contract Monitor and/or other appropriate State personnel involved with the Contract may interview the proposed substitute personnel prior to deciding whether to approve the substitution request.
8. The Contract Monitor will notify the Contractor in writing of: (i) the acceptance or denial, or (ii) contingent or temporary approval for a specified time limit, of the requested substitution. The Contract Monitor will not unreasonably withhold approval of a proposed Key Personnel replacement.

3.10.4 **Replacement Circumstances**

* + - 1. **Voluntary Key Personnel Replacement**. To voluntarily replace any Key Personnel, the Contractor shall submit substitution request as described in paragraph 3.10.3 of this section to the Contract Monitor at least fifteen (15) days prior to the intended date of change. Except in a circumstance described in paragraph 3.10.4 (2) of this clause, a substitution may not occur unless and until the Contract Monitor approves the substitution in writing.
			2. **Key Personnel Replacement Due to Vacancy**. The Contractor shall replace Key Personnel whenever a vacancy occurs due to the sudden termination, resignation, leave of absence due to an Extraordinary Personal Circumstance, Incapacitating injury, illness or physical condition, or death of such personnel. (A termination or resignation with thirty (30) days or more advance notice shall be treated as a Voluntary Key Personnel Replacement as per Subection 3.10.4.1 of this section.).

Under any of the circumstances set forth in this paragraph 3.10.4.2, the Contractor shall identify a suitable replacement and provide the same information or items required under paragraph 3.10.3 of this section within fifteen (15) days of the actual vacancy occurrence or from when the Contractor first knew or should have known that the vacancy would be occurring, whichever is earlier.

* + - 1. **Key Personnel Replacement Due to an Indeterminate Absence**. If any Key Personnel has been absent from his/her job for a period of ten (10) days due to injury, illness, or other physical condition, leave of absence under a family medical leave, or an Extraordinary Personal Circumstance and it is not known or reasonably anticipated that the individual will be returning to work within the next twenty (20) days to fully resume all job duties, before the 25th day of continuous absence, the Contractor shall identify a suitable replacement and provide the same information or items to the Contract Monitor as required under paragraph 3.10.3 of this section.

However, if this person is available to return to work and fully perform all job duties before a replacement has been authorized by the Contract Monitor, at the option and sole discretion of the Contract Monitor, the original personnel may continue to work under the Contract, or the replacement personnel will be authorized to replace the original personnel, notwithstanding the original personnel’s ability to return.

* + - 1. **Directed Personnel Replacement**.

3.10.4.4.1 The Contract Monitor may direct the Contractor to replace any personnel who, in the sole discretion of the Contract Monitor, are perceived as being unqualified, non-productive, unable to fully perform the job duties due to full or partial Incapacity or Extraordinary Personal Circumstances, disruptive, or known, or reasonably believed, to have committed a major infraction(s) of law, MLGCA policies, or Contract requirements. Normally, a directed personnel replacement will occur only after prior notification of problems with requested remediation, as described in paragraph 3.10.4.4.2. If after such remediation the Contract Monitor determines that the personnel performance has not improved to the level necessary to continue under the Contract, if at all possible at least fifteen (15) days notification of a directed replacement will be provided. However, if the Contract Monitor deems it necessary and in the State’s best interests to remove the personnel with less than fifteen (15) days’ notice, the Contract Monitor can direct the removal in a timeframe of less than fifteen (15) days, including immediate removal.

In circumstances of directed removal, the Contractor shall, in accordance with paragraph 3.10.3 of this section, provide a suitable replacement for approval within fifteen (15) days of the notification of the need for removal, or the actual removal, whichever occurs first.

* 1. If deemed appropriate in the discretion of the Contract Monitor, the Contract Monitor may give written notice of any Contractor Personnel performance issues to the Contractor, describing the problem and delineating the remediation requirement(s). The Contractor shall provide a written response to the remediation requirements in a Remediation Plan within ten (10) days of the date of the notice and shall immediately implement the Remediation Plan upon written acceptance by the Contract Monitor. If the Contract Monitor rejects the Remediation Plan, the Contractor shall revise and resubmit the plan to the Contract Monitor within five (5) days, or in the timeframe set forth by the Contract Monitor in writing.

Should performance issues persist despite the approved Remediation Plan, the Contract Monitor may give written notice of the continuing performance issues and either request a new Remediation Plan within a specified time limit or direct the substitution of Contractor Personnel whose performance is at issue with a qualified substitute, including requiring the immediate removal of the Contractor Personnel at issue.

Replacement or substitution of Contractor Personnel under this section shall be in addition to, and not in lieu of, the State’s remedies under the Contract or which otherwise may be available at law or in equity.

# SECTION 4 – Procurement instructions

## 4.1 Pre-Proposal Conference

4.1.1 A Pre-Proposal Conference (Conference) will be held at the date, time, and location indicated on the RFP Key Information Summary Sheet (near the beginning of the RFP, after the Title Page and Vendor Feedback Form).

4.1.2 Attendance at the Conference is not mandatory, but all interested parties are encouraged to attend in order to facilitate better preparation of their Proposals.

4.1.3 The Conference will be summarized. As promptly as is feasible after the Conference, a summary of the Conference and all questions and answers known at that time will be distributed to all prospective Offerors known to have received a copy of this RFP. This summary, as well as the questions and answers, will also be posted on eMaryland Marketplace (See Section 4.2) and the MLGCA’s website (mdlottery.com).

4.1.4 In order to assure adequate seating and other accommodations at the Conference, please e-mail or fax the Pre-Proposal Conference Response Form (**Attachment A**) to the attention of the Procurement Officer at least five (5) Business Days prior to the Pre-Proposal Conference date. In addition, if there is a need for sign language interpretation and/or other special accommodations due to a disability, please notify the Procurement Officer at least five (5) Business Days prior to the Pre-Proposal Conference date. The MLGCA will make a reasonable effort to provide such special accommodation.

## 4.2 eMaryland Marketplace

4.2.1 Each Offeror shall indicate its eMaryland Marketplace (eMM) vendor number in the Transmittal Letter (cover letter) submitted at the time of its Proposal submission to this RFP.

4.2.2 eMM is an electronic commerce system for the State of Maryland. In addition to using the MLGCA website (mdlottery.com) and possibly other means for transmitting the RFP and associated materials, the RFP, the summary of the Pre-Proposal Conference, Offeror questions and Procurement Officer’s responses, amendments, and other RFP-related information will be made available via eMM.

4.2.3 In order to receive a contract award, a vendor must be registered on eMM. Registration is free. Go to <https://emaryland.buyspeed.com/bso/login.jsp>, click on “Register” to begin the process, and then follow the prompts.

## 4.3 Questions

4.3.1 Written questions from prospective Offerors will be accepted by the Procurement Officer prior to the Conference. If possible and appropriate, such questions will be answered at the Conference. (No substantive question will be answered prior to the Conference.) Questions to the Procurement Officer shall be submitted via e-mail to the Procurement Officer’s e-mail address indicated on the RFP Key Information Summary Sheet (near the beginning of the solicitation, after the Title Page and Vendor Feedback Form). Identify in the subject line the RFP Number and Title. Questions, both oral and written, will also be accepted from prospective Offerors attending the Conference. If possible and appropriate, these questions will be answered at the Conference.

4.3.2 Questions will also be accepted subsequent to the Conference and should be submitted to the Procurement Officer via email in a timely manner prior to the Proposal due date. Questions are requested to be submitted at least five (5) days prior to the Proposal due date. The Procurement Officer, based on the availability of time to research and communicate an answer, shall decide whether an answer can be given before the Proposal due date. Time permitting, answers to all substantive questions that have not previously been answered, and are not clearly specific only to the requestor, will be distributed to all vendors that are known to have received a copy of the RFP in sufficient time for the answer to be taken into consideration in the Proposal.

4.3.3 The statements and interpretations contained in responses to any questions, whether responded to verbally or in writing, are not binding on the MLGCA unless it issues an amendment in writing.

## 4.4 Procurement Method

This Contract will be awarded in accordance with the Competitive Sealed Proposals method under COMAR 21.05.03.

## 4.5 Proposals Due (Closing) Date and Time

4.5.1 Proposals, in the number and form set forth in RFP Section 5.2 “Proposals” must be received by the Procurement Officer at the Procurement Officer’s address no later than the Proposal Due date and time indicated on the RFP Key Information Summary Sheet (near the beginning of the RFP, after the Title Page and Vendor Feedback Form) in order to be considered.

4.5.2 Requests for extension of this time or date will not be granted.

4.5.3 Offerors submitting Proposals should allow sufficient delivery time to ensure timely receipt by the Procurement Officer. Except as provided in COMAR 21.05.03.02.F and 21.05.02.10, Proposals received after the due date and time listed in the RFP Key Information Summary Sheet will not be considered.

4.5.4 Proposals may be modified or withdrawn by written notice received by the Procurement Officer before the time and date set forth in the RFP Key Information Summary Sheet for receipt of Proposals.

4.5.5 **Proposals may not be submitted by e-mail or facsimile. Proposals will not be opened publicly.**

4.5.6 Potential Offerors not responding to this RFP are requested to submit the “Vendor Feedback Form”, which includes company information and the reason for not responding(e.g., too busy, cannot meet mandatory requirements, etc.). This form is located in the RFP immediately following the Title Page (page ii).

## 4.6 Multiple or Alternate Proposals

Multiple and/or alternate Proposals will not be accepted.

## 4.7 Economy of Preparation

Proposals should be prepared simply and economically and provide a straightforward and concise description of the Offeror’s Proposal to meet the requirements of this RFP.

## 4.8 Public Information Act Notice

4.8.1 An Offeror should give specific attention to the clear identification of those portions of its Proposal that it considers confidential and/or proprietary commercial information or trade secrets, and provide justification why such materials, upon request, should not be disclosed by the State under the Public Information Act, Md. Code Ann., General Provisions Article, Title 4. (Also, see RFP Section 5.4.2.2 “Claim of Confidentiality”). This confidential and/or proprietary information should be identified by page and section number and placed after the Title Page and before the Table of Contents in the Technical Proposal and if applicable, separately in the Financial Proposal.

4.8.2 Offerors are advised that, upon request for this information from a third party, the Procurement Officer is required to make an independent determination whether the information must be disclosed.

## 4.9 Award Basis

The Contract(s) shall be awarded to the responsible Offeror(s) submitting the Proposal that has been determined to be the most advantageous to the State, considering price and evaluation factors set forth in this RFP (see COMAR 21.05.03.03F), for providing the goods and services as specified in this RFP. See RFP Section 6 for further award information.

## 4.10 Oral Presentation/Site Visits/Presentation of Functional Area Assignments

4.10.2 Oral Presentations

During the evaluation process, Offerors may be required to make individual oral presentations and demonstration of equipment to State representatives. Submission of a proposal does not guarantee an Offeror the opportunity to be invited to participate in oral presentations or discussions. An Offeror’s presentation must include the key staff that would be assigned to this project if awarded the Contract.

4.10.3 Site Visits

The Evaluation Committee may make site visit(s) to the Offeror’s place of business or other location where Offeror is providing similar machines and services to a third party.

4.10.4 Scheduling

The Procurement Officer will notify Offerors of the time, place, procedure, scope, and format for any oral presentations, discussions, demonstrations and/or site visit(s) that may be required. These events may be scheduled concurrently or separately at the MLGCA’s discretion. An Offeror’s failure to promptly comply and cooperate with these requirements could result in its proposal being rejected and eliminated from further consideration.

4.10.5 Representations

Oral presentations are considered part of the Technical Proposal. Offerors must confirm in writing any substantive oral clarification of, or change in, their Proposals made in the course of discussions, oral presentations, demonstrations and site visits. Any such written clarifications or changes then become part of the Offeror’s Proposal and are binding if the Contract is awarded.

## 4.11 Duration of Proposal

Proposals submitted in response to this RFP are irrevocable for 180 days following the closing date for submission of Proposals or best and final offers (see Section 6.5.2.5) if requested. This period may be extended at the Procurement Officer’s request only with the Offeror’s written agreement.

## 4.12 Revisions to the RFP

4.12.1 If the RFP is revised before the due date for Proposals, the MLGCA shall post any amendments to the RFP on eMM and shall endeavor to provide such amendments to all prospective Offerors that were sent this RFP or are otherwise known by the Procurement Officer to have obtained this RFP. It remains the responsibility of all prospective Offerors to check eMM for any amendments issued prior to the submission of Proposals.

4.12.2 Acknowledgment of the receipt of all amendments to this RFP issued before the Proposal due date shall be included in the Transmittal Letter accompanying the Offeror’s Technical Proposal.

4.12.3 Amendments made after the due date for Proposals will be sent only to those Offerors that remain under award consideration as of the issuance date of the amendments.

4.12.4 Acknowledgement of the receipt of amendments to the RFP issued after the Proposal due date shall be in the manner specified in the amendment notice.

4.12.5 Failure to acknowledge receipt of an amendment does not relieve the Offeror from complying with the terms, additions, deletions, or corrections set forth in the amendment, and may cause the Proposal to be deemed not reasonably susceptible of being selected for award.

## 4.13 Cancellations

4.13.1 The State reserves the right to cancel this RFP, accept or reject any and all Proposals, in whole or in part, received in response to this RFP, waive or permit the cure of minor irregularities, and conduct discussions with all qualified or potentially qualified Offerors in any manner necessary to serve the best interests of the State. The State also reserves the right, in its sole discretion, to award a Contract based upon the written Proposals received without discussions or negotiations.

4.13.2 In the event a government entity proposes and receives the recommendation for award for the Contract resulting from this RFP, the procurement may be cancelled and the award processed as a Memorandum of Understanding in accordance with COMAR 21.01.03.01.A(4).

## 4.14 Incurred Expenses

The State will not be responsible for any costs incurred by any Offeror in preparing and submitting a Proposal, in making an oral presentation, providing a demonstration, or performing any other activities related to submitting a Proposal in response to this RFP.

## 4.15 Protest/Disputes

Any protest or dispute related, respectively, to this RFP or the resulting Contract shall be subject to the provisions of COMAR 21.10 (Administrative and Civil Remedies).

## 4.16 Offeror Responsibilities

4.16.1 The selected Offeror(s) shall be responsible for all products and services required by this RFP. All Subcontractors must be identified and a complete description of their role relative to the Proposal must be included in the Offeror’s Proposal. If applicable, Subcontractors utilized in meeting the established MBE or VSBE participation goal(s) for this solicitation shall be identified as provided in the appropriate Attachment(s) to this RFP (see Section 4.26 “Minority Business Enterprise Goals” and Section 4.27 “Veteran-Owned Small Business Enterprise Goal”).

4.16.2 If an Offeror that seeks to perform or provide the services required by this RFP is the subsidiary of another entity, all information submitted by the Offeror, including but not limited to references, financial reports, or experience and documentation (e.g. insurance policies, bonds, letters of credit) used to meet minimum qualifications, if any, shall pertain exclusively to the Offeror, unless the parent organization will guarantee the performance of the subsidiary. If applicable, the Offeror shall submit with its Proposal an explicit statement, signed by an authorized representative of the parent organization, stating that the parent organization will guarantee the performance of the subsidiary.

4.16.3 A parental guarantee of the performance of the Offeror under this Section will not automatically result in crediting the Offeror with the experience and/or qualifications of the parent under any evaluation criteria pertaining to the Offeror’s experience and qualifications. Instead, the Offeror will be evaluated on the extent to which the State determines that the experience and qualification of the parent are transferred to and shared with the Offeror, the parent is directly involved in the performance of the Contract, and the value of the parent’s participation as determined by the State.

## 4.17 Mandatory Contractual Terms

By submitting a Proposal in response to this RFP, an Offeror, if selected for award, shall be deemed to have accepted the terms and conditions of this RFP and the Contract, attached herein as **Attachment M**. Any exceptions to this RFP or the Contract shall be clearly identified in the Executive Summary of the Technical Proposal. **All exceptions will be taken into consideration when evaluating the Offeror’s Proposal. The MLGCA reserves the right to accept or reject any exceptions. (see RFP Section 5.4.2.4).**

## 4.18 Proposal Affidavit

A Proposal submitted by an Offeror must be accompanied by a completed Proposal Affidavit. A copy of this Affidavit is included as **Attachment C** of this RFP.

## 4.19 Contract Affidavit

All Offerors are advised that if a Contract is awarded as a result of this RFP, the successful Offeror will be required to complete a Contract Affidavit, a copy which is included as **Attachment N** of this RFP. This Affidavit must be provided within five (5) Business Days of notification of recommended Contract award. The Contractor must also submit a Contract Affidavit with any Contract renewal, including the exercise of any options or modifications that may extend the Contract term. For purposes of completing Section “B” of this Affidavit (Certification of Registration or Qualification with the State Department of Assessments and Taxation), a business entity that is organized outside of the State of Maryland is considered a “foreign” business.

## 4.20 Compliance with Laws/Arrearages

4.20.1 By submitting a Proposal in response to this RFP, the Offeror(s), if selected for award, agrees that it will comply with all federal, State, and local laws applicable to its activities and obligations under the Contract.

4.20.2 By submitting a response to this RFP, each Offeror represents that it is not in arrears in the payment of any obligations due and owing the State, including the payment of taxes and employee benefits, and shall not become so in arrears during the term of the Contract if selected for Contract award.

## 4.21 Verification of Registration and Tax Payment

4.21.1 Before a business entity can do business in the State, it must be registered with the State Department of Assessments and Taxation (SDAT). SDAT is located at State Office Building, Room 803, 301 West Preston Street, Baltimore, Maryland 21201. For registration information, visit https://www.egov.maryland.gov/businessexpress.

4.21.2 It is strongly recommended that any potential Offeror complete registration prior to the Proposals due date and time. An Offeror’s failure to complete registration with SDAT may disqualify an otherwise successful Offeror from final consideration and recommendation for Contract award.

## 4.22 False Statements

Offerors are advised that Md. Code Ann., State Finance and Procurement Article, § 11-205.1 provides as follows:

(a) In connection with a procurement contract a person may not willfully:

(1) falsify, conceal, or suppress a material fact by any scheme or device;

(2) make a false or fraudulent statement or representation of a material fact; or

(3) use a false writing or document that contains a false or fraudulent statement or entry of a material fact.

(b) A person may not aid or conspire with another person to commit an act under subsection (a) of this section.

(c) A person who violates any provision of this section is guilty of a felony and on conviction is subject to a fine not exceeding $20,000 or imprisonment not exceeding 5 years or both.

## 4.23 Payments by Electronic Funds Transfer

By submitting a Proposal in response to this RFP, the Offeror(s), if selected for award:

4.23.1 Agrees to accept payments by electronic funds transfer (EFT) unless the State Comptroller’s Office grants an exemption. Payment by EFT is mandatory for contracts exceeding $200,000. The successful Offeror(s) shall register using the COT/GAD X-10 Vendor Electronic Funds (EFT) Registration Request Form.

4.23.2 Any request for exemption must be submitted to the State Comptroller’s Office for approval at the address specified on the COT/GAD X-10 form, must include the business identification information as stated on the form, and must include the reason for the exemption. The COT/GAD X-10 form may be downloaded from the Comptroller’s website at: <http://comptroller.marylandtaxes.com/Government_Services/State_Accounting_Information/Static_Files/APM/X-1020130407.pdf> .

## 4.24 Prompt Payment Policy

This procurement and the Contract(s) to be awarded pursuant to this solicitation are subject to the Prompt Payment Policy Directive issued by the Governor’s Office of Small, Minority & Women Business Affairs (GOSBA) and dated August 1, 2008. Promulgated pursuant to Md. Code Ann., State Finance and Procurement Article, §§ 11-201, 13-205(a), and Title 14, Subtitle 3, and COMAR 21.01.01.03 and 21.11.03.01, the Directive seeks to ensure the prompt payment of all subcontractors on non-construction procurement contracts. The Contractor shall comply with the prompt payment requirements outlined in the Contract, Section 31 “Prompt Pay Requirements” (see **Attachment** **M**), should an MBE goal apply to this RFP. Additional information is available on GOSBA’s website at: http://www.gomdsmallbiz.maryland.gov/documents/legislation/promptpaymentfaqs.pdf.

## 4.25 Electronic Procurements Authorized

4.25.1 Under COMAR 21.03.05, unless otherwise prohibited by law, the MLGCA may conduct procurement transactions by electronic means, including the solicitation, proposing, award, execution, and administration of a contract, as provided in Md. Code Ann., Maryland Uniform Electronic Transactions Act, Commercial Law Article, Title 21.

4.25.2 Participation in the RFP process on a procurement contract for which electronic means has been authorized shall constitute consent by the Offeror to conduct by electronic means all elements of the procurement of that Contract which are specifically authorized under the RFP or Contract. In the case of electronic transactions authorized by this RFP, electronic records and signatures by an authorized representative satisfy a requirement for written submission and signatures.

4.25.3 “Electronic means” refers to exchanges or communications using electronic, digital, magnetic, wireless, optical, electromagnetic, or other means of electronically conducting transactions. Electronic means includes facsimile, e-mail, internet-based communications, electronic funds transfer, specific electronic bidding platforms (e.g., <https://emaryland.buyspeed.com/bso/>), and electronic data interchange.

4.25.4 In addition to specific electronic transactions specifically authorized in other sections of this RFP (e.g., RFP § 4.23 “Payments by Electronic Funds Transfer”) and subject to the exclusions noted in section 4.25.5 of this subsection, the following transactions are authorized to be conducted by electronic means on the terms described:

4.25.4.1 The Procurement Officer may conduct the procurement using eMM, e-mail, or facsimile to issue:

(a) The RFP;

(b) Any amendments, and requests for best and final offers;

(c) Pre-Proposal conference documents;

(d) Questions and responses;

(e) Communications regarding the RFP or Proposal to any Offeror or potential Offeror;

(f) Notices of award selection or non-selection; and

(g) The Procurement Officer’s decision on any Proposal protest or Contract claim.

4.25.4.2 An Offeror or potential Offeror may use e-mail or facsimile to:

1. Ask questions regarding the RFP;
2. Reply to any material received from the Procurement Officer by electronic means that includes a Procurement Officer’s request or direction to reply by e-mail or facsimile, but only on the terms specifically approved and directed by the Procurement Officer; and
3. Submit a "No Proposal Response" to the RFP.

4.25.4.3 The Procurement Officer, the Contract Monitor, and the Contractor may conduct day-to-day Contract administration, except as outlined in Section E of this subsection utilizing e-mail, facsimile, or other electronic means if authorized by the Procurement Officer or Contract Monitor.

4.25.5 The following transactions related to this procurement and any Contract awarded pursuant to it are *not authorized* to be conducted by electronic means:

1. Submission of initial Proposals;
2. Filing of Protests;
3. Filing of Contract Claims;
4. Submission of documents determined by the Department to require original signatures (e.g., Contract execution, Contract modifications, etc.); or
5. Any transaction, submission, or communication where the Procurement Officer has specifically directed that a response from the Contractor or Offeror be provided in writing or hard copy.

4.25.6 Any facsimile or e-mail transmission is only authorized to the facsimile numbers or e-mail addresses for the identified person as provided in the RFP, Contract, or direction from the Procurement Officer or Contract Monitor.

## 4.26 Minority Business Enterprise Goals

There is no MBE subcontractor participation goal for this procurement.

## 4.27 Veteran-Owned Small Business Enterprise Goal

There is no Veteran-Owned Small Business Enterprise (VSBE) participation goal for this procurement.

## Living Wage Requirements

* + 1. Maryland law requires that contractors meeting certain conditions pay a living wage to covered employees on State service contracts over $100,000. Maryland Code Ann., State Finance and Procurement Article, § 18-101 et al. The Commissioner of Labor and Industry at the Department of Labor, Licensing and Regulation requires that a contractor subject to the Living Wage law submit payroll records for covered employees and a signed statement indicating that it paid a living wage to covered employees; or receive a waiver from Living Wage reporting requirements. See COMAR 21.11.10.05.
		2. If subject to the Living Wage law, Contractor agrees that it will abide by all Living Wage law requirements, including but not limited to reporting requirements in COMAR 21.11.10.05. Contractor understands that failure of Contractor to provide such documents is a material breach of the terms and conditions and may result in Contract termination, disqualification by the State from participating in State contracts, and other sanctions. Information pertaining to reporting obligations may be found by going to the Maryland Department of Labor, Licensing and Regulation (DLLR) website <http://www.dllr.state.md.us/labor/prev/livingwage.shtml>.
		3. Additional information regarding the State’s living wage requirement is contained in **Attachment** **F**. Offerors must complete and submit the Maryland Living Wage Requirements Affidavit of Agreement (**Attachment F-1**) with their Proposals. If the Offeror fails to complete and submit the required documentation, the State may determine the Offeror to not be responsible under State law.
		4. Contractors and subcontractors subject to the Living Wage Law shall pay each covered employee at least the minimum amount set by law for the applicable Tier area. The specific living wage rate is determined by whether a majority of services take place in a Tier 1 Area or a Tier 2 Area of the State. The specific Living Wage rate is determined by whether a majority of services take place in a Tier 1 Area or Tier 2 Area of the State.
	1. The Tier 1 Area includes Montgomery, Prince George’s, Howard, Anne Arundel and Baltimore Counties, and Baltimore City. The Tier 2 Area includes any county in the State not included in the Tier 1 Area. In the event that the employees who perform the services are not located in the State, the head of the unit responsible for a State Contract pursuant to §18-102(d) of the State Finance and Procurement Article shall assign the tier based upon where the recipients of the services are located. If the Contractor provides more than 50% of the services from an out-of-State location, the State agency determines the wage tier based on where the majority of the service recipients are located. In this circumstance, the Contract will be determined to be a Tier (enter “1” or “2,” depending on where the majority of the service recipients are located) Contract.
	2. The Contract will be determined to be a Tier 1 Contract or a Tier 2 Contract depending on the location(s) from which the Contractor provides 50% or more of the services. The Offeror must identify in its Proposal the location(s) from which services will be provided, including the location(s) from which 50% or more of the Contract services will be provided.
	3. If the Contractor provides 50% or more of the services from a location(s) in a Tier 1 jurisdiction(s) the Contract will be a Tier 1 Contract.
	4. If the Contractor provides 50% or more of the services from a location(s) in a Tier 2 jurisdiction(s), the Contract will be a Tier 2 Contract.
		1. If the Contractor provides more than 50% of the services from an out-of-State location, the State agency determines the wage tier based on where the majority of the service recipients are located. See COMAR 21.11.10.07.
		2. The Offeror shall identify in the Proposal the location from which services will be provided.
		3. **NOTE:** Whereas the Living Wage may change annually, the Contract price will not change because of a Living Wage change.

## 4.29 Federal Funding Acknowledgement

This Contract does not contain Federal funds.

## 4.30 Conflict of Interest Affidavit and Disclosure

4.30.1 Offerors shall complete and sign the Conflict of Interest Affidavit and Disclosure (**Attachment H**) and submit it with their Proposals.

4.30.2 By submitting a Conflict of Interest Affidavit and Disclosure, the Contractor shall be construed as certifying all Contractor Personnel and subcontractors are also without a conflict of interest as defined in COMAR21.05.08.08A. All Offerors are advised that if a Contract is awarded as a result of this RFP, the Contractor’s personnel who perform or control work under this Contract and each of the participating Subcontractor personnel who perform or control work under this Contract shall be required to complete agreements substantially similar to **Attachment H**, Conflict of Interest Affidavit and Disclosure. For policies and procedures applying specifically to Conflict of Interests, the Contract is governed by COMAR 21.05.08.08.

4.30.3 Additionally, a Contractor has an ongoing obligation to ensure that all Contractor Personnel are without conflicts of interest prior to providing services under the Contract.

## 4.31 Non-Disclosure Agreement

All Offerors are advised that this RFP and any resultant Contract(s) are subject to the terms of the Non-Disclosure Agreement (NDA) contained in this RFP as **Attachment I**. This Agreement must be provided within five (5) Business Days of notification of recommended Contract award. However, to expedite processing, it is suggested that this document be completed and submitted with the Proposal.

## 4.32 HIPAA - Business Associate Agreement

A HIPAA Business Associate Agreement is not required for this procurement.

## 4.33 Nonvisual Access

This solicitation does not contain Information Technology (IT) provisions requiring Nonvisual Access.

## 4.34 Mercury and Products That Contain Mercury

This RFP does not include the procurement of products known to likely include mercury as a component.

## 4.35 Location of the Performance of Services Disclosure

The Offeror is required to complete the Location of the Performance of Services Disclosure. A copy of this Disclosure is included as **Attachment L**. The Disclosure must be provided with the Proposal.

## 4.36 Department of Human Resources (DHR) Hiring Agreement

This RFP does not require a DHR Hiring Agreement.

## 4.37 Small Business Reserve (SBR) Procurement

This RFP is not designated as a Small Business Reserve (SBR) Procurement

## 4.38 Ownership of Written Material

All opened proposals become the property of the MLGCA upon receipt and will not be returned to the Offerors. Selection or rejection of the proposal will not affect this right. Unopened financial proposals will be returned to the Offeror.

## 4.39 Proposal Disclosure Prohibition

4.39.1 Upon issuance of this RFP, neither the MLGCA or Commission, nor their representatives shall discuss the contents of this RFP with potential Offerors or their representatives, other than in conjunction with the Pre-Proposal Conference, the Question and Answer process, oral presentations/site visits or discussions (See RFP Sections 4.1, 4.3 and 4.10).

4.39.2 Until a Contract resulting from this RFP is awarded, no employee, agent, or representative of any Offeror may make available or discuss its proposal with any officer of the State, any Commission member, or any employee, agent or representative of the MLGCA, unless specifically authorized to do so in this RFP or in writing by the Procurement Officer for the purposes of clarification, evaluation, and/or negotiation.

4.39.3 Prior to Contract execution, Offerors shall not represent themselves to MLGCA staff, Retailers or the public as having the endorsement of the MLGCA or Commission or as a supplier of any products or services to the MLGCA or Commission.

## 4.40 Information Not Contained in RFP

Proposals shall be based solely on the material contained in this RFP and any amendments thereto. Offerors are to disregard any newspaper advertisements, news articles, and oral representations when preparing their proposals.

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# SECTION 5 – PROPOSAL FORMAT

## 5.1 Two Part Submission

Offerors shall submit Proposals in separate volumes:

* Volume I – TECHNICAL PROPOSAL
* Volume II – FINANCIAL PROPOSAL

## 5.2 Proposals

5.2.1 Volume I – Technical Proposal, and Volume II – Financial Proposal shall be sealed separately from one another. It is preferred, but not required, that the name, email address, and telephone number of a contact person for the Offeror be included on the outside of the packaging for each volume. Each Volume shall contain an unbound original, so identified, and three (3) copies. Unless the resulting package will be too unwieldy, the MLGCA’s preference is for the two (2) sealed Volumes to be submitted together in a single package including a label bearing:

1. RFP title and number,
2. Name and address of the Offeror, and
3. Closing date and time for receipt of Proposals

to the Procurement Officer (see RFP Key Information Summary Sheet) prior to the date and time for receipt of Proposals (see RFP Section 4.4 “Proposals Due (Closing) Date and Time”).

5.2.2 An electronic version (on Compact Disk/CD, Digital Versatile Disc/DVD, or Universal Serial Bus/USB Flash/Thumb Drive) of Volume 1 - Technical Proposal in Microsoft Word format must be enclosed with the original Volume I - Technical Proposal submission. An electronic version (on CD, DVD, or USB Flash Drive) of Volume II - Financial Proposal in Microsoft Word or Microsoft Excel format must be enclosed with the original Volume II - Financial Proposal submission. Each CD/DVD/USB Flash Drive must be labeled on the outside with the RFP title and number, name of the Offeror, and volume number. Each CD/DVD/USB Flash Drive must be packaged with the original copy of the appropriate Proposal (Technical or Financial). In the event of any discrepancy between the hard copy and electronic versions of an Offeror’s Proposal, the State shall determine the controlling version in accordance with the State’s interests.

5.2.3 A second electronic version of Volume I and Volume II in searchable Adobe .pdf format shall be submitted on CD, DVD, or USB Flash Drive for Public Information Act (PIA) requests. This copy shall be redacted so that confidential and/or proprietary information has been removed (see RFP Section 4.8 “Public Information Act Notice”).

5.2.4 Beginning with Tab B (see RFP Section 5.4.2.3), all pages of both Proposal volumes shall be consecutively-numbered from beginning (Page 1) to end (Page “x”). The Title Page, Table of Contents, and any Claim of Confidentiality (Tabs A and A-1; see RFP Sections 5.4.2.1 and 5.4.2.2), should be numbered using romanettes (e.g. i, ii, iii, iv, v, etc.).

5.2.5 Proposals and any modifications to Proposals will be shown only to State employees, members of the Evaluation Committee, and other persons deemed by the MLGCA to have a legitimate interest in them.

## 5.3 Delivery

Offerors may either mail or hand-deliver Proposals.

* + 1. For U.S. Postal Service deliveries, any Proposal that has been received at the appropriate mailroom, or typical place of mail receipt, for the MLGCA by the time and date listed in the RFP will be deemed to be timely. If an Offeror chooses to use the U.S. Postal Service for delivery, the DMLGCA recommends that it use Express Mail, Priority Mail, or Certified Mail only as these are the only forms for which both the date and time of receipt can be verified by the MLGCA. It could take several days for an item sent by first class mail to make its way by normal internal mail to the procuring unit and an Offeror using first class mail will not be able to prove a timely delivery at the mailroom.
		2. Hand-delivery includes delivery by commercial carrier acting as agent for the Offeror. For any type of direct (non-mail) delivery, an Offeror is advised to secure a dated, signed, and time-stamped (or otherwise indicated) receipt of delivery.
		3. After receipt, a Register of Proposals will be prepared that identifies each Offeror. The Register of Proposals will be open to inspection only after the Procurement Officer makes a determination recommending the award of the Contract(s).

## 5.4 Volume I – Technical Proposal

**Note: No pricing information is to be included in the Technical Proposal (Volume 1). Pricing information is to be included only in the Financial Proposal (Volume II).**

* + 1. **Format of Technical Proposal.** Inside a sealed package described in Section 5.2 “Proposals,” the unbound original, three (3) copies, and the electronic version shall be provided. The RFP sections are numbered for ease of reference. Section 5.4.2 sets forth the order of information to be provided in the Technical Proposal, e.g., Section 5.4.2.1 “Title and Table of Contents,” Section 5.4.2.2 “Claim of Confidentiality,” Section 5.4.2.3 “Transmittal Letter,” Section 5.4.2.4 “Executive Summary,” etc. In addition to the instructions below, responses in the Offeror’s Technical Proposal should reference the organization and numbering of Sections in the RFP (e.g. “Section 2.2.1 Response . . .; “Section 2.2.2 Response . . .,” etc.). This Proposal organization will allow State officials and the Evaluation Committee (see RFP Section 6.1) to “map” Offeror responses directly to RFP requirements by Section number and will aid in the evaluation process.

5.4.2 **The Technical Proposal** shall include the following documents and information in the order specified as follows. Each section of the Technical Proposal shall be separated by a TAB as detailed below:

5.4.2.1 **Title Page and Table of Contents (Submit under TAB A)**. The Technical Proposal should begin with a Title Page bearing the name and address of the Offeror and the name and number of this RFP. A Table of Contents shall follow the Title Page for the Technical Proposal, organized by section, subsection, and page number.

* + - 1. **Claim of Confidentiality (If applicable, submit under TAB A-1)**. Any information which is claimed to be confidential is to be noted by reference and included after the Title Page and before the Table of Contents, and if applicable, separately in the Offeror’s Financial Proposal. An explanation for each claim of confidentiality shall be included (see Section 4.8 “Public Information Act Notice”). The entire Proposal should not be given a blanket confidentiality designation. Any confidentiality designation must apply to specific sections, pages, or portions of pages of the Proposal.

5.4.2.3 **Transmittal Letter (Submit under TAB B)**. A Transmittal Letter shall accompany the Technical Proposal. Its purpose is to transmit the Proposal and acknowledge the receipt of any amendments. The Transmittal Letter should be brief and signed by an individual who is authorized to commit the Offeror to the services and requirements as stated in this RFP. The Transmittal Letter should include the following:

1. Name and address of the Offeror;
2. Name, title, e-mail address, and telephone number of primary contact for the Offeror;
3. RFP Title and RFP Number that the Proposal is in response to;
4. Signature, typed name, and title of an individual authorized to commit the Offeror to its Proposal;
5. Federal Employer Identification Number (FEIN) of the Offeror, or if a single individual, that individual’s Social Security Number (SSN);
6. Offeror’s eMM number;
7. Offeror’s MBE certification number (if applicable);
8. Acceptance of all State RFP and Contract terms and conditions (see Section 4.17); if any exceptions are taken, they are to be noted in the Executive Summary (see Section 5.4.2.4);and
9. Acknowledgement of all Amendments to this RFP.

5.4.2.4 **Executive Summary (Submit under TAB C)**.

 5.4.2.4.1 The Offeror shall condense and highlight the contents of the Technical Proposal in a separate section titled “Executive Summary.” In addition, the Summary shall indicate whether the Offeror is the subsidiary of another entity, and if so, whether all information submitted by the Offeror pertains exclusively to the Offeror. If not, the subsidiary Offeror shall include a guarantee of performance from its parent organization as part of its Executive Summary.(See Section 4.16 “Offeror Responsibilities”)

5.4.2.4.2 The Executive Summary shall also identify any exceptions the Offeror has taken to the requirements of this RFP, the Contract (Attachment M), or any other attachments. **Exceptions to terms and conditions, including requirements, may result in having the Proposal deemed unacceptable or classified as not reasonably susceptible of being selected for award.**

5.4.2.4.3 If the Offeror has taken no exceptions to the requirements of this RFP, the Contract (Attachment M), or any other attachments, the Executive Summary shall so state.

5.4.2.5 **Minimum Qualifications Documentation (If applicable, Submit under TAB D)**. The Offeror shall submit any Minimum Qualifications documentation that may be required, as set forth in RFP Section 1, “Minimum Qualifications.”

* + - 1. **Offeror Technical Response to RFP Requirements and Proposed Work Plan (Submit under TAB E)**.

5.4.2.6.1 **General Requirements**

5.4.2.6.1.1 The Offeror shall address each Scope of Work requirement (RFP Section 2) in its Technical Proposal and describe how its proposed services, including the services of any proposed Subcontractor(s), will meet or exceed the requirement(s). If the State is seeking Offeror agreement to any requirement(s), the Offeror shall state its agreement or disagreement. Any paragraph in the Technical Proposal that responds to a Scope of Work requirement shall include an explanation of how the work will be done. Any exception to a requirement, term, or condition may result in having the Proposal classified as not reasonably susceptible of being selected for award or the Offeror deemed not responsible.

5.4.2.6.1.2 The Offeror shall give a definitive **section-by-section** description of the proposed plan to meet the requirements of the RFP, i.e., a Work Plan. The Work Plan shall include the specific methodology, techniques, and number of staff, if applicable, to be used by the Offeror in providing the required services as outlined in RFP Section 2, Scope of Work. The description shall include an outline of the overall management concepts employed by the Offeror and a project management plan, including project control mechanisms and overall timelines. Project deadlines considered contract deliverables must be recognized in the Work Plan.

5.4.2.6.1.3 The Offeror shall identify the location(s) from which it proposes to provide the services, including, if applicable, any current facilities that it operates, and any required construction to satisfy the requirements outlined in this RFP.

5.4.2.6.1.4 The Offeror shall provide a draft Problem Escalation Procedure (PEP) that includes, at a minimum, titles of individuals to be contacted by the MLGCA’s Contract Monitor should problems arise under the Contract and explains how problems with work under the Contract will be escalated in order to resolve any issues in a timely manner. Final procedures shall be submitted as indicated in RFP Section 3.3.

5.4.2.6.2 **Business Recovery Plan**

The Offeror must describe its Business Recovery Plan and emergency procedures to be used in the event that its facility becomes unavailable, to include an alternate backup facility.

5.4.2.6.3 **Drawing Machines**

Offeror shall describe in detail:

a) Each Drawing machine being proposed, including all creative and design elements to enhance the look of the drawing machines on the virtual set design. Provide brochures, photos, specification sheets, renderings, drawings, etc.;

b) Training to be provided; and,

c) Warranty for each Drawing machine to be provided.

5.4.2.6.4 **Maintenance and Repair Services**

Offeror shall describe in detail:

a) Preventive Maintenance procedures;

b) Non-Emergency Repair procedures;

c) Emergency Repair procedures; and

d) Warranty for maintenance services.

5.4.2.7 **Experience and Qualifications of Proposed Staff (Submit under TAB F).** The Offeror shall identify the qualifications and types of staff proposed to be utilized under the Contract.

The Offeror shall describe in detail how the proposed staff’s experience and qualifications relate to their specific responsibilities, including any staff of proposed subcontractor(s), as detailed in the Work Plan. The Offeror shall include individual resumes for the Key Personnel, including Key Personnel for any proposed subcontractor(s), who are to be assigned to the project if the Offeror is awarded the Contract. Each resume should include the amount of experience the individual has had relative to the Scope of Work set forth in this solicitation. Letters of intended commitment to work on the project, including letters from any proposed subcontractor(s), shall be included in this section.

The Offeror shall provide an Organizational Chart outlining personnel and their related duties. The Offeror shall include job titles and the percentage of time each individual will spend on his/her assigned tasks. Offerors using job titles other than those commonly used by industry standards must provide a crosswalk reference document.

5.4.2.8 **Offeror Qualifications and Capabilities (Submit under TAB G)**. The Offeror shall include information on past experience with similar projects and/or services. The Offeror shall describe how its organization can meet the requirements of this RFP and shall also include the following information:

* 1. The number of years the Offeror has provided the similar services;
	2. The number of clients/customers and geographic locations that the Offeror currently serves;
	3. The names and titles of headquarters or regional management personnel who may be involved with supervising the services to be performed under this Contract;
	4. The Offeror’s process for resolving billing errors; and
	5. An organizational chart that identifies the complete structure of the Offeror, including any parent company, headquarters, regional offices, and subsidiaries of the Offeror.

5.4.2.9 **References (Submit under TAB H)**. At least three (3) references are requested from customers who are capable of documenting the Offeror’s ability to provide the services specified in this RFP. References used to meet any Minimum Qualifications (see RFP Section 1) may be used to meet this request. Each reference shall be from a client for whom the Offeror has provided services within the past five (5) years and shall include the following information:

1. Name of client organization;
2. Name, title, telephone number, and e-mail address, if available, of point of contact for client organization; and
3. Value, type, duration, and description of services provided.

The MLGCA reserves the right to request additional references or utilize references not provided by an Offeror. Points of contact must be accessible and knowledgeable regarding Offeror’s performance.

5.4.2.10 **List of Current or Prior State Contracts (Submit under TAB I)**. Provide a list of all contracts with any entity of the State of Maryland for which the Offeror is currently performing services or for which services have been completed within the last five (5) years. For each identified contract, the Offeror is to provide:

* 1. The State contracting entity;
	2. A brief description of the services/goods provided;
	3. The dollar value of the contract;
	4. The term of the contract;
	5. The State employee contact person (name, title, telephone number, and, if possible, e-mail address); and
	6. Whether the contract was terminated before the end of the term specified in the original contract, including whether any available renewal option was not exercised.

Information obtained regarding the Offeror’s level of performance on State contracts will be used by the Procurement Officer to determine the responsibility of the Offeror and considered as part of the experience and past performance evaluation criteria of the RFP.

5.4.2.11 **Financial Capability (Submit under TAB J)**. An Offeror must include in its Proposal a commonly-accepted method to prove its fiscal integrity. If available, the Offeror shall include Financial Statements, preferably a Profit and Loss (P&L) statement and a Balance Sheet, for the last two (2) years (independently audited preferred).

In addition, the Offeror may supplement its response to this Section by including one or more of the following with its response:

* 1. Dun & Bradstreet Rating;
	2. Standard and Poor’s Rating;
	3. Lines of credit;
	4. Evidence of a successful financial track record; and
	5. Evidence of adequate working capital.

5.4.2.12 **Certificate of Insurance (Submit under TAB K)**. The Offeror shall provide a copy of its current certificate of insurance showing the types and limits of insurance in effect as of the Proposal submission date. The current insurance types and limits do not have to be the same as described in Section 3.1. See Section 3.1 for the required insurance certificate submission for the recommended Offeror.

5.4.2.13 **Subcontractors (Submit under TAB L)**. The Offeror shall provide a complete list of all Subcontractors that will work on the Contract if the Offeror receives an award, including those utilized in meeting the MBE and/or VSBE subcontracting goal, if applicable. This list shall include a full description of the duties each Subcontractor will perform and why/how each Subcontractor was deemed the most qualified for this project.

5.4.2.14 **Legal Action Summary (Submit under TAB M)**. This summary shall include:

* 1. A statement as to whether there are any outstanding legal actions or potential claims against the Offeror and a brief description of any action;
	2. A brief description of any settled or closed legal actions or claims against the Offeror over the past five (5) years;
	3. A description of any judgments against the Offeror within the past five (5) years, including the court, case name, court case docket number, and a brief description of the final ruling or determination;
	4. A listing, brief description and disposition of any liquidated damages assessed against the Offeror within the past two (2) years; and
	5. In instances where litigation is on-going and the Offeror has been directed not to disclose information by the court, provide the name of the judge and location of the court.

5.4.2.15 **Economic Benefit Factors (Submit under TAB N)**.

5.4.2.15.1 The Offeror shall submit with its Proposal a narrative describing benefits that will accrue to the Maryland economy as a direct or indirect result of its performance of this Contract. Proposals will be evaluated to assess the benefit to Maryland’s economy specifically offered. The economic benefit offered should be consistent with the Offeror’s Total Proposal Price from Attachment B, the Financial Proposal Form. See COMAR 21.05.03.03A(3).

5.4.2.15.2 Proposals that identify specific benefits as being contractually enforceable commitments will be rated more favorably than Proposals that do not identify specific benefits as contractual commitments, all other factors being equal.

5.4.2.15.3 Offerors shall identify any performance guarantees that will be enforceable by the State if the full level of promised benefit is not achieved during the Contract term.

5.4.2.15.4 As applicable, for the full duration of the Contract, including any renewal period, or until the commitment is satisfied, the Contractor shall provide to the Procurement Officer or other designated agency personnel reports of the actual attainment of each benefit listed in response to this section. These benefit attainment reports shall be provided quarterly, unless elsewhere in these specifications a different reporting frequency is stated.

5.4.2.15.5 In responding to this section, the following do not generally constitute economic benefits to be derived from this Contract:

1. Generic statements that the State will benefit from the Offeror’s superior performance under the Contract;
2. Descriptions of the number of Offeror employees located in Maryland other than those that will be performing work under this Contract; and
3. Tax revenues from Maryland-based employees or locations, other than those that will be performing, or used to perform, work under this Contract.

5.4.2.15.6 Discussion of Maryland-based employees or locations may be appropriate if the Offeror makes some projection or guarantee of increased or retained presence based upon being awarded this Contract.

5.4.2.15.7 Examples of economic benefits to be derived from a contract may include any of the following. For each factor identified below, identify the specific benefit and contractual commitments and provide a breakdown of expenditures in that category:

1. The Contract dollars to be recycled into Maryland’s economy in support of the Contract, through the use of Maryland Subcontractors, suppliers and joint venture partners. **Do not include actual fees or rates paid to Subcontractors or information from your Financial Proposal;**
2. The number and types of jobs for Maryland residents resulting from the Contract. Indicate job classifications, number of employees in each classification and aggregate payroll to which the Offeror has committed, including contractual commitments at both prime and, if applicable, subcontract levels; and whether Maryland employees working at least 30 hours per week and are employed at least 120 days during a 12-month period will receive paid leave. If no new positions or subcontracts are anticipated as a result of this Contract, so state explicitly;
3. Tax revenues to be generated for Maryland and its political subdivisions as a result of the Contract. Indicate tax category (sales taxes, payroll taxes, inventory taxes and estimated personal income taxes for new employees). Provide a forecast of the total tax revenues resulting from the Contract;
4. Subcontract dollars committed to Maryland small businesses and MBEs; and
5. Other benefits to the Maryland economy which the Offeror promises will result from awarding the Contract to the Offeror, including contractual commitments. Describe the benefit, its value to the Maryland economy, and how it will result from, or because of the Contract award. Offerors may commit to benefits that are not directly attributable to the Contract, but for which the Contract award may serve as a catalyst or impetus.

5.4.3 **Additional Required Technical Submissions (Submit under TAB O)**.

5.4.3.1 The following documents shall be completed, signed, and included in the Technical Proposal, under TAB O that follows the material submitted in response to Section 5.4.2.

 a. Completed Proposal Affidavit (**Attachment C**).

b. Completed Maryland Living Wage Requirements Affidavit of Agreement (**Attachment F-1**).

5.4.3.2 **\*If Required**, the following documents shall be completed, signed, and included in the Technical Proposal, under TAB O that follows the material submitted in response to Section 5.4.2. **\***See appropriate RFP Section to determine whether the particular document is required for this procurement:

1. A Signed Statement from the Offeror’s Parent Organization Guaranteeing Performance of the Offeror. **See Section 4.16;**
2. Completed Conflict of Interest Affidavit and Disclosure (**Attachment H**). **See Section 4.30;**
3. Completed Location of the Performance of Services Disclosure (**Attachment L**). **See Section 4.35**;
4. Completed Authorization for Release of Information (**Attachment T**).

## 5.5 Volume II – Financial Proposal

Under separate sealed cover from the Technical Proposal and clearly identified in the format identified in Section 5.2 “Proposals,” the Offeror shall submit an original unbound copy, three (3) copies, and an electronic version in Microsoft Word or Microsoft Excel of the Financial Proposal. The Financial Proposal shall contain all price information in the format specified in **Attachment B**. The Offeror shall complete the Financial Proposal Form only as provided in the Financial Proposal Instructions and the Financial Proposal Form itself. Do not amend, alter, or leave blank any items on the Financial Proposal Form or include additional clarifying or contingent language on or attached to the Financial Proposal Form. Failure to adhere to any of these instructions may result in the Proposal being determined to be not reasonably susceptible of being selected for award and rejected by the MLGCA.

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# SECTION 6 – EVALUATION AND SELECTION PROCESS

## 6.1 Evaluation Committee

Evaluation of Proposals will be performed in accordance with COMAR 21.05.03 by a committee established for that purpose and based on the Evaluation Criteria set forth below. The Evaluation Committee will be appointed by the Director and may include members of the Commission. The Evaluation Committee will review Proposals, participate in Offeror oral presentations and discussions, and provide input to the Procurement Officer. The MLGCA reserves the right to utilize the services of individuals outside of the established Evaluation Committee for advice and assistance, as deemed appropriate.

During the evaluation process, the Procurement Officer may determine at any time that a particular Offeror is not susceptible for award.

## 6.2 Technical Proposal Evaluation Criteria

6.2.1 The Evaluation Criteria to be used to evaluate each Technical Proposal are listed below in descending order of importance. Unless stated otherwise, any subcriteria within each Criterion have equal weight.

6.2.2 Offeror’s Technical Response to RFP Requirements and Work Plan (See RFP § 5.4.2.6.1.2). The State prefers the Offeror’s Technical Proposal to illustrate a comprehensive understanding of work requirements and mastery of the subject matter, including an explanation of how the work will be performed. Proposals which include limited responses to work requirements such as “concur” or “will comply” will receive a lower ranking than those Proposals that demonstrate an understanding of the work requirements and include plans to meet or exceed them.

6.2.3 Evaluation Criteria

1. Compliance of Drawing machine with technical specifications and Warranty; and, Compatibility of the appearance of the Drawing machines with the Lottery’s image and marketing programs and with the set-up and operation of the television studio (Sections 5.4.2.6.1 through 5.4.2.6.3)
2. Maintenance and Repair Services (Sections 5.4.2.6.1, 5.4.2.6.2 and 5.4.2.6.4))
3. Background and Experience of Offeror (Sections 5.4.2.7 through 5.4.2.10)
4. Financial Capability, Legal Action Summary, Insurance and Subcontractors (Sections 5.4.2.11 through Section 5.4.2.14)
5. Economic Benefit to State of Maryland (Section 5.4.2.15)

## 6.3 Financial Proposal Evaluation Criteria

All Qualified Offerors will be ranked from the lowest (most advantageous) to the highest (least advantageous) price based on the Total Proposal Price within the stated guidelines set forth in this RFP and as submitted on **Attachment B** - Financial Proposal Form.

## 6.4 Reciprocal Preference

Although Maryland law does not generally authorize procuring units to favor resident Offerors in awarding procurement contracts, many other states do grant their resident businesses preferences over Maryland contractors. COMAR 21.05.01.04 permits procuring agencies to apply a reciprocal preference under the following conditions:

* The Maryland resident business is a responsible Offeror;
* The most advantageous offer is from a responsible Offeror whose principal office or principal base of operations is in another state;
* The other state gives a preference to its resident businesses through law, policy, or practice; and
* The preference does not conflict with a federal law or grant affecting the procurement Contract.

The preference given shall be identical to the preference that the other state, through law, policy, or practice gives to its resident businesses.

## 6.5 Selection Procedures

6.5.1 **General**. The Contract will be awarded in accordance with the Competitive Sealed Proposals (CSP) method found at COMAR 21.05.03. The CSP method allows for the conducting of discussions and the revision of Proposals during these discussions. Therefore, the State may conduct discussions with all Offerors that have submitted Proposals that are determined to be reasonably susceptible of being selected for contract award or potentially so. However, the State reserves the right to make an award without holding discussions.

With or without discussions, the State may determine an Offeror to be not responsible or the Offeror’s Proposal to be not reasonably susceptible of being selected for award at any time after the initial closing date for receipt of Proposals and prior to Contract award. If the State finds an Offeror to be not responsible and/or an Offeror’s Technical Proposal to be not reasonably susceptible of being selected for award, that Offeror’s Financial Proposal will subsequently be returned if the Financial Proposal is unopened at the time of the determination.

6.5.2 **Selection Process Sequence**

6.5.2.1 A determination is made that the MDOT Certified MBE Utilization and Fair Solicitation Affidavit (**Attachment D-1A**) is included and properly completed, if there is an MBE goal. In addition, a determination is made that the VSBE Utilization Affidavit and Subcontractor Participation Schedule (**Attachment E-1**) is included and is properly completed, if there is a VSBE goal. Finally, a determination is made that all Minimum Qualifications, if any (See RFP Section 1), have been satisfied.

6.5.2.2 Technical Proposals are evaluated for technical merit and ranked. During this review, oral presentations and discussions may be held. The purpose of such discussions will be to assure a full understanding of the State’s requirements and Offeror’s ability to perform the services, as well as facilitate arrival at a Contract that is most advantageous to the State. Offerors will be contacted by the State as soon as any discussions are scheduled.

6.5.2.3 Offerors must confirm in writing any substantive oral clarifications of, or changes in, their Technical Proposals made in the course of discussions. Any such written clarifications or changes then become part of the Offeror’s Technical Proposal. Technical Proposals are given a final review and ranked.

6.5.2.4 The Financial Proposal of Qualified Offerors (a responsible Offeror determined to have submitted an acceptable Proposal) will be evaluated and ranked separately from the Technical evaluation. After a review of the Financial Proposals of Qualified Offerors, the Evaluation Committee or Procurement Officer may again conduct discussions to further evaluate the Offeror’s entire Proposal.

6.5.2.5 When in the best interest of the State, the Procurement Officer may permit Qualified Offerors to revise their initial Proposals and submit, in writing, Best and Final Offers (BAFOs). The State may make an award without issuing a request for a BAFO.

6.5.3 **Award Determination**. Upon completion of the Technical Proposal and Financial Proposal evaluations and rankings, each Offeror will receive an overall ranking. The Procurement Officer will recommend award of the Contract to the responsible Offeror that submitted the Proposal determined to be the most advantageous to the State. In making this most advantageous Proposal determination, *technical factors will receive greater weight than financial factors.*

6.5.4 **Debriefing of Unsuccessful Offerors**

Unsuccessful Offerors shall be debriefed upon their written request to the Procurement Officer, provided the request is made within a reasonable period of time, not to exceed ten (10) days, after receiving notice from the Procurement Officer of not being recommended for award. Request for debriefings shall be honored by the MLGCA at the earliest feasible time after the request has been received. Debriefings shall be held in accordance with COMAR 21.05.03.06.

## 6.6 Documents Required upon Notice of Recommendation for Contract Award

Upon receipt of a Notification of Recommendation for Contract Award, the following documents shall be completed, signed if applicable with original signatures, and submitted by the recommended awardee within five (5) Business Days, unless noted otherwise. Submit two (2) copies of each of the following documents:

* 1. Contract (**Attachment M**);
	2. Contract Affidavit (**Attachment N**);
	3. Non-Disclosure Agreement (**Attachment I**), if applicable; **\*see Section 4.31**;
	4. Copy of a current Certificate of Insurance with the prescribed limits set forth in Section 3.1 “Insurance Requirements,” listing the State as an additional insured, if applicable; **\*see Section 3.1;**

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# RFP ATTACHMENTS

**ATTACHMENT A** **– Pre-Proposal Conference Response Form**

It is requested that this form be completed and submitted as described in RFP Section 4.1 by those potential Offerors that plan on attending the Pre-Proposal Conference.

**ATTACHMENT B** **– Financial Proposal Instructions and Form**

The Financial Proposal Form must be completed and submitted in the Financial Proposal package.

**ATTACHMENT C** **–Proposal Affidavit**

This Attachment must be completed and submitted with the Technical Proposal.

**ATTACHMENTS D** **– Minority Business Enterprise Forms** (Not Applicable)

**ATTACHMENTS E** – **Veteran-Owned Small Business Enterprise Forms** (Not Applicable)

**ATTACHMENT F** **– Maryland Living Wage Requirements for Service Contracts and Affidavit of Agreement**

Attachment F-1 Living Wage Affidavit of Agreement must be completed and submitted with the Technical Proposal.

**ATTACHMENT G – Federal Funds Attachment** (Not Applicable)

**ATTACHMENT H** **– Conflict of Interest Affidavit and Disclosure**

If required (see RFP Section 4.30), this Attachment must be completed and submitted with the Technical Proposal.

**ATTACHMENT I – Non-Disclosure Agreement**

If required (see RFP Section 4.31), this Attachment must be completed and submitted within five (5) Business Days of receiving Notification of Recommendation for Contract Award. However, to expedite processing, it is suggested that this document be completed and submitted with the Technical Proposal.

**ATTACHMENT J** **– HIPAA Business Associate Agreement** (Not Applicable)

**ATTACHMENT K** **– Mercury Affidavit** (Not Applicable)

###### ATTACHMENT L – Location of the Performance of Services Disclosure

If required (see RFP Section 4.35), this Attachment must be completed and submitted with the Technical Proposal.

**ATTACHMENT M – Contract**

This is the sample contract used by the MLGCA. It is provided with the RFP for informational purposes and is not required to be submitted at Proposal submission time. Upon Notification of Recommendation for Contract Award, a completed contract will be sent to the recommended awardee for signature. The recommended awardee must return to the Procurement Officer three (3) executed copies of the Contract within five (5) Business Days after receipt. Upon Contract award, a fully-executed copy will be sent to the Contractor.

**ATTACHMENT N** **– Contract Affidavit**

This Attachment must be completed and submitted by the recommended awardee to the Procurement Officer within five (5) Business Days of receiving Notification of Recommendation for Contract Award.

**ATTACHMENT O – DHR (Department of Human Resources) Hiring Agreement** (Not Applicable)

**ATTACHMENT P - Authorization for Release of Information**

This Attachment must be completed and submitted with the Technical Proposal.

## ATTACHMENT A – PRE-PROPOSAL CONFERENCE RESPONSE FORM

RFP #2018-06

**LOTTERY DRAWING MACHINES AND RELATED MAINTENANCE SERVICES**

A Pre-Proposal Conference will be held at the date, time, and location indicated in the RFP Key Information Summary Sheet (near the beginning of the RFP, after the Title Page and Vendors Feedback Form).

Please return this form at least five (5) Business Days prior to the Pre-Proposal Conference date, advising whether or not you plan to attend. The completed form should be returned via e-mail or fax to the Procurement Officer. The Procurement Officer’s contact information is provided in the RFP Key Information Summary Sheet.

 Please indicate:

 Yes, the following representatives will be in attendance:

 1.

 2.

 3.

 No, we will not be in attendance.

Please specify whether any reasonable accommodations are requested (see RFP § 4.1 “Pre-Proposal Conference”):

 \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ \_\_

 Signature Title

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

 Name of Firm (please print)

## ATTACHMENT B – FINANCIAL PROPOSAL INSTRUCTIONS & FORM

##### B-1: FINANCIAL PROPOSAL INSTRUCTIONS

**B-1-1 GENERAL REQUIREMENTS**

In order to assist Offerors in the preparation of their Financial Proposal and to comply with the requirements of this RFP, Financial Proposal Instructions and a Financial Proposal Form have been prepared. Offerors shall submit their Financial Proposal on the Financial Proposal Form in accordance with the instructions on the Financial Proposal Form and as specified herein. Do not alter the Financial Proposal Form or the Proposal may be determined to be not reasonably susceptible of being selected for award. The Financial Proposal Form is to be signed and dated, where requested, by an individual who is authorized to bind the Offeror to the prices entered on the Financial Proposal Form.

The Offeror must provide complete price information for all services required. Offers to provide only partial services are not acceptable and shall be rejected

The Financial Proposal Form is used to calculate the Offeror’s TOTAL PROPOSAL PRICE, which will be the “Basis For Award” and used for price evaluation, comparison and selection for recommendation for award. Follow these instructions carefully when completing your Financial Proposal Form:

A) All Unit and Extended Prices must be clearly entered in dollars and cents, e.g., $24.15. Make your decimal points clear and distinct.

1. All Unit Prices must be the actual price per unit the State will pay for the specific item or service identified in this RFP and may not be contingent on any other factor or condition in any manner.
2. All calculations shall be rounded to the nearest cent, i.e., .344 shall be .34 and .345 shall be .35.

D) Any goods or services required through this RFP and proposed by the vendor at **No Cost to the State** must be clearly entered in the Unit Price, if appropriate, and Extended Price with **$0.00**.

E) Every blank in every Financial Proposal Form shall be filled in. Any changes or corrections made to the Financial Proposal Form by the Offeror prior to submission shall be initialed and dated.

1. Except as instructed on the Financial Proposal Form, nothing shall be entered on or attached to the Financial Proposal Form that alters or proposes conditions or contingencies on the prices. Alterations and/or conditions may render the Proposal not reasonably susceptible of being selected for award.

G) It is imperative that the prices included on the Financial Proposal Form have been entered correctly and calculated accurately by the Offeror and that the respective total prices agree with the entries on the Financial Proposal Form. Any incorrect entries or inaccurate calculations by the Offeror will be treated as provided in COMAR 21.05.03.03, and may cause the Proposal to be rejected.

H) All Prices proposed shall be fixed prices for the entire term of the Contract, to include the Renewal Option period, if exercised, and any other extensions. Any option to renew will be exercised at the sole discretion of the State and comply with all terms and conditions in force at the time the option is exercised. If exercised, the option period shall be for a period identified in the RFP at the prices entered in the Financial Proposal Form.

1. All Financial Proposal prices entered below are to be fully loaded prices that include all costs/expenses associated with the provision of services as required by the RFP. The Financial Proposal price shall include, but is not limited to, all: labor, profit/overhead, general operating, administrative, and all other expenses and costs necessary to perform the work set forth in the RFP. No other amounts will be paid to the Contractor. If labor rates are requested, those amounts shall be fully-loaded rates; no overtime amounts will be paid.

J) Unless indicated elsewhere in the RFP, sample amounts used for calculations on the Financial Proposal Form are typically estimates for evaluation purposes only. Unless stated otherwise in the RFP, the MLGCA does not guarantee a minimum or maximum number of units or usage in the performance of this Contract.

K) Failure to adhere to any of these instructions may result in the Proposal being determined not reasonably susceptible of being selected for award.

**B-1-2 CONTRACT PRICES**

A) The Offeror shall state its proposed price to provide all services, equipment, and personnel required by this RFP to provide the specified Drawing machines and Ball Sets as listed in Section 2.3.2. The price to provide all services as outlined in Section 2.3.2 shall be expressed as a FIRM FIXED PRICE as stated on Attachment B-2 - Financial Proposal Form.

B) The Offeror shall state its proposed price to provide all services, equipment, and personnel required by this RFP to provide the specified Maintenance and Repair Services as listed in Section 2.3.3. The price to provide all services as outlined in Section 2.3.3 shall be expressed as a FIRM FIXED UNIT PRICE with indefinite quantity as stated on Attachment B-2 - Financial Proposal Form.

C) The **“**Total Proposed Price – 5 Year Contract” specified on the Price Sheet includes estimated quantities for the number of service calls and hours per call, and will be used solely for price evaluation, comparison and selection for recommendation for award. The quantities indicated are not a guarantee of any minimum or maximum amounts under this contract and may change at any time during the term of the contract, or renewal option period if exercised. The amount to be paid to the Contractor shall be calculated using the Firm Fixed Unit Prices (Price/Machine and Hourly Rates) specified on the Price Sheet multiplied by the actual number of each specific type of service that is provided by the Contractor.

D) The amounts stated on Attachment B-2 - Financial Proposal Form are the only amounts that will be paid to the Contractor and shall include any and all related costs. Offeror shall not include sales or excise taxes in its Offer, because the State is exempt from such charges.

##### B-2: FINANCIAL PROPOSAL FORM

**LOTTERY DRAWING MACHINES AND RELATED MAINTENANCE SERVICES (#2018-06)**

***SEE ATTACHED EXCEL SPREADSHEET***

**ATTACHMENT C – PROPOSAL AFFIDAVIT (Effective 10/24/2017)**

**A. AUTHORITY**

I hereby affirm that I, \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ (name of affiant) am the \_\_\_\_\_\_\_\_\_\_\_\_\_\_ (title) and duly authorized representative of \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ (name of business entity) and that I possess the legal authority to make this affidavit on behalf of the business for which I am acting.

**B. CERTIFICATION REGARDING COMMERCIAL NONDISCRIMINATION**

The undersigned Offeror hereby certifies and agrees that the following information is correct: In preparing its Proposal on this project, the Offeror has considered all Bid/proposals submitted from qualified, potential Subcontractors and suppliers, and has not engaged in “discrimination” as defined in § 19-103 of the State Finance and Procurement Article of the Annotated Code of Maryland. “Discrimination” means any disadvantage, difference, distinction, or preference in the solicitation, selection, hiring, or commercial treatment of a vendor, Subcontractor, or commercial customer on the basis of race, color, religion, ancestry, or national origin, sex, age, marital status, sexual orientation, sexual identity, genetic information or an individual’s refusal to submit to a genetic test or make available the results of a genetic test, disability, or any otherwise unlawful use of characteristics regarding the vendor’s, supplier’s, or commercial customer’s employees or owners. “Discrimination” also includes retaliating against any person or other entity for reporting any incident of “discrimination”. Without limiting any other provision of the solicitation on this project, it is understood that, if the certification is false, such false certification constitutes grounds for the State to reject the Proposal submitted by the Offeror on this project, and terminate any contract awarded based on the Proposal. As part of its Proposal, the Offeror herewith submits a list of all instances within the past four (4) years where there has been a final adjudicated determination in a legal or administrative proceeding in the State of Maryland that the Offeror discriminated against Subcontractors, vendors, suppliers, or commercial customers, and a description of the status or resolution of that determination, including any remedial action taken. Offeror agrees to comply in all respects with the State’s Commercial Nondiscrimination Policy as described under Title 19 of the State Finance and Procurement Article of the Annotated Code of Maryland.

**B-1. CERTIFICATION REGARDING MINORITY BUSINESS ENTERPRISES.**

The undersigned Offeror hereby certifies and agrees that it has fully complied with the State Minority Business Enterprise Law, State Finance and Procurement Article, § 14-308(a)(2), Annotated Code of Maryland, which provides that, except as otherwise provided by law, a contractor may not identify a certified minority business enterprise in a Proposal and:

(1) Fail to request, receive, or otherwise obtain authorization from the certified minority business enterprise to identify the certified minority bid/proposal;

(2) Fail to notify the certified minority business enterprise before execution of the contract of its inclusion in the Proposal;

(3) Fail to use the certified minority business enterprise in the performance of the contract; or

(4) Pay the certified minority business enterprise solely for the use of its name in the Proposal.

Without limiting any other provision of the solicitation on this project, it is understood that if the certification is false, such false certification constitutes grounds for the State to reject the Proposal submitted by the Offeror on this project, and terminate any contract awarded based on the Proposal.

**B-2. CERTIFICATION REGARDING VETERAN-OWNED SMALL BUSINESS ENTERPRISES.**

The undersigned Offeror hereby certifies and agrees that it has fully complied with the State veteran-owned small business enterprise law, State Finance and Procurement Article, § 14-605, Annotated Code of Maryland, which provides that a person may not:

(1) Knowingly and with intent to defraud, fraudulently obtain, attempt to obtain, or aid another person in fraudulently obtaining or attempting to obtain public money, procurement contracts, or funds expended under a procurement contract to which the person is not entitled under this title;

(2) Knowingly and with intent to defraud, fraudulently represent participation of a veteran-owned small business enterprise in order to obtain or retain a Proposal preference or a procurement contract;

(3) Willfully and knowingly make or subscribe to any statement, declaration, or other document that is fraudulent or false as to any material matter, whether or not that falsity or fraud is committed with the knowledge or consent of the person authorized or required to present the declaration, statement, or document;

(4) Willfully and knowingly aid, assist in, procure, counsel, or advise the preparation or presentation of a declaration, statement, or other document that is fraudulent or false as to any material matter, regardless of whether that falsity or fraud is committed with the knowledge or consent of the person authorized or required to present the declaration, statement, or document;

(5) Willfully and knowingly fail to file any declaration or notice with the unit that is required by COMAR 21.11.13; or

(6) Establish, knowingly aid in the establishment of, or exercise control over a business found to have violated a provision of § B-2(1) -(5) of this regulation.

**C. AFFIRMATION REGARDING BRIBERY CONVICTIONS**

I FURTHER AFFIRM THAT:

Neither I, nor to the best of my knowledge, information, and belief, the above business (as is defined in Section 16-101(b) of the State Finance and Procurement Article of the Annotated Code of Maryland), or any of its officers, directors, partners, controlling stockholders, or any of its employees directly involved in the business’s contracting activities including obtaining or performing contracts with public bodies has been convicted of, or has had probation before judgment imposed pursuant to Criminal Procedure Article, § 6-220, Annotated Code of Maryland, or has pleaded nolo contendere to a charge of, bribery, attempted bribery, or conspiracy to bribe in violation of Maryland law, or of the law of any other state or federal law, except as follows (indicate the reasons why the affirmation cannot be given and list any conviction, plea, or imposition of probation before judgment with the date, court, official or administrative body, the sentence or disposition, the name(s) of person(s) involved, and their current positions and responsibilities with the business):

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**D. AFFIRMATION REGARDING OTHER CONVICTIONS**

I FURTHER AFFIRM THAT:

Neither I, nor to the best of my knowledge, information, and belief, the above business, or any of its officers, directors, partners, controlling stockholders, or any of its employees directly involved in the business’s contracting activities including obtaining or performing contracts with public bodies, has:

(1) Been convicted under state or federal statute of:

(a) A criminal offense incident to obtaining, attempting to obtain, or performing a public or private contract; or

(b) Fraud, embezzlement, theft, forgery, falsification or destruction of records or receiving stolen property;

(2) Been convicted of any criminal violation of a state or federal antitrust statute;

(3) Been convicted under the provisions of Title 18 of the United States Code for violation of the Racketeer Influenced and Corrupt Organization Act, 18 U.S.C. § 1961 et seq., or the Mail Fraud Act, 18 U.S.C. § 1341 et seq., for acts in connection with the submission of Bids/Proposals for a public or private contract;

(4) Been convicted of a violation of the State Minority Business Enterprise Law, § 14-308 of the State Finance and Procurement Article of the Annotated Code of Maryland;

(5) Been convicted of a violation of § 11-205.1 of the State Finance and Procurement Article of the Annotated Code of Maryland;

(6) Been convicted of conspiracy to commit any act or omission that would constitute grounds for conviction or liability under any law or statute described in subsections (1)— (5) above;

(7) Been found civilly liable under a state or federal antitrust statute for acts or omissions in connection with the submission of Bids/Proposals for a public or private contract;

(8) Been found in a final adjudicated decision to have violated the Commercial Nondiscrimination Policy under Title 19 of the State Finance and Procurement Article of the Annotated Code of Maryland with regard to a public or private contract;

(9) Been convicted of a violation of one or more of the following provisions of the Internal Revenue Code:

(a) §7201, Attempt to Evade or Defeat Tax;

(b) §7203, Willful Failure to File Return, Supply Information, or Pay Tax,

(c) §7205, Fraudulent Withholding Exemption Certificate or Failure to Supply Information;

(d) §7206, Fraud and False Statements, or

(e) §7207 Fraudulent Returns, Statements, or Other Documents;

(10) Been convicted of a violation of 18 U.S.C. §286 Conspiracy to Defraud the Government with Respect to Claims, 18 U.S.C. §287, False, Fictitious, or Fraudulent Claims, or 18 U.S.C. §371, Conspiracy to Defraud the United States;

(11) Been convicted of a violation of the Tax-General Article, Title 13, Subtitle 7 or Subtitle 10, Annotated Code of Maryland;

(12) Been found to have willfully or knowingly violated State Prevailing Wage Laws as provided in the State Finance and Procurement Article, Title 17, Subtitle 2, Annotated Code of Maryland, if:

(a) A court:

(i) Made the finding; and

(ii) Decision became final; or

(b) The finding was:

(i) Made in a contested case under the Maryland Administrative Procedure act; and

(ii) Not overturned on judicial review;

(13) Been found to have willfully or knowingly violated State Living Wage Laws as provided in the State Finance and Procurement Article, Title 18, Annotated Code of Maryland, if:

(a) A court:

(i) Made the finding; and

(ii) Decision became final; or

(b) The finding was:

(i) Made in a contested case under the Maryland Administrative Procedure act; and

(ii) Not overturned on judicial review;

(14) Been found to have willfully or knowingly violated the Labor and Employment Article, Title 3, Subtitles 3, 4, or 5, or Title 5, Annotated Code of Maryland, if:

(a) A court:

(i) Made the finding; and

(ii) Decision became final; or

(b) The finding was:

(i) Made in a contested case under the Maryland Administrative Procedure act; and

(ii) Not overturned on judicial review; or

(15) Admitted in writing or under oath, during the course of an official investigation or other proceedings, acts or omissions that would constitute grounds for conviction or liability under any law or statute described in §§ B and C and subsections D(1)—(14) above, except as follows (indicate reasons why the affirmations cannot be given, and list any conviction, plea, or imposition of probation before judgment with the date, court, official or administrative body, the sentence or disposition, the name(s) of the person(s) involved and their current positions and responsibilities with the business, and the status of any debarment):

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**E. AFFIRMATION REGARDING DEBARMENT**

I FURTHER AFFIRM THAT:

Neither I, nor to the best of my knowledge, information, and belief, the above business, or any of its officers, directors, partners, controlling stockholders, or any of its employees directly involved in the business’s contracting activities, including obtaining or performing contracts with public bodies, has ever been suspended or debarred (including being issued a limited denial of participation) by any public entity, except as follows (list each debarment or suspension providing the dates of the suspension or debarment, the name of the public entity and the status of the proceedings, the name(s) of the person(s) involved and their current positions and responsibilities with the business, the grounds of the debarment or suspension, and the details of each person’s involvement in any activity that formed the grounds of the debarment or suspension).

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**F. AFFIRMATION REGARDING DEBARMENT OF RELATED ENTITIES**

I FURTHER AFFIRM THAT:

(1) The business was not established and does not operate in a manner designed to evade the application of or defeat the purpose of debarment pursuant to Sections 16-101, et seq., of the State Finance and Procurement Article of the Annotated Code of Maryland; and

(2) The business is not a successor, assignee, subsidiary, or affiliate of a suspended or debarred business, except as follows (you must indicate the reasons why the affirmations cannot be given without qualification):

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**G. SUBCONTRACT AFFIRMATION**

I FURTHER AFFIRM THAT:

Neither I, nor to the best of my knowledge, information, and belief, the above business, has knowingly entered into a contract with a public body under which a person debarred or suspended under Title 16 of the State Finance and Procurement Article of the Annotated Code of Maryland will provide, directly or indirectly, supplies, services, architectural services, construction related services, leases of real property, or construction.

**H. AFFIRMATION REGARDING COLLUSION**

I FURTHER AFFIRM THAT:

Neither I, nor to the best of my knowledge, information, and belief, the above business has:

(1) Agreed, conspired, connived, or colluded to produce a deceptive show of competition in the compilation of the accompanying Proposal that is being submitted; or

(2) In any manner, directly or indirectly, entered into any agreement of any kind to fix the Proposal price of the Offeror or of any competitor, or otherwise taken any action in restraint of free competitive bidding in connection with the contract for which the accompanying Proposal is submitted.

**I. CERTIFICATION OF TAX PAYMENT**

I FURTHER AFFIRM THAT:

Except as validly contested, the business has paid, or has arranged for payment of, all taxes due the State of Maryland and has filed all required returns and reports with the Comptroller of the Treasury, State Department of Assessments and Taxation, and Department of Labor, Licensing, and Regulation, as applicable, and will have paid all withholding taxes due the State of Maryland prior to final settlement.

**J. CONTINGENT FEES**

I FURTHER AFFIRM THAT:

The business has not employed or retained any person, partnership, corporation, or other entity, other than a bona fide employee, bona fide agent, bona fide salesperson, or commercial selling agency working for the business, to solicit or secure the Contract, and that the business has not paid or agreed to pay any person, partnership, corporation, or other entity, other than a bona fide employee, bona fide agent, bona fide salesperson, or commercial selling agency, any fee or any other consideration contingent on the making of the Contract.

**K. CERTIFICATION REGARDING INVESTMENTS IN IRAN**

(1) The undersigned certifies that, in accordance with State Finance and Procurement Article, §17-705, Annotated Code of Maryland:

(a) It is not identified on the list created by the Board of Public Works as a person engaging in investment activities in Iran as described in State Finance and Procurement Article, §17-702, Annotated Code of Maryland; and

(b) It is not engaging in investment activities in Iran as described in State Finance and Procurement Article, §17-702, Annotated Code of Maryland.

(2) The undersigned is unable to make the above certification regarding its investment activities in Iran due to the following activities:

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

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**L. CONFLICT MINERALS ORIGINATED IN THE DEMOCRATIC REPUBLIC OF CONGO (FOR SUPPLIES AND SERVICES CONTRACTS)**

I FURTHER AFFIRM THAT:

The business has complied with the provisions of State Finance and Procurement Article, §14-413, Annotated Code of Maryland governing proper disclosure of certain information regarding conflict minerals originating in the Democratic Republic of Congo or its neighboring countries as required by federal law.

**M. PROHIBITING DISCRIMINATORY BOYCOTTS OF ISRAEL**

**I FURTHER AFFIRM THAT**:

In preparing its proposal on this project, the Offeror has considered all bid/proposals submitted from qualified, potential Subcontractors and suppliers, and has not, in the solicitation, selection, or commercial treatment of any Subcontractor, vendor, or supplier, refused to transact or terminated business activities, or taken other actions intended to limit commercial relations, with a person or entity on the basis of Israeli national origin, or residence or incorporation in Israel and its territories. The Offeror also has not retaliated against any person or other entity for reporting such refusal, termination, or commercially limiting actions. Without limiting any other provision of the solicitation for proposals for this project, it is understood and agreed that, if this certification is false, such false certification will constitute grounds for the State to reject the Proposal submitted by the Offeror on this project, and terminate any contract awarded based on the proposal.

**N. I FURTHER AFFIRM THAT:**

Any claims of environmental attributes made relating to a product or service included in the Proposal are consistent with the Federal Trade Commission’s Guides for the Use of Environmental Marketing Claims as provided in 16 C.F.R. §260, that apply to claims about the environmental attributes of a product, package or service in connection with the marketing, offering for sale, or sale of such item or service.

**O. ACKNOWLEDGEMENT**

I ACKNOWLEDGE THAT this Affidavit is to be furnished to the Procurement Officer and may be distributed to units of: (1) the State of Maryland; (2) counties or other subdivisions of the State of Maryland; (3) other states; and (4) the federal government. I further acknowledge that this Affidavit is subject to applicable laws of the United States and the State of Maryland, both criminal and civil, and that nothing in this Affidavit or any contract resulting from the submission of this Proposal shall be construed to supersede, amend, modify or waive, on behalf of the State of Maryland, or any unit of the State of Maryland having jurisdiction, the exercise of any statutory right or remedy conferred by the Constitution and the laws of Maryland with respect to any misrepresentation made or any violation of the obligations, terms and covenants undertaken by the above business with respect to (1) this Affidavit, (2) the contract, and (3) other Affidavits comprising part of the contract.

I DO SOLEMNLY DECLARE AND AFFIRM UNDER THE PENALTIES OF PERJURY THAT THE CONTENTS OF THIS AFFIDAVIT ARE TRUE AND CORRECT TO THE BEST OF MY KNOWLEDGE, INFORMATION, AND BELIEF.

|  |  |
| --- | --- |
| By: |  |
| *Signature of Authorized Representative and Affiant* |  |
| Printed Name:  |  |
| *Printed Name of Authorized Representative and Affiant* |  |
| Title:  |  |
| *Title* |  |
| Date: |  |
| *Date* |  |
|  |  |

**Submit This Affidavit with Proposal**

## ATTACHMENTS D – MINORITY BUSINESS ENTERPRISE FORMS

This solicitation does not include a Minority Business Enterprise (MBE) subcontractor participation goal.

## ATTACHMENTS E – VETERAN-OWNED SMALL BUSINESS ENTERPRISE

This solicitation does not include a Veteran-Owned Small Business Enterprise goal.

## ATTACHMENT F – LIVING WAGE REQUIREMENTS FOR SERVICE CONTRACTS

Living Wage Requirements for Service Contracts

A. This contract is subject to the Living Wage requirements under Md. Code Ann., State Finance and Procurement Article, Title 18, and the regulations proposed by the Commissioner of Labor and Industry (Commissioner). The Living Wage generally applies to a Contractor or Subcontractor who performs work on a State contract for services that is valued at $100,000 or more. An employee is subject to the Living Wage if he/she is at least 18 years old or will turn 18 during the duration of the contract; works at least 13 consecutive weeks on the State Contract and spends at least one-half of the employee’s time during any work week on the State Contract.

B. The Living Wage Law does not apply to:

(1) A Contractor who:

(a) Has a State contract for services valued at less than $100,000, or

(b) Employs 10 or fewer employees and has a State contract for services valued at less than $500,000.

(2) A Subcontractor who:

(a) Performs work on a State contract for services valued at less than $100,000,

(b) Employs 10 or fewer employees and performs work on a State contract for services valued at less than $500,000, or

(c) Performs work for a Contractor not covered by the Living Wage Law as defined in B(1)(b) above, or B(3) or C below.

(3) Service contracts for the following:

(a) Services with a Public Service Company;

(b) Services with a nonprofit organization;

(c) Services with an officer or other entity that is in the Executive Branch of the State government and is authorized by law to enter into a procurement (“Unit”); or

(d) Services between a Unit and a County or Baltimore City.

C. If the Unit responsible for the State contract for services determines that application of the Living Wage would conflict with any applicable federal program, the Living Wage does not apply to the contract or program.

D. A Contractor must not split or subdivide a State contract for services, pay an employee through a third party, or treat an employee as an independent Contractor or assign work to employees to avoid the imposition of any of the requirements of Md. Code Ann., State Finance and Procurement Article, Title 18.

E. Each Contractor/Subcontractor, subject to the Living Wage Law, shall post in a prominent and easily accessible place at the work site(s) of covered employees a notice of the Living Wage Rates, employee rights under the law, and the name, address, and telephone number of the Commissioner.

F. The Commissioner shall adjust the wage rates by the annual average increase or decrease, if any, in the Consumer Price Index for all urban consumers for the Washington/Baltimore metropolitan area, or any successor index, for the previous calendar year, not later than 90 days after the start of each fiscal year. The Commissioner shall publish any adjustments to the wage rates on the Division of Labor and Industry’s website. An employer subject to the Living Wage Law must comply with the rate requirements during the initial term of the contract and all subsequent renewal periods, including any increases in the wage rate, required by the Commissioner, automatically upon the effective date of the revised wage rate.

G. A Contractor/Subcontractor who reduces the wages paid to an employee based on the employer’s share of the health insurance premium, as provided in Md. Code Ann., State Finance and Procurement Article, §18-103(c), shall not lower an employee’s wage rate below the minimum wage as set in Md. Code Ann., Labor and Employment Article, §3-413. A Contractor/Subcontractor who reduces the wages paid to an employee based on the employer’s share of health insurance premium shall comply with any record reporting requirements established by the Commissioner.

H. A Contractor/Subcontractor may reduce the wage rates paid under Md. Code Ann., State Finance and Procurement Article, §18-103(a), by no more than 50 cents of the hourly cost of the employer’s contribution to an employee’s deferred compensation plan. A Contractor/Subcontractor who reduces the wages paid to an employee based on the employer’s contribution to an employee’s deferred compensation plan shall not lower the employee’s wage rate below the minimum wage as set in Md. Code Ann., Labor and Employment Article, §3-413.

I. Under Md. Code Ann., State Finance and Procurement Article, Title 18, if the Commissioner determines that the Contractor/Subcontractor violated a provision of this title or regulations of the Commissioner, the Contractor/Subcontractor shall pay restitution to each affected employee, and the State may assess liquidated damages of $20 per day for each employee paid less than the Living Wage.

J. Information pertaining to reporting obligations may be found by going to the Division of Labor and Industry website [http://www.dllr.state.md.us/labor/prev/livingwage.shmtl](http://www.dllr.state.md.us/labor/prev/livingwage.shtml) and clicking on Living Wage for State Service Contracts.

**ATTACHMENT F-1**

**Maryland Living Wage Requirements Affidavit of Agreement**

**(submit with Proposal)**

Contract No. \_\_\_\_\_\_2018-06\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

Name of Contractor \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

Address\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

City\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ State\_\_\_\_\_\_\_\_ Zip Code\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

**If the Contract Is Exempt from the Living Wage Law**

The Undersigned, being an authorized representative of the above named Contractor, hereby affirms that the Contract is exempt from Maryland’s Living Wage Law for the following reasons (check all that apply):

[ ]  Offeror is a nonprofit organization

[ ]  Offeror is a public service company

[ ]  Offeror employs 10 or fewer employees and the proposed contract value is less than $500,000

[ ]  Offeror employs more than 10 employees and the proposed contract value is less than $100,000

**If the Contract Is a Living Wage Contract**

A. The Undersigned, being an authorized representative of the above-named Contractor, hereby affirms its commitment to comply with Title 18, State Finance and Procurement Article, Annotated Code of Maryland and, if required, submit all payroll reports to the Commissioner of Labor and Industry with regard to the above stated contract. The Offeror agrees to pay covered employees who are subject to living wage at least the living wage rate in effect at the time service is provided for hours spent on State contract activities, and ensure that its Subcontractors who are not exempt also pay the required living wage rate to their covered employees who are subject to the living wage for hours spent on a State contract for services. The Contractor agrees to comply with, and ensure its Subcontractors comply with, the rate requirements during the initial term of the contract and all subsequent renewal periods, including any increases in the wage rate established by the Commissioner of Labor and Industry, automatically upon the effective date of the revised wage rate.

B. \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_(initial here if applicable) The Offeror affirms it has no covered employees for the following reasons: (check all that apply):

[ ]  The employee(s) proposed to work on the contract will spend less than one-half of the employee’s time during any work week on the contract

[ ]  The employee(s) proposed to work on the contract is 17 years of age or younger during the duration of the contract; or

[ ]  The employee(s) proposed to work on the contract will work less than 13 consecutive weeks on the State contract.

The Commissioner of Labor and Industry reserves the right to request payroll records and other data that the Commissioner deems sufficient to confirm these affirmations at any time.

Name of Authorized Representative: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

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Signature of Authorized Representative Date

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

Title

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Witness Name (Typed or Printed)

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

Witness Signature Date

**Submit This Affidavit with Proposal**

## ATTACHMENT G- FEDERAL FUNDS ATTACHMENT

This RFP does not include a Federal Funds Attachment.

## ATTACHMENT H – CONFLICT OF INTEREST AFFIDAVIT AND DISCLOSURE

**Reference COMAR 21.05.08.08**

**Re: #2018-06**

A. “Conflict of interest” means that because of other activities or relationships with other persons, a person is unable or potentially unable to render impartial assistance or advice to the State, or the person’s objectivity in performing the contract work is or might be otherwise impaired, or a person has an unfair competitive advantage.

B. “Person” has the meaning stated in COMAR 21.01.02.01B(64) and includes a Offeror, Contractor, consultant, or Subcontractor or sub-consultant at any tier, and also includes an employee or agent of any of them if the employee or agent has or will have the authority to control or supervise all or a portion of the work for which a Proposal is made.

C. The Offeror warrants that, except as disclosed in §D, below, there are no relevant facts or circumstances now giving rise or which could, in the future, give rise to a conflict of interest.

D. The following facts or circumstances give rise or could in the future give rise to a conflict of interest (explain in detail — attach additional sheets if necessary):

E. The Offeror agrees that if an actual or potential conflict of interest arises after the date of this affidavit, the Offeror shall immediately make a full disclosure in writing to the Procurement Officer of all relevant facts and circumstances. This disclosure shall include a description of actions which the Offeror has taken and proposes to take to avoid, mitigate, or neutralize the actual or potential conflict of interest. If the contract has been awarded and performance of the contract has begun, the Contractor shall continue performance until notified by the Procurement Officer of any contrary action to be taken.

I DO SOLEMNLY DECLARE AND AFFIRM UNDER THE PENALTIES OF PERJURY THAT THE CONTENTS OF THIS AFFIDAVIT ARE TRUE AND CORRECT TO THE BEST OF MY KNOWLEDGE, INFORMATION, AND BELIEF.

Date:\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ By:\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

(Authorized Representative and Affiant)

**Submit This Affidavit with Proposal**

## ATTACHMENT I – NON-DISCLOSURE AGREEMENT

THIS NON-DISCLOSURE AGREEMENT (“Agreement”) is made by and between the State of Maryland (the “State”), acting by and through MLGCA (the “Department”), and \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ (the “Contractor”).

**RECITALS**

**WHEREAS**, the Contractor has been awarded a contract (the “Contract”) following the RFP for Lottery Drawing Machines and Related Maintenance Services RFP # 2018-06; and

**WHEREAS**, in order for the Contractor to perform the work required under the Contract, it will be necessary for the State at times to provide the Contractor and the Contractor’s employees, agents, and Subcontractors (collectively “Contractor’s Personnel”) with access to certain information the State deems confidential (the “Confidential Information”).

**NOW, THEREFORE**, in consideration of being given access to the Confidential Information in connection with the solicitation and the Contract, and for other good and valuable consideration, the receipt and sufficiency of which the parties acknowledge, the parties do hereby agree as follows:

1. Regardless of the form, format, or media on or in which the Confidential Information is provided and regardless of whether any such Confidential Information is marked as such, “Confidential Information” means (1) any and all information provided by or made available by the State to the Contractor in connection with the Contract and (2) any and all Personally Identifiable Information (PII) (including but not limited to personal information as defined in Md. Ann. Code, General Provisions §4-101(h)) and Protected Health Information (PHI) that is provided by a person or entity to the Contractor in connection with this Contract. Confidential Information includes, by way of example only, information that the Contractor views, takes notes from, copies (if the State agrees in writing to permit copying), possesses or is otherwise provided access to and use of by the State in relation to the Contract.

2. The Contractor shall not, without the State’s prior written consent, copy, disclose, publish, release, transfer, disseminate, use, or allow access for any purpose or in any form, any Confidential Information except for the sole and exclusive purpose of performing under the Contract. The Contractor shall limit access to the Confidential Information to the Contractor’s Personnel who have a demonstrable need to know such Confidential Information in order to perform under the Contract and who are boun by confidentiality obligations at least as restrictive as those set forth in this Agreement. Contractor shall provide copies of such agreements to the State. The names of the Contractor’s Personnel are attached hereto and made a part hereof as ATTACHMENT I-1. The Contractor shall update ATTACHMENT I-1 by adding additional names (whether Contractor’s personnel or a Subcontractor’s personnel) as needed, from time to time.

3. If the Contractor intends to disseminate any portion of the Confidential Information to non-employee agents who are assisting in the Contractor’s performance of the Contract or will otherwise have a role in performing any aspect of the Contract, the Contractor shall first obtain the written consent of the State to any such dissemination. The State may grant, deny, or condition any such consent, as it may deem appropriate in its sole and absolute subjective discretion.

4. The Contractor hereby agrees to hold the Confidential Information in trust and in strictest confidence, adopt or establish operating procedures and physical security measures, and take all other measures necessary to protect the Confidential Information from inadvertent release or disclosure to unauthorized third parties and to prevent all or any portion of the Confidential Information from falling into the public domain or into the possession of persons not bound to maintain the confidentiality of the Confidential Information.

5. The Contractor shall promptly advise the State in writing if it learns of any unauthorized use, misappropriation, or disclosure of the Confidential Information by any of the Contractor’s Personnel or the Contractor’s former Personnel. Contractor shall, at its own expense, cooperate with the State in seeking injunctive or other equitable relief against any such person(s).

6. The Contractor shall, at its own expense, return to the Department all copies of the Confidential Information in its care, custody, control or possession upon request of the Department or on termination of the Contract. The Contractor shall complete and submit ATTACHMENT J-2 when returning the Confidential Information to the Department. At such time, the Contractor shall also permanently delete any Confidential Information stored electronically by the Contractor.

7. A breach of this Agreement by the Contractor or the Contractor’s Personnel shall constitute a breach of the Contract between the Contractor and the State.

8. Contractor acknowledges that any failure by the Contractor or the Contractor’s Personnel to abide by the terms and conditions of use of the Confidential Information may cause irreparable harm to the State and that monetary damages may be inadequate to compensate the State for such breach. Accordingly, the Contractor agrees that the State may obtain an injunction to prevent the disclosure, copying or improper use of the Confidential Information. The Contractor consents to personal jurisdiction in the Maryland State Courts. The State’s rights and remedies hereunder are cumulative and the State expressly reserves any and all rights, remedies, claims and actions that it may have now or in the future to protect the Confidential Information and seek damages from the Contractor and the Contractor’s Personnel for a failure to comply with the requirements of this Agreement. In the event the State suffers any losses, damages, liabilities, expenses, or costs (including, by way of example only, attorneys’ fees and disbursements) that are attributable, in whole or in part to any failure by the Contractor or any of the Contractor’s Personnel to comply with the requirements of this Agreement, the Contractor shall hold harmless and indemnify the State from and against any such losses, damages, liabilities, expenses, and costs.

9. Contractor and each of the Contractor’s Personnel who receive or have access to any Confidential Information shall execute a copy of an agreement substantially similar to this Agreement, in no event less restrictive than as set forth in this Agreement, and the Contractor shall provide originals of such executed Agreements to the State.

10. The parties further agree that:

a. This Agreement shall be governed by the laws of the State of Maryland;

b. The rights and obligations of the Contractor under this Agreement may not be assigned or delegated, by operation of law or otherwise, without the prior written consent of the State;

c. The State makes no representations or warranties as to the accuracy or completeness of any Confidential Information;

d. The invalidity or unenforceability of any provision of this Agreement shall not affect the validity or enforceability of any other provision of this Agreement;

e. Signatures exchanged by facsimile are effective for all purposes hereunder to the same extent as original signatures;

f. The Recitals are not merely prefatory but are an integral part hereof; and

g. The effective date of this Agreement shall be the same as the effective date of the Contract entered into by the parties.

**IN WITNESS WHEREOF**, the parties have, by their duly authorized representatives, executed this Agreement as of the day and year first above written.

|  |  |
| --- | --- |
| Contractor:\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ | MLGCA |
| By: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_(SEAL) | By: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ |
| Printed Name: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ | Printed Name: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ |
| Title: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ | Title: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ |
| Date: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ | Date: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ |

**NON-DISCLOSURE AGREEMENT - ATTACHMENT I-1**

**LIST OF CONTRACTOR’S EMPLOYEES AND AGENTS WHO WILL BE GIVEN ACCESS TO THE CONFIDENTIAL INFORMATION**

**Printed Name and Employee (E)**

**Address of Individual/Agent or Agent (A) Signature Date**

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**NON-DISCLOSURE AGREEMENT – ATTACHMENT I-2**

**CERTIFICATION TO ACCOMPANY RETURN OR DELETION OF CONFIDENTIAL INFORMATION**

I AFFIRM THAT:

To the best of my knowledge, information, and belief, and upon due inquiry, I hereby certify that: (i) all Confidential Information which is the subject matter of that certain Non-Disclosure Agreement by and between the State of Maryland and \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ (“Contractor”) dated \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_, 20\_\_\_\_\_ (“Agreement”) is attached hereto and is hereby returned to the State in accordance with the terms and conditions of the Agreement; and (ii) I am legally authorized to bind the Contractor to this affirmation. Any and all Confidential Information that was stored electronically by me has been permanently deleted from all of my systems or electronic storage devices where such Confidential Information may have been stored.

**I DO SOLEMNLY DECLARE AND AFFIRM UNDER THE PENALTIES OF PERJURY THAT THE CONTENTS OF THIS AFFIDAVIT ARE TRUE AND CORRECT TO THE BEST OF MY KNOWLEDGE, INFORMATION, AND BELIEF, HAVING MADE DUE INQUIRY.**

DATE:\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

NAME OF CONTRACTOR: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

BY:\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

(Signature)

TITLE: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

 (Authorized Representative and Affiant)

## ATTACHMENT J – HIPAA BUSINESS ASSOCIATE AGREEMENT

This RFP does not require a HIPAA Business Associate Agreement.

## ATTACHMENT K – MERCURY AFFIDAVIT

This RFP does not include the procurement of products known to likely include mercury as a component.

## ATTACHMENT L – LOCATION OF THE PERFORMANCE OF SERVICES DISCLOSURE

**(submit with Proposal)**

Pursuant to Md. Ann. Code, State Finance and Procurement Article, § 12-111, and in conjunction with the Proposal submitted in response to RFP No. \_2018-06\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_, the following disclosures are hereby made:

1. At the time of Proposal submission, the Offeror and/or its proposed Subcontractors:

\_\_\_ have plans

\_\_\_ have **no** plans

to perform any services required under the resulting Contract outside of the United States.

2. If services required under the contract are anticipated to be performed outside the United States by either the Offeror or its proposed Subcontractors, the Offeror shall answer the following (attach additional pages if necessary):

a. Location(s) services will be performed: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

b. Reasons why it is necessary or advantageous to perform services outside the United States:

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

The undersigned, being an authorized representative of the Offeror, hereby affirms that the contents of this disclosure are true to the best of my knowledge, information, and belief.

|  |  |
| --- | --- |
| Date: | \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ |
| Offeror Name: | \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ |
| By: | \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ |
| Name: | \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ |
| Title: | \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ |

Please be advised that the MLGCA may contract for services provided outside of the United States if: the services are not available in the United States; the price of services in the United States exceeds by an unreasonable amount the price of services provided outside the United States; or the quality of services in the United States is substantially less than the quality of comparably priced services provided outside the United States.

## ATTACHMENT M – CONTRACT

**LOTTERY DRAWING MACHINES AND RELATED MAINTENANCE SERVICES**

**RFP No: 2018-06**

THIS CONTRACT (the “Contract”) is made this (“Xth” ) day of (month), 2018 by and between (Contractor’s name) and the STATE OF MARYLAND, acting through the **Maryland State Lottery and Gaming Control Agency (MLGCA).**

In consideration of the promises and the covenants herein contained, the adequacy and sufficiency of which is duly acknowledged by the parties, the parties agree as follows:

**1. Definitions**

In this Contract, the following words have the meanings indicated:

* 1. “COMAR” means Code of Maryland Regulations.
	2. “Contract” means this agreement between (Contractor’s name) and the State of Maryland, acting through the Maryland State Lottery and Gaming Control Agency (MLGCA).

1.3 “Contract Monitor” means the following MLGCA employees identified as the Contract Monitor:

Carole B. Gentry

Maryland State Lottery and Gaming Control Agency

Montgomery Park Business Center

1800 Washington Boulevard, Suite 330

Baltimore, MD 21230

Telephone: 410-230-8725; Fax: 410-230-8825

E-mail Address: carole.gentry@maryland.gov

1.4 “Contractor” means the entity first named above whose principal business address is (Contractor’s primary address) and whose principal office in Maryland is (Contractor’s local address), whose Federal Employer Identification Number or Social Security Number is (Contractor’s FEIN), and whose eMaryland Marketplace vendor ID number is (eMM Number).

1.5 “Department” means the Maryland State Lottery and Gaming Control Agency (MLGCA).

1.6 “Financial Proposal” means the Contractor’s Financial Proposal dated (Financial Proposal date), as modified by any Best and Final Offer thereto.

1.7 “Procurement Officer” means the following Department employee identified as the Procurement Officer:

Robert W. Howells

Maryland State Lottery and Gaming Control Agency

Montgomery Park Business Center

1800 Washington Boulevard, Suite 330

Baltimore, MD 21230

Telephone: 410-230-8789; Fax: 410-230-8727

E-mail Address: robert.howells@maryland.gov

1.8 “RFP” means the Request for Proposals for Lottery Drawing Machines and Related Maintenance Services RFP # 2018-06, and any amendments and attachments thereto issued in writing by the State.

1.9 “State” means the State of Maryland.

* 1. “Technical Proposal” means the Contractor’s Technical Proposal dated (Technical Proposal date).
	2. Capitalized terms not defined herein shall be ascribed the meaning given to them in the RFP.

**2. Scope of Contract**

2.1 The Contractor shall provide deliverables, programs, goods, and services specific to the Contract for Lottery Drawing Machines and Related Maintenance Services awarded in accordance with Exhibits A-C listed in this section and incorporated as part of this Contract. If there is any conflict between this Contract and the Exhibits, the terms of the Contract shall govern. If there is any conflict among the Exhibits, the following order of precedence shall determine the prevailing provision:

Exhibit A – The RFP

Exhibit B – State Contract Affidavit, executed by the Contractor and dated (date of Attachment C)

Exhibit C – The Proposal (Technical and Financial)

2.2 The Procurement Officer may, at any time, by written order, make changes in the work within the general scope of the Contract or the RFP. No other order, statement, or conduct of the Procurement Officer or any other person shall be treated as a change or entitle the Contractor to an equitable adjustment under this section. Except as otherwise provided in this Contract, if any change under this section causes an increase or decrease in the Contractor’s cost of, or the time required for, the performance of any part of the work, whether or not changed by the order, an equitable adjustment in the Contract price shall be made and the Contract modified in writing accordingly. The Contractor must assert in writing its right to an adjustment under this section within thirty (30) days of receipt of written change order and shall include a written statement setting forth the nature and cost of such claim. No claim by the Contractor shall be allowed if asserted after final payment under this Contract. Failure to agree to an adjustment under this section shall be a dispute under the Disputes clause. Nothing in this section shall excuse the Contractor from proceeding with the Contract as changed.

2.3 Without limiting the rights of the Procurement Officer under Section 2.2 above, the Contract may be modified by mutual agreement of the parties, provided: (a) the modification is made in writing; (b) all parties sign the modification; and (c) all approvals by the required agencies as described in COMAR Title 21, are obtained.

**3. Period of Performance.**

3.1 The term of this Contract begins on the date the Contract is signed by the MLGCA following any required prior approvals, including approval by the Board of Public Works, if such approval is required. The Contractor shall provide services under this Contract as of the Go-Live date contained in the written Notice to Proceed. From this Go-Live date, the Contract shall be for a period of approximately five (5) years tentatively beginning **June 1, 2019** and ending on **May 31, 2024**.

3.2 The State, at its sole option, has the unilateral right to extend the term of the Contract for one (1) additional five (5) year renewal term at the prices quoted in the Financial Proposal for the renewal option term.

3.3 Upon the expiration of this Contract, or of the Renewal Option Period if exercised, the MLGCA, at its sole option, shall have the unilateral right to extend the Contract for a Final Renewal Option Period (for transitioning) of up to an additional six (6) month period in order to facilitate the conversion and transition to a follow-on Drawing Machine and Maintenance Services contractor. For this Final Renewal Option Period, the MLGCA will determine and indicate the number of months needed to facilitate the conversion and transition to a follow-on contractor at the time of exercising this Option. All other terms and conditions, including price, shall remain the same for this Final Renewal Option as what is in effect at time of expiration of the initial Contract term or of a Renewal Option Period, as applicable. Upon expiration of the initial Contract term of five (5) years, the Renewal Option Period of five (5) years total, and the Final Renewal Option for transitioning of up to six (6) months (if exercised), the total Contract Term shall not exceed approximately ten (10) years and six (6) months.

3.4 The Contractor’s obligation to pay invoices to subcontractors providing products/services in connection with this Contract, as well as the audit; confidentiality; document retention; patents, copyright and intellectual property; warranty; indemnification obligations; and limitations of liability under this Contract; and any other obligations specifically identified, shall survive expiration or termination of the Contract.

**4. Consideration and Payment**

4.1 In consideration of the satisfactory performance of the work set forth in this Contract, the MLGCA will pay the Contractor in accordance with the terms of this Contract and at the prices quoted in the Financial Proposal dated \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_, 2019, which is attached hereto as Exhibit B to the Contract. Beginning on June 1, 2019, or upon the commencement of the Contract, whichever is later, the Contractor will begin to accrue earnings and the MLGCA agrees to pay the amounts set forth in this Section 4. All projects to be performed by the Contractor shall be pre-approved by the MLGCA.

* 1. Unless a payment is unauthorized, deferred, delayed, or set-off under COMAR 21.02.07, payments to the Contractor pursuant to this Contract shall be made no later than thirty (30) days after the MLGCA’s receipt of a proper invoice for services provided by the Contractor as required by RFP Section 3.4 Invoicing, acceptance by the MLGCA of services provided by the Contractor, and pursuant to the conditions outlined in Section 4 of this Contract. Each invoice for services rendered must include the Contractor’s Federal Tax Identification or Social Security Number for a Contractor who is an individual which is **(Contractor’s FEIN or SSN**). Charges for late payment of invoices other than as prescribed at Md. Code Ann., State Finance and Procurement Article, §15-104 are prohibited. Invoices shall be submitted to the Contract Monitor. Electronic funds transfer shall be used by the State to pay Contractor pursuant to this Contract and any other State payments due Contractor unless the State Comptroller’s Office grants Contractor an exemption. The MLGCA will not pay for services prior to their delivery. The MLGCA may withhold and/or reduce payment for unsatisfactory performance, as well as for set-off, counterclaim, liquidated damages, or any other legally permitted deduction.
	2. The Contractor shall promptly, within thirty (30) days of receipt of payment from the MLGCA, pay its Subcontractors and other third-party vendors an undisputed amount to which a Subcontractor or third-party vendor is entitled for work performed under this Contract. The Contractor shall submit to the MLGCA monthly (not later than the 5th business day of the month following the month covered by the report) a report certifying, under penalties of perjury, all payments made to Subcontractors and third-party vendors that have performed work under this Contract and the balances including aging information owed to those Subcontractors and third-party vendors.
	3. The total amount of this Contract for the initial three (3) year term excluding any future modifications shall not exceed **($ amount to be inserted upon contract award**) Dollars. In the event that the MLGCA exercises its unilateral option to extend the Contract in its sole discretion, the amount of this Contract for the one (1) two (2) year Renewal Option period, excluding any future modifications shall not exceed **($ amount to be inserted upon contract award**). If the MLGCA exercises the option to extend, such option shall be at the same prices, terms and conditions. The “not to exceed” amounts are not guaranteed amounts, but only the maximum amount authorized to be expended under this Contract without further written and properly authorized modification. If the charges are likely to become greater than the not to exceed amounts, the MLGCA will request approval from the Maryland Department of Budget and Management, the Maryland Board of Public Works, and other necessary State officials. Approval from these entities is not guaranteed.
	4. In addition to any other available remedies, if, in the opinion of the Procurement Officer, the Contractor fails to perform in a satisfactory and timely manner, the Procurement Officer may refuse or limit approval of any invoice for payment, and may cause payments to the Contractor to be reduced or withheld until such time as the Contractor meets performance standards as established by the Procurement Officer.
	5. Payment of an invoice by the MLGCA is not evidence that services were rendered as required under this Contract.
	6. Contractor’s eMaryland Marketplace vendor ID number is (Contractor’s eMM number).
	7. The MLGCA and Commission shall have no responsibility for the payment of any federal, state or local taxes which become payable by the Contractor or its Subcontractors as a result of this Contract. The State is generally exempt from Federal excise taxes, Maryland sales and use taxes, District of Columbia sales taxes and transportation taxes. Exemption certificates will be completed upon request. Where a Contractor is required to furnish and install material in the construction or improvement of real property in performance of a contract, the Contractor shall pay the Maryland sales tax and the exemption does not apply.

**5. Rights to Records**

5.1 The Contractor agrees that all documents and materials including, but not limited to, software, reports, drawings, studies, specifications, estimates, tests, maps, photographs, designs, graphics, mechanical, artwork, computations, and data prepared by the Contractor for purposes of this Contract shall be the sole property of the State and shall be available to the State at any time. The State shall have the right to use the same without restriction and without compensation to the Contractor other than that specifically provided by this Contract.

5.2 The Contractor agrees that at all times during the term of this Contract and thereafter, works created as a deliverable under this Contract, and services performed under this Contract shall be “works made for hire” as that term is interpreted under U.S. copyright law. To the extent that any products created as a deliverable under this Contract are not works made for hire for the State, the Contractor hereby relinquishes, transfers, and assigns to the State all of its rights, title, and interest (including all intellectual property rights) to all such products created under this Contract, and will cooperate reasonably with the State in effectuating and registering any necessary assignments.

5.3 The Contractor shall report to the Contract Monitor, promptly and in written detail, each notice or claim of copyright infringement received by the Contractor with respect to all data delivered under this Contract.

5.4 The Contractor shall not affix any restrictive markings upon any data, documentation, or other materials provided to the State hereunder and if such markings are affixed, the State shall have the right at any time to modify, remove, obliterate, or ignore such warnings.

* 1. Upon termination of the Contract, the Contractor, at its own expense, shall deliver any equipment, software or other property provided by the State to the place designated by the Procurement Officer.

**6. Exclusive Use**

6.1 The State shall have the exclusive right to use, duplicate, and disclose any data, information, documents, records, or results, in whole or in part, in any manner for any purpose whatsoever, that may be created or generated by the Contractor in connection with this Contract. If any material, including software, is capable of being copyrighted, the State shall be the copyright owner and Contractor may copyright material connected with this project only with the express written approval of the State.

6.2 Except as may otherwise be set forth in this Contract, Contractor shall not use, sell, sub-lease, assign, give, or otherwise transfer to any third party any other information or material provided to Contractor by the Department or developed by Contractor relating to the Contract, except that Contractor may provide said information to any of its officers, employees and Subcontractors who Contractor requires to have said information for fulfillment of Contractor's obligations hereunder. Each officer, employee and/or Subcontractor to whom any of the Department’s confidential information is to be disclosed shall be advised by Contractor of and bound by confidentiality and intellectual property terms substantively equivalent to those of this Contract.

**7. Patents, Copyrights, and Intellectual Property**

7.1 All copyrights, patents, trademarks, trade secrets, and any other intellectual property rights existing prior to the Effective Date of this Contract shall belong to the party that owned such rights immediately prior to the Effective Date (“Pre-Existing Intellectual Property”). If any design, device, material, process, or other item, provided by the Contractor is covered by a patent, trademark or service mark, or copyright or which is proprietary to, or a trade secret of, another, the Contractor shall obtain the necessary permission or license to permit the State to use such item or items pursuant to its rights granted under the Contract.

7.2 Except for (1) information created or otherwise owned by the MLGCA or licensed by the MLGCA from third parties, including all information provided by the MLGCA to Contractor; (2) materials created by Contractor or its subcontractor(s) specifically for the State under the Contract (“Deliverables”), except for any Contractor Pre-Existing Intellectual Property included therein; and (3) the license rights granted to the State, all right, title, and interest in the intellectual property embodied in the solution, including the know-how and methods by which the solution is provided and the processes that make up the solution, will belong solely and exclusively to Contractor and its licensors, and the MLGCA will have no rights to the same except as expressly granted in this Contract. For all Contractor Pre-Existing Intellectual Property embedded in any Deliverables, Contractor grants to the State a license to use such Contractor Pre-Existing Intellectual Property in connection with its permitted use of such Deliverable. During the period between delivery of a Deliverable by Contractor and the date of payment therefor by the State in accordance with this Contract (including throughout the duration of any payment dispute discussions), subject to the terms and conditions contained herein, Contractor grants the State a royalty-free, non-exclusive, limited license to use such Deliverable and to use any Contractor Materials contained therein in accordance with this Contract.

7.3 Subject to the terms of **Section 10**, the Contractor shall defend, indemnify and hold harmless the State and its agents judgments and expenses (including without limitation reasonable attorneys’ fees) arising out of or in connection with any third party claim that the Contractor-provided products/services infringe, misappropriate or otherwise violate any third party intellectual property rights. Contractor shall not enter into any settlement involving third party claims that contains any admission of or stipulation to any guilt, fault, liability or wrongdoing by the State or that adversely affects the State’s rights or interests, without the State’s prior written consent. If a third party claims that a product infringes that party’s patent, trademark, service mark, trade secret, or copyright, the Contractor will defend the State against that claim at Contractor’s expense and will pay all damages, costs, and attorneys’ fees that a court finally awards, provided the State: (a) promptly notifies the Contractor in writing of the claim; and (b) allows Contractor to control and cooperates with Contractor in, the defense and any related settlement negotiations. The obligations of this paragraph are in addition to those stated in Section 7.4 below.

7.4 Without limiting Contractor’s obligations under Section 5.3, if an infringement claim occurs, or if the State or the Contractor believes such a claim is likely to occur, Contractor (after consultation with the State and at no cost to the State): (a) shall procure for the State the right to continue using the allegedly infringing component or service in accordance with its rights under this Contract; or (b) replace or modify the allegedly infringing component or service so that it becomes non-infringing and remains compliant with all applicable specifications.

7.5 The Contractor shall not affix (or permit any third party to affix), without the MLGCA’s consent, any restrictive markings upon any Deliverables that are owned by the State, and if such markings are affixed, the MLGCA shall have the right at any time to modify, remove, obliterate, or ignore such warnings.

**8. Confidential or Proprietary Information and Documentation**

8.1 Subject to the Maryland Public Information Act and any other applicable laws including, without limitation, HIPAA, the HI-TECH Act, and the Maryland Medical Records Act and the implementation of regulations promulgated pursuant thereto, all confidential or proprietary information and documentation relating to either party (including without limitation, any information or data stored within the Contractor’s computer systems) shall be held in absolute confidence by the other party. Each party shall, however, be permitted to disclose, as provided by and consistent with applicable law, relevant confidential information to its officers, agents, and employees to the extent that such disclosure is necessary for the performance of their duties under this Contract. Each officer, agent, and Contractor Personnel to whom any of the State’s confidential information is to be disclosed shall be advised by Contractor provided that each officer, agent, and Contractor Personnel to whom any of the State’s confidential information is to be disclosed shall be advised by Contractor of the obligations hereunder, and bound by, confidentiality at least as restrictive as those of set forth in this Contract.

8.2 The provisions of this section shall not apply to information that: (a) is lawfully in the public domain; (b) has been independently developed by the other party without violation of this Contract; (c) was already in the possession of such party; (d) was supplied to such party by a third party lawfully in possession thereof and legally permitted to further disclose the information; or (e) which such party is required to disclose by law.

8.3 This Section 8 shall survive expiration or termination of this Contract.

**9. Loss of Data**

 In the event of loss of any State data or records where such loss is due to the act or omission including negligence of the Contractor or any of its Subcontractors or agents, the Contractor shall be responsible for recreating such lost data in the manner and on the schedule set by the Contract Monitor. The Contractor shall ensure that all data is backed up and recoverable by the Contractor. Contractor shall use its best efforts to assure that at no time shall any actions undertaken by the Contractor under this Contract (or any failures to act when Contractor has a duty to act) damage or create any vulnerabilities in data bases, systems, platforms, and/or applications with which the Contractor is working hereunder.

**10. Indemnification and Notice of Legal Requests**

10.1 At its sole cost and expense, Contractor shall (i) indemnify and hold harmless the State its employees and agents harmless from and against any and all claims, demands, actions, suits, damages, liabilities, losses, settlements, judgments, costs and expenses (including but not limited to attorneys’ fees and costs), whether or not involving a third party claim, which arise out of or relate to the Contractor’s, or any of its subcontractors’, performance of this Contract and (ii) cooperate, assist, and consult with the State in the defense or investigation of any such claim, demand, action or suit. Contractor shall not enter into any settlement involving third party claims that contains any admission of or stipulation to any guilt, fault, liability or wrongdoing by the State or that adversely affects the State’s rights or interests, without the State’s prior written consent.

10.2 This indemnification clause shall not be construed to mean that the Contractor shall indemnify the State against liability for any losses, damages, claims, suits, actions, liabilities, and/or expenses that are attributable to the sole negligence of the State or the State’s employees.

10.3 The State has no obligation: (i) to provide legal counsel or defense to the Contractor or its Subcontractors in the event that a suit, claim, or action of any character is brought against the Contractor or its Subcontractors as a result of or relating to the Contractor’s performance under this Contract; or (ii) to pay any judgment or settlement of any suit, claim, or action. Notwithstanding the foregoing, the Contractor shall promptly notify the Procurement Officer of any claims, demands, actions, or suits.

10.4 Notification of Legal Requests. In the event the Contractor receives a subpoena or other validly issued administrative or judicial process, or any discovery request in connection with any litigation, requesting State Pre-Existing Intellectual Property, of other information considered to be the property of the State, including but not limited to State data stored with or otherwise accessible by the Contractor, the Contractor shall not respond to such subpoena, process or other legal request without first notifying the State, unless prohibited by law from providing such notice The Contractor shall promptly notify the State of such receipt providing the State with a reasonable opportunity to intervene in the proceeding before the time that Contractor is required to comply with such subpoena, other process or discovery request

10.5 This Section 10 shall survive termination of this Contract.

**11. Non-Hiring of Employees**

 No official or employee of the State, as defined under Md. Code Ann., General Provisions Article, § 5-101, whose duties as such official or employee include matters relating to or affecting the subject matter of this Contract, shall, during the pendency and term of this Contract and while serving as an official or employee of the State, become or be an employee of the Contractor or any entity that is a Subcontractor on this Contract.

**12. Disputes**

 This Contract shall be subject to the provisions of Md. Code Ann., State Finance and Procurement Article, Title 15, Subtitle 2, and COMAR 21.10 (Administrative and Civil Remedies). Pending resolution of a claim, the Contractor shall proceed diligently with the performance of the Contract in accordance with the Procurement Officer’s decision. Unless a lesser period is provided by applicable statute, regulation, or the Contract, the Contractor must file a written notice of claim with the Procurement Officer within thirty (30) days after the basis for the claim is known or should have been known, whichever is earlier. Contemporaneously with or within thirty (30) days of the filing of a notice of claim, but no later than the date of final payment under the Contract, the Contractor must submit to the Procurement Officer its written claim containing the information specified in COMAR 21.10.04.02.

**13. Maryland Law**

13.1 This Contract shall be construed, interpreted, and enforced according to the laws of the State of Maryland.

13.2 The Maryland Uniform Computer Information Transactions Act (Commercial Law Article, Title 22 of the Annotated Code of Maryland), does not apply to this Contract or any purchase order or Notice to Proceed issued under this Contract, or any software, or any software license required hereunder.

13.3 Any and all references to the Maryland Code, Annotated contained in this Contract shall be construed to refer to such Code sections as are from time to time amended.

**14. Nondiscrimination in Employment**

 The Contractor agrees: (a) not to discriminate in any manner against an employee or applicant for employment because of race, color, religion, creed, age, sex, sexual orientation, gender identification, marital status, national origin, ancestry, genetic information, or any otherwise unlawful use of characteristics, or disability of a qualified individual with a disability unrelated in nature and extent so as to reasonably preclude the performance of the employment, or the individual’s refusal to submit to a genetic test or make available the results of a genetic test; (b) to include a provision similar to that contained in subsection (a), above, in any underlying subcontract except a subcontract for standard commercial supplies or raw materials; and (c) to post and to cause Subcontractors to post in conspicuous places available to employees and applicants for employment, notices setting forth the substance of this clause.

**15. Contingent Fee Prohibition**

 The Contractor warrants that it has not employed or retained any person, partnership, corporation, or other entity, other than a bona fide employee, bona fide agent, bona fide salesperson, or commercial selling agency working for the business, to solicit or secure the Contract, and that the business has not paid or agreed to pay any person, partnership, corporation, or other entity, other than a bona fide employee, bona fide agent, bona fide salesperson, or commercial selling agency, any fee or any other consideration contingent on the making of this Contract.

**16. Non-Availability of Funding**

 If the General Assembly fails to appropriate funds or if funds are not otherwise made available for continued performance for any fiscal period of this Contract succeeding the first fiscal period, this Contract shall be canceled automatically as of the beginning of the fiscal year for which funds were not appropriated or otherwise made available; provided, however, that this will not affect either the State’s or the Contractor’s rights under any termination clause in this Contract. The effect of termination of the Contract hereunder will be to discharge both the Contractor and the State from future performance of the Contract, but not from their rights and obligations existing at the time of termination. The Contractor shall be reimbursed for the reasonable value of any nonrecurring costs incurred but not amortized in the price of the Contract. The State shall notify the Contractor as soon as it has knowledge that funds may not be available for the continuation of this Contract for each succeeding fiscal period beyond the first.

**17. Termination for Default**

 If the Contractor fails to fulfill its obligations under this Contract properly and on time, or otherwise violates any provision of the Contract, the State may terminate the Contract by written notice to the Contractor. The notice shall specify the acts or omissions relied upon as cause for termination. All finished or unfinished work provided by the Contractor shall, at the State’s option, become the State’s property. The State shall pay the Contractor fair and equitable compensation for satisfactory performance prior to receipt of notice of termination, less the amount of damages caused by the Contractor’s breach. If the damages are more than the compensation payable to the Contractor, the Contractor will remain liable after termination and the State can affirmatively collect damages. Termination hereunder, including the termination of the rights and obligations of the parties, shall be governed by the provisions of COMAR 21.07.01.11B.

**18. Termination for Convenience**

 The performance of work under this Contract may be terminated by the State in accordance with this clause in whole, or from time to time in part, whenever the State shall determine that such termination is in the best interest of the State. The State will pay all reasonable costs associated with this Contract that the Contractor has incurred up to the date of termination, and all reasonable costs associated with termination of the Contract; provided, however, the Contractor shall not be reimbursed for any anticipatory profits that have not been earned up to the date of termination. Termination hereunder, including the determination of the rights and obligations of the parties, shall be governed by the provisions of COMAR 21.07.01.12A(2).

**19. Delays and Extensions of Time**

19.1 The Contractor agrees to prosecute the work continuously and diligently and no charges or claims for damages shall be made by it for any delays, interruptions, interferences, or hindrances from any cause whatsoever during the progress of any portion of the work specified in this Contract.

19.2 Time extensions will be granted only for excusable delays that arise from unforeseeable causes beyond the control and without the fault or negligence of the Contractor, including but not restricted to, acts of God, acts of the public enemy, acts of the State in either its sovereign or contractual capacity, acts of another Contractor in the performance of a contract with the State, fires, floods, epidemics, quarantine restrictions, strikes, freight embargoes, or delays of Subcontractors or suppliers arising from unforeseeable causes beyond the control and without the fault or negligence of either the Contractor or the Subcontractors or suppliers.

**20. Suspension of Work**

 The State unilaterally may order the Contractor in writing to suspend, delay, or interrupt all or any part of its performance for such period of time as the Procurement Officer may determine to be appropriate for the convenience of the State.

**21. Pre-Existing Regulations**

 In accordance with the provisions of Md. Code Ann., State Finance and Procurement Article, § 11-206, the regulations set forth in Title 21 of the Code of Maryland Regulations (COMAR 21) in effect on the date of execution of this Contract are applicable to this Contract.

**22. Financial Disclosure**

 The Contractor shall comply with the provisions of Md. Code Ann., State Finance and Procurement Article, § 13-221, which requires that every person that enters into contracts, leases, or other agreements with the State or its agencies during a calendar year under which the business is to receive in the aggregate, $100,000 or more, shall within thirty (30) days of the time when the aggregate value of these contracts, leases or other agreements reaches $100,000, file with the Secretary of the State certain specified information to include disclosure of beneficial ownership of the business.

**23. Political Contribution Disclosure**

 The Contractor shall comply with Md. Code Ann., Election Law Article, Title 14, which requires that every person that enters into a contract for a procurement with the State, a county, or a municipal corporation, or other political subdivision of the State, during a calendar year in which the person receives a contract with a governmental entity in the amount of $200,000 or more, shall, file with the State Board of Elections statements disclosing: (a) any contributions made during the reporting period to a candidate for elective office in any primary or general election; and (b) the name of each candidate to whom one or more contributions in a cumulative amount of $500 or more were made during the reporting period. The statement shall be filed with the State Board of Elections: (a) before execution of a contract by the State, a county, a municipal corporation, or other political subdivision of the State, and shall cover the 24 months prior to when a contract was awarded; and (b) if the contribution is made after the execution of a contract, then twice a year, throughout the contract term, on or before: (i) May 31, to cover the six (6) month period ending April 30; and (ii) November 30, to cover the six (6) month period ending October 31. Additional information is available on the State Board of Elections website: <http://www.elections.state.md.us/campaign_finance/index.html>.

**24. Documents Retention and Inspection Clause**

 The Contractor and Subcontractors shall retain and maintain all records and documents relating to this Contract for a period of five (5) years after final payment by the State hereunder or any applicable statute of limitations or federal retention requirements (such as HIPAA), whichever is longer, and shall make them available for inspection and audit by authorized representatives of the State, including the Procurement Officer or designee, at all reasonable times. All records related in any way to the Contract are to be retained for the entire time provided under this section. In the event of any audit, the Contractor shall provide assistance to the State, without additional compensation, to identify, investigate, and reconcile any audit discrepancies and/or variances. This Section 24 shall survive expiration or termination of the Contract.

**25. Right to Audit**

* 1. The State reserves the right, at its sole discretion and at any time, to perform an audit of the Contractor’s and/or Subcontractor’s performance under this Contract. An audit is defined as a planned and documented independent activity performed by qualified personnel including but not limited to State and federal auditors, to determine by investigation, examination, or evaluation of objective evidence from data, statements, records, operations and performance practices (financial or otherwise) the Contractor’s compliance with the Contract, including but not limited to adequacy and compliance with established procedures and internal controls over the Contract services being performed for the State.
	2. Upon three (3) Business Days’ notice, the Contractor and/or any Subcontractors shall provide the State reasonable access to their respective records to verify conformance to the terms of the Contract. The Department may conduct these audits with any or all of its own internal resources or by securing the services of a third party accounting or audit firm, solely at the Department’s election. The Department may copy, at its own expense, any record related to the services performed and provided under this Contract. The Contractor agrees to fully cooperate and assist in any audit conducted by or on behalf of the State, including, by way of example only, making records and employees available as, where, and to the extent requested by the State and by assisting the auditors in reconciling any audit variances. Contractor shall not be compensated for providing any such cooperation and assistance.
	3. The right to audit shall include any of the Contractor’s Subcontractors including but not limited to any lower tier Subcontractor(s) that provide essential support to the Contract services. The Contractor and/or Subcontractor(s) shall ensure the Department has the right to audit such Subcontractor(s).
	4. The Contractor and/or Subcontractors shall cooperate with Department and Department’s designated accountant or auditor and shall provide the necessary assistance for the Department or Department’s designated accountant or auditor to conduct the audit.
	5. This Section shall survive expiration or termination of the Contract.

**26. Compliance with Laws**

The Contractor hereby represents and warrants that:

26.1 It is qualified to do business in the State and that it will take such action as, from time to time hereafter, may be necessary to remain so qualified;

26.2 It is not in arrears with respect to the payment of any monies due and owing the State, or any department or unit thereof, including but not limited to the payment of taxes and employee benefits, and that it shall not become so in arrears during the term of this Contract;

26.3 It shall comply with all federal, State and local laws, regulations, and ordinances applicable to its activities and obligations under this Contract; and

26.4 It shall obtain, at its expense, all licenses, permits, insurance, and governmental approvals, if any, necessary to the performance of its obligations under this Contract.

**27. Cost and Price Certification**

27.1 By submitting cost or price information, the Contractor certifies to the best of its knowledge that the information submitted is accurate, complete, and current as of the date of its Proposal.

27.2 The price under this Contract and any change order or modification hereunder, including profit or fee, shall be adjusted to exclude any significant price increases occurring because the Contractor furnished cost or price information which, as of the date of its Proposal, was inaccurate, incomplete, or not current.

**28. Subcontracting; Assignment**

 The Contractor may not subcontract any portion of the services provided under this Contract without obtaining the prior written approval of the Procurement Officer, nor may the Contractor assign this Contract or any of its rights or obligations hereunder, without the prior written approval of the Procurement Officer; provided, however, that a Contractor may assign monies receivable under a contract after due notice to the State. Any subcontracts shall include such language as may be required in various clauses contained within this Contract, exhibits, and attachments. The Contract shall not be assigned until all approvals, documents, and affidavits are completed and properly registered. The State shall not be responsible for fulfillment of the Contractor’s obligations to its Subcontractors.

**29. Limitations of Liability**

29.1 Contractor shall be liable for any loss or damage to the State occasioned by the acts or omissions of Contractor, its Subcontractors, agents, or employees as follows:

* + 1. For infringement of patents, copyrights, trademarks, service marks, and/or trade secrets, as provided in Section 7 of this Contract;

B. Without limitation for damages for bodily injury (including death) and damage to real property and tangible personal property; and

C. For all other claims, damages, losses, costs, expenses, suits, or actions in any way related to this Contract and regardless of the basis on which the claim is made, liability shall be unlimited.

D. In no event shall the existence of a subcontract operate to release or reduce the liability of Contractor hereunder. For purposes of this Contract, Contractor agrees that all subcontractors shall be held to be agents of Contractor.

29.2 Contractor’s indemnification obligations for third party claims arising under Section 10 of this Contract are included in this limitation of liability only if the State is immune from liability. Contractor’s indemnification liability for third party claims arising under Section 10 of this Contract shall be unlimited if the State is not immune from liability for claims arising under Section 10.

29.3 In no event shall the existence of a subcontract operate to release or reduce the liability of Contractor hereunder. For purposes of this Contract, Contractor agrees that it is responsible for performance of the services and compliance with the relevant obligations hereunder by its subcontractors.

**30. Commercial Nondiscrimination**

30.1 As a condition of entering into this Contract, the Contractor represents and warrants that it will comply with the State’s Commercial Nondiscrimination Policy, as described at Md. Code Ann., State Finance and Procurement Article, Title 19.  As part of such compliance, the Contractor may not discriminate on the basis of race, color, religion, ancestry or national origin, sex, age, marital status, sexual orientation, sexual identity, genetic information or an individual’s refusal to submit to a genetic test or make available the results of a genetic test or on the basis of disability or other unlawful forms of discrimination in the solicitation, selection, hiring, or commercial treatment of Subcontractors, vendors, suppliers, or commercial customers, nor shall the Contractor retaliate against any person for reporting instances of such discrimination.  The Contractor shall provide equal opportunity for Subcontractors, vendors, and suppliers to participate in all of its public sector and private sector subcontracting and supply opportunities, provided that this clause does not prohibit or limit lawful efforts to remedy the effects of marketplace discrimination that have occurred or are occurring in the marketplace.  The Contractor understands that a material violation of this clause shall be considered a material breach of this Contract and may result in termination of this Contract, disqualification of the Contractor from participating in State contracts, or other sanctions.  This clause is not enforceable by or for the benefit of, and creates no obligation to, any third party.

30.2 The Contractor shall include the above Commercial Nondiscrimination clause, or similar clause approved by the Department, in all subcontracts.

30.3 As a condition of entering into this Contract, upon the request of the Commission on Civil Rights, and only after the filing of a complaint against the Contractor under Md. Code Ann., State Finance and Procurement Article, Title 19, as amended from time to time, the Contractor agrees to provide within sixty (60) days after the request a complete list of the names of all Subcontractors, vendors, and suppliers that Contractor has used in the past four (4) years on any of its contracts that were undertaken within the State of Maryland, including the total dollar amount paid by Contractor on each subcontract or supply contract.  Contractor further agrees to cooperate in any investigation conducted by the State pursuant to the State’s Commercial Nondiscrimination Policy as set forth at Md. Code Ann., State Finance and Procurement Article, Title 19, and provide any documents relevant to any investigation that are requested by the State.  Contractor understands that violation of this clause is a material breach of this Contract and may result in contract termination, disqualification by the State from participating in State contracts, and other sanctions.

**31. Prompt Pay Requirements**

31.1 If the Contractor withholds payment of an undisputed amount to its Subcontractor, the

Department, at its option and in its sole discretion, may take one or more of the following actions:

a. Not process further payments to the contractor until payment to the Subcontractor is verified;

b. Suspend all or some of the contract work without affecting the completion date(s) for the contract work;

c. Pay or cause payment of the undisputed amount to the Subcontractor from monies otherwise due or that may become due to the Contractor;

d. Place a payment for an undisputed amount in an interest-bearing escrow account; or

e. Take other or further actions as appropriate to resolve the withheld payment.

31.2 An “undisputed amount” means an amount owed by the Contractor to a Subcontractor for which there is no good faith dispute. Such “undisputed amounts” include, without limitation:

a. Retainage which had been withheld and is, by the terms of the agreement between the

Contractor and Subcontractor, due to be distributed to the Subcontractor; and

b. An amount withheld because of issues arising out of an agreement or occurrence unrelated to the agreement under which the amount is withheld.

31.3 An act, failure to act, or decision of a Procurement Officer or a representative of the Department, concerning a withheld payment between the Contractor and a Subcontractor under this provision, may not:

a. Affect the rights of the contracting parties under any other provision of law;

b. Be used as evidence on the merits of a dispute between the Department and the contractor in any other proceeding; or

c. Result in liability against or prejudice the rights of the Department.

31.4 The remedies enumerated above are in addition to those provided under COMAR 21.11.03.13 with respect to Subcontractors that have contracted pursuant to the Minority Business Enterprise (MBE) program.

31.5 To ensure compliance with certified MBE subcontract participation goals, the Department may, consistent with COMAR 21.11.03.13, take the following measures:

a. Verify that the certified MBEs listed in the MBE participation schedule actually are performing work and receiving compensation as set forth in the MBE participation schedule. This verification may include, as appropriate:

i. Inspecting any relevant records of the Contractor;

ii. Inspecting the jobsite; and

iii. Interviewing Subcontractors and workers.

Verification shall include a review of the:

i. The Contractor’s monthly report listing unpaid invoices over thirty (30) days old from certified MBE Subcontractors and the reason for nonpayment; and

ii. The monthly report of each certified MBE Subcontractor, which lists payments received from the Contractor in the preceding thirty (30) days and invoices for which the Subcontractor has not been paid.

b. If the Department determines that the Contractor is not in compliance with certified MBE participation goals, then the Department will notify the Contractor in writing of its findings, and will require the Contractor to take appropriate corrective action. Corrective action may include, but is not limited to, requiring the Contractor to compensate the MBE for work performed as set forth in the MBE participation schedule.

c. If the Department determines that the Contractor is in material noncompliance with MBE contract provisions and refuses or fails to take the corrective action that the Department requires, then the Department may:

i. Terminate the contract;

ii. Refer the matter to the Office of the Attorney General for appropriate action; or

iii. Initiate any other specific remedy identified by the contract, including the contractual remedies required by any applicable laws, regulations, and directives regarding the payment of undisputed amounts.

d. Upon completion of the Contract, but before final payment or release of retainage or both, the Contractor shall submit a final report, in affidavit form under the penalty of perjury, of all payments made to, or withheld from, MBE Subcontractors.

**32. Living Wage**

 If a Contractor subject to the Living Wage law fails to submit all records required under COMAR 21.11.10.05 to the Commissioner of Labor and Industry at the Department of Labor, Licensing and Regulation, the MLGCA may withhold payment of any invoice or retainage. The agency may require certification from the Commissioner on a quarterly basis that such records were properly submitted.

**33. Use of Estimated Quantities**

 Unless specifically indicated otherwise in the State’s solicitation or other controlling documents related to the Scope of Work, any sample amounts provided are estimates only and the Department does not guarantee a minimum or maximum number of units or usage in the performance of this Contract.

**34. Contract Monitor and Procurement Officer**

34.1 The work to be accomplished under this Contract shall be performed under the direction of the Contract Monitor. The Contract Monitor is the State representative for this Contract who is primarily responsible for Contract administration functions, including issuing written direction, invoice approval, monitoring this Contract to ensure compliance with the terms and conditions of the Contract, and achieving completion of the Contract on budget, on time, and within scope.

34.2 All matters relating to the interpretation of this Contract shall be referred to the Procurement Officer for determination. The Procurement Officer has responsibilities as detailed in the Contract, and is the only State representative who can authorize changes to the Contract. The MLGCA may change the Procurement Officer at any time by written notice to the Contractor.

**35. Notices**

 All notices hereunder shall be in writing and either delivered personally or sent by certified or registered mail, postage prepaid, as follows:

If to the State:

Robert W. Howells

Procurement Officer

Maryland State Lottery and Gaming Control Agency

Montgomery Park Business Center

1800 Washington Boulevard, Suite 330

Baltimore, MD 21230

Telephone: 410-230-8789; Fax: 410-230-8727

E-mail Address: robert.howells@maryland.gov

If to the Contractor: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

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**36. Parent Company Guarantee**

 (Corporate name of Contractor’s Parent Company) hereby guarantees absolutely the full, prompt, and complete performance by (Contractor) of all the terms, conditions and obligations contained in this Contract, as it may be amended from time to time, including any and all exhibits that are now or may become incorporated hereunto, and other obligations of every nature and kind that now or may in the future arise out of or in connection with this Contract, including any and all financial commitments, obligations, and liabilities. (Corporate name of Contractor’s Parent Company) may not transfer this absolute guaranty to any other person or entity without the prior express written approval of the State, which approval the State may grant, withhold, or qualify in its sole and absolute subjective discretion. (Corporate name of Contractor’s Parent Company) further agrees that if the State brings any claim, action, lawsuit or proceeding against (Contractor), (Corporate name of Contractor’s Parent Company) may be named as a party, in its capacity as Absolute Guarantor.

**37. Change In Financial Condition/Bankruptcy**

If the Contractor experiences a substantial change in its financial condition during the term of the Contract or any extension thereof, the Contractor shall notify the Procurement Officer in writing of the change at the time the change occurs or is identified. Failure to notify the Procurement Officer of such a substantial adverse change in financial condition may be sufficient grounds for terminating the Contract.

Upon the filing of any bankruptcy proceeding by or against the Contractor, whether voluntary or involuntary, or upon the appointment of a receiver, trustee, or assignee for the benefit of creditors, the Contractor shall notify the Procurement Officer in writing immediately.

**38. Dissemination of Information/News and Press Releases**

The Contractor shall not release any information related to the services or performance of the services under this Contract nor publish any final reports or documents without the prior written approval of the MLGCA. The Contractor shall indemnify the State, MLGCA and Commission, their officials, agents, and employees, from any liability that may be incurred by reason of dissemination, publication, distribution or circulation, of any information, or materials pertaining to this Contract by the Contractor, its agents, or employees.

The MLGCA is the only entity authorized to issue news releases relating to this Contract and performance thereunder. The Contractor shall not issue any news or press releases or any commercial advertising pertaining to this Contract or to the MLGCA or Commission without the prior written approval of the Procurement Officer.

**39. Lottery Ticket Purchase and Prize Payment Restrictions**

In accordance with Section 9-123 of the Maryland State Government Article, Annotated Code, no officer or employee of the MLGCA, their spouse, child, brother, sister, or parent residing in the household of such officer or employee shall purchase a Maryland Lottery ticket or be paid a prize in any Maryland Lottery game. During the term of this Contract, this restriction shall also apply to officers and employees of the Contractor or of any Subcontractor whose use is subject to MLGCA approval who are directly involved in the Drawings, and their spouse, child, brother, sister, or parent residing in the household of such officer or employee. The Contractor shall ensure that this requirement is made known to each officer and employee of the Contractor and any Subcontractor whose use is subject to MLGCA approval. The Director shall have the sole discretion to determine the applicability of this restriction to any specific individual.

**40. Relationship of the Parties (Independent Contractor)**

During the course of this Contract, the Contractor may enter into agreements with third-parties in order for Contractor to fulfill its contractual obligations and responsibilities under this Contract. Contractor understands and agrees that the relationship between the MLGCA (State) and the Contractor is that of client and Independent Contractor, and is not, and shall not be deemed to be, any other relationship, including but not limited to, that of joint venture, partners, joint employers or principal and agent. No agent, employee, or servant of the Contractor or any of its Subcontractors shall be or shall be deemed to be an employee, agent, or servant of the State for any reason. The Contractor shall be solely and entirely responsible for its acts and the acts of its agents, employees, servants and Subcontractors during the performance of this Contract.

From any amount due the Contractor, there will be no deductions for federal income tax or FICA payments, nor for State income tax, nor for any other purposes that are associated with any employer-employee relationship, unless required by law. Payment of federal income tax, FICA, and State income tax is the responsibility of the Contractor. The Contractor is responsible for complying with all federal and state laws as to taxes and Social Security payments to be withheld from wages paid to its employees and other contractors.

**40.1** **No Liability by MLGCA to Third-Party Vendors or Subcontractors**

The MLGCA, Commission and State, have no liability for payment or performance to any third party which enters into an agreement with the Contractor for work related to this Contract. The Contractor does not have the power or authority to sign an agreement in the MLGCA’s name or on behalf of the MLGCA, to bind or attempt to bind the MLGCA, Commission or the State, or any employee or official thereof, to any agreement with a third-party vendor, for payment of any monies or other obligations related to, or arising out of that third-party agreement, or to obligate the MLGCA to any liability if the Contractor fails to pay any Subcontractor or other third-party vendor. All agreements into which the Contractor enters with Subcontractors and other third-party vendors for work to be performed under this Contract shall be in the Contractor’s name only and shall not name the MLGCA as a party to the agreement.

**40.2 Contractor Acknowledgement, Indemnification and Duty to Notify**

Contractor acknowledges, fully understands and agrees that the MLGCA, Commission or State is not a party to, and is not liable for payment or performance, any third-party agreement that the Contractor may enter into arising out of work related to this Contract. Contractor agrees to remove, redact, or strike any language from agreements it signs with Subcontractors and third-party vendors, noting a responsibility or liability by the MLGCA, Commission or State with respect to the payment of any monies or other obligations. Contractor agrees to fully indemnify and hold harmless the MLGCA, Commission and State from any and all liability of any nature arising out of its third-party relationships, and agrees to provide written notice for each agreement it completes with a third-party vendor, notifying such entities of the Independent Contractor relationship.

**41. Contractor Cooperation/Good Faith**

The Contractor shall cooperate with any subsequent contractor or any other contractor designated by the MLGCA to accomplish its objectives. All parties agree to cooperate fully in good faith and to assist each other to the extent reasonable and practicable to accomplish the objectives set forth in this Contract.

**42. Risk of Loss; Transfer of Title**

Risk of loss for conforming supplies, equipment, materials and Deliverables furnished to the State hereunder shall remain with the Contractor until such supplies, equipment, materials and Deliverables are received and accepted by the State, following which, title shall pass to the State.

**43. Adverse Interest**

The Contractor agrees that it presently has no interest and shall not acquire any interest, direct or indirect, which would conflict in any manner or degree with the performance of its services hereunder. The Contractor further agrees that in the performance of this Contract it will not knowingly employ, directly or indirectly, any person having such an interest.

**44. Non-Exclusive Rights**

The Contract shall be non-exclusive and nothing in this Contract shall preclude the MLGCA from procuring similar services from another vendor. The MLGCA reserves the right to secure directly the services of third parties to perform any services secured under this Contract. The Offeror will not be entitled to payment of any fee or otherwise for any services performed by these third parties.

**45. Compliance with Americans With Disabilities Act (ADA)**

Contractor shall comply with the Americans with Disabilities Act (ADA), 42 USC §§ 12101 et seq. and applicable regulations. To the extent required by the ADA, Contractor's facilities, services, and programs shall be accessible to persons with disabilities. Contractor shall bear sole responsibility for assuring that its activities under this Contract conform to the ADA. Contractor shall indemnify the State in any action brought pursuant to the ADA for all damages, attorney fees, litigation expenses, and costs, if such action or proceeding arises from the acts of Contractor, or of Contractor's employees, agents, or Subcontractors.

**46. Miscellaneous**

46.1 Any provision of this Contract which contemplates performance or observance subsequent to any termination or expiration of this Contract shall survive termination or expiration of this Contract and continue in full force and effect.

46.2 If any term contained in this Contract is held or finally determined to be invalid, illegal, or unenforceable in any respect, in whole or in part, such term shall be severed from this Contract, and the remaining terms contained herein shall continue in full force and effect, and shall in no way be affected, prejudiced, or disturbed thereby.

46.3 The headings of the sections contained in this Contract are for convenience only and shall not be deemed to control or affect the meaning or construction of any provision of this Contract.

46.4 This Contract may be executed in any number of counterparts, each of which shall be deemed an original, and all of which together shall constitute one and the same instrument. Signatures provided by facsimile or other electronic means, e,g, and not by way of limitation, in Adobe .PDF sent by electronic mail, shall be deemed to be original signatures.

**IN WITNESS THEREOF**, the parties have executed this Contract as of the date hereinabove set forth.

|  |  |
| --- | --- |
| **Contractor** | **State of Maryland****MARYLAND STATE LOTTERY AND GAMING CONTROL AGENCY** |
|  |  |
| \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ | \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ |
| By: | By: Gordon Medenica, Director |
| \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ |  |
| Date |  |
|  | \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ |
| PARENT COMPANY (GUARANTOR) (if applicable) | By: |
| \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ | \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ |
| By: | Date |
| \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ |  |
| Date |
| Approved for form and legal sufficiencythis \_\_\_\_ day of \_\_\_\_\_\_\_\_\_\_\_\_\_, 2019\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_Daniel W. Baker, Assistant Attorney General |  |
|  |
| APPROVED BY BPW: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ \_\_\_\_\_\_\_\_\_\_\_\_\_(Date) (BPW Item #) |

**ATTACHMENT N – CONTRACT AFFIDAVIT**

A. AUTHORITY

I hereby affirm that I, \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ (name of affiant) am the \_\_\_\_\_\_\_\_\_\_\_\_\_\_(title) and duly authorized representative of \_\_\_\_\_\_\_\_\_\_\_\_\_\_(name of business entity) and that I possess the legal authority to make this affidavit on behalf of the business for which I am acting.

B. CERTIFICATION OF REGISTRATION OR QUALIFICATION WITH THE STATE DEPARTMENT OF ASSESSMENTS AND TAXATION

I FURTHER AFFIRM THAT:

The business named above is a (check applicable box):

(1) Corporation — 🞏 domestic or 🞏 foreign;

(2) Limited Liability Company — 🞏 domestic or 🞏 foreign;

(3) Partnership — 🞏 domestic or 🞏 foreign;

(4) Statutory Trust — 🞏 domestic or 🞏 foreign;

(5) 🞏 Sole Proprietorship.

and is registered or qualified as required under Maryland Law. I further affirm that the above business is in good standing both in Maryland and (IF APPLICABLE) in the jurisdiction where it is presently organized, and has filed all of its annual reports, together with filing fees, with the Maryland State Department of Assessments and Taxation. The name and address of its resident agent (IF APPLICABLE) filed with the State Department of Assessments and Taxation is:

Name and Department ID Number:\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_Address:\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

and that if it does business under a trade name, it has filed a certificate with the State Department of Assessments and Taxation that correctly identifies that true name and address of the principal or owner as:

Name and Department ID Number:\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_Address:\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

C. FINANCIAL DISCLOSURE AFFIRMATION

I FURTHER AFFIRM THAT:

I am aware of, and the above business will comply with, the provisions of State Finance and Procurement Article, §13‑221, Annotated Code of Maryland, which require that every business that enters into contracts, leases, or other agreements with the State of Maryland or its agencies during a calendar year under which the business is to receive in the aggregate $100,000 or more shall, within 30 days of the time when the aggregate value of the contracts, leases, or other agreements reaches $100,000, file with the Secretary of State of Maryland certain specified information to include disclosure of beneficial ownership of the business.

D. POLITICAL CONTRIBUTION DISCLOSURE AFFIRMATION

I FURTHER AFFIRM THAT:

I am aware of, and the above business will comply with, Election Law Article, Title 14, Annotated Code of Maryland, which requires that every person that enters into a contract for a procurement with the State, a county, or a municipal corporation, or other political subdivision of the State, during a calendar year in which the person receives a contract with a governmental entity in the amount of $200,000 or more, shall file with the State Board of Elections statements disclosing: (a) any contributions made during the reporting period to a candidate for elective office in any primary or general election; and (b) the name of each candidate to whom one or more contributions in a cumulative amount of $500 or more were made during the reporting period. The statement shall be filed with the State Board of Elections: (a) before execution of a contract by the State, a county, a municipal corporation, or other political subdivision of the State, and shall cover the 24 months prior to when a contract was awarded; and (b) if the contribution is made after the execution of a contract, then twice a year, throughout the contract term, on or before: (i) May 31, to cover the six (6) month period ending April 30; and (ii) November 30, to cover the six (6) month period ending October 31.

E. DRUG AND ALCOHOL FREE WORKPLACE

(Applicable to all contracts unless the contract is for a law enforcement agency and the agency head or the agency head’s designee has determined that application of COMAR 21.11.08 and this certification would be inappropriate in connection with the law enforcement agency’s undercover operations.)

I CERTIFY THAT:

(1) Terms defined in COMAR 21.11.08 shall have the same meanings when used in this certification.

(2) By submission of its Proposal, the business, if other than an individual, certifies and agrees that, with respect to its employees to be employed under a contract resulting from this solicitation, the business shall:

(a) Maintain a workplace free of drug and alcohol abuse during the term of the contract;

(b) Publish a statement notifying its employees that the unlawful manufacture, distribution, dispensing, possession, or use of drugs, and the abuse of drugs or alcohol is prohibited in the business' workplace and specifying the actions that will be taken against employees for violation of these prohibitions;

(c) Prohibit its employees from working under the influence of drugs or alcohol;

(d) Not hire or assign to work on the contract anyone who the business knows, or in the exercise of due diligence should know, currently abuses drugs or alcohol and is not actively engaged in a bona fide drug or alcohol abuse assistance or rehabilitation program;

(e) Promptly inform the appropriate law enforcement agency of every drug-related crime that occurs in its workplace if the business has observed the violation or otherwise has reliable information that a violation has occurred;

(f) Establish drug and alcohol abuse awareness programs to inform its employees about:

1. The dangers of drug and alcohol abuse in the workplace;
2. The business's policy of maintaining a drug and alcohol free workplace;
3. Any available drug and alcohol counseling, rehabilitation, and employee assistance programs; and
4. The penalties that may be imposed upon employees who abuse drugs and alcohol in the workplace;

(g) Provide all employees engaged in the performance of the contract with a copy of the statement required by §E(2)(b), above;

(h) Notify its employees in the statement required by §E(2)(b), above, that as a condition of continued employment on the contract, the employee shall:

1. Abide by the terms of the statement; and
2. Notify the employer of any criminal drug or alcohol abuse conviction for an offense occurring in the workplace not later than 5 days after a conviction;

(i) Notify the procurement officer within 10 days after receiving notice under §E(2)(h)(ii), above, or otherwise receiving actual notice of a conviction;

(j) Within 30 days after receiving notice under §E(2)(h)(ii), above, or otherwise receiving actual notice of a conviction, impose either of the following sanctions or remedial measures on any employee who is convicted of a drug or alcohol abuse offense occurring in the workplace:

1. Take appropriate personnel action against an employee, up to and including termination; or
2. Require an employee to satisfactorily participate in a bona fide drug or alcohol abuse assistance or rehabilitation program; and

(k) Make a good faith effort to maintain a drug and alcohol free workplace through implementation of §E(2)(a)—(j), above.

(3) If the business is an individual, the individual shall certify and agree as set forth in §E(4), below, that the individual shall not engage in the unlawful manufacture, distribution, dispensing, possession, or use of drugs or the abuse of drugs or alcohol in the performance of the contract.

(4) I acknowledge and agree that:

1. The award of the contract is conditional upon compliance with COMAR 21.11.08 and this certification;

(b) The violation of the provisions of COMAR 21.11.08 or this certification shall be cause to suspend payments under, or terminate the contract for default under COMAR 21.07.01.11 or 21.07.03.15, as applicable; and

(c) The violation of the provisions of COMAR 21.11.08 or this certification in connection with the contract may, in the exercise of the discretion of the Board of Public Works, result in suspension and debarment of the business under COMAR 21.08.03.

F. CERTAIN AFFIRMATIONS VALID: I FURTHER AFFIRM THAT:

To the best of my knowledge, information, and belief, each of the affirmations, certifications, or acknowledgements contained in that certain Proposal Affidavit dated \_\_\_\_\_\_\_\_ , 201\_\_\_ , and executed by me for the purpose of obtaining the contract to which this Exhibit is attached remains true and correct in all respects as if made as of the date of this Contract Affidavit and as if fully set forth herein.

I DO SOLEMNLY DECLARE AND AFFIRM UNDER THE PENALTIES OF PERJURY THAT THE CONTENTS OF THIS AFFIDAVIT ARE TRUE AND CORRECT TO THE BEST OF MY KNOWLEDGE, INFORMATION, AND BELIEF.

Date: \_\_\_\_\_\_\_\_\_\_\_\_\_\_

By: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ (printed name of Authorized Representative and Affiant)

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ (signature of Authorized Representative and Affiant)

## ATTACHMENT O – DHR HIRING AGREEMENT

This RFP does not require a DHR Hiring Agreement.

**ATTACHMENT P – AUTHORIZATION FOR RELEASE OF INFORMATION**

***\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_***  ***(Insert Name of Offeror)*** has submitted a proposal in response to RFP **#2018-06** issued by the Maryland State Lottery and Gaming Control Agency (“MLGCA”). As part of the MLGCA’s evaluation of the proposal, it will be contacting other entities that have had business relationships with Offeror.

This document, signed by an authorized representative of Offeror, demonstrates the desire of Offeror to:

1. Allow representatives of the MLGCA unfettered access to any and all monitoring reports, licensing or certification documents, and records of evaluations related to the experiences of Offeror in its prior or current contracts for lottery related services, as well as the experiences of any of its parent or subsidiary corporations or other entities with which it has been associated;
2. Allow the same access afforded by the previous section 1 above to apply to situations in which Offeror may have functioned as a Subcontractor;
3. Grant representatives of the MLGCA unfettered access to discuss openly the performance of Offeror related to the experiences set out in sections 1 and 2 above; and
4. Expressly authorize that any and all of the information conveyed to representatives of the MLGCA be kept in confidence by the MLGCA without any expectation or requirement that the content of such information shall ever be released to Offeror or any other entity, except where otherwise required by law.

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

Name & Title:

*(Name of Offeror)*

Date: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

**APPENDIX 1**

##  ABBREVIATIONS AND DEFINITIONS

For purposes of this RFP, the following abbreviations or terms have the meanings indicated below:

1. **ADA** - Americans With Disabilities Act, Public Law 101-336 of the 101st Congress, enacted July 26, 1990, including changes made by the ADA Amendments Act of 2008, and regulations promulgated pursuant to that statute.
2. **Ball Sets –** Table-tennis style balls imprinted with numbers and meeting specific size and weight specifications used in Drawing machines to determine the selected numbers for a Drawing.
3. **Business Day(s)** – The official working days of the week to include Monday through Friday. Official working days exclude State Holidays (see definition of “Normal State Business Hours” below**)**.
4. **COMAR** – Code of Maryland Regulations available on-line at [www.dsd.state.md.us](http://www.dsd.state.md.us). Regulations governing the MLGCA are found in COMAR Title 36. Regulations governing the State procurement process are found in COMAR Title 21.
5. **Commission** - The Maryland State Lottery and Gaming Control Commission.
6. **Contract** – The Contract(s) awarded to the successful Offeror(s) pursuant to this RFP. The Contract(s) will be in the form of **Attachment A**.
7. **Contract Commencement** - The date the Contract is signed by the MLGCA following any required approvals of the Contract, including approval by the Board of Public Works, if such approval is required. See Section 1.4.
8. **Contract Monitor (CM)** – The State representative for this Contract(s) who is primarily responsible for Contract administration functions, including issuing written direction, invoice approval, monitoring this Contract(s) to ensure compliance with the terms and conditions of the Contract, monitoring MBE and VSBE compliance, and achieving completion of the Contract on budget, on time, and within scope. The Contract Monitor may authorize in writing one or more State representatives to act on behalf of the Contract Monitor in the performance of the Contract Monitor’s responsibilities.
9. **Contractor** - The selected Offeror that is awarded a Contract by the State.
10. **Days** – Means calendar days unless otherwise specified.
11. **Director** – Director of the Maryland State Lottery and Gaming Control Agency.
12. **Draw Game** -A MLGCA game (1) sold and redeemed through a computer network at Retailer locations; and (2) whose Tickets are generated by a Terminal and are a record of a transaction for a Draw Game.
13. **Drawing** - The live random selection event used for determining the winning numbers for MLGCA’s Draw Games to include but not limited to Pick 3, Pick 4, Bonus Match 5, Multi-Match, Mega Millions and Powerball.
14. **eMM** – eMaryland Marketplace (see RFP Section 1.8).
15. **FY** – State Fiscal Year, July 1 – June 30. For example, FY19 represents the period beginning July 1, 2018 through June 30, 2019.
16. **Go-Live Date** – The date, as specified in the Notice to Proceed, when the Contractor must begin providing all services required by this RFP. See Section 1.4.
17. **Key Personnel** – All personnel identified in the RFP as such, or personnel identified by the Offeror in its Proposal that are essential to the work being performed under the Contract. See RFP Sections 3.10 and 5.4.2.7.
18. **Local Time** – Time in the Eastern Time Zone as observed by the State. Unless otherwise specified, all stated times shall be Local Time, even if not expressly designated as such.
19. **MLGCA** – Maryland State Lottery and Gaming Control Agency.
20. **Normal State Business Hours** - Normal State business hours are 8:00 a.m. – 5:00 p.m. Monday through Friday except State Holidays, which can be found at: [www.dbm.maryland.gov](http://www.dbm.maryland.gov) – keyword: State Holidays.
21. **Notice to Proceed (NTP)** – A written notice from the Procurement Officer that, subject to the conditions of the Contract, work under the Contract is to begin as of a specified date.  The start date listed in the NTP is the Go-Live Date, and is the official start date of the Contract for the actual delivery of services as described in this RFP.  After Contract Commencement, additional NTPs may be issued by either the Procurement Officer or the Contract Monitor regarding the start date for any service included within this RFP with a delayed or non-specified implementation date.
22. **Offeror** – An entity that submits a Proposal in response to this RFP.
23. **Procurement Officer** – Prior to the award of any Contract, the sole point of contact in the State for purposes of this RFP. After Contract award, the Procurement Officer has responsibilities as detailed in the Contract (Attachment M), and is the only State representative who can authorize changes to the Contract. The MLGCA may change the Procurement Officer at any time by written notice to the Contractor.
24. **Proposal** – As appropriate, either or both of an Offeror’s Technical or Financial Proposal.
25. **Qualified Offerors** – Include only those Responsible Offerors that submitted proposals initially classified by the Procurement Officer as Reasonably Susceptible of Being Selected for Award (COMAR 21.05.03.03C.(1)).
26. **Request for Proposals (RFP)** – This Request for Proposals issued by the MLGCA, with the RFP Number and date of issuance indicated in the RFP Key Information Summary Sheet (near the beginning of the RFP, after the Title Page and Notice to Vendors), including any amendments.
27. **Retailer** – Any entity or retail location that is authorized by the MLGCA to sell Lottery products. The term “Agent” may occasionally be used interchangeably to mean Retailer.
28. **State** – The State of Maryland.
29. **Subcontractor** – Any person or firm having an agreement with a Contractor to perform all or some of the Contractors’ work under a contract with the MLGCA. Does not include an employee with a employment contract or an employee organization with a collective bargaining agreement.
30. **Total Proposal Price** - The Offeror’s total proposed price for services in response to this RFP, included in the Financial Proposal with Attachment B-2 – Financial Proposal Form, and used in the financial evaluation of Proposals (see RFP Section 6.3).

**APPENDIX 2**

##  DRAWING MACHINE AND BALL SET SPECIFICATIONS

**PICK 3 / PICK 4**

**Pick 3 / Pick 4 Drawing Machine Specifications**

1. Two (2) Pick 3 machines and two (2) Pick 4 machines are required. These newly designed, new, and unused machines shall meet or surpass the following specifications.
2. Each Pick 3 machine shall contain three separate mixing chambers designed to successfully mix ten (10) balls and produce one drawn ball each. A transparent loading rack/tube shall be attached outside or inside the rear of each chamber. If outside, it shall empty inside the chamber. Each rack/tube shall hold ten (10) balls (table tennis–style ball, diameter: 1.5”/38mm). An easily accessed lever located at the rear of the machine shall release the balls into the chambers. Each chamber shall have a full-width rear door to permit easy access for maintenance and ball removal.
3. Each Pick 4 machine shall contain four separate mixing chambers designed to successfully mix ten (10) balls and produce one drawn ball each. A transparent loading rack/tube shall be attached outside or inside the rear of each chamber. If outside, it shall empty inside the chamber. Each rack/tube shall hold ten (10) balls. An easily accessed lever located at the rear of the machine shall release the balls into the chambers. Each chamber shall have a full-width rear door to permit easy access for maintenance and ball removal.
4. Each of the four machines shall feature a winning ball display platform centered between and attached above the mixing chambers atop the machine. This platform shall be in close proximity to the chamber to allow for uninterrupted visual monitoring of each selected ball’s path from chamber to platform. There shall be a controlled access gate and lever between each chamber and the ball display platform. The gate shall close automatically once the selected ball has reached the ball display platform. The lever shall be used for manual selection. The ball display platform of the Pick 3 machines shall allow for three balls to be displayed; the ball display platform of the Pick 4 machines shall allow for four balls to be displayed. The selected balls shall be displayed with a separation of approximately one (1) inch.
5. The mixing chambers for each machine shall be constructed of ½ inch to ¾ inch clear, non-reflective acrylic which shall be suitable for green screen production of the Drawings. The base cabinet for each machine, which shall house a compressor and three (Pick 3) or four (Pick 4) centrifugal blower units, shall be insulated for sound proofing. The base cabinet shall be constructed of ¾ inch birch plywood with a high pressure laminate applied to all surfaces which shall be suitable for green screen production of the Drawings. Each machine’s base cabinet shall have a lockable access door at the rear of cabinet and, to guarantee the necessary mobility, lockable 3.5” swivel casters on its wheels to prevent rolling and swiveling.
6. Each Pick 3 machine, mixing chambers and base cabinet combined, shall be between 40” and 50” in height; shall be between 40” and 50” in width; shall be between 20” and 30” in depth; and shall weigh no more than 400lbs.
7. Each Pick 4 machine, mixing chambers and base cabinet combined, shall be between 40” and 50” in height; shall be between 50” and 58” in width; shall be between 20” and 30” in depth; and shall weigh no more than 400lbs.
8. Each machine shall provide an unobstructed view of the mixing and selection process, with balls visible at all times during operation. Each machine shall be able to randomly select balls in automatic, semi-automatic and manual modes.
9. Each machine shall allow for ball selection in semi-automatic and automatic modes utilizing a remote control unit separate from the machine (off-camera) connected by a cable of at least thirty (30) feet in length, and in manual mode via a lever on each chamber. The automatic selection mode shall allow for customization of the duration of the mix pre-draw and the interval between ball selection.
10. Each machine shall be equipped with an easily accessible activation switch for automatic, semi-automatic and manual ball selection.
11. The machines shall be level. The design of each machine shall assure the completely random selection of winning numbers. Each machine shall be tamper-proof.
12. Each machine shall meet U/L specifications, operate on 110 volt, 15amp, 50/60Hz AC current, and have the capability to operate via generator. Each machine shall be accompanied by a 12-3SJEO power cord with male/female L5-20 connectors (3 pole twist locks). The power cords shall be at least twenty (20) feet in length.
13. The machines will be used in front of green screen technology, and therefore, all aspects of the machine must be visible in front of Chroma Key backgrounds."
14. A professional quality diagram, rendering, or photograph of each proposed Drawing machine shall be provided.

**Pick 3 / Pick 4 Ball Sets**

1. Accompanying the four machines shall be twenty-four (24) ball sets that meet the specifications listed. The balls will be coated with a smooth satin clear finish and designed to prevent the deterioration of the numbers printed on the surface of the balls.
2. The balls will be standard table-tennis balls, white in color. Each ball will be imprinted a minimum of ten times in black. Each set will include ten such balls numbered zero (0) through nine (9), font size 7/8 inches including the underscore required for each six and nine ball.
3. The numbers on each ball will be arrayed in such a way as to make the number visible from all angles, visible without manual adjustment.
4. Each ball in a set will be labeled with a small (approximately 1/16”) security code connecting it to its specific set. The security code will be black. The MLGCA will provide the security code.
5. Each ball will pass through a 1.515-inch hole at the axis and the equator without force. The ball will not pass through a 1.465 hole. Balls will be accompanied by documentation listing the weights.

**BONUS MATCH 5**

**Bonus Match 5 Drawing Machine Specifications**

1. One (1) Bonus Match 5 machine is required. This new and unused machine shall meet or surpass the following specifications.
2. The Bonus Match 5 (BM5) machine shall contain one mixing chamber designed to successfully mix as many as fifty (50) balls and produce six (6) drawn balls (five balls and one bonus ball). A transparent loading rack/tube shall be attached outside or inside the rear of the chamber. If outside, it shall empty inside the chamber. The rack/tube shall hold forty (40) balls (table tennis–style ball, diameter: 1.5” / 38mm). An easily accessed lever located at the rear of the machine shall release the balls into the chamber. The chamber shall have a full-width rear door to permit easy access for maintenance and ball removal.
3. The machine shall feature a winning ball display platform centered and attached above the mixing chamber atop the machine. This platform shall be in close proximity to the chamber to allow for uninterrupted visual monitoring of each selected ball’s path from chamber to platform. There shall be a controlled access gate and lever between the chamber and the ball display platform. The gate shall close automatically once the selected ball has reached the ball display platform. The lever shall be used for manual selection. The ball display platform of the BM5 machine shall allow for five (5) balls to be displayed separately but in close proximity to a sixth bonus ball. The ball display platform shall allow for the first five selected balls to be displayed side-by-side with a separation of approximately one inch (1”) or less from the bonus ball.
4. The BM5 machine’s mixing chamber shall be of a vertical rectangular design, constructed of ½ inch to ¾ inch clear, non-reflective acrylic which shall be suitable for Green Screen production of the Drawings. The base cabinet for the machine, which shall house a compressor and a centrifugal blower unit, shall be insulated for sound proofing. The base cabinet shall be constructed of ¾ inch birch plywood with a high pressure laminate applied to all surfaces which shall be suitable for Green Screen production of the Drawings. The machine’s base cabinet shall have a lockable access door at the rear of cabinet and, to guarantee the necessary mobility, lockable 3.5” swivel casters on its wheels to prevent rolling and swiveling.
5. The BM5 machine, mixing chamber and base cabinet combined, shall be between 50” and 58” in height. The machine shall be between 20” and 25” in width, between 15” and 20” in depth and shall weigh no more than 250lbs.
6. The BM5 machine shall provide an unobstructed view of the mixing and selection process, with balls visible at all times during operation. The machine shall be able to randomly select balls in automatic, semi-automatic and manual modes.
7. The BM5 machine shall allow for ball selection in semi-automatic and automatic modes utilizing a remote control unit separate from the machine (off-camera) connected by a cable of at least thirty (30) feet in length, and in manual mode via a lever on the chamber. The automatic selection mode shall allow for customization of the duration of the mix pre-draw and the interval between ball selection.
8. The machine shall be equipped with an easily accessible activation switch for automatic, semi-automatic and manual ball selection.
9. The machine shall be level. The design of the machine shall assure the completely random selection of winning numbers. The machine shall be tamper-proof.
10. The machine shall meet U/L specifications, operate on 110 volt, 15amp, 50/60Hz AC current, and have the capability to operate via generator. The machine shall be accompanied by a 12-3SJEO power cord with male/female L5-20 connectors (3 pole twist locks). The power cord shall be at least 20 feet in length.
11. The design of the BM5 machine shall assure the completely random selection of winning numbers. The machine shall be tamper-proof.
12. The machines will be used in front of green screen technology, and therefore, all aspects of the machine must be visible in front of Chroma Key backgrounds."

**Bonus Match 5 Ball Sets**

1. Accompanying the BM5 machine shall be three (3) ball sets that meet the specifications listed. The balls shall be coated with a smooth satin clear finish and designed to prevent the deterioration of the numbers printed on the surface of the balls.
2. The balls shall be standard table-tennis balls, white in color. Each ball shall be imprinted a minimum of ten times in black. Each set shall include thirty-nine (39) such balls numbered one (1) through thirty-nine (39), font size 7/8 inches.
3. The numbers on each ball shall be arrayed in such a way as to make the number visible from all angles, visible without manual adjustment.
4. Each ball in a set shall be labeled with a small (approximately 1/16”) security code connecting it to its specific set. The security code shall be black. The MLGCA shall provide the security code.
5. Each ball shall pass through a 1.515-inch hole at the axis and the equator without force. The ball shall not pass through a 1.465 hole. Balls shall be accompanied by documentation illustrating the weights.

**MULTI-MATCH/5-CARD CASH**

**Multi-Match/5 Card Cash Drawing Machine Specifications**

1. One (1) Multi-Match/5 Card Cash (MM/5CC) machine is required. This new and unused machine shall meet or surpass the following specifications.
2. The MM/5CC machine shall contain one mixing chamber of a vertical rectangular design, designed to successfully mix as many as sixty (60) balls and produce six (6) drawn balls. A transparent loading rack/tube shall be attached outside or inside the rear of the chamber. If outside, it shall empty inside the chamber. The rack/tube shall hold sixty (60) balls (table tennis–style ball, diameter: 1.5” / 38mm). An easily accessed lever located at the rear of the machine shall release the balls into the chamber. The chamber shall have a full-width rear door to permit easy access for maintenance and ball removal.
3. The machine shall feature a winning ball display platform centered and attached above the mixing chamber atop the machine. This platform shall be in close proximity to the chamber to allow for uninterrupted visual monitoring of each selected ball’s path from chamber to platform. There shall be a controlled access gate and lever between the chamber and the ball display platform. The gate shall close automatically once the selected ball has reached the ball display platform. The lever shall be used for manual selection. The ball display platform of the MM/5CC machine shall allow for six (6) balls to be displayed, side-by-side.
4. The MM/5CC machine’s mixing chamber shall be constructed of ½ inch to ¾ inch clear, non-reflective acrylic which shall be suitable for Green Screen production of the Drawings. The base cabinet for the machine, which shall house a compressor and a centrifugal blower unit, shall be insulated for sound proofing. The base cabinet shall be constructed of ¾ inch birch plywood with a high pressure laminate applied to all surfaces which shall be suitable for Green Screen production of the Drawings. The machine’s base cabinet shall have a lockable access door at the rear of cabinet and, to guarantee the necessary mobility, lockable 3.5” swivel casters on its wheels to prevent rolling and swiveling.
5. The MM/5CC machine, mixing chamber and base cabinet combined, shall be between 50” and 60” in height. The machine shall be between 20” and 25” in width, between 20” and 25” in depth and shall weigh no more than 250lbs.
6. The MM/5CC machine shall provide an unobstructed view of the mixing and selection process, with balls visible at all times during operation. The machine shall be able to randomly select balls in automatic, semi-automatic and manual modes.
7. The MM/5CC machine shall allow for ball selection in semi-automatic and automatic modes utilizing a remote control unit separate from the machine (off-camera) connected by a cable at least thirty (30) feet in length, and in manual mode via a lever on the chamber. The automatic selection mode shall allow for customization of the duration of the mix pre-draw and the interval between ball selection.
8. The machine shall be equipped with an easily accessible activation switch for automatic, semi-automatic and manual ball selection.
9. The machine shall be level. The design of the machine shall assure the completely random selection of winning numbers. The machine shall be tamper-proof.
10. The machine shall meet U/L specifications, operate on 110 volt, 15amp, 50/60Hz AC current, and have the capability to operate via generator. The machine shall be accompanied by a 12-3SJEO power cord with male/female L5-20 connectors (3 pole twist locks). The power cord shall be at least 20 feet in length.
11. The machines will be used in front of green screen technology, and therefore, all aspects of the machine must be visible in front of Chroma Key backgrounds."
12. The design of the MM/5CC machine shall assure the completely random selection of winning numbers. The machine shall be tamper-proof.

**Multi-Match / 5 Card Cash Ball Sets**

1. Accompanying the MM/5CC machine shall be six (6) ball sets that meet the specifications listed. The balls shall be coated with a smooth satin clear finish and designed to prevent the deterioration of the numbers printed on the surface of the balls.
2. The balls shall be standard table-tennis balls, white in color. Each ball shall be imprinted a minimum of ten times in black. Three of the six sets shall each include forty-three (43) such balls numbered one (1) through forty-three (43), font size 7/8 inches. The remaining three sets shall each include fifty-two (52) such balls labeled with playing card numbers/symbols (2 through 10, A for Ace, K for King, Q for Queen, J for Jack) and one of four suit symbols (hearts, spades, clubs, diamonds). Font size shall be 7/8 inches.
3. The numbers/symbols on each ball shall be arrayed in such a way as to make the number/symbol visible from all angles, visible without manual adjustment.
4. Each ball in a set shall be labeled with a small (approximately 1/16”) security code connecting it to its specific set. The security code shall be black. The MLGCA will provide the security code.
5. Each ball shall pass through a 1.515-inch hole at the axis and the equator without force. The ball shall not pass through a 1.465 hole. Balls shall be accompanied by documentation illustrating the weights.

**APPENDIX 3**

##  DRAWING MACHINES CURRENTLY IN MLGCA INVENTORY

The following is a list of Drawing machines currently in MLGCA inventory:

Game Type Machine Quantity Date Purchased

1. Pick 3 Chesapeake II 2 2008
2. Pick 4 Chesapeake II 2 2008
3. Bonus Match 5 Gemini 1 2002
4. Multi-Match /5CC Unicorn 1 2005
5. Universal Uno 1 2016
6. Single-chamber Chesapeake I 1 2012

The Chesapeake Drawing machine designs include one, three or four acrylic mixing chambers, each capable of mixing ten (10) balls and producing one (1) drawn ball. A loading rack is attached to each chamber’s rear wall. A tube, through which a drawn ball ascends to a display platform attached above the mixing chamber atop the machine, occupies the center space of each chamber, suspended from its ceiling. The chamber(s) rest upon an insulated base cabinet which houses a compressor and a centrifugal blower unit.

The Gemini, Unicorn and Uno Drawing machine designs include one acrylic mixing chamber capable of mixing as many as sixty (60) balls and producing six (6) drawn balls. A loading rack is attached to each chamber’s rear wall. One or two tubes, through which drawn balls ascend to a display platform attached above the mixing chamber atop the machine, occupies the center space of the chamber, suspended from its ceiling. The chamber rests upon an insulated base cabinet which houses a compressor and a centrifugal blower unit.

All fall within 60” in height, 70” in depth and 70” in width; weight does not exceed 400lbs. All designs meet U/L specifications, operate on 110 volt, 15amp, 50/60Hz AC current, and utilize a 12-3SJEO power cord with male/female L5-20 connectors (3 pole twist locks).

These Drawing machines will be maintained as emergency back-up equipment.

The Pick 3, Pick 4, Universal and Single-chamber machines will be stored at MLGCA headquarters.

The Bonus Match 5 and Multi-Match/5 Card Cash machines will be stored at the

WBAL TV 11 studio vault.