



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

**REQUEST FOR PROPOSALS (RFP)**

**LOTTERY CENTRAL MONITORING AND CONTROL  
SYSTEM AND RELATED SERVICES**

**RFP NUMBER 2024-01**

**ISSUE DATE: JULY 19, 2024**

**AMENDED: SEPTEMBER 12, 2024**

**NOTICE**

A Prospective Offeror that has received this document from a source other than eMarylandMarketplace (eMMA) <https://procurement.maryland.gov> should register on eMMA. See **Section 4.2**.

**MINORITY BUSINESS ENTERPRISES ARE ENCOURAGED TO  
RESPOND TO THIS SOLICITATION.**

**VENDOR FEEDBACK FORM**

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

**Title: Lottery Central Monitoring and Control System and Related Services**  
**Solicitation No: 2024-01**

1. If you have chosen not to respond to this solicitation, 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 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 solicitation, but wish to offer suggestions or express concerns, please use the REMARKS section below. (Attach additional pages as needed.)

**REMARKS:**

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

Vendor Name: \_\_\_\_\_ Date: \_\_\_\_\_

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

Address: \_\_\_\_\_

E-mail Address: \_\_\_\_\_

**STATE OF MARYLAND**  
**MARYLAND LOTTERY AND GAMING CONTROL AGENCY**  
**KEY INFORMATION SUMMARY SHEET**

<b>Request for Proposals</b>	Services - Lottery Central Monitoring and Control System and Related Services
<b>Solicitation Number:</b>	2024-01
<b>RFP Issue Date:</b>	July 19, 2024
<b>RFP Issuing Office:</b>	State Lottery and Gaming Control Agency (“MLGCA”, “Agency”, or “Lottery”)
<b>Procurement Officer:</b>  <b>e-mail:</b> <b>Office Phone:</b>	John Lloyd 1800 Washington Blvd. Suite 330 Baltimore, MD 21230 <a href="mailto:john.lloyd@maryland.gov">john.lloyd@maryland.gov</a> (410) 230-8790
<b>Proposals are to be sent to:</b>	1800 Washington Blvd. Suite 330 Baltimore, MD 21230 Attention: John Lloyd
<b>Pre-Proposal Conference:</b>	August 9, 2024 <del>11</del> 14:00 Local Time MLGCA Headquarters See <b>Attachment A</b> for directions and instructions.
<b>Questions Due Date and Time</b>	<del>September 6</del> September 13, 2024 17:00 Local Time
<b>Proposal Due (Closing) Date and Time:</b>	October 28, 2024 14:00 Local Time Offerors are reminded that a completed Feedback Form is requested if a no-bid decision is made (see <b>page iv</b> ).
<b>MBE Subcontracting Goal:</b>	28% Subcontracting Goals - 10% African American / 10% Women
<b>VSBE Subcontracting Goal:</b>	1%
<b>Contract Type:</b>	Firm Fixed Price
<b>Contract Duration:</b>	Eleven (11) year base period which includes 1 year of uncompensated conversion efforts. There is also one (1) five-year and one (1) twelve-month option period available.
<b>Primary Place of Performance:</b>	Lottery Retailer locations across Maryland and other locations as proposed by the Offeror
<b>SBR Designation:</b>	No
<b>Federal Funding:</b>	No

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## **1 Minimum Qualifications**

### **1.1 Offeror Minimum Qualifications**

As part of the determination to be considered reasonably susceptible of being selected for award, the Offeror must document in its Proposal that the following Minimum Qualifications have been met:

- 1.1.1** North American Lottery Experience: The Offeror shall within the last three (3) years have provided a lottery central monitoring and control system for one or more North American state or provincial lotteries

Required Documentation: The Offeror shall provide with its Proposal a full description of the equipment and services provided and reference contacts at each named lottery.

- 1.1.2** The proposed Lottery Central Monitoring and Control System (“LCMCS”), including all software and hardware proposed, shall at the time of proposal submission be in operation in a North American Lottery. Equivalent or improved newer releases or models of proposed products and their architectures are acceptable at the time of installation, as accepted by and agreed to by the MLGCA.
- 1.1.3** Note: If Subcontractor experience is to be used to meet Minimum Qualifications, the operating agreement for the business relationship, including all financial terms, must be submitted with the Offeror’s proposal.

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## 2 Contractor Requirements: Scope of Work

### 2.1 Summary Statement

- 2.1.1 General.** The Maryland State Lottery and Gaming Control Agency (“MLGCA”, “Lottery” or the “Agency”) is issuing this Request for Proposals (“RFP”) in order to obtain a complete and installed, implemented, operated and maintained lottery central monitoring and control system and related services.
- 2.1.2 Term.** It is the State’s intention to obtain products and services, as specified in this RFP, from a Contract between the selected Offeror and the State. The anticipated duration of the period of performance under the Contract is an eleven (11) year base period, which includes one (1) year of uncompensated conversion efforts. One (1) five-year option period and one (1) twelve-month transition option period with all option periods exercisable at the State’s sole discretion. In sum, the Contract is potentially a 17-year agreement if all options are exercised by the State.
- 2.1.3 Single Award.** The Agency intends to make a single award. See RFP **Section 4.9 Award Basis** for more Contract award information.
- 2.1.4 Joint Ventures.** Two or more firms may join together to submit a Proposal in response to this solicitation. If a joint Proposal is submitted, the Proposal shall specifically define the responsibilities that each firm is proposing to undertake and the signed operating agreement must be provided with the Proposal. Of the firms submitting a joint Proposal, one must be designated as the primary firm. The Proposal must designate a single authorized official from one of the joint firms to serve as the principal point of contact between MLGCA and the joint responding firms for all contractual matters.
- 2.1.5 Responsible Offeror.** An Offeror, either directly or through its subcontractor(s), must be able to provide all products and services and meet all of the requirements requested in this solicitation and the successful Offeror (the Contractor) shall remain responsible for all Contract performance regardless of subcontractor participation in the work.
- 2.1.6 No Guarantee of State Business.** A Contract award does not ensure a Contractor will receive all or any State business under the Contract.
- 2.1.7 Non-Exclusive.** The Contract shall be non-exclusive. Nothing in the Contract shall preclude the MLGCA from procuring similar services from another contractor. The MLGCA reserves the right to secure services directly from third-parties to perform any services contemplated under the Contract. The Contractor will not be entitled to payment of any fee for any services performed by third-parties.
- 2.1.8 Incentive Payments.** The Contractor may be entitled to receive incentive payments for exceeding performance targets. Currently, the incentive program provides payment of 1% of the amount current year audited sales exceed the most recent three (3) year average sales. The incentive will only be applied to complete State fiscal years.

### 2.2 Background, Purpose and Goals

#### 2.2.1 Project Goals

- A. **Innovative Solutions to Maximize Sales and Revenues.** The MLGCA’s core mission is to generate revenue to support good causes in Maryland, including education, public health, public safety and the environment. To that end, the RFP and resulting Contract is intended to procure a complete turn-key LCMCS from a Contractor that is focused on providing innovative

concepts and solutions that will increase and maximize sales and revenues to the State. MLGCA's current suite of products have produced revenue growth and generated significant funds for the State. To that end, MLGCA desires to not just maintain, but build, on this history of success and is seeking an offeror who can assist us with innovative concepts and solutions to increase revenues to the State.

- B. Maintain and Expand Existing Product Offerings. MLGCA requires a Contractor that can maintain and expand its existing core products and programs that are offered and supported in the State.
- C. Security. The LCMCS to be provided will process Personally Identifiable Information ("PII"), also generally referred to as Sensitive Data, including names, addresses, tax identification numbers, and bank account information so security of the LCMSC is a primary goal as is maintaining necessary data back-ups.
- D. Complete LCMCS. MLGCA intends to obtain services that include, but are not limited to, system implementation, operation and maintenance of the LCMCS and related systems, sales, marketing, instant ticket inventory and distribution systems, accounting, Terminals, Software, and Telecommunications Network that shall connect the Retailers to the Primary and Back-up Data Centers (PDC and BDC, respectively), Lottery Headquarters, Internal Control Systems (ICS), and all other locations required for the operation of the LCMCS.
- E. Exceed Projected Forecasts. Implement, operate, and maintain a LCMCS that incorporates at a minimum the Lottery's and the Contractor's proposed best practices to achieve its historical high revenues and aim to continue to exceed revenue forecasts in the future.

## **2.2.2 Background**

### **2.2.2.1 Agency Background**

- A. General. The MLGCA is an independent agency of the State of Maryland
- B. Statutory Authority. The MLGCA operates pursuant to State Government Article, Title 9, Subtitle 1, Annotated Code of Maryland, which establishes the purpose, powers, duties and procedural framework of the MLGCA and COMAR Title 36.
- C. Agency Composition. The MLGCA is comprised of several administrative units or departments, all ultimately reporting to the MLGCA Director. Some MLGCA departments focus solely on regulatory responsibilities related to gaming, while others split their time between gaming and traditional lottery business matters. For purposes of this RFP, only the traditional lottery business operations are to be considered.
- D. Commission. There is a Maryland Lottery and Gaming Control Commission ("Commission") within the Agency that advises the Director of the Agency on the operation and administration of the MLGCA and regulates casino and other gaming in Maryland.
- E. Creation of the Lottery. The Lottery, which was expanded and renamed MLGCA when casino gaming was approved in the State, was established by the General Assembly through the enactment of Chapter 365 of Laws of Maryland of 1972 and the voters' approval of a constitutional amendment that same year. The amendment was ratified on November 7, 1972, and operations commenced on January 2, 1973.
- F. Expansion of Gaming. In 2007, during the special session of the Maryland General Assembly, House Bill 4 and Senate Bill 3 were enacted relating to the legalization of Video Lottery Terminals ("VLTs"). In 2012, Senate Bill 1 – Gaming Expansion –

Video Lottery Terminals and Table Games – passed the 2012 second special session of the Maryland General Assembly. This bill was approved by voters in November 2012 – provisions include: the addition of table games to existing casinos and future casinos; a sixth casino; increased the maximum number of VLTs allowed in the State; and 24-7 casino operations.

**2.2.2.2 Current Lottery Offerings and Services- To be Included in the Contract**

- A. Games – Generally. The MLGCA’s current portfolio includes Draw games (which include monitor games), Instant or scratch games and Fast Play.
- B. Draw Games. Draw games are further categorized as Daily Draw (Pick 3, Pick 4, Pick 5, and Bonus Match 5), Cash Pop (drawn four times daily), Jackpot (Multi-Match, Mega Millions, Powerball, Cash4Life) and Monitor (Keno and Racetrax®). Details about each of these games are included in Sections 2.3.3. (Note that the term Racetrax is used to describe the MLGCA’s current horse racing monitor game. If an Offeror is unable to provide the current Racetrax game, it may propose a comparable horse racing monitor game.)
- C. Scratch Games. Scratch games, or Instant Games, are printed tickets with play data covered with latex.
- D. Fast Play. Fast Play games are produced by a lottery terminal where predetermined game results are printed on-demand from a finite pool of randomly generated results for that specific game.
- E. Other Services. Other services, as explained later, include: My Lottery Rewards (“MLR”) Players Club, Terminal installation and repair, communications network, retailer and staff training, website and App support.
- F. Warehouse Integration. The LCMCS must include tools for Contractor and Agency staff to manage scratch tickets produced by other vendors. Functionality includes but is not limited to inventory control, order taking, interfacing with third-party commercial carriers (delivery services) and Contractor supplied warehouse sorting equipment, sales and financial reporting, and prize validations.

**2.2.2.3 Additional Primary Tasks – To be Included in the Contract**

- A. Secure Communications Network. The Contractor is required to provide a redundant primarily cellular communications network. See Section 2.3.11
- B. Conversion Plan and Support. The Contractor is expected to provide as seamless a transition and conversion as possible and mitigate revenue losses. See Section 2.3.12
- C. Field Service Plan. See Section 2.3.17
- D. Staffing. See Section 2.3.15
- E. System Security. See Section 3.7.7
- F. Promotions capabilities. See Section 2.3.16

**2.2.2.4 MLGCA Regulatory Responsibilities - Not to be Included in the Contract**

- A. ITLMs. Instant Ticket Lottery Machines (“ITLM”) are approved for Veterans’ Organizations located in certain counties in the State. The Law authorizes the issuance of up to 5 ITLMs for each qualified Veteran’s organization and there are currently over

90 ITLM retailers operating. The Contractor is not responsible for the operation of ITLMs.

- B. VLT Central Monitoring and Control System. The MLGCA regulates the operation of VLTs, including licensing of operators and operation of a central monitor and control system. The Contractor is not responsible for the operation of VLTs or their central monitor and control system.
- C. Casino Table Games. The MLGCA regulates table games at licensed casinos. The Contractor is not responsible for the operation of table games.
- D. Sports Wagering. The MLGCA regulates both mobile and retail sports wagering. The Contractor is not responsible for the operation of sports wagering.
- E. Daily Fantasy Sports. The MLGCA regulates Daily Fantasy Sports (“DFS”) operators. The Contractor is not responsible for the operation of DFS.
- F. Skill-Based. The MLGCA regulates skill-based amusement devices. The Contractor is not responsible for the operation of skill-based amusement devices.
- G. Electronic Bingo. The MLGCA regulates electronic bingo operators and devices. The Contractor is not responsible for the operation of electronic bingo.

### **2.2.3 State Staff and Roles**

In addition to the Procurement Officer and Contract Monitor, the State will designate an informal committee, led by the Contract Monitor, that will interface with the Contractor in all areas of planning, implementation and conversion. The key functional areas include:

- A. Business Case development / requirements gathering;
- B. Software specification development and approval;
- C. Conversion planning tasks and timelines;
- D. Selection of desired equipment and optional services, if any;
- E. Acceptance testing, supported by a third-party for conversion;
- F. Interfacing with the outgoing vendor for data transfers; and
- G. Training plans.

### **2.2.4 Other State Responsibilities**

- A. Draw Game Drawings. MLGCA or other entities conduct the draw game drawings, other than Keno, Racetrax and Cash Pop which are required to be vendor provided random number generator (RNG) based drawings.
- B. Goods and Services Provided Under Other Contracts. MLGCA through other contracts provides point of sale materials and other promotional items, unless otherwise invoiced and provided for within the Marketing Fund as directed and approved by MLGCA.
- C. Information and Data. The State is responsible for providing limited required information, data, documentation, and test data to facilitate the Contractor’s performance of the work, and will provide such additional assistance and services as is specifically set forth in this RFP.
- D. Coordination. MLGCA will coordinate with the outgoing Contractor to provide retailer information and historical data and uncashed winning tickets.

## 2.3 Responsibilities and Tasks

### 2.3.1 Contractor Space

#### 2.3.1.1 General Space Requirements

- A. General. The Contractor shall provide all space needed to perform their contractual responsibilities for personnel and functions, including, but not limited to data centers, warehouse facilities, operations and testing centers, and space for other dedicated activities as described in the RFP.
- B. Co-Location Permitted. Some functional area space may be co-located within the MLGCA headquarters building at Montgomery Park Business Center, 1800 Washington Boulevard, Baltimore, MD 21230.
- C. Costs. The Contractor shall be responsible for its costs related to the acquisition, build-out, furnishings, maintenance, utilities, cleaning, etc. of all building space required to fulfill the Contract terms. Any tenant improvements shall be at the expense of the Contractor.
- D. Design and Layout. The design and layout of all Sites shall be pre-approved by MLGCA, and it shall not be identified externally as being the premises of the Contractor.

#### 2.3.1.2 Near Lottery Headquarters

- A. Distance. Operations Offices and testing locations shall be located within five (5) miles of MLGCA headquarters.
- B. Current MLGCA Headquarters. MLGCA is currently located at the Montgomery Park Business Center. Information concerning the cost per square foot and the layout of space available at Montgomery Park can be obtained from the building owner. The current contact for this information is Emily Urban (Stein) 410-779-1290 (direct line), 443-895-0364 (cell), Himmelrich Associates, Inc., 1340 Smith Avenue, Suite 330, Baltimore, MD 21209.

#### 2.3.1.3 Data Center Sites for LCMCS

- A. General. The Contractor shall maintain a Primary Data Center (“PDC”) and at least one remote hot backup Data Center (“BDC”).
- B. Data Center Requirements. See section 2.3.5.

#### 2.3.1.4 Other In-State Sites to Support LCMCS and Sales Teams

- A. General. The Contractor shall maintain various Sites throughout the State to facilitate scheduling and getting LCMCS equipment and supplies to Retailers throughout the State.
- B. Other Sites to Support LCMCS - Requirements. The Offeror shall identify all sites, both within and outside of Maryland, that will support MLGCA business including the location and primary function. MLGCA will not specify the minimum number of sites or locations required. All sites are to be compliant with Multi-State Lottery Association (“MUSL”) rules as applicable. Any warehouse space more than 20 miles from Baltimore must include not less than 150 sq. ft. of space available for use by MLGCA Sales staff.

## 2.3.2 Retailer Equipment, Supplies and Hardware

### 2.3.2.1 Retailer Terminals

- A. General. The Contractor shall provide a variety of Retailer terminals to meet the disparate needs of Maryland businesses. All terminals shall support advertising monitors, jackpot signs, ticket checkers and monitor games monitors. The Lottery will not dictate specific types of terminals, the numbers currently deployed are shown below:

Type of Terminal	Installed as of 01/31/2024	Expected Future Needs *
Full-Size Clerk Selling	3800	5300
Intermediate Clerk Selling	660	
Small Footprint Clerk Selling	275	
Non-selling Terminal for Self-Service Reporting and Validations	290	500
Full Service Self-Service	1700	2200
Reduced Height Full Service Self-Service	100	200
Draw Only Self-Service	240	500

\* These are estimated and represent the maximum number to be provided within the base fee.

- B. Installation. Contractor shall install terminals and other hardware provided at Retailer locations and connections to the LCMCS. The installation shall be “clean” in that there are no loose wires visible to the public.
- C. Upgrades. The Contractor shall develop and install all necessary software upgrades as new games or features are implemented. MLGCA may require upgraded terminal technology during the term of the Contract as the industry advances. Offerors should plan to refresh terminals after 5 years of operation to ensure equipment presents a positive image of the MLGCA and internal components and software are not out of date or no longer supported.
- D. Ease of Use. User interfaces shall be intuitive. Both clerk-operated and self-service terminals shall be reliable, fast and the paper shall be simple to replace.
- E. Language Options. Currently, clerk terminals have a Korean language option. The Lottery may require that self-service terminals include functionality to display player instructions in Spanish.
- F. ADA Compliance. Self-Service terminals are to be ADA compliant.



#### 2.3.2.2 Retailer Obligations as Opposed to Contractor Obligations

- A. General. A Retailer is required to provide certain equipment and conditions prior to the creation of a Contractor work order for installation of lottery equipment.
- B. Quad Outlet. The Retailer shall provide a quad electrical outlet at the terminal location.
- C. Access for Wires. Any holes that are required on the counter tops or sides for cable runs to the equipment must be completed by the Retailer prior to lottery equipment installation.
- D. Outlet Distance. The Retailer shall ensure that outlets are within 5 ft. of terminals, signs, monitors and other lottery equipment. Power strips are only permitted where allowed by applicable code.
- E. Loss or Damage. Retailers are liable for loss or damage to the Contractor-provided equipment, including the cost to repair or replace the equipment.
- F. Replacement of Keys. Retailers are responsible for the costs associated with replacing keys for the self-service lottery equipment.
- G. In-Wall Wiring. If a Retailer requires in-wall wiring for terminals, monitors and peripherals, the Retailer is responsible for installing it.

#### 2.3.2.3 Monitors

- A. General. The Contractor shall provide and install monitors of various sizes to display Keno, Racetrax, and any other monitor games that the Lottery may offer in the future for Retailer locations. A separate monitor for advertising content near the terminal is also required.
- B. Monitor-Game Monitors. The Contractor shall provide installation of at least a single monitor for each Lottery monitor game offered at each Retailer that requests a monitor, as directed by the Agency. A sample layout or photos of existing layouts of monitors at Retailers are available upon request.
- C. Advertising Monitors. The Contractor shall provide installation of at least one advertising display per terminal that can also serve as a digital menu board monitor that displays advertising content and real-time messaging dedicated to Lottery products including scratch games, Fast Play games and jackpots, and promotions.
- D. Mounting Brackets. The Contractor shall provide various types of monitor mounting brackets (e.g. fixed or articulating) for a Retailer location at no additional cost, as requested by the Agency.
- E. Retailer Supplied Monitors. The Contractor shall support any Retailer provided monitors for monitor games safely mounted by the Retailer for which the Retailer has installed electrical and Contractor approved video cable and splitters or signal boosters that terminate at the terminal or video component.
- F. Limitations on Monitor Install. The Contractor will not be required to install monitors: 1) if the mounting brackets are more than 12 ft. high; 2) if ceiling mounts are required; 3) if monitors are more than 25 ft. from the terminal or control device; and 4) more than 5 ft. from an electrical outlet – power strips are not an acceptable alternative to an outlet.
- G. Current Monitors Deployed. MLGCA utilizes a variety of sizes of HD monitors at retail locations based on the needs of the location. See Appendix 5 for a complete list

of the number of each size of Contractor supplied monitor currently deployed at Retailer locations.

#### 2.3.2.4 Other Retailer Equipment and Supplies

- A. General. The Contractor shall acquire, warehouse, install, relocate, maintain, repair, and replace all existing Retailer equipment including peripheral equipment and supplies required under the Contract.
- B. Debit-Card Readers. All self-service equipment shall include a debit card reader. The Contractor shall provide a turn-key debit processing system, which shall include, but not be limited to staff to conduct reconciliations and complaint resolution. MLGCA will pay transaction processing fees associated with debit lottery transactions.
- C. Debit PIN Pads. The Contractor shall provide debit PIN pads for clerk-operated terminals, if requested by the MLGCA. It is assumed that these devices would be deployed only in locations without self-service terminals and would be limited to one per location. This would result in a quantity of approximately 2,000 PIN pads.
- D. Customer Transaction Display. The Contractor shall provide a customer transaction display for each terminal. The MLGCA currently uses a separate standing display, but is open to alternative solutions.
- E. Signs. The Contractor shall provide and install signage as directed by MLGCA for Retailer locations including, but not limited to: 1) two- and three-sided jackpot signs featuring two or more game jackpot amounts; and 2) lighted logo signs. Currently the Lottery has deployed 3,700 hanging jackpot signs and 2,500 logo signs. If the Lottery provides other signs, the Contractor shall also install those signs.
- F. Logo Updates. As logos for the Agency or any games the MLGCA offers are modified the Contractor shall be financially responsible for updating all signage and materials, including all retailer consumable materials, at the Agency's discretion.
- G. Play Stations. The Contractor shall provide 3,500 ADA-compliant play stations for Retailer locations for the purpose of displaying play slips, pencils, and brochures that are supplied by the Contractor.
- H. Ticket Checkers. Both wired and wireless versions of ticket checkers shall be supplied by the Contractor for use at Retailer locations. One ticket checker is required per clerk terminal.
- I. Cash Drawers. The Contractor shall provide ~~4,000~~4,500 cash drawers.
- J. Other Supplies. The Contractor is required to acquire, warehouse and deliver various supplies needed at Retailer locations to support the lottery business including, but not limited to ticket stock, play slips, pads of notepaper with the Lottery logo and pencils.
- K. Accessibility. The Contractor shall provide equipment, if requested, for visually impaired Retailers or meeting other accessibility considerations.
- L. Approval of Equipment and Supplies. Agency approval of all equipment and consumables is required prior to its utilization at Retailer locations. All equipment is to be tested by an independent testing laboratory, such as Underwriters Laboratories.



### 2.3.3 Lottery Games to be Supported by the Contractor

#### 2.3.3.1 Support Existing Lottery Games

- A. General. The Contractor and the LCMCS shall support all current Maryland Lottery games as of the date of the execution of the Contract.
- B. In-State Draw Games Using Smart Play RNG. The current Maryland draw games that are conducted through a RNG through a contract with Smart Play are Pick 3, Pick 4, Pick 5, Multi-Match, and Bonus Match 5.
- C. Multi-State Games. The current multi-state games offered by the Lottery are Mega Millions, Powerball, and Cash4Life. Support for these games include any line extension or game changes that the Lottery may choose to adopt.
- D. Fast Play. Fast Play games offered by the Lottery include standard and progressive jackpot prize games. Support of these games includes development of the Fast Play artwork, game design and prize structure. The Contractor's support of Fast Play games shall: permit selection and release of new games as scheduled by MLGCA; provide for results to be determined from a pool of "tickets"; and be designed in a manner and style similar to scratch tickets. The Contractor is required to conduct a trademark search and provide a legal opinion letter for every Fast Play game produced for MLGCA. Requirements include:
  - 1. Trademark and Service Mark Search and Registration - The Contractor or competent outside trademark counsel hired by the Contractor at Contractor's expense shall conduct all appropriate trademark, service mark, trade name and trade design searches for all game names used during the term of the Contract and provide to the MLGCA a written legal opinion that meets the MLGCA's approval (including but not limited to the scope and terms of the opinion) as to the permissible use of each game name based upon a search of registrations and applications for registration filed with the United States Patent and Trademark office, applicable state agencies and other appropriate sources and outside trademark counsel's expertise. At the request of the MLGCA, the Contractor or its outside trademark counsel shall also conduct all appropriate intellectual property searches regarding any artwork, any design, and any other aspect of the Fast Play game. The written legal opinion shall also address whether use of the name, and any other requested aspect of the Fast Play game, is permissible in second chance games and other promotions by the MLGCA. The Contractor must submit that opinion to the MLGCA prior to the completion of any development specifications. If determined necessary by the MLGCA, Contractor shall provide an updated opinion at any time prior to the actual use of the name or other aspect of the Fast Play game. If the name or design (or other aspect of the Fast Play game) is currently in use or subject to a trademark or other intellectual property right, the Contractor or its trademark counsel shall, at the request of the MLGCA, use reasonable efforts to obtain the consent of the trademark or other intellectual property right owner to use by the MLGCA. If the Contractor is unable to obtain the consent of the owner, the parties shall designate a substitute game name or names acceptable to the MLGCA, for which Contractor or Contractor's outside trademark counsel shall conduct further searches as provided in this Section. The services required by this section shall be provided by the Contractor at no additional cost to the MLGCA. (Note: Any trademarks and service marks owned by the MLGCA need not be searched.) Pursuant to Attachment M – Contract, new trademarks and service

marks developed for the MLGCA shall be the property of the MLGCA and will be registered by the Contractor in the name of the MLGCA at its direction. Contractor must obtain written approval from the MLGCA prior to incurring any registration cost. The Contractor shall keep all marks current, active, and protected during the term of Contract and any extension thereof. Nothing in this paragraph shall diminish the warranty or limit the liability of the Contractor as otherwise provided herein.

2. **Licensing Agreements** – The Contractor, when required by the MLGCA, shall obtain and be responsible for any licensing agreement whenever necessary for any game to be printed during the term of the Contract. The Contractor shall obtain approval of any licensing fee prior to incurring any licensing fee to be paid by the MLGCA, and shall submit such a fee to the MLGCA for payment. There shall be no additional charge to the MLGCA by the Contractor for services rendered to obtain the licensing agreement.
  3. **Fast Play Ticket Artwork** – The Contractor shall provide development specifications for each Fast Play game to be offered for approval by the MLGCA. The designs shall be vetted by the Contractor’s programmers prior to being included in the development specifications. The Contractor shall use the approved game artwork to create the files necessary for self-service vending machines and Fast Play game menu screens.
  4. **Advertising Monitor Interrupter Screen** – The Contractor shall develop functionality enabling a full menu of available Fast Play games to interrupt the scheduled show on Retailer advertising monitors in retail locations when the Fast Play menu is selected by the Retailer. The Contractor shall maintain the graphics of games as directed by the Lottery based on game launches and closures.
  5. **Independent Review** – The Contractor shall engage an independent Certified Public Accountant experienced in lottery operations and acceptable to the MLGCA to review the procedures and controls employed by the Contractor during the software development of each Fast Play Game. The Certified Public Accountant shall provide, directly to the MLGCA, a report in a secure PDF format, which shall state the tests performed on the Contractor’s development process and the related findings. These tests shall include, but not be limited to, a review of the controls on the methods of seeding used in producing High Tier, Mid Tier and Low Tier Prize winners, and non-winners in accordance with the final approved prize structure.
- E. **Monitor Games.** MLGCA currently offers Keno, Keno Bonus, Keno Super Bonus, Packaged Keno to Go, Racetrax and Racetrax Bonus monitor games. Support for these games includes providing and using GLI certified automated random number drawing equipment and updating graphics as directed by the Lottery to maintain fresh and appealing winning number drawing displays.
- F. **Cash Pop.** The Lottery offers an IGT owned game, Cash Pop, drawn 4 times a day. License fees are paid to IGT by the Lottery.
- G. **Instant Ticket Scratch Games.** The Contractor shall support all scratch games released by the Lottery including The Big Spin and its associated graphics required on Retailer advertising monitors.

- H. Timing for Release. The Contractor shall launch all requested game modifications under a schedule agreed upon with the Lottery, including User Acceptance Testing (“UAT”). In no event will a game launch exceed 120 days after specifications are approved.
- I. Step-Down of Games. The LCMCS shall include functionality to gradually reduce the number of advance drawings available for purchase when the Lottery has decided to modify or end a product on sale. This functionality applies to both retail and subscription sales.

#### **2.3.3.2 Develop and Support Future Lottery Games**

- A. General. The Contractor is required to implement any new game the Agency may choose to offer at no additional direct cost to the Agency.
- B. Costs. Contractor costs to launch new games would be recovered through the sale of the new Lottery game based on the agreed upon fixed percentage of sales.
- C. Specialized Hardware. Additional specialized hardware that might be required may be paid by the Lottery.
- D. Licensing. If there are third party licensing fees payable to a third party, the Lottery may agree to pay required fees.
- E. Development. The Contractor is responsible for developing specifications to be approved by Lottery, developing required software, acceptance testing, designing ticket layouts and playslip, for Lottery approval.
- F. Timing for Release. The Contractor shall launch all requested games under a schedule agreed upon with the Lottery, including UAT. In no event will a game launch exceed 120 days after specifications are approved.
- G. Training. The Contractor is responsible for providing any retailer training needed for new games.

#### **2.3.4 Instant Ticket Warehousing**

##### **2.3.4.1 General Information – Outside the Scope of this Contract**

Note: The Contractor is not responsible for work described in Section 2.3.4.1

- A. Agency Staff. The Agency staffs the instant ticket (scratch ticket) shipping operation from its Baltimore warehouse.
- B. Costs of Shipping Instant Scratch Tickets. The costs of shipping of instant scratch tickets is borne by the primary instant ticket (scratch ticket) contractor under the existing Instant Ticket Contract. The primary printer is responsible for providing shipping supplies (envelopes, boxes, gaylords or other containers, and labels) and shipping label printers that produce labels acceptable by the delivery company.

##### **2.3.4.2 Instant Ticket Ordering**

The Contractor shall have processes for Retailers to order new inventory and have it delivered to the Retailer, including:

- A. Pick and Pack System. The Contractor shall provide hardware and software with an interface to a common carrier approved by the Agency. This includes, but is not limited

to PCs, document printers, scanners, and the communications network to support them within the Lottery warehouse. The Contractor must support connecting to, and using label printers to produce shipping labels. The current carrier is UPS, but alternative smaller carriers (Falcon) are under consideration.

- B. Additional Carriers. The Agency may decide to use more than one carrier. The Contractor shall have a process that differentiates between orders within the Agency's warehouse and a process that facilitates the delivery of those items.
- C. Sorter System. The Contractor shall provide a warehouse instant ticket order sorter system to support the Agency's growing scratch game sales. Ideally, the sorter shall accommodate tickets 12" and longer, 8"x8" tickets, and other oversized products. At a minimum, the system shall include 7 fully equipped packing stations which include, but are not limited to PCs, scanners, and manifest printers; and one return station.
- D. Real-Time Integration. The Agency requires real-time inventory control and integration with its sales, and Retailer ordering systems.
- E. Inventory Statuses. The Contractor's LCMCS shall support, at a minimum, the following instant ticket pack statuses:

Stolen	Available – Virgin Packs	Available – Returned Packs	Allocated to Shipment
In Transit	Fully Sold/Settled	Omitted	Voided by Security
Missing	Received by Retailer	Activated for Sale	Destroyed
Promotional (cashable)	Not Available – Fully Unsold	Defective	Damaged

The LCMCS shall support additional statuses as directed by the Agency, or as offered by the Contractor.

- F. Reissuance of Packs. The LCMCS shall support a simple process to return unopened packs of instant tickets to inventory and the subsequent reissuance of the packs to other retailers.

## **2.3.5 Central System Requirements**

### **2.3.5.1 Maryland Operations Center.**

- A. General. The primary site for day-to-day systems operation shall be located within 5 miles of the MLGCA's Baltimore location.
- B. Back-up Operations. Under normal failover scenarios, the Maryland Operations Center staff should be able to operate the systems in either the PDC or BDC locations. If the Maryland Operations Center is not available, trained staff in a secondary location must be ready to take over operations duties.

### **2.3.5.2 Primary Data Center ("PDC").**

- A. General. The Contractor shall provide a fully-equipped PDC with all hardware, software, and infrastructure needed to operate the entire LCMCS.

- B. Environmental Considerations. The PDC must comply with all DoIT, MLGCA and MUSL security, power, and environmental requirements. There must be redundant communications network paths and Uninterruptable Power Systems (UPS) capable of supporting 150% of the maximum expected load.

#### 2.3.5.3 Remote Backup Data Center (“BDC”)

- A. General. The Contractor shall provide a redundant remote hot BDC, fully equipped with all hardware, software, and infrastructure needed to operate the entire LCMCS. The BDC may be located outside of Maryland. A hot BDC is an operating system which receives a mirror image of all transactions on a real-time basis from the active system with the capability to automatically take over processing in the event of a failure at the PDC with minimal service disruption to the LCMCS and with no loss or corruption of data.
- B. No Interruption. The backup site shall allow for continuous operation of the LCMCS without any interruption.
- C. MLGCA Backup Data Center. The Contractor shall supply a separate dedicated 200 square foot secure space in the BDC, or other mutually agreed upon data center, to be utilized by MLGCA for back-up servers and other equipment. This space shall meet the same requirements as the PDC, including security, power, network, and environmental requirements. MLGCA back-up systems are currently housed in a QTS Realty Trust site near Richmond, VA. The space does not have to be co-located with the Contractor’s BDC. It must be at least 50 miles away from Agency headquarters. MLGCA prefers it be within 200 miles of Baltimore, but that is not a requirement.
- D. Environment Considerations. The data center must comply with all DoIT, MLGCA and MUSL security, power, and environmental requirements. There must be redundant communications network paths and Uninterruptable Power Systems (“UPS”) capable of supporting 150% of the maximum expected load.

#### 2.3.5.4 Ticket Scanning Messaging

- A. Non-Winning Tickets. The Lottery and Contractor will jointly develop standard messages that shall be displayed on all devices when non-winning tickets are scanned. Different messages are required when draws remain on a ticket.
- B. Winning Tickets. The Lottery and Contractor will jointly develop standard messages that shall be displayed on all devices when winning tickets are scanned. Messages will vary when draws remain versus when all draws have concluded. For jackpot games, the Lottery may dictate that the annuity value is displayed, or that the message is simply “Jackpot”.
- C. Retailer Advertising Display. The Contractor and the Lottery will jointly develop messaging and images that will appear on retailer advertising displays for Big Spin scratch game prizes and for awards of promotional tickets or vouchers.

#### 2.3.5.5 Additional Game Requirements

- A. Non-Winning Tickets. The LCMCS shall retain non-winning ticket data on the system for 182 days after the last drawing on the ticket.

- B. MUSL Game Requirements. The LCMCS shall be MUSL Rule 2 compliant with a dual-security number that is not recorded on the host and is required to validate a ticket when the bar code can't be scanned.
- C. Instant Scratch Game Settlement Options. The LCMCS shall have the ability to charge Retailers for instant ticket packs (settle) on activation, 60 days after activation, or upon reaching a game specific percentage of validations, which is typically 80% of low tier validations. If a Retailer uses Single Ticket Accounting as described later in 2.3.14, settlements are by ticket, at the time the ticket is sold.

## **2.3.6 Instant (Scratch) Ticket Ordering Program**

### **2.3.6.1 General**

- A. TelSell System. The MLGCA requires a telephone-based ordering system for many Retailers to identify what tickets they want delivered to their location for sale. The Contractor shall provide a full-function order creation and processing system for scratch games that interfaces with the warehouse operation and common carriers. The TelSell system should assist staff in recommending optimal orders for retailers.
- B. Staffing. The Contractor shall provide a system and staffing to make and receive Retailer calls to place orders.
- C. Supporting Other Languages. The Contractor shall have a manner to support and service Retailers who are Korean or Spanish-speaking.

### **2.3.6.2 Key Features of the Ticket Ordering Program**

- A. Game Allocations. The Contractor shall create initial game allocations for monthly launches based on individual Retailer sales data, number of game facings, and the specific games being launched.
- B. Auto-Ordering. The Contractor shall have the capability in the LCMCS to create an order for a Retailer without Retailer interaction. These orders are based on estimates of available inventory at the retailer and games available for distribution.
- C. On-Demand. The Contractor shall have the capability in the LCMCS to accept and fulfill terminal generated orders from Retailers.
- D. Walk-In Orders. The Contractor shall have the capability in the LCMCS to accept and fulfill walk-in orders from Agency District Managers.

### **2.3.6.3 Additional Technical Proposal Responses Needed**

Describe features or functions available to quickly and accurately change the status of tickets to stolen to prevent cashing, both with single ticket accounting enabled and without.

## **2.3.7 My Lottery Rewards™**

### **2.3.7.1 General**

- A. Complete Program. The Contractor shall provide a complete player rewards program using the MLR name. This program shall include a dedicated website and mobile app where players and members can complete all required functions (e.g. joining the program, establishing an account, entering tickets, accumulating points, redeeming



points for merchandise, entering drawings, receiving and redeeming free play or discount play or buy X get Y coupons, and viewing a real-time activity dashboard).

- B. Current MLR Program. The MLGCA's MLR Program is a rewards program that administers second chance contests, points for drawings, points for prizes, and other drawings and promotions for the Agency based on the entry of non-winning scratch tickets and any draw ticket. The MLR Program also facilitates the Lottery's subscriptions processing. The app must support a ticket checker function available for use by both members and non-members of the MLR program to determine if tickets have won a prize.
- C. Innovation and Engagement. The Contractor shall be responsible for the ongoing administration of the MLR Program including supplying technical and marketing support teams that are proactive and innovative in their approach to offer suggestions to improve performance and engagement.
- D. Transition. The Contractor shall capture or transfer all player information and any existing rewards balances from the legacy system into the new system.

#### **2.3.7.2 Program Components**

- A. Administration of All Drawings. The Contractor shall administer all drawings offered through the MLR Program. The coordination of these drawings and their schedules average 100 drawings annually. The administration of the drawings includes auditing services, support services, communicating results to the Lottery, and posting results on the MLR Program website.
- B. Portal: The Contractor shall provide an entry portal and drawing support services for second-chance drawings, points for drawings, and any other drawings that are held for MLR members.
- C. Variable Drawing Entry Methods. The Contractor shall have the capability of having different entry mechanisms including, but not limited to specific dollar amount of tickets entered, number of tickets entered, and types of tickets entered.
- D. Achievements Administration. The system should support all types of achievements – spend threshold (total spent or spend by product or game), number of tickets, remainder rollover (spend \$50 for an entry achievement – if the player had \$40 towards a \$50 achievement and entered a \$20 ticket, \$10 goes to the entry and \$10 starts a new tally), and others recommended by the Offeror.
- E. iLottery. If iLottery is introduced, even if it is provided by another vendor, MLR must be constructed to accept iLottery purchases and provide for player awards and achievements. The platforms must be integrated as fully as possible.
- F. Prize Budget and Fulfillment. Prizes offered through the MLR Program shall be paid for and fulfilled by the Contractor, unless specific prizes are agreed by MLGCA in advance to be fulfilled in a different manner. The Contractor shall be responsible for addressing any customer services issues related to Prize fulfillment from the MLR Program. The monthly budget for prizes, coupons, etc. to be provided by the Contractor shall be \$375,000, with an annual 3% inflation increase. The amount charged to the Lottery for merchandise shall be the actual retail price and coupons shall be charged based on the liability cost of the game awarded.
- G. Updates. The Contractor shall allow for content including program, promotion and drawing rules, and graphics to be supplied by MLGCA to be updated to the website in

an efficient manner at MLGCA's direction. Ad-hock requests to update the website should be fulfilled promptly.

- H. Customer Service. The Contractor shall provide in-depth customer service resources to answer MLR member questions about the program, their account, or provide technical support for the website and mobile app. Inquiries shall be responded to within 24 hours.
- I. Vouchers and Coupons. The Contractor shall have the capability to issue and process game vouchers and coupons for free games or other promotional discounts redeemable through the system.
- J. Mobile App. The Contractor shall provide and support a dedicated loyalty MLR Program mobile app that allows members to perform the same functions as on the website, but to also include scanning tickets directly to be entered into the program if the tickets are eligible.

#### **2.3.7.3 Reporting**

- A. Data Management and Analysis. The Contractor shall manage and analyze all of the data MLGCA accrues via MLR. Deep analysis of data is preferred, such as looking at people who entered Pick 4 tickets and identifying what other types of tickets they entered. Does the player participate in promotions? Does the player "spend" their draw and prize points or do they just accumulate points. See also "Additional Systems" below.
- B. Data Reporting. The Contractor shall provide MLR activity data to the MLGCA on both a monthly and as needed basis. Specifically, the MLGCA requires the number of total members, the total number of active members, the number of new members, active users on the website and mobile app by activity, number of new app downloads, promotional reporting (e.g. number of entries, number of unique entrants, number of rewards awarded), details about tickets entered into the MLR Program, retail value of tickets entered, and trends observed in the data as directed by the MLGCA.
- C. Improvements. The Contractor shall provide recommendations for improvements or changes to the MLR Program based on an analysis of monthly data and player feedback.
- D. Dashboards. The Contractor shall provide a monthly dashboard report to program members that summarizes their activity. The Contractor shall also provide a monthly dashboard to the MLGCA that summarizes program activity. These dashboards are due to program members and the MLGCA by the tenth of the month for the prior month.

#### **2.3.7.4 Customer Relationship Management**

- A. General. The Contractor shall have a robust customer relationship management services program as a part of the MLR Program for members and prospective members that provides valuable insight into customer's behavior and buying preferences, enabling the MLGCA to develop more effective practices for customer interactions that drive increased revenues. Current tactics include a comprehensive email and push notification program that follow several different customer journeys.
- B. Communication. The Contractor shall provide information in a manner that allows members to find information about current and upcoming program promotions in an engaging, easy to understand way. There shall be functionality that allows an MLR



member to opt-in to receive daily updates on jackpots for jackpot games at levels determined by the Lottery.

- C. Hotline. The Contractor shall provide a player hotline for MLR Program matters that is available 7 days a week.

### **2.3.8 Website and Apps Support**

- A. General. The Contractor shall provide information feeds required for seamless and real-time, when needed, updates to the Lottery's website and apps.
- B. Ticket Checker. The Contractor shall support ticket checker functionality for all MLGCA authorized applications.
- C. Data Feeds. The Contractor shall provide specific data feeds to the website and authorized MLGCA mobile apps, as directed by MLGCA, including, but not limited to the data points listed in Appendix 6. All data feeds are to include a timestamp indicating the most recent update. Currently, the Lottery website ingests the data files, combines it with local data, and exports a .JSON file that is shared between and published on the Lottery website and the Lottery app.
- D. e-Play slips. The Contractor shall support e-play slips created on the mobile apps for use on clerk terminals and self-service terminals. The Contractor shall track data on the usage of the e-play slips and provide monthly updates to the Lottery. Currently, the e-play slips and functionality is provided via iFrame.
- E. Additional Technical Proposal Responses Needed. Describe industry best practices on the ability and benefit of recording device identification when a ticket is scanned on a mobile device and what processes you would recommend be employed. The system shall also record the retailer location when a ticket is scanned on a ticket checker device.

- 2.3.9 Third-Party System and Support:** The Contractor will enter into contracts with an MLGCA approved vendor for any third-party system or tests required. All costs are the responsibility of the Contractor.

#### **2.3.9.1 Internal Control System ("ICS").**

- A. General. The Contractor shall procure an ICS provided by a third-party, meeting the functionality and reporting required by MUSL and the Mega Millions Consortium, that is currently in use by a North American Lottery.
- B. Costs. The Contractor shall absorb all costs associated with the development and use of the third-party ICS.
- C. PII Not Transferred. The Contractor shall ensure that all product sales, cancels and validations are balanced in the ICS, but claimant PII shall not be transferred to the ICS.
- D. MUSL ICS. In the event the MLGCA chooses to interface with a MUSL provided ICS, in addition to a Maryland specific ICS, the Contractor will provide software, hardware, and network connectivity required to supply data to the MUSL ICS.

#### **2.3.9.2 Analytic (SAS) Tool**

- A. General. The Contractor shall provide an analytics tool to allow the Lottery to identify unusual claim patterns.

- B. Current Tool. MLGCA currently utilizes a proprietary tool provided by SAS to meet this requirement. While alternative solutions for analytic tools may be acceptable to the MLGCA, MLGCA recognizes that the current provider has a deep understanding of the lottery industry and claiming patterns that may indicate illicit behaviors.
- C. Reasonable Alternative. If the Offeror proposes an alternative to the SAS tool, it shall detail how it compares with the SAS tool for identifying unusual claims.

#### **2.3.9.3 System Penetration Testing**

- A. General. The Contractor shall provide annual system penetration testing using an MLGCA approved third-party.
- B. Different Providers. The Contractor shall not use the same provider to perform more than two consecutive tests.

#### **2.3.9.4 SOC Audits**

Annual SOC audits are required. See Section 3.9 of the RFP.

#### **2.3.9.5 Other Testing and Information**

- A. MUSL and Mega Millions. The Contractor shall support all testing required by MUSL and the Mega Millions Consortium.
- B. Maryland Department of Information Technology (“DoIT”). The Contractor shall support all testing required by DoIT.
- C. Legislative Auditors. The Contractor shall supply data, reports, and other information required by the Office of Legislative Audits.

### **2.3.10 Sales Force Automation Tool**

#### **2.3.10.1 General**

- A. Complete System. The Contractor shall provide an end -to- end sales force automation system for the Lottery Sales Department.
- B. Software and Hardware. The Contractor shall provide system software and hardware for a full-function tool that meets the needs of the Lottery Sales Department as provided below, including devices, such as tablets or small laptops, used by all Lottery Sales staff and management.

#### **2.3.10.2 System Components**

At a minimum, the sales force automation system shall be able to provide the following features and functionality for the Lottery Sales Department:

- A. Access. Permission based access depending upon the user.
- B. Flexibility. The sales force system shall have the functionality to allow users to be added, work be assigned, update various news items, retain documents for Lottery District Managers and field staff use.
- C. Reporting. Shall permit full reporting on all Retailer data points and allow staff to do the following: 1) record leads; 2) log communications and visits; 3) schedule follow-ups; and 4) update Retailer details including location, owner contact information, but

not changes to the ownership of record, scratch game facings, and other attributes of the Retailer.

- D. Inventory Tracking. The sales force system shall have near real-time tracking of scratch ticket inventory at the retail and Warehouse levels.
- E. Statistical Information. The sales force system shall maintain terminal game statistics and basic game information
- F. Automated. The forms provided in the sales force tool shall be fully automated to be auto populated or manually filled and permit users to email documents to various departments via the system.
- G. Survey. The sales force system shall be able to survey sales staff.
- H. Alert. The sales force system shall be able to issue alerts based on various criteria including, but not limited to new game launches, activation of games, and low sales.
- I. Integrated. The sales force tool shall be able to interface with a separate Retailer portal application system and with other LCMCS databases.
- J. Updates. The data within the system shall be updated at least daily, but real-time updates are preferred where connectivity is sufficient.
- K. Platform Agnostic. The system should be platform agnostic and be able to be used on a tablet, PC, or state-issued mobile phones.

#### **2.3.10.3 Device Requirements**

- A. General. The Contractor shall support the Lottery Sales Department, and provide devices for all district managers and sales staff at headquarters, estimated at 60 to 75 users/devices as described above.
- B. Minimum Specifications. At the Contract start date, the minimum specifications are devices with a 12-inch screen, 8 GB memory, 128 GB storage, subject to upgrades when replenished.
- C. Cellular Costs. Cellular service costs shall be paid by the Contractor.
- D. Configuration by MLGCA. Lottery IT staff will image all devices and install software that will limit what can be installed on the devices.
- E. Accessories. The Contractor shall provide for each device: charging cords for AC and automobile use, a carrying case, a mouse or stylus, keyboard, screen protector, and generally be appropriate for field use.
- F. Replacements. The Contractor shall be responsible for the replacement of lost or stolen, and damaged or defective products and devices.
- G. Refreshed Devices. The Contractor shall refresh equipment after 5 years.
- H. Programs. Other software to be included on the device are Microsoft programs including Word, Excel and Publisher.

#### **2.3.11 Communications Network – Retailer and Inter-Site Backbone**

#### **2.3.11.1 Cellular**

- A. General. The Contractor is required to provide a communications network that is primarily cellular for retailer communications.
- B. New Locations. The Contractor shall facilitate new location installations of communications, sales equipment and training in 14 days or less.
- C. Placement of Equipment. The Contractor shall limit placing communications network equipment on rooftops.
- D. Speed. The Contractor shall provide high-speed network connectivity between the Contractor sites and the Lottery, including to the Lottery ICS backup site and Warehouse. One Gigabit per second (Gbps) is the expected minimum speed. Download speeds shall be sufficient to meet the needs of the Lottery.

#### **2.3.11.2 Providers**

- A. General. The Contractor shall provide redundant providers for 95+% of the communications network (i.e. dual communication).
- B. Alternatives. The Contractor shall have alternative communication network solutions where cellular service is not adequate. The alternative shall provide speeds and latency that will support Lottery sales.
- C. Management. The Contractor is required to manage all communications providers.
- D. Communication Failures. The Contractor is responsible for liquidated damages for any downtime and sales losses associated with communication failures. See Appendix 8

#### **2.3.11.3 Connectivity**

Integration. The network shall be designed in a manner that is fully integrated and inter-connected with all Lottery systems and tools including the warehouse.

### **2.3.12 Conversion**

#### **2.3.12.1 General Requirements**

- A. Processing of Tickets. The incoming Contractor shall work with the incumbent vendor to permit the processing of legacy winning tickets for 182 days after the last draw date on a ticket, the date sold for a Fast Play game, or the announced end of game for a scratch ticket.
- B. Data Imported – 7 Years. The legacy system data shall be imported to the new system, including, but not limited to: daily sales by Retailer and game, sweep history of a Retailer's account, banking data, ownership of Retailers, prizes paid, claims paid, annuity and bond databases, other checks paid by Finance or other Agency departments for the last seven years.
- C. Third Party Testing. The Contractor shall retain and pay for a third-party laboratory, acceptable to the MLGCA, with experience in end-to-end testing of new lottery systems to assist in the pre-conversion system testing and system certification.

#### **2.3.12.2 Specific Game Requirements**

- A. Fast Play Games. The Contractor shall assure any accumulated progressive Fast Play jackpot funds at conversion are transferred to new progressive jackpot games. The LCMCS shall accommodate these transfers.
- B. Draw and Monitor Games. The Contractor shall ensure that all draw data is maintained for previous drawings on the website and app and continue to publish those results without interruption.
- C. Instant Scratch Ticket Games. The provision of instant scratch ticket games is not subject to this RFP. However, the LCMCS shall be able to process all instant ticket transactions, update available prizes for each game and maintain pack history for every pack of tickets.

### **2.3.13 Additional Systems and Programs Within the LCMCS**

#### **2.3.13.1 General**

- A. Fully Integrated. All tools and systems must be fully integrated and communicate updates in near real-time regardless of which system is updated. In other words, an update made to a record in any system or component must propagate to all other systems in near real-time.
- B. Real-Time Communication. The Contractor shall provide real-time communication and synchronization across all software systems, even if the system is not fully integrated into the baseline lottery system. The purpose of this requirement is to provide accurate data on scratch ticket orders, warehouse and retailer inventory, among other items.

#### **2.3.13.2 Agent Administration System**

- A. General. This system captures all of the Lottery's Retailer licensing information, including ITLM Facilities. The Contractor shall provide processes for: new Retailers, change of ownership of an existing Retailer, and terminations.
- B. Minimize Data Entry. The system shall be streamlined to minimize data entry points for Agency staff.
- C. Alerts. The system shall provide transaction alerts to specific Agency staff when new information or tasks are added or adjusted so staff are aware there are tasks in their queue.

#### **2.3.13.3 XCAP™ Program**

- A. General. This program allows select Retailers to pay prizes over \$600 and up to \$5,000 in cash or through a Retailer's business check. While the below describes the Lottery's current system, Offerors are encouraged to propose alternatives.
- B. Paperless Entry Claims. The terminals provided by the Contractor shall be able to scan winning tickets and drivers' license or other governmental ID in order to generate a claim form on terminal ticket stock. The terminal shall print a draft claim for player review and approval before finalizing the claim.
- C. Claim File. The LCMCS shall ensure that all data captured is part of the winner's claim file that is accessible by the Lottery's Accounting Division and the Lottery's Customer

Resource Center (“CRC”). The claim file shall be accessible on demand, but not accessible to XCAP™ Retailers.

- D. Other Interfaces – State Debt. The system that XCAP™ Retailers process claims through shall support an interface with the Maryland’s Department of Human Services (“DHS”) and Maryland Department of Budget and Management’s Central Collections Unit (“CCU”) to cross-check updated lists of individuals with various State debt in order to block payment of a claim by an XCAP™ Retailer.
- E. Other Interfaces – VEP List. The system shall support an interface with the Lottery’s Voluntary Exclusion List that is a part of the Lottery’s Voluntary Exclusion Program (“VEP”). Participants on the Commission’s Lottery Voluntary Exclusion List shall be blocked from payment of a claim by an XCAP™ Retailer based on their SSN being on the VEP list.
- F. Other Interfaces – Security Block. The system shall support an interface with a list of SSNs created by Lottery Security to block specific claimants. When a ticket is presented for payment at an XCAP™ location the SSN is checked against the Security list, and if there is a match the payment is blocked and the claimant is instructed to claim at the Lottery. Unless Security releases the block, the prize cannot be paid.
- G. Retailer Commissions. Retailers shall receive the standard cashing commission for payments made through the XCAP™ Program.

#### **2.3.13.4 Claims / Checkwriter – Lottery Headquarters and Agency Claim Centers**

- A. General. Neither the Lottery nor any Agency Claim Center (e.g., casinos) may directly pay any prize of \$25,000 or greater. These prizes are paid by the State Comptroller based on Special Request Transmittal (“SRT”) files created by the LCMCS. All prizes of any amount issued on the check-writer system shall be checked against the State Debt offsets and VEP List.
- B. Paperless Entry of Claims. The Contractor’s terminals shall be able to scan winning tickets and a drivers’ license, or other government ID and tax identification (such as an SSN card) provided by a winner. The scans made by the terminal shall be viewable by CRC staff or Agency Claim Center staff (e.g., casino staff) who can then print a claim form so that a winner may verify and approve the information on it.
- C. No Cashing Commissions. The payments made through the CRC or an Agency Claim Center shall be made by a Lottery check issued against the Lottery Working Fund Checking Account. There are no cashing commissions associated with claims made in this manner.
- D. Claim File. The Contractor’s system shall include all data captured in the winner’s claim file that is accessible by the Lottery’s Accounting Division and the CRC. This information shall be available on demand and may only be accessible to Finance, CRC or the Agency Claim Center (e.g., casino) that cashed the prize.
- E. Other Interfaces – State Debt. The system that processes CRC or Agency Claim Center claims shall support an interface with the DHS and CCU to cross-check updated lists of individuals with various State debt in order to reduce the amount to be issued. If the prize amount after being reduced by tax withholding, if any, is larger than the debt(s), the balance shall be paid to the winner by check. The system shall allow notice to be provided back to DHS and CCU indicating the amount that was withheld, and will print a letter or notice for the winner identifying the reason for withholding funds.



- F. Other Interfaces – VEP List. The system shall support an interface with the Commission’s Voluntary Exclusion List that is a part of the Lottery’s VEP. Participants on the Commission’s Voluntary Exclusion List that attempt to claim at the CRC or an Agency Claim Center (e.g., casino) are considered to have had the prize paid, but the funds shall go to the Problem Gambling Fund, not to the winner. No check is issued, and the system will print a letter notifying the person that the prize was withheld.
- G. Override Capability. The Contractor’s system shall allow for CRC staff to be able to verify the name and SSN attached to any liability and a winner in order to compare the information to ensure it is accurate. The Supervisor or Manager shall have the ability in the system to override errors or mismatches.
- H. Other Interfaces - Security Block. The system shall support an interface with a list of SSNs created by Lottery Security to block specific claimants. When a ticket is presented for payment at an XCAP™ location the SSN is checked against the Security list, and if there is a match the payment is blocked and the claimant is instructed to claim at the Lottery. Unless Security releases the block, the prize cannot be paid.
- I. Bank File Support. The Contractor’s system shall support bank files (positive pay) and State SRT financial system file interface. The system shall allow for a file extraction or download.
- J. Equipment and Supplies. The Contractor shall provide all equipment necessary for the system to allow for processing of claims and issuing checks using the Lottery bank account for the CRC and Agency Claim Centers (e.g., casinos). This equipment includes, but is not limited to computers, terminals, scanners, separate printers for checks, W2Gs and other documents, and supplies needed for that equipment. The Lottery will supply check stock.
- K. Maintenance of Equipment for System. The Contractor shall be responsible to perform all required maintenance for equipment.
- L. Limitation on Claims. The Contractor’s system shall limit the amount that a winner may claim at an Agency Claim Center (e.g., casino) to: 1) \$25,000, or other amount specified by the Agency, per day; and 2) only to U.S. residents.
- M. Multiple Winners. The Contractor’s system shall support and calculate the splits associated with gross, federal, and state tax withholdings, liability offsets and net amounts for claims from multiple winners on a single ticket. If one of the claimants is on the VEP list or has offsets to be withheld the payments due other claimants are not affected.
- N. Multiple Tickets. The system shall permit combining several winning tickets from the same claimant that are paid on a single check.
- O. Claims other than Cash. The Contractor’s system shall support claims on promotions and “other” categories of claims, including merchandise and provide appropriate tax reporting.
- P. Taxes Paid by Agency or Winner. The Contractor’s system shall support claims where either the Agency or the winner pays the taxes.
- Q. Username Tracking. The Contractor’s system shall print the terminal user’s name on all claims processed at the CRC or an Agency Claim Center (e.g. casino).

- R. Annuity Claims. The Contractor's system shall support the claim processing of annuity winners. This includes check issuance, SRT file inclusion or annuity payments. An initial payment shall be CRC issued up to \$25,000 and SRT file issued if over \$25,000. The remaining payments shall be systemically added into the Annuitant database for annual payments.

#### **2.3.13.5 Claims and Retailer Tax Reporting**

- A. W2G Processing. The Contractor system shall support W2G processing and reissues for winners for the prior seven (7) years.
- B. 1099 Processing. The Contractor's system shall support 1099 processing and reissues for retailers.
- C. Self-Service Retrieval. The Contractor's system shall optionally allow retailers and winners to securely retrieve their own 1099 or W2Gs through secure websites.

#### **2.3.13.6 Back-Office – Finance Requirements**

- A. Accounting and Checkwriter. The Contractor's system shall support a multi-step approval process for Accounting-issued checks including multiple users, as follows:
1. System functions shall include input, approve and print. The approve checks path must include Reject, Send Back, Approve.
  2. System support query of all checks issued for claims and accounting shall include: date, name, check number, claim number.
  3. System shall support voiding of all checks issued for claims and accounting.
  4. System shall support bank files (Positive Pay) for all Agency bank accounts.
- B. Accounting Bond Database. The Contractor's system shall support the data and future payments for all current purchased bonds, including but not limited to, CUSIP, purchase date, par amount, fair value amount, maturity date, principal, interest. The system shall also support the addition of any newly purchased bonds.
- C. Accounting and CRC Annuitant Database. The Contractor's system shall support maintaining the data associated with all current annuitant winners, including, but not limited to, name, mailing address date won, date claimed, beneficiary, quarterly payment, and quarter for payment. The information shall be available through queries and file extractions.
- D. Retailer – Accounts Receivable. The Contractor's system shall support weekly and on demand ACH/EFT sweeps of any or all retailers. The file currently consists of 3 parts: debits, credits, and net amount to State Treasurer's Office. The system shall allow adjustments to a Retailer's invoice with an approval path. This shall be able to be obtained manually and through an Excel file import. The weekly Retailer sweep shall exclude Agency Claim Centers (e.g., casinos) claim checkwriter terminals because the checks are issued against the Lottery account.
- E. Accounting Sales Reconciliations. The Contractor's system shall provide daily sales, commission, liabilities files for upload into Microsoft Dynamics SL and provide monthly liability reports by game and draw: prizes won, unclaimed, or other parameters as specified by the Lottery.

#### **2.3.13.7 Subscription Program**



- A. Current Program. The Lottery's current program requires membership in the Lottery's My Lottery Rewards program. Applications are created using a web interface and printed. The application and required payment are then mailed in to the Lottery to be processed. Subscription plays are not added to the pool of entries for a drawing when the purchase is made. Instead, entries are added to the transactions processed at retail after the close of the prior drawing. Lottery VEP participants are not permitted to purchase subscriptions. Players will be required to provide their SSN in order to purchase or renew a subscription.
- B. Currently: No Wallet Purchases. Funds in wallets may not be used to purchase or extend a subscription. Wallets are zeroed out through issuance of a check when the balance reaches \$100 or on player demand or upon expiration of all the player's subscriptions.
- C. Daily Files. The Contractor's system must create daily files of all subscription payments.
- D. Player Social Security Numbers / Offsets. For every prize paid directly by the Lottery or through the SRT process, the claimant's SSN is to be checked against child support and CCU databases before payment is made.
- E. Voluntary Exclusion Program. The system shall not permit an individual that participates in the Lottery VEP from creating a subscription. Further, if a subscriber enrolls in the Lottery VEP program, the Subscription must be cancelled and a check produced representing any prizes won but not yet paid and a refund for future drawings.
- F. Queries and Reports - Subscriptions. The Contractor's system shall support queries or reports of subscriptions by game, player's name, player number, subscription number, check number, subscription price, or other parameters identified by the Lottery. (e.g., if a check for \$52 deposited on January 5 is returned NSF, we should be able to query just those \$52 checks for that day). Queries shall be available for expired as well as active subscriptions.
- G. Queries and Reports - Deposits. The Contractor's system shall support queries or reports of deposits by game, date, intraday reporting, daily reporting, user, totals, or other parameters identified by the Lottery.
- H. Discounts. The Contractor's system shall support discounts for subscriptions. Discounts shall be applied at the end of a subscription, not prorated over the life of the subscription.
- I. Overpayments. The Contractor's system shall support overpayment of a subscription by a player with an excess amount to be transferred to the wallet. There must be detailed reporting such an occurrence.
- J. Cancelations. The Contractor's system shall support "cancellation" of a subscription after it has begun. The system shall be able to identify the Game, amount cancelled, subscription number, and winnings prior to cancelation, but not yet sent to wallet. The Lottery shall be able to ascertain winnings and prorated subscription amounts separately.
- K. Refunds. The Contractor's system shall have the ability to refund subscriptions or allow the same numbers to continue to be used as required due to a game change.

#### **2.3.13.8 Retailer Portal**

- A. Paperless Application. The Contractor shall supply a paperless application tool for Retailers.
- B. Multiple Application Types. The system shall support multiple application types including: new retailer applications, change of location, change of business name, change of bank account, corporate locations – first chain location, corporate locations – additional locations, changes in business structure, new ownership, XCAP™ status and additional terminal requests.
- C. Alerts. System alerts shall inform Lottery staff when an action is required to process a Retailer application. There shall also be alerts if an application is “aging”.
- D. Sales Reporting. The Contractor’s system shall have a means to display Retailer sales for analysis by the Retailer.
- E. Surveys. Retailer surveys shall be possible through the portal.
- F. Tax Reports. Optionally, Retailers would be able to securely access 1099 documents or other tax records.
- G. Responsible Gaming (“RG”) Toolkit. If the Lottery develops an RG toolkit, it shall be accessible through the portal.

#### **2.3.13.9 Business Intelligence System**

- A. General. The Lottery currently utilizes a Business Intelligence System. The Contractor shall provide a (“BIS”) system that shall be integrated with all other processes and systems, including the warehouse.
- B. Trained Analysis. The Contractor shall supply a dedicated trained analyst to prepare reports and assist with training others in use of the business intelligence system.
- C. Reporting. The business intelligence system shall be able to produce various reports on-demand including analysis of games, promotions, trade styles, etc. See Appendix 7 for more information.

#### **2.3.13.10 Sales Threshold Monitoring**

- A. General. The Contractor shall take various actions and send an email notification to Agency staff when various conditions occur. It is preferred that these notifications be automated in the system as opposed to relying on the Contractor’s staff to initiate.
- B. Suspend Sales. The Contractor’s system shall suspend sales of one or more games if the Retailer reaches \$10,000 in daily sales for that game – currently Keno and Racetrax – and send an email notification to specified staff. While the majority of Retailers will have the same limit, this value shall be configurable for each retailer.
- C. Notice to Security. A small number of Retailers are permitted to sell beyond a \$10,000 daily limit. The Contractor’s system shall notify Lottery Security and specified staff for each instance where any such retailer reaches \$15,000, \$30,000, or \$45,000.
- D. Fast Play Progressive. The Contractor’s system shall notify specified Agency staff when a Fast Play progressive top prize is hit.
- E. Fast Play Sales. The Contractor’s system shall send an email notification to specified Agency staff when a Retailer exceeds \$10,000 in daily sales for Fast Play games.

- F. No More Top Prizes. The Contractor's system shall notify specified Agency staff when a scratch game has zero top prizes remaining.
- G. Stolen Tickets – Cashing Attempts. The Contractor's system shall notify specified Agency staff if someone is attempting to cash stolen tickets. Note that the system shall prevent the cashing of tickets reported as stolen.

### **2.3.14 Other Requirements**

- A. Mega Millions Consortium and MUSL Requirements. The Contractor shall meet all current and future MUSL and Mega Millions Consortium requirements.
- B. UAT Lab. The Contractor shall provide a fully equipped User Acceptance Test ("UAT") lab solely for Lottery staff use in the Baltimore Operations Center located within 5 miles of Lottery headquarters. The lab shall have one of each type of deployed terminal and communications device.
- C. Terminals and Signage – Demonstration Mode. The Contractor shall maintain one of each type of deployed terminal and all deployed signs at Lottery Headquarters in a training or demonstration mode for Sales staff. Additional non-selling terminals will be provided to support live data displays of Retailer advertising displays, jackpot signs and monitor game monitors in four locations within the headquarters.
- D. Drawing Equipment. The Contractor shall have automated drawing equipment for Keno, Racetrax, and Cash Pop, certified by an approved third-party lab.
- E. Single Ticket – Accounting. The Contractor shall have the ability for select Retailers to offer single scratch ticket game accounting. This would not be system-wide.
- F. Annual Reporting. The Contractor shall produce annual W2G files for the Comptroller and IRS identifying all reportable prizes. Note the Lottery prints W2Gs daily and mails them to winners who were paid at XCAP™ Retailers. Contractor shall produce a 1099 file that includes third-party ITLM data and shall print Retailer 1099s.
- G. ID Cards. The Contractor shall supply scannable ID cards for Lottery staff, specifically District Managers to facilitate check-in and check-out at Retailers. This shall also allow the Lottery staff to manage scratch game inventory.
- H. Reportable Data. The Contractor shall provide a variety of data that must be reported to the Agency's accounting system (currently MS Dynamics SL) and the state's FMIS system on a daily, and weekly basis.
- I. Self-Service Terminal Data. The Contractor shall provide out-of-stock management reporting that focuses on the self-service terminals with real-time data for both Retailers and Sales staff.
- J. Training. The Contractor shall provide Retailer training both in-person, classroom training and on-line training for conversion and for all new Retailers. Additionally, the Contractor shall provide Lottery staff training ahead of the conversion.
- K. Winning Number Hotline. The Contractor shall support an automated winning number line that players may use to learn about recent winning numbers. Players must be able to select a particular game and a particular date within the past 24 months.

### **2.3.15 Minimum Staffing**

**2.3.15.1 General**

The Contractor shall provide the following positions for conversion or ongoing support as indicated below. The MLGCA encourages enhancements to required staff to help improve performance. The Lottery has the right of approval for all Contractor employees assigned to the Maryland project. Below represent minimum direct project support staff. The Contractor is also required to provide a variety of corporate level support.

**2.3.15.2 Conversion and Ongoing Contract Support**

- A. General Manager / Site Director;
- B. Operations Manager;
- C. Field Service Manager;
- D. Field Service staff;
- E. Training Manager;
- F. Training / Field Marketing staff / Recruiters – include Korean & Spanish and may include other languages, as requested by MLGCA;
- G. TelSell Manager;
- H. TelSell staff;
- I. Marketing Manager and support staff to include promotions administration;
- J. MLR Loyalty Program Manager and support staff, with focus on CRM efforts;
- K. Quality Assurance Manager;
- L. Systems Team;
- M. Data Center Operations Team;
- N. Graphic Support – To create and manage Keno drawing animations, Retailer advertising display screen messaging, top of ticket graphics, scratch ticket plan-o-grams, order sheets, etc. This may be a shared resource with other Contractor customers;
- O. Technical Business Analyst / Specification Writer; and
- P. Business Intelligence Data Analyst, and support staff.

**2.3.15.3 Conversion Only**

- A. Network Specialist;
- B. Conversion Project Manager; and
- C. Technical Business Analyst / Specification Writing Team.

**2.3.15.4 Technical Proposal Responses Needed**

- A. Describe your anticipated staffing levels.
- B. Describe what corporate support you offer.
- C. Describe expected or minimum qualifications of staff in each position.

**2.3.16 Marketing and Promotions**

#### **2.3.16.1 Marketing Fund**

The Contractor shall provide an annual, non-lapsing Marketing Fund of \$850,000 initially, with 3% annual inflation. These funds are to be used at Lottery discretion for marketing services or equipment that will be procured by the Contractor and owned by the Lottery.

#### **2.3.16.2 General Marketing Support.**

The Contractor shall take an active role in all aspects of sales and marketing to help grow the MLGCA's sales and revenues. Participation shall include, but is not limited to, the following:

- A. Analyzing sales and trends.
- B. Analyzing MLGCA game offerings and making recommendations for changes.
- C. Helping to design innovative promotions and analyzing the effectiveness of those promotions.
- D. Providing periodic reporting of industry findings.
- E. Assisting the MLGCA in formulating the slate of games, game changes and game promotions to be introduced in the coming twelve (12) months, and assisting in monitoring analyzing their progress.
- F. On an annual basis, providing a "State of the Industry" Presentation which will incorporate a review of the industry, identifying new games, new gaming media, relevant technologies, sales trends, marketing plans and financial data.
- G. Participating in strategic planning sessions.
- H. Developing on-going relationships with other lotteries to understand the rationale behind their sales programs, marketing plans and game ideas.
- I. Recommending new merchandising ideas for the MLGCA.
- J. Aiding in staffing MLGCA sponsorships.
- K. Helping to conduct MLGCA and Retailer conferences.

#### **2.3.16.3 Promotions**

- A. General. The MLGCA is an active marketing and promotions agency. We run numerous diverse campaigns to bolster sales.
- B. Concurrent. The Contractor shall be able to support multiple concurrent promotions.
- C. All Game Segments. The Contractor shall be able to provide promotions in all game segments as well as those that support the My Lottery Rewards Program.
- D. No Commission. The Contractor does not collect a commission on promotional tickets.

#### **2.3.16.4 Keno Recap and Display Screens**

- A. General. The Contractor shall display marketing screens between drawing animation displays, some using graphics from Retailer advertising screens.
- B. Hot and Cold Numbers. The Contractor shall track and display hot and cold numbers in real-time as part of the Keno results show and Apps.

- C. Racetrax Data. The contractor shall track and display hot and cold numbers in real-time as part of the Racetrax results show and Apps.
- D. Mandated Alerts. The Contractor shall accommodate and display State mandated alerts such as amber and silver alerts.

### **2.3.17 Field Service**

#### **2.3.17.1 General**

- A. Staff and Equipment. The Contractor shall provide all field service staff and equipment, including a call-in hotline, dispatch system, repair depots, and remote warehouses.
- B. Space Available to the Lottery. The Contractor shall provide up to 150 sq. ft. for Lottery use in any remote warehouse.

#### **2.3.17.2 Service Level Agreements**

- A. General. The following are minimum requirements that the Contractor shall comply with under the Contract; however, the Offeror may offer a time-period that is even shorter than the minimum requirement.
- B. Installation and Removal. The Contractor shall have 14 days to install or remove equipment after notice from the Lottery. Note that emergency removals for closing or license revocations may require less than 24-hour notice.
- C. Repair – Location Not Selling Tickets. The Contractor shall repair equipment within 3 hours when a Retailer’s location or terminal is not selling or able to validate tickets. Many locations with self-service do not sell tickets from a clerk terminal, so they are considered unable to sell if the self-service equipment is down.
- D. Repair – Location is Selling Tickets. The Contractor shall have 24 hours to repair equipment (ticket checkers, monitors, barcode scanners, play slip scanners) when a Retailer’s location is selling tickets.
- E. Preventative Maintenance. The Contractor shall perform preventative maintenance on all Retailer Terminals on a regular cycle, but in no case will preventative maintenance be performed less frequently than every 120 days. Preventative maintenance shall include assuring that all features and peripherals are operating correctly and that the Terminal clean and undamaged.
- F. Truck Availability. The Contractor shall have no less than 2 trucks operational at all times to support self-service installations and replacement. Having 12-foot ladders is recommended.

#### **2.3.17.3 Retailer Consumables**

- A. General. The Contractor is responsible for the purchase and delivery of all consumables.
- B. Examples of Consumables. The Retailer consumables include serialized ticket stock with anti-counterfeiting features, play slips including support for e-playslips, pencils, pads of paper, responsible gaming information on a tear-away pad containing the responsible gaming phone number and Lottery approved messaging. Terminal issued tickets shall remain legible for 365 days after printing.

- C. Inventory Monitoring. The Contractor shall monitor inventory of the Retailer consumables and replenish the Retailer's supply, as needed. Out of stock conditions for ticket stock is considered a non-selling terminal.

### **2.3.18 Reports**

#### **2.3.18.1 General**

All reports currently available to Lottery staff are required, but formats need not match exactly. Existing reports requirements and data elements may be found in Appendix 7.

#### **2.3.18.2 Other Reports**

- A. Customizable. The Contractor shall have the ability to create completely customized reports with fields that the Agency may select.
- B. Future Reporting. To the extent feasible, the Contractor shall provide a means to add new reporting technology under the existing Contract.

### **2.3.19 Contractor-Supplied Hardware, Software, and Materials**

- A. State Right to Purchase from Another Source. By responding to this RFP and accepting a Contract award, the Offeror specifically agrees that for any software, hardware or hosting service that it proposes, the State will have the right to purchase such item(s) from another source, instead of from the selected Offeror.
- B. Acquisition and Operation. The Contractor is responsible for the acquisition and operation of all hardware, software and network support related to the services being provided, and shall keep all software current.
- C. Upgrades. All Upgrades and regulatory updates shall be provided at no additional cost.
- D. User Licenses. The State also requires that the Offeror provide fully functional, generally available software and multiple-user licenses for third-party software as needed throughout the life of the Contract.
- E. Documentation. The Offeror shall provide all documentation for the software furnished under the Contract.
- F. Test Environment. The Contractor shall prepare software releases and stage at the Agency for validation in the Contractor's test environment. The Agency will provide authorization to proceed once testing has been successfully completed. The Test Environment will include all terminal types and communications devices deployed in the field.
- G. Warranty. The Offeror shall warrant all equipment and software and be responsible for addressing software issues, and repairing or replacing all hardware at no cost to the MLGCA.
- H. Hardware Acceptance Criteria. The MLGCA must approve all Retailer hardware and equipment before it is deployed.

### **2.3.20 Required Project Policies, Guidelines and Methodologies**

The Contractor shall be required to comply with all applicable laws, regulations, policies, standards and guidelines affecting Information Technology projects, which may be created or changed periodically. Offeror is required to review all applicable links provided below and state compliance in its response.



It is the responsibility of the Contractor to ensure adherence and to remain abreast of new or revised laws, regulations, policies, standards and guidelines affecting project execution. These include, but are not limited to:

- A. The State of Maryland System Development Life Cycle (SDLC) methodology at: <http://doit.maryland.gov/SDLC/Pages/agile-sdlc.aspx>;
- B. The State of Maryland Information Technology Security Policy and Standards at: <http://www.DoIT.maryland.gov>- keyword: Security Policy;
- C. The State of Maryland Information Technology Non-Visual Standards at: <http://doit.maryland.gov/policies/Pages/ContractPolicies.aspx>;
- D. The State of Maryland Information Technology Project Oversight at: <http://doit.maryland.gov/epmo/Pages/ProjectOversight.aspx>; and
- E. The Contractor shall follow project management methodologies consistent with the most recent edition of the Project Management Institute's Project Management Body of Knowledge Guide.

### **2.3.21 Product Requirements**

- A. Open Source. Offerors may propose open source software components; however, the Offeror must propose operational support for the proposed software as part of its Proposal.
- B. No International Processing. No international processing for State Data: As described in **Section 3.7 Security Requirements**, Offerors are advised that any processing or storage of data outside of the continental U.S. is prohibited.
- C. Consistent Application. Any Contract award is contingent on the State's agreement, during the Proposal evaluation process, to any applicable terms of use and any other agreement submitted under **Section 5.3.2. The Technical Proposal**. Such agreed upon terms of use shall apply consistently across services ordered under the Contract.
- D. No Auto-Renewal. The Contractor shall not establish any auto-renewal of services for which charges are passed through to the Agency beyond the period identified in Contract documents.

### **2.3.22 Maintenance and Support**

- 1. Error Correction. Upon notice by the State of a problem with the Hardware or Software (which problem can be verified), the Contractor shall correct all software and hardware deficiencies.
- 2. Material Defects. Contractor shall notify the State of any material errors or defects in the Deliverables known, or made known to Contractor from any source during the life of the Contract that could cause the production of inaccurate or otherwise materially incorrect results or reflect badly on the Agency. The Contractor shall initiate actions as may be commercially necessary or proper to effect corrections of any such errors or defects.
- 3. Updates. Contractor will provide to the State at no additional charge all new releases and bug and security fixes (collectively referred to as "Updates") for any software Deliverable developed or provided by the Contractor and made available to its other customers.

## **2.4 Deliverables**

### **2.4.1 Deliverable Submission**

- A. For every deliverable, the Contractor shall request the Contract Monitor confirm receipt of that deliverable by sending an e-mail identifying the deliverable name and date of receipt.



- B. Unless specified otherwise, written deliverables shall be compatible with Microsoft Office, Microsoft Project, PDF or Microsoft Visio within two (2) versions of the current version. At the Contract Monitor's discretion, the Contract Monitor may request one hard copy of a written deliverable.
- C. For any written deliverable, the Contract Monitor may request a draft version of the deliverable, to comply with the minimum deliverable quality criteria listed in **Section 2.4.3 Minimum Deliverable Quality**. Draft versions of a deliverable shall comply with the minimum deliverable quality criteria listed in **Section 2.4.3 Minimum Deliverable Quality**.

#### **2.4.2 Deliverable Acceptance**

- A. A final deliverable shall satisfy the scope and requirements of this RFP for that deliverable, including the quality and acceptance criteria for a final deliverable as defined in **Section 2.4.4 Deliverable Descriptions/Acceptance Criteria**.
- B. The Contract Monitor shall review a final deliverable to determine compliance with the acceptance criteria as defined for that deliverable. The Contract Monitor is responsible for coordinating comments and input from various team members and stakeholders. The Contract Monitor is responsible for providing clear guidance and direction to the Contractor in the event of divergent feedback from various team members.
- C. The Contract Monitor will issue to the Contractor a notice of acceptance or rejection of the deliverable in the DPAF (see online sample).
- D. In the event of rejection, the Contract Monitor will formally communicate in writing any deliverable deficiencies or non-conformities to the Contractor, describing in those deficiencies what shall be corrected prior to acceptance of the deliverable in sufficient detail for the Contractor to address the deficiencies. The Contractor shall correct deficiencies and resubmit the corrected deliverable for acceptance within the agreed-upon time period for correction.

#### **2.4.3 Minimum Deliverable Quality**

The Contractor shall subject each deliverable to its internal quality-control process prior to submitting the deliverable to the State.

Each deliverable shall meet the following minimum acceptance criteria:

- A. Be presented in a format appropriate for the subject matter and depth of discussion.
- B. Be organized in a manner that presents a logical flow of the deliverable's content.
- C. Represent factual information reasonably expected to have been known at the time of submittal.
- D. In each section of the deliverable, include only information relevant to that section of the deliverable.
- E. Contain content and presentation consistent with industry best practices in terms of deliverable completeness, clarity, and quality.
- F. Meets the acceptance criteria applicable to that deliverable, including any State policies, functional or non-functional requirements, or industry standards.
- G. Contains no structural errors such as poor grammar, misspellings or incorrect punctuation.
- H. Must contain the date, author, and page numbers. When applicable for a deliverable, a revision table must be included.
- I. A draft written deliverable may contain limited structural errors such as incorrect punctuation, and shall represent a significant level of completeness toward the associated final written

deliverable. The draft written deliverable shall otherwise comply with minimum deliverable quality criteria above.

#### **2.4.4 Deliverable Descriptions/Acceptance Criteria**

In addition to the items identified in the table below, the Contractor may suggest other subtasks, artifacts, or deliverables to improve the quality and success of the assigned tasks.

**Deliverables Summary Table\***

<b>Deliverable</b>	<b>Acceptance Criteria</b>	<b>Due Date / Frequency</b>
Integrated Project Schedule	Microsoft Project schedule demonstrating tasks, task estimates, resource assignments, and dependencies for both Agency and Contractor Personnel, with tasks no less than 8 hours and no greater than 80 hours.	Initial Delivery: NTP+ 45 Business Days Updates: Weekly
Standard Operating Procedures	The Contractor shall create and document the procedures for computer operations staff, especially regarding failure situations	45 Days prior to Start-up Date
Disaster Recovery Plan	The Contractor shall develop a disaster recovery plan and submit it to MLGCA for approval. The Contractor shall maintain an up to date disaster recovery plan with annual updates	Within 45 Days of Effective Date
Preventative / Scheduled Maintenance Plan	The Contractor shall provide the MLGCA with monthly reports of the status of preventive maintenance as designed and requested by the MLGCA	Due: 5 <sup>th</sup> of each month Frequency: Monthly
Ticket Samples	The Contractor shall submit for approval by the MLGCA ten (10) Ticket samples of its Ticket stock for evaluation of anti-counterfeiting characteristics, graphics and durability	Within 120 days of NTP
Maintenance SOP – Retailer/Sales related equipment	The Contractor shall provide a detailed plan for establishing a field service schedule to maintain all Terminals, Monitors, and other Retailer location Hardware used for the sales, validations, and cashing of Tickets	60 Days prior to Start-up Date
Field Asset Inventory List	The Contractor shall produce a detailed inventory of all existing and newly installed Hardware	Initial: 60 Days prior to Start-up Date; then Due: 5 <sup>th</sup> of each month Frequency: monthly
Hotline Support Report	The Contractor shall provide weekly Hotline call statistics	Due: Within 5 Days of the End of the Business Week Frequency: Weekly

Customer Support Training Program	Provide a Hotline Quality Assurance and Training Program, which is subject to approval by the MLGCA	60 Days prior to Start-up
Conversion Plan	The Contractor shall submit a detailed and final version of the Conversion Plan which, when approved by the MLGCA, shall become the basis for the Conversion.	Within 30 days of Effective Date
Data Conversion Plan	The Contractor shall provide the MLGCA with the plan for Conversion of all required data	Within 60 days of Effective Date
LCMCS Software SRS	Upon receiving MLGCA approval of its Business Requirements Documents, the Contractor shall develop corresponding Software Requirements Specification ("SRS") documents	Within 45 days of approval of each Business Requirements Document
LCMCS Security Plan	The Contractor shall submit a detailed security plan to the MLGCA for approval	No Later than 90 Days prior to Start-up Date
Data Security Plan	The Contractor shall develop, document and implement a data security plan that is appropriate for the level of sensitivity/confidentiality of the information being processed	No Later than 90 Days prior to Start-up Date; then Due: on the anniversary date of the first Data Security Plan Frequency: Annually
Penetration Test	The MLGCA requires external, independent penetration tests and security reviews to be conducted regularly. The Contractor shall provide for independent, professional and The Contractor shall provide for independent, professional and credible security firms offering such security and penetration testing services	No later than 30 days from go live date; then Due: on the anniversary date of the first Penetration Test Frequency: Annually
Failover Report	A written report of failover testing shall be supplied to the Contract Manager	Due: Within 5 days of failover testing Frequency: As tests are conducted
PEP	The Contractor shall provide the Problem Escalation Procedure	No later than 60 days after Contract award
Standard User Operating Procedures	User Manuals for all key functions, as agreed to by Contractor and the Agency	Completed no later than 90 days from Effective Date
Game and System Specifications	Specifications for all terminals, games, and processes. The list will be developed jointly by the Contractor and the Agency.	Completed no later than 120 prior to go-live date

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\*The Deliverables Summary Table may not list every contractually-required deliverable. Offerors and Contractors should read the RFP thoroughly for all Contract requirements and deliverables.

## 2.5 Optional Features or Services, Future Work

### 2.5.1 iLottery Program

- A. General. As an offered, at cost option, the Contractor shall be able to integrate or develop an iLottery Program.
- B. Statutory Limitation. This option can only be considered if iLottery becomes statutorily permitted in Maryland.
- C. Technical Proposal Response Needed. Please describe the Offeror's experience with iLottery and a description of the programs you have provided.

### 2.5.2 Mobile Cashing on an App.

- A. General. As an offered, at cost option, the Contractor shall be able to provide a deposit of funds to a claimant's bank account of up to \$600.
- B. No Offsets. If there are no offsets to claimant's winnings, the Contractor shall be able to provide a deposit of funds into a claimant's bank account of between \$600 to \$5,000.

### 2.5.3 In-Lane Options

- A. General. The Contractor shall provide optional sales tools that the Lottery may choose to implement. If an optional sales program is requested and developed, it is anticipated that the system interface with the Retailer's point of sale ("POS").
- B. Hanging Cards. Also known as Quick Cards, the Contractor shall be able to develop and implement an in-lane solution through hang cards to support all draw games.
- C. In-lane Instant Ticket Dispensers. Dispensers located on or under the check-out and activated by the cashier.
- D. Print on Receipt. The Contractor shall be able to develop and implement a solution that prints games on the POS receipt that a customer can purchase in a check-out lane.
- E. Other Options – Unknown or Later Developed. The Contractor shall have the capability to become versed in later developed in-lane solutions and be able to develop and implement them for the Lottery, if requested.

### 2.5.4 Retailer Modernization

- A. General. The Contractor shall provide optional signage, merchandising and/or selling tools that the Lottery may choose to utilize in either a portion of or the entire retail network. All aspects of any retail modernization program should be described in this proposal, including back office information management, proposed staffing, hardware and software requirements as well as potential implementation timelines.
- B. Pilot. The Contractor may recommend a pilot go-to-market strategy, however, the proposal must include options for expanding the program rollout.

## 2.6 Service Level Agreement ("SLA")

### 2.6.1 Definitions

- A. A “Problem” is defined as any situation or issue reported via a help desk ticket that is related to the system operation that is not an enhancement request.
- B. “Problem resolution time” is defined as the period of time from when the help desk ticket is opened to when it is resolved.

#### **2.6.2 SLA Requirements**

The Contractor shall:

- A. Be responsible for complying with all performance measurements, and shall also ensure compliance by all subcontractors.
- B. Meet the Problem response time and resolution requirements as detailed in Appendix 8, Liquidated Damages.
- C. Provide a monthly report to monitor and detail response times and resolution times.
- D. Log Problems into the Contractor-supplied help desk software and assign an initial severity (Emergency, High, Medium or Low).
- E. Respond to and update all Problems, including recording when a Problem is resolved and its resolution. Appropriate Agency personnel shall be notified when a Problem is resolved.
- F. The Agency shall make the final determination regarding Problem severity.
- G. Contractor shall review any Problem with Agency to establish the remediation plan and relevant target dates.

#### **2.6.3 SLA Effective Date (SLA Activation Date)**

SLAs set forth herein shall be in effect beginning with the commencement of monthly services as of the completion of the conversion period.

#### **2.6.4 Service Level Reporting**

- A. Contractor performance will be monitored by the Agency.
- B. The Contractor shall provide detailed monthly reports evidencing the attained level for each SLA.
- C. The Contractor shall provide a monthly summary report for SLA performance.
- D. Monthly reports shall be delivered via e-mail to the Contract Monitor by the 15th of the following month.
- E. If any of the performance measurements are not met during the monthly reporting period, the Contractor will be notified of the standard that is not in compliance and Liquidated Damages may be assessed.

#### **2.6.5 Incident reports / Root Cause Analysis**

For each system performance issue, ‘Emergency’ or ‘High’ priority Problem, the Contractor will provide an Incident Report within seven (7) days, which may include a root cause analysis and institute a process of problem management to prevent recurrence of the issue.

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### 3 Contractor Requirements: General

#### 3.1 Contract Initiation Requirements

Contractor shall schedule and hold a kickoff meeting within 10 Business Days of NTP Date. At the kickoff, the Contractor shall furnish an updated Project Schedule describing the activities for the Contractor, the State, and any third parties for fully transitioning to the Contractor's system.

#### 3.2 End of Contract Transition

##### 3.2.1 Transition Assistance

The Contractor shall provide transition assistance as requested by the State to facilitate the orderly transfer of services to the State or a follow-on contractor, for a period up to 120 days prior to Contract end date, or the termination thereof. Such transition efforts shall consist, not by way of limitation, of:

- A. Provide additional services and support as requested to successfully complete the transition;
- B. Maintain the services called for by the Contract at the required level of proficiency;
- C. Provide updated System Documentation (see Appendix 1), as appropriate;
- D. Provide current operating procedures (as appropriate); and
- E. Provide all historical data to the incoming Contractor, including unclaimed prize records.

##### 3.2.2 Contract Monitor Instructions

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 additional instructions to meet specific transition requirements prior to the end of the Contract.

##### 3.2.3 Transfer of Knowledge and Materials

The Contractor shall ensure that all necessary knowledge and materials for the tasks completed are transferred to the custody of State personnel or a third party, as directed by the Contract Monitor.

##### 3.2.4 End of Contract Transition Efforts

The Contractor shall support end-of-Contract transition efforts with technical and project support to include but not be limited to:

- A. The Contractor shall provide a draft Transition-Out Plan 150 Business Days in advance of Contract end date.
- B. The Transition-Out Plan shall address at a minimum the following areas:
  - 1. Any staffing concerns/issues related to the closeout of the Contract;
  - 2. Communications and reporting process between the Contractor, the Agency and the Contract Monitor;
  - 3. Security and system access review and closeout;
  - 4. Connectivity services provided, activities and approximate timelines required for Transition-Out;
  - 5. Knowledge transfer, to include reviewing with the Agency the procedures and practices that support the business process and the then current system environments;

6. End of Contract transition out will include equipment removal and coordinating with the incoming vendor to support data transfer and ticket cashing during and after transition to a new contract; and
  7. Any risk factors with the timing and the Transition-Out schedule and transition process. The Contractor shall document any risk factors and suggested solutions.
- C. The Contractor shall ensure all documentation and data including, but not limited to, System Documentation and current operating procedures, is current and complete with a hard and soft copy in a format prescribed by the Contract Monitor.
- D. The Contractor shall provide copies of any current daily and weekly back-ups to the Agency or a third party as directed by the Contract Monitor as of the final date of transition, but no later than the final date of the Contract.
- E. Access to any data or configurations of the furnished product and services shall be available after the expiration of the Contract as described in **Section 3.2.5**.

### **3.2.5 Return and Maintenance of State Data**

- A. Upon termination or the expiration of the Contract Term, the Contractor shall: (i) return to the State all State data in either the form it was provided to the Contractor or in a mutually agreed format along with the schema necessary to read such data; (ii) preserve, maintain, and protect all State data until the earlier of a direction by the State to delete such data or the expiration of 90 days (“the retention period”) from the date of termination or expiration of the Contract term; (iii) after the retention period, the Contractor shall securely dispose of and permanently delete all State data in all of its forms, such as disk, CD/DVD, backup tape and paper such that it is not recoverable, according to National Institute of Standards and Technology (NIST)-approved methods with certificates of destruction to be provided to the State; and (iv) prepare an accurate accounting from which the State may reconcile all outstanding accounts. The final monthly invoice for the services provided hereunder shall include all charges for the 90-day data retention period.
- B. In addition to the foregoing, the State shall be entitled to any post-termination/expiration assistance generally made available by Contractor with respect to the services.

## **3.3 Invoicing**

### **3.3.1 General**

- A. The Contractor shall e-mail each invoice and signed authorization to invoice, if applicable, to the Contract Monitor and the Agency accounts payable group at e-mail address: [ap.mlgcap@maryland.gov](mailto:ap.mlgcap@maryland.gov).
- B. All invoices for services shall be verified by the Contractor as accurate at the time of submission.
- C. An invoice not satisfying the requirements of a Proper Invoice (as defined at COMAR 21.06.09.01 and .02) cannot be processed for payment. To be considered a Proper Invoice, invoices must include the following information, without error:
1. Contractor name and address;
  2. Remittance address;
  3. Federal taxpayer identification (FEIN) number, social security number, as appropriate;



4. Invoice period (i.e. time period during which services covered by invoice were performed);
  5. Invoice date;
  6. Invoice number;
  7. State assigned Contract number;
  8. State assigned (Blanket) Purchase Order number(s);
  9. Goods or services provided;
  10. Amount due; and
  11. Any additional documentation required by regulation or the Contract.
- D. The Agency reserves the right to reduce or withhold Contract payment in the event the Contractor does not provide the Agency 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.
- E. Any action on the part of the Agency, 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.
- F. The State is generally exempt from federal excise taxes, Maryland sales and use taxes, District of Columbia sales taxes and transportation taxes. The Contractor; however, is not exempt from such sales and use taxes and may be liable for the same.
- G. Invoices for final payment shall be clearly marked as “FINAL” and submitted when all work requirements have been completed and no further charges are to be incurred under the Contract. In no event shall any invoice be submitted later than 60 calendar days from the Contract termination date.

### **3.3.2 Invoice Submission Schedule**

The Contractor shall submit weekly invoices for services provided based on a fixed percentage of Lottery sales and for debit processing fees. The Contractor shall submit invoices on a monthly basis for fees associated with optional services or equipment.

### **3.3.3 For the purposes of the Contract an amount will not be deemed due and payable if:**

- A. The amount invoiced is inconsistent with the Contract;
- B. The proper invoice has not been received by the party or office specified in the Contract;
- C. The invoice or performance is in dispute or the Contractor has failed to otherwise comply with the provisions of the Contract;
- D. The item or services have not been accepted;
- E. The quantity of items delivered is less than the quantity ordered;
- F. The items or services do not meet the quality requirements of the Contract;
- G. If the Contract provides for progress payments, the proper invoice for the progress payment has not been submitted pursuant to the schedule;
- H. If the Contract provides for withholding a retainage and the invoice is for the retainage, all stipulated conditions for release of the retainage have not been met; or

- I. The Contractor has not submitted satisfactory documentation or other evidence reasonably required by the Procurement Officer or by the Contract concerning performance under the Contract and compliance with its provisions.

### **3.3.4 Travel Reimbursement**

Travel will not be reimbursed under this RFP.

## **3.4 Liquidated Damages**

### **3.4.1 MBE Liquidated Damages**

MBE liquidated damages are identified in Attachment M.

### **3.4.2 Liquidated Damages other than MBE**

See Appendix 8 for Liquidated Damages.

## **3.5 Disaster Recovery and Data**

The following requirements apply to the Contract:

### **3.5.1 Redundancy, Data Backup and Disaster Recovery**

- A. Unless specified otherwise in the RFP, Contractor shall maintain or cause to be maintained disaster avoidance procedures designed to safeguard State data and other confidential information, Contractor's processing capability and the availability of hosted services, in each case throughout the Contract term. Any force majeure provisions of the Contract do not limit the Contractor's obligations under this provision.
- B. The Contractor shall have robust contingency and disaster recovery (DR) plans in place to ensure that the services provided under the 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.
  - 1. The Contractor shall furnish a DR site.
  - 2. The DR site shall be at least 100 miles from the primary operations site, and have the capacity to take over complete production volume in case the primary site becomes unresponsive.
- C. The contingency and DR plans must be designed to ensure that services under the Contract are restored after a disruption within twenty-four (24) hours from notification and a recovery point objective of one (1) hour or less prior to the outage in order to avoid unacceptable consequences due to the unavailability of services.
- D. The Contractor shall test the contingency/DR 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 (1) annual test shall include backup media restoration and failover/fallback operations at the DR location. The Contractor shall send the Contract Monitor a notice of completion following completion of DR testing.
- E. Such contingency and DR plans shall be available for the Agency to inspect and practically test at any reasonable time, and subject to regular updating, revising, and testing throughout the term of the Contract.

### **3.5.2 Data Export/Import**

- A. The Contractor shall, at no additional cost or charge to the State, in an industry standard/non-proprietary format:
  - 1. perform a full or partial import/export of State data within 24 hours of a request; or
  - 2. provide to the State the ability to import/export data at will and provide the State with any access and instructions which are needed for the State to import or export data.
- B. Any import or export shall be in a secure format per the Security Requirements.

### **3.5.3 Data Ownership and Access**

- A. Data, databases and derived data products created, collected, manipulated, or directly purchased as part of an RFP are the property of the State. The purchasing State agency is considered the custodian of the data and shall determine the use, access, distribution and other conditions based on appropriate State statutes and regulations.
- B. Public jurisdiction user accounts and public jurisdiction data shall not be accessed, except (1) in the course of data center operations, (2) in response to service or technical issues, (3) as required by the express terms of the Contract, including as necessary to perform the services hereunder or (4) at the State's written request.
- C. The Contractor shall limit access to and possession of State data to only Contractor Personnel whose responsibilities reasonably require such access or possession and shall train such Contractor Personnel on the confidentiality obligations set forth herein.
- D. At no time shall any data or processes – that either belong to or are intended for the use of the State or its officers, agents or employees – be copied, disclosed or retained by the Contractor or any party related to the Contractor for subsequent use in any transaction that does not include the State.
- E. The Contractor shall not use any information collected in connection with the services furnished under the Contract for any purpose other than fulfilling such services.

### **3.5.4 Surviving Provisions**

Provisions in Sections 3.5.1 – 3.5.3 shall survive expiration or termination of the Contract. Additionally, the Contractor shall flow down the provisions of Sections 3.5.1-3.5.3 (or the substance thereof) in all subcontracts.

## **3.6 Insurance Requirements**

The Contractor shall maintain, at a minimum, the insurance coverages outlined below, or any minimum requirements established by law if higher, for the duration of the Contract, including option periods, if exercised:

### **3.6.1 Types of Insurance Required**

The following type(s) of insurance and minimum amount(s) of coverage are required:

- A. Commercial General Liability. \$1,000,000 combined single limit per occurrence for bodily injury, property damage, and personal and advertising injury and \$3,000,000 annual aggregate. The minimum limits required herein may be satisfied through any combination of primary and umbrella/excess liability policies.

- B. Errors and Omissions/Professional Liability. ~~\$25,000,000~~~~\$50,000,000~~ per ~~combined single limit per claim~~ ~~and \$100,000,000 annual and in the~~ aggregate.
- C. Crime Insurance/Employee Theft Insurance. To cover employee theft with a minimum single loss limit of \$1,000,000 ~~per occurrence per loss, and a minimum single loss retention not to exceed \$10,000.~~ The State of Maryland and the Agency should be added as a "loss payee."
- D. Cyber Security / Data Breach Insurance. The Contractor shall possess and maintain throughout the term of the Contractor and for three (3) years thereafter, cyber risk/ data breach insurance (either separately or as part of a broad Professional Liability or Errors and Omissions Insurance) with limits of at least five million dollars (\$5,000,000) per claim. Any "insured vs. insured" exclusions will be modified accordingly to allow the State additional insured status without prejudicing the State's rights under the policy(ies). Coverage shall be sufficiently broad to respond to the Contractor's duties and obligations under the Contract and shall include, but not be limited to, claims involving privacy violations, information theft, damage to or destruction of electronic information, the release of Sensitive Data, and alteration of electronic information, extortion, and network security. The policy shall provide coverage for, not by way of limitation, breach response costs as well as regulatory fines and penalties as well as credit monitoring expenses with limits sufficient to respond to these obligations.
- E. Worker's Compensation. The Contractor shall maintain such insurance as necessary or as 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.
- F. Automobile or Commercial Truck Insurance. The Contractor shall maintain Automobile 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.

### **3.6.2 Additional Insured**

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.

### **3.6.3 Notices**

All insurance policies shall be endorsed to include a clause requiring the insurance carrier provide the Procurement Officer, by ~~certified mail~~regular mail or email, 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 fifteen (15) days prior to the expiration of the insurance policy then in effect.

### **3.6.4 Authorized to Do Business in the State**

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

### **3.6.5 Timing for Providing Certificates**

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.

#### **3.6.6 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.

### **3.7 Security Requirements**

The following requirements are applicable to the Contract:

#### **3.7.1 Employee Identification**

- A. Contractor Personnel shall display his or her company ID badge in a visible location at all times while on State premises or at Lottery Retailer locations.
- B. Contractor Personnel shall cooperate with State site requirements, including but not limited to, being prepared to be escorted at all times while on State premises, and providing information for State badge issuance.
- C. Contractor shall remove any Contractor Personnel from working on the Contract where the State determines, in its sole discretion, that Contractor Personnel has not adhered to the Security requirements specified herein.
- D. The State reserves the right to request that the Contractor submit proof of employment authorization of non-United States Citizens, prior to commencement of work under the Contract.

#### **3.7.2 Criminal Background Check**

- A. A criminal background check for any Contractor Personnel providing services under the Contract shall be completed prior to Contractor Personnel providing any services under the Contract.
- B. The Contractor shall obtain at its own expense a Criminal Justice Information System (CJIS) State and federal criminal background check, including fingerprinting, for all Contractor Personnel listed in sub-paragraph A. This check may be performed by a public or private entity. The Contractor shall provide certification to the Agency that the Contractor has completed the required criminal background check described in this RFP for each required Contractor Personnel prior to assignment, and that the Contractor Personnel have successfully passed this check. Results of a sampling of background checks will be provided to the Agency on a quarterly basis.
- C. Persons with a criminal record may not perform services under the Contract unless prior written approval is obtained from the Contract Monitor. The Contract Monitor reserves the right to reject any individual based upon the results of the background check. Decisions of the Contract Monitor as to acceptability of a candidate are final. The State reserves the right to refuse any individual Contractor Personnel to work on State premises, based upon certain specified criminal convictions, as specified by the State.

#### **3.7.3 On-Site Security Requirement(s)**

THIS SECTION IS INAPPLICABLE TO THIS RFP.

#### **3.7.4 Information Technology**

- A. Contractors shall comply with and adhere to the State IT Security Policy and Standards. These policies may be revised from time to time and the Contractor shall comply with all such revisions. Updated and revised versions of the State IT Policy and Standards are available online at: [www.doit.maryland.gov](http://www.doit.maryland.gov) – keyword: Security Policy.
- B. The Contractor shall not connect any of its own equipment to a State LAN/WAN without prior written approval by the State. The Contractor shall complete any necessary paperwork as directed and coordinated with the Contract Monitor to obtain approval by the State to connect Contractor-owned equipment to a State LAN/WAN.

The Contractor shall:

- 1. Implement administrative, physical, and technical safeguards to protect State data that are no less rigorous than accepted industry best practices for information security such as those listed below (see **Section 3.7.5**);
- 2. Ensure that all such safeguards, including the manner in which State data is collected, accessed, used, stored, processed, disposed of and disclosed, comply with applicable data protection and privacy laws as well as the terms and conditions of the Contract; and
- 3. The Contractor, and Contractor Personnel, shall (i) abide by all applicable federal, State and local laws, rules and regulations concerning security of Information Systems and Information Technology and (ii) comply with and adhere to the State IT Security Policy and Standards as each may be amended or revised from time to time. Updated and revised versions of the State IT Policy and Standards are available online at:

<https://doit.maryland.gov/policies/Pages/default.aspx>

### **3.7.5 Data Protection and Controls**

- A. Contractor shall ensure a secure environment for all State data and any hardware and software (including but not limited to servers, network and data components) provided or used in connection with the performance of the Contract and shall apply or cause application of appropriate controls so as to maintain such a secure environment (“Security Best Practices”). Such Security Best Practices shall comply with an accepted industry standard, such as the NIST cybersecurity framework.
- B. To ensure appropriate data protection safeguards are in place, the Contractor shall implement and maintain the following controls at all times throughout the Term of the Contract (the Contractor may augment this list with additional controls):
  - 1. Establish separate production, test, and training environments for systems supporting the services provided under the Contract and ensure that production data is not replicated in test or training environment(s) unless it has been previously anonymized or otherwise modified to protect the confidentiality of Sensitive Data elements. The Contractor shall ensure the appropriate separation of production and non-production environments by applying the data protection and control requirements listed in **Section 3.7.5**.
  - 2. Apply hardware and software hardening procedures as recommended by Center for Internet Security (CIS) guides <https://www.cisecurity.org/>, Security Technical Implementation Guides (STIG) <https://public.cyber.mil/stigs/>, or similar industry best practices to reduce the systems’ surface of vulnerability, eliminating as many security risks as possible and documenting what is not feasible or not performed according to best practices. Any hardening practices not implemented shall be documented with a plan of action and milestones including any compensating control. These procedures may include but are not



limited to removal of unnecessary software, disabling or removing unnecessary services, removal of unnecessary usernames or logins, and the deactivation of unneeded features in the Contractor's system configuration files.

3. Ensure that State data is not comingled with non-State data through the proper application of compartmentalization Security Measures.
4. Apply data encryption to protect Sensitive Data at all times, including in transit, at rest, and also when archived for backup purposes. Unless otherwise directed, the Contractor is responsible for the encryption of all Sensitive Data.
5. For all State data the Contractor manages or controls, data encryption shall be applied to such data in transit over untrusted networks.
6. Encryption algorithms which are utilized for encrypting data shall comply with current Federal Information Processing Standards (FIPS), "Security Requirements for Cryptographic Modules", FIPS PUB 140-2:

<http://csrc.nist.gov/publications/fips/fips140-2/fips1402.pdf>

<http://csrc.nist.gov/groups/STM/cmvp/documents/140-1/1401vend.htm>

7. Enable appropriate logging parameters to monitor user access activities, authorized and failed access attempts, system exceptions, and critical information security events as recommended by the operating system and application manufacturers and information security standards, including Maryland Department of Information Technology's Information Security Policy.
8. Retain the aforementioned logs and review them at least daily to identify suspicious or questionable activity for investigation and documentation as to their cause and remediation, if required. The Agency shall have the right to inspect these policies and procedures and the Contractor or subcontractor's performance to confirm the effectiveness of these measures for the services being provided under the Contract.
9. Ensure system and network environments are separated by properly configured and updated firewalls.
10. Restrict network connections between trusted and untrusted networks by physically or logically isolating systems from unsolicited and unauthenticated network traffic.
11. By default, "deny all" and only allow access by exception.
12. Review, at least annually, the aforementioned network connections, documenting and confirming the business justification for the use of all service, protocols, and ports allowed, including the rationale or compensating controls implemented for those protocols considered insecure but necessary.
13. Perform regular vulnerability testing of operating system, application, and network devices. Such testing is expected to identify outdated software versions; missing software patches; device or software misconfigurations; and to validate compliance with or deviations from the security policies applicable to the Contract. Contractor shall evaluate all identified vulnerabilities for potential adverse effect on security and integrity and remediate the vulnerability no later than 30 days following the earlier of vulnerability's identification or public disclosure, or document why remediation action is unnecessary or unsuitable. The Agency shall have the right to inspect the Contractor's policies and procedures and the results of vulnerability testing to confirm the effectiveness of these measures for the services being provided under the Contract.



14. Enforce strong user authentication and password control measures to minimize the opportunity for unauthorized access through compromise of the user access controls. At a minimum, the implemented measures should be consistent with the most current Maryland Department of Information Technology's Information Security Policy (<https://doit.maryland.gov/policies/Pages/default.aspx>), including specific requirements for password length, complexity, history, and account lockout.
15. Ensure State data is not processed, transferred, or stored outside of the United States ("U.S."). The Contractor shall provide its services to the State and the State's end users solely from data centers in the U.S. Unless granted an exception in writing by the State, the Contractor shall not allow Contractor Personnel to store State data on portable devices, including personal computers, except for devices that are used and kept only at its U.S. data centers. The Contractor shall permit its Contractor Personnel to access State data remotely only as required to provide technical support.
16. Ensure Contractor's Personnel shall not connect any of its own equipment to a State LAN/WAN without prior written approval by the State, which may be revoked at any time for any reason. The Contractor shall complete any necessary paperwork as directed and coordinated with the Contract Monitor to obtain approval by the State to connect Contractor -owned equipment to a State LAN/WAN.
17. Ensure that anti-virus and anti-malware software is installed and maintained on all systems supporting the services provided under the Contract; that the anti-virus and anti-malware software is automatically updated; and that the software is configured to actively scan and detect threats to the system for remediation. The Contractor shall perform routine vulnerability scans and take corrective actions for any findings.
18. Conduct regular external vulnerability testing designed to examine the service provider's security profile from the Internet without benefit of access to internal systems and networks behind the external security perimeter. Evaluate all identified vulnerabilities on Internet-facing devices for potential adverse effect on the service's security and integrity and remediate the vulnerability promptly or document why remediation action is unnecessary or unsuitable. The Agency shall have the right to inspect these policies and procedures and the performance of vulnerability testing to confirm the effectiveness of these measures for the services being provided under the Contract.
19. Ensure all operating systems and firmware are kept up to date, including all manufacturers updates and security patches. All hardware and software shall be licensed with current maintenance contracts in place at all times.

### **3.7.6 Security Logs and Reports Access**

- A. The Contractor shall provide reports to the State in a mutually agreeable format.
- B. Reports shall include latency statistics, user access, user access IP address, user access history and security logs for all State files related to the Contract.

### **3.7.7 Security Plan**

- A. The Contractor shall protect State data according to a written security policy ("Security Plan") no less rigorous than that of the State, and shall supply a copy of such policy to the State for validation, with any appropriate updates, on an annual basis.
- B. The Security Plan shall detail the steps and processes employed by the Contractor as well as the features and characteristics which will ensure compliance with the security requirements of the Contract.

- C. The Security Plan shall address compliance with the PCI DSS for payment card processing.

### **3.7.8 PCI Compliance**

- A. Contractor shall at all times comply, and ensure compliance with, all applicable Payment Card Industry ("PCI") Data Security Standards ("DSS"), including any and all changes thereto. Contractor shall provide the Agency with documented evidence of current compliance to PCI DSS within 30 days of an Agency request.
- B. The Contractor shall annually furnish to the State evidence of the PCI Security Standards Council's ("SSC") acceptance or attestation of the Contractor's conformance to the relevant PCI DSS requirements by a third party certified to perform compliance assessments.
- C. The Contractor shall ensure that the scope of the annual SOC 2 Type II Report specified under **Section 3.9** includes testing to confirm the PCI assessment results.

### **3.7.9 Security Incident Response**

- A. The Contractor shall notify the Agency in accordance with **Section 3.7.9A-D** when any Contractor system that may access, process, or store State data or State systems experiences a Security Incident or a Data Breach as follows:
  - 1. Notify the Agency as soon as practicable, but no later than within twenty-four (24) hours of the discovery of a Security Incident by providing notice via written or electronic correspondence to the Contract Monitor, Agency chief information officer and Agency chief information security officer;
  - 2. Notify the Agency within two (2) hours if there is a threat to Contractor's Solution as it pertains to the use, disclosure, and security of State data; and
  - 3. Provide written notice to the Agency within one (1) Business Day after Contractor's discovery of unauthorized use or disclosure of State data and thereafter all information the State (or Agency) requests concerning such unauthorized use or disclosure.
- B. Contractor's notice shall identify:
  - 1. The nature of the unauthorized use or disclosure;
  - 2. The State data used or disclosed,
  - 3. Who made the unauthorized use or received the unauthorized disclosure;
  - 4. What the Contractor has done or shall do to mitigate any deleterious effect of the unauthorized use or disclosure; and
  - 5. What corrective action the Contractor has taken or shall take to prevent future similar unauthorized use or disclosure.
  - 6. The Contractor shall provide such other information, including a written report, as reasonably requested by the State.
- C. The Contractor may need to communicate with outside parties regarding a Security Incident, which may include contacting law enforcement, fielding media inquiries and seeking external expertise as mutually agreed upon, defined by law or contained in the Contract. Discussing Security Incidents with the State should be handled on an urgent as-needed basis, as part of Contractor communication and mitigation processes as mutually agreed upon, defined by law or contained in the Contract.

- D. The Contractor shall comply with all applicable laws that require the notification of individuals in the event of unauthorized release of State data or other event requiring notification, and, where notification is required, assume responsibility for informing all such individuals in accordance with applicable law and to indemnify and hold harmless the State (or Agency) and its officials and employees from and against any claims, damages, and actions related to the event requiring notification.

### **3.7.10 Data Breach Responsibilities**

- A. If the Contractor reasonably believes or has actual knowledge of a Data Breach, the Contractor shall, unless otherwise directed:
1. Notify the appropriate State-identified contact as soon as practicable, but no later than within 24 hours by telephone in accordance with the agreed upon security plan or security procedures unless a shorter time is required by applicable law;
  2. Cooperate with the State to investigate and resolve the data breach;
  3. Promptly implement commercially reasonable remedial measures to remedy the Data Breach; and
  4. Document responsive actions taken related to the Data Breach, including any post-incident review of events and actions taken to make changes in business practices in providing the services.
- B. If a Data Breach is a direct result of the Contractor's breach of its Contract obligation to encrypt State data or otherwise prevent its release, the Contractor shall bear the costs associated with (1) the investigation and resolution of the data breach; (2) notifications to individuals, regulators or others required by State law; (3) a credit monitoring service required by State or federal law; (4) a website or a toll-free number and call center for affected individuals required by State law; and (5) complete all corrective actions as reasonably determined by Contractor based on root cause; all [(1) through (5)] subject to the Contract's limitation of liability.

### **3.7.11 Right to Review Compliance**

The State shall, at its discretion, have the right to review and assess the Contractor's compliance to the security requirements and standards defined in the Contract.

### **3.7.12 Surviving Provisions**

Provisions in **Sections 3.7.1 – 3.7.10** shall survive expiration or termination of the Contract. Additionally, the Contractor shall flow down the provisions of **Sections 3.7.4-3.7.10** (or the substance thereof) in all subcontracts.

## **3.8 Problem Escalation Procedure**

### **3.8.1 General**

The Contractor must provide and maintain a Problem Escalation Procedure (PEP) for both routine and emergency situations. The PEP must 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 State within appropriate timeframes.

### **3.8.2 Contact Information**

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

### **3.8.3 When to Provide and Contents of PEP**

The Contractor must provide the initial PEP no later than ~~ten (10)~~sixty (60) 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:

- A. The process for establishing the existence of a problem;
- B. Names, titles, and contact information for progressively higher levels of personnel in the Contractor's organization who would become involved in resolving a problem;
- C. 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;
- D. Expedited escalation procedures and any circumstances that would trigger expediting them;
- E. The method of providing feedback on resolution progress, including the frequency of feedback to be provided to the State;
- F. Contact information for persons responsible for resolving issues after normal business hours (e.g., evenings, weekends, holidays) and on an emergency basis; and
- G. A process for updating and notifying the Contract Monitor of any changes to the PEP.

### **3.8.4 No Limitation of Rights**

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

## **3.9 Annual SOC 1 Type 2 and SOC 2 Type 2 Audit Reports**

### **3.9.1 SOC 1 Type 2 Audit**

An annual SOC 1 Type 2 audit conducted by an independent CPA firm is required for the MLGCA's GAPP financial statements. The SOC 1 Type 2 audits will include functions performed by subcontractors, as appropriate. A SOC 1 Type 2 Audit includes both a review of the internal controls placed in operation as well as tests of operating effectiveness. Prior to contracting with the independent CPA firm, the Contractor shall obtain the MLGCA's approval of the firm. In addition, prior to the start of each audit, the Contractor in conjunction with the MLGCA shall jointly determine the control objectives to be tested. Controls to be tested shall include both those over financial reporting and data security.

### **3.9.2 SOC 2 Type 2 Audit**

A SOC 2 Type 2 Audit applies to the Contract. The applicable trust services criteria are: Security, Availability, Processing Integrity, Confidentiality, and Privacy – The Agency to choose which of the five trust services criteria apply as defined in the Guidance document identified in Section 3.9.3.

### **3.9.3 Additional Audits**

In the event the Contractor provides services for identified critical functions, handles Sensitive Data, or hosts any related implemented system for the State under the Contract, the Contractor shall have an annual audit performed by an independent audit firm of the Contractor's handling of Sensitive Data or the Agency's critical functions. Critical functions are identified as all aspects and

functionality of the Solution including any add-on modules and shall address all areas relating to Information Technology security and operational processes. These services provided by the Contractor that shall be covered by the audit will collectively be referred to as the “Information Functions and Processes.” Such audits shall be performed in accordance with audit guidance: Reporting on an Examination of Controls at a Service Organization Relevant to Security, Availability, Processing Integrity, Confidentiality, or Privacy (SOC 2) as published by the American Institute of Certified Public Accountants (“AICPA”) and as updated from time to time, or according to the most current audit guidance promulgated by the AICPA or similarly-recognized professional organization, as agreed to by the Agency, to assess the security of outsourced client functions or data (collectively, the “Guidance”) as follows:

- A. The type of audit to be performed in accordance with the Guidance is a SOC 2 Type 2 Audit (referred to as the “SOC 2 Audit” or “SOC 2 Report”). All SOC 2 Audit Reports shall be submitted to the Contract Monitor as specified in Section F below. The initial SOC 2 Audit shall be completed within a timeframe to be specified by the State. The audit period covered by the initial SOC 2 Audit shall start with the Contract Effective Date unless otherwise agreed to in writing by the Contract Monitor. All subsequent SOC 2 Audits after this initial audit shall be performed at a minimum on an annual basis throughout the Term of the Contract, and shall cover a 12-month audit period or such portion of the year that the Contractor furnished services.
- B. The SOC 2 Audit shall report on the suitability of the design and operating effectiveness of controls over the Information Functions and Processes to meet the requirements of the Contract, including the Security Requirements identified in **Section 3.7**, relevant to the trust services criteria identified in 3.9.2, as defined in the aforementioned Guidance.
- C. The audit scope of each year’s SOC 2 Report may need to be adjusted (including the inclusion or omission of the relevant trust services criteria of Security, Availability, Processing Integrity, Confidentiality, and Privacy) to accommodate any changes to the environment since the last SOC 2 Report. Such changes may include but are not limited to the addition of Information Functions and Processes through modifications to the Contract or due to changes in Information Technology or the operational infrastructure. The Contractor shall ensure that the audit scope of each year’s SOC 2 Report engagement shall accommodate these changes by including in the SOC 2 Report all appropriate controls related to the current environment supporting the Information Functions and/or Processes, including those controls required by the Contract.
- D. The scope of the SOC 2 Report shall include work performed by any subcontractors that provide essential support to the TO Contractor or essential support to the Information Functions and Processes provided to the Agency under the Contract. The Contractor shall ensure the audit includes all such subcontractors operating in performance of the Contract.
- E. All SOC 2 Audits, including those of the Contractor, shall be performed at no additional expense to the Agency.
- F. The Contractor shall provide to the Contract Monitor, within 30 calendar days of the issuance of each SOC 2 Report, a complete copy of the final SOC 2 Report(s) and a documented corrective action plan addressing each audit finding or exception contained in the SOC 2 Report. The corrective action plan shall identify in detail the remedial action to be taken by the Contractor along with the date(s) when each remedial action is to be implemented.
- G. If the Contractor currently has an annual, independent information security assessment performed that includes the operations, systems, and repositories of the Information Functions and Processes being provided to the Agency under the Contract, and if that assessment generally conforms to the content and objective of the Guidance, the Agency will determine in consultation with appropriate State government technology and audit authorities whether the

Contractor's current information security assessments are acceptable in lieu of the SOC 2 Report(s).

- H. If the Contractor fails during the Contract term to obtain an annual SOC 2 Report by the date specified in **Section 3.9.3.A**, the Agency shall have the right to retain an independent audit firm to perform an audit engagement of a SOC 2 Report of the Information Functions and Processes utilized or provided by the Contractor and under the Contract. The Contractor agrees to allow the independent audit firm to access its facility/ies for purposes of conducting this audit engagement(s), and will provide the necessary support and cooperation to the independent audit firm that is required to perform the audit engagement of the SOC 2 Report. The Agency will invoice the Contractor for the expense of the SOC 2 Report(s), or deduct the cost from future payments to the Contractor.
- I. Provisions in **Section 3.9.2-2** shall survive expiration or termination of the Contract. Additionally, the Contractor shall flow down the provisions of **Section 3.9.2-2** (or the substance thereof) in all subcontracts.

### **3.10 Experience and Personnel**

#### **3.10.1 Preferred Offeror Experience**

The following experience is expected and will be evaluated as part of the Technical Proposal (see the Offeror experience, capability and references evaluation factor from **Section 6.2**):

- A. Demonstrated knowledge of the US Lottery industry. Offerors should currently provide complete Lottery Central Systems to two or more US state lotteries that are members of the North American Association of State and Provincial Lotteries (NASPL) and currently sell both the Powerball and Mega Millions games.
- B. Senior management teams must demonstrate experience launching full service central system contracts for jurisdictions at least as large as Maryland (\$2.7 billion annual sales, 4,300 retailers, 7,100 sales terminals).
- C. Breadth of knowledge of lottery systems deployment, marketing lottery games -especially terminal issued games, providing scratch ticket ordering services and order fulfillment systems and equipment, design and deployment of new terminal issued games.

#### **3.10.2 Personnel Experience**

The following experience is expected and will be evaluated as part of the Technical Proposal (see the capability of proposed resources evaluation factor from **Section 6.2**):

- A. The General Manager and Operations Manager must have at least five-year's experience in the lottery industry; and
- B. A history of increasing responsibility is preferred.

#### **3.10.3 Key Personnel Identified**

- A. General. For the Contract, the following positions to be identified in the Technical Proposal will be considered Key Personnel, and their qualifications will be evaluated. They are to be located within the Contractor's Maryland Operations Center.
- B. General Manager. The Contractor shall assign a General Manager who shall be 1) the primary point of contact between the Contractor and the MLGCA for all Contract and operational



matters and 2) the primary point of contact between the Contractor and the MLGCA for all conversion and implementation matters.

- C. Operations Manager. The Contractor shall assign an Operations Manager who shall be responsible for the day-to-day Data Center operations as well as for Systems and network staff and shall coordinate all testing for the Contractor and the MLGCA.
- D. Marketing Manager. The Contractor shall assign a dedicated Marketing Manager to support MLGCA promotional and other efforts and initiatives. This individual shall provide input in marketing planning meetings, conduct projects to increase sales, and develop Retailer bonuses, at a minimum.
- E. Business Intelligence/Sales Analyst. The Contractor shall provide a Business Intelligence/Sales Analyst who shall be assigned on a full-time basis, and who shall assist the MLGCA to:
  - 1. Uncover new selling opportunities and new marketing strategies quarterly for Draw, Monitor and Instant products and prize structures through data analysis from Maryland and other jurisdictions;
  - 2. Design improved sales reports, make sales presentations to MLGCA management, and work closely with the MLGCA's Marketing and Sales staff;
  - 3. Provide expertise in creating reports using the data in the Data Warehouse to track trends of sales and revenue and assist the MLGCA in making business decisions based on this data; and
  - 4. Provide training and support for MLGCA personnel responsible for creating reports from the Data Warehouse.
- F. Tel-Sell Manager and Personnel. The Contractor shall provide a sufficient number of Tel-Sell representatives to pre-sell Instant Games, promotions, assist Retailers with Instant Ticket inventory, order placement and other duties as deemed necessary by the MLGCA. The Tel-Sell unit shall be staffed separately from computer operations and other areas.
- G. Conversion Project Manager. Only required during the Conversion. The Contractor shall assign a full-time dedicated Certified Project Manager. The Project Manager shall work with all of the Contractor's resources to develop the overall Project Plan for the LCMCS installation, start up, acceptance testing, conversion and Start-up Date. The Project Manager shall hold weekly meetings with the MLGCA to provide status and updates on all aspects of the project.

### **3.11 Substitution of Personnel**

#### **3.11.1 Continuous Performance of Key Personnel**

When Key Personnel are identified for the Contract, the following apply:

- A. Key Personnel shall be available to perform Contract requirements as of the NTP Date. Unless explicitly authorized by the Contract Monitor or specified in the Contract, Key Personnel shall be assigned to the State of Maryland as a dedicated resource.
- B. Key Personnel, refer to Section 3.10.3, 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 the Contract without the prior written approval of the Contract Monitor.
- C. The provisions of this section apply to Key Personnel identified in any Task Order proposal and agreement, if issued, and any Work Order Request and Work Order, if issued.



### 3.11.2 Definitions

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

- A. Extraordinary Personal Event. Means any of: leave under the Family Medical Leave Act; an Incapacitating injury or Incapacitating illness; or other circumstances that in the sole discretion of the State warrant an extended leave of absence, such as extended jury duty or extended military service that precludes the individual from performing his/her job duties under the Contract.
- B. Incapacitating. Means 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.

### 3.11.3 Contractor Personnel General Substitution Provisions

The following provisions apply to all of the circumstances of Contractor Personnel substitution described in **Section 3.11.4**.

- A. The Contractor shall demonstrate to the Contract Monitor's satisfaction that the proposed substitute has qualifications at least equal to those of the Contractor Personnel proposed to be replaced.
- B. The Contractor shall provide the Contract Monitor with a substitution request that shall include:
  - 1. A detailed explanation of the reason(s) for the substitution request;
  - 2. The resume of the proposed substitute, signed by the substituting individual and his/her formal supervisor;
  - 3. The official resume of the current personnel for comparison purposes; and
  - 4. Evidence of any required credentials.
- C. The Contract Monitor may request additional information concerning the proposed substitution and may interview the proposed substitute personnel prior to deciding whether to approve the substitution request.
- D. 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 Contractor Personnel replacement.

### 3.11.4 Replacement Circumstances

- A. Directed Personnel Replacement.
  - 1. The Contract Monitor may direct the Contractor to replace any Contractor Personnel who, in the sole discretion of the Contract Monitor, are perceived as being unqualified, non-productive, unable to fully perform the job duties, disruptive, or known, or reasonably believed, to have committed a major infraction(s) of law, Agency policies, or Contract requirements. Normally, a directed personnel replacement will occur only after prior notification of problems with requested remediation, as described in paragraph **3.11.4.A.2**.
  - 2. 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.

3. Should performance issues persist despite an 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.
4. 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.
5. If the Contract Monitor determines to direct substitution under **3.11.4.A.1**, if at all possible, at least fifteen (15) days advance notice shall be given to the Contractor. However, if the Contract Monitor deems it necessary and in the State's best interests to remove the Contractor Personnel with less than fifteen (15) days' notice, the Contract Monitor may direct the removal in a timeframe of less than fifteen (15) days, including immediate removal.
6. In circumstances of directed removal, the Contractor shall, in accordance with paragraph **3.11.4.A.1** 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.

**B. Key Personnel Replacement.**

1. To replace any Key Personnel in a circumstance other than as described in **3.11.4.B**, including transfers and promotions, the Contractor shall submit a substitution request as described in **Section 3.11.3** to the Contract Monitor at least fifteen (15) days prior to the intended date of change. A substitution may not occur unless and until the Contract Monitor approves the substitution in writing.
2. Key Personnel Replacement Due to Sudden Vacancy
  - a) The Contractor shall replace Key Personnel whenever a sudden vacancy occurs (e.g., Extraordinary Personal Event, death, resignation, termination). A termination or resignation with thirty (30) days or more advance notice shall be treated as a replacement under **Section 3.11.4.B.1**.
  - b) Under any of the circumstances set forth in this paragraph B, the Contractor shall identify a suitable replacement and provide the same information and items required under **Section 3.11.3** 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.
3. Key Personnel Replacement Due to an Indeterminate Absence
  - a) If any Key Personnel has been absent from his/her job for a period of ten (10) days 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 and items to the Contract Monitor as required under **Section 3.11.3**.

- b) 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 the Contract Monitor may, at his/her sole discretion, authorize the original personnel to continue to work under the Contract, or authorize the replacement personnel to replace the original personnel, notwithstanding the original personnel's ability to return.

### **3.11.5 Substitution Prior to and Within 30 Days After Contract Execution**

Prior to Contract execution or within thirty (30) days after Contract execution, the Offeror may not substitute proposed Key Personnel except under the following circumstances (a) for actual full-time personnel employed directly by the Offeror: the vacancy occurs due to the sudden termination, resignation, or approved leave of absence due to an Extraordinary Personal Event, or the death of such personnel; and (b) for any temporary staff, subcontractors or 1099 contractors: the vacancy occurs due to an Incapacitating event or the death of such personnel. To qualify for such substitution, the Offeror must demonstrate to the State's satisfaction the event necessitating substitution. Proposed substitutions shall be of equal caliber or higher, in the State's sole discretion. Proposed substitutes deemed by the State to be less qualified than the originally proposed individual may be grounds for pre-award disqualification or post-award termination.

### **3.12 Minority Business Enterprise (MBE) Reports**

If this solicitation includes an MBE Goal (see **Section 4.26**), the Contractor shall:

- A. Submit the following reports by the 10th of each month to the Contract Monitor and the Agency's MBE Liaison Officer:
  - 1. A Prime Contractor Paid/Unpaid MBE Invoice Report (Attachment D-4A) listing any unpaid invoices, over 45 days old, received from any certified MBE subcontractor, the amount of each invoice and the reason payment has not been made; and
  - 2. (If Applicable) An MBE Prime Contractor Report (Attachment D-4B) identifying an MBE prime's self-performing work to be counted towards the MBE participation goals.
- B. Include in its agreements with its certified MBE subcontractors a requirement that those subcontractors submit an MBE Subcontractor Paid/Unpaid Invoice Report (**Attachment D-5**) by the 10th of each month to the Contract Monitor and the Agency's MBE Liaison Officer that identifies the Contract and lists all payments to the MBE subcontractor received from the Contractor in the preceding reporting period month, as well as any outstanding invoices, and the amounts of those invoices.
- C. Maintain such records as are necessary to confirm compliance with its MBE participation obligations. These records must indicate the identity of certified minority and non-minority subcontractors employed on the Contract, type of work performed by each, and actual dollar value of work performed. Subcontract agreements documenting the work performed by all MBE participants must be retained by the Contractor and furnished to the Procurement Officer on request.
- D. Consent to provide such documentation as reasonably requested and to provide right-of-entry at reasonable times for purposes of the State's representatives verifying compliance with the MBE participation obligations. Contractor must retain all records concerning MBE participation and make them available for State inspection for three years after final completion of the Contract.
- E. Upon completion of the Contract and before final payment and release of retainage, submit a final report in affidavit form and under penalty of perjury, of all payments made to, or withheld from MBE subcontractors.

### 3.13 Veteran Small Business Enterprise (VSBE) Reports

If this solicitation includes a VSBE Goal (see **Section 4.27**), the Contractor shall:

- A. Submit the following reports by the 10<sup>th</sup> of the month following the reporting period to the Contract Monitor and the Agency VSBE representative:
  1. VSBE Participation Prime Contractor Paid/Unpaid VSBE Invoice Report (Attachment E-3) listing any unpaid invoices, over 45 days old, received from any VSBE subcontractor, the amount of each invoice and the reason payment has not been made; and
  2. **Attachment E-4**, the VSBE Participation Subcontractor Paid/Unpaid VSBE Invoice Report by the 10th of the month following the reporting period to the Contract Monitor and the VSBE Liaison Officer.
- B. Include in its agreements with its VSBE subcontractors a requirement that those subcontractors submit monthly by the 10th of the month following the reporting period to the Contract Monitor and Agency VSBE representative a report that identifies the prime contract and lists all payments received from Contractor in the preceding reporting period month, as well as any outstanding invoices, and the amount of those invoices (**Attachment E-4**).
- C. Maintain such records as are necessary to confirm compliance with its VSBE participation obligations. These records must indicate the identity of VSBE and non-VSBE subcontractors employed on the contract, the type of work performed by each, and the actual dollar value of work performed. The subcontract agreement documenting the work performed by all VSBE participants must be retained by the Contractor and furnished to the Procurement Officer on request.
- D. Consent to provide such documentation as reasonably requested and to provide right-of-entry at reasonable times for purposes of the State's representatives verifying compliance with the VSBE participation obligations. The Contractor must retain all records concerning VSBE participation and make them available for State inspection for three years after final completion of the Contract.
- E. At the option of the Agency, upon completion of the Contract and before final payment and release of retainage, submit a final report in affidavit form and under penalty of perjury, of all payments made to, or withheld from VSBE subcontractors.

### 3.14 Work Orders

THIS SECTION IS INAPPLICABLE TO THIS RFP.

### 3.15 Additional Clauses

The Contractor shall be subject to the requirements in this section and shall flow down the provisions of **Sections 3.15.1 – 3.15.5** (or the substance thereof) in all subcontracts.

#### 3.15.1 Custom Software

Not applicable

#### 3.15.2 Custom Source Code

Not applicable

#### 3.15.3 Source Code Escrow

Source Code Escrow applies to the Contract. The Contractor shall perform source code escrow as described herein.

- A. The State will be named as a beneficiary under an escrow agreement (“Escrow Agreement”) that shall be entered into between the Contractor and an escrow agent (“Escrow Agent”) within 30 days of the Contract Effective Date hereof pursuant to which Contractor shall deliver a Source Code Escrow Package to Escrow Agent. The term “Source Code Escrow Package” means: a) a complete copy in machine-readable form of the source code and executable code of the software licensed to the State under the Contract; b) a complete copy of any existing design documentation and user documentation; and/or c) complete instructions for compiling and linking every part of the source code into executable code for purposes of enabling verification of the completeness of the source code as provided below. The Escrow Agreement shall govern the maintenance and release of the Source Code Escrow Package, and Contractor agrees to update, enhance, or otherwise modify such Source Code Escrow Package promptly upon each release of a new version of any component thereof. Contractor shall pay all fees and expenses charged by Escrow Agent, including, but not limited to, fees and expenses related to the State being a named beneficiary under the Escrow Agreement. The State shall treat the Source Code Escrow Package as Contractor’s confidential information. Under all circumstances, the Source Code Escrow Package shall remain the property of Contractor. The State shall only use the Source Code Escrow Package as contemplated in the Contract (including, but not limited to confidentiality provisions and usage restrictions). The Escrow Agent shall maintain the Source Code Escrow Package in a repository located in the United States.
- B. In the event that the Escrow Agent either ceases providing escrow services to Contractor or Contractor determines in its reasonable business judgment that the Escrow Agent is no longer providing acceptable services, Contractor shall replace the Escrow Agent with another escrow agent, using an agreement which provides the State with rights no less advantageous than those in the Escrow Agreement. In such case, the new escrow agent shall be substituted in all ways for the incumbent Escrow Agent with respect to **Section 3.15.3.A** above and all references herein to Escrow Agent shall be deemed to include such substitute escrow agent.
- C. Contractor shall inform the State of the availability of an escrow for any third-party software solutions it provides to the State.
- D. In addition to the rights and obligations contained in the Escrow Agreement referenced in **Section 3.15.3.A**, the State shall have the Software Escrow Package released by the Escrow Agent to the State’s possession immediately upon any voluntary or involuntary filing of bankruptcy or any other insolvency proceeding, including but not limited to a general assignment for the benefit of including but not limited to a general assignment for the benefit of creditors, the appointment of a receiver for business or assets; creditors, the appointment of a receiver for business or assets; Contractor’s dissolution or liquidation, voluntary or otherwise; the State has compelling reasons to believe that such events will cause Contractor to fail to meet its obligations in the foreseeable future; or Contractor’s discontinuance of support or failure to support in accordance with the Contract any software system or if the Contractor is otherwise unable or unwilling to provide the Source Code Escrow Package. This condition will also be considered met if after repeated e-mail and phone requests by the State for service, the State makes a request for service in writing to the Contractor's last known address served by certified signed receipt required mail delivery by U.S. Post Office or by a nationally recognized (in the United States) overnight carrier, and the Contractor remains unresponsive, meaning that the Contractor is unable to acknowledge message receipt, unwilling or otherwise unable to satisfy the request for a period longer than 45 days from attempt to deliver the written request.

#### **3.15.4 Purchasing and Recycling Electronic Products**

This section does not apply to this solicitation.

**3.15.5 Change Control and Advance Notice**

- A. Unless otherwise specified in an applicable Service Level Agreement, the Contractor shall give seven (7) days advance notice to the State of any upgrades or modifications that may impact service availability and performance.
- B. Contractor may not modify the functionality or features of any SaaS provided hereunder if such modification materially degrades the functionality of the SaaS.

**3.15.6 The State of Maryland's Commitment to Purchasing Environmentally Preferred Products and Services (EPPs)**

[Maryland's State Finance & Procurement Article §14-410](#) defines environmentally preferable purchasing as “the procurement or acquisition of goods and services that have a lesser or reduced effect on human health and the environment when compared with competing goods or services that serve the same purpose.” Accordingly, Bidders are strongly encouraged to offer EPPs to fulfill this contract, to the greatest extent practicable.

**3.15.7 No-Cost Extensions**

In accordance with BPW Advisory 1995-1 item 7.b, in the event there are unspent funds remaining on the Contract, prior to the Contract's expiration date the Procurement Officer may modify the Contract to extend the Contract beyond its expiration date for a period up to, but not exceeding, one-third of the base term of the Contract (e.g., eight-month extension on a two-year contract) for the performance of work within the Contract's scope of work. Notwithstanding anything to the contrary, no funds may be added to the Contract in connection with any such extension.

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## 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 Key Information Summary Sheet.
- 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. If the solicitation includes an MBE goal, failure to attend the Conference will be taken into consideration as part of the evaluation of an offeror's good faith efforts if there is a waiver request.
- 4.1.3 It is highly recommended that ALL Prime Contractors bring their intended subcontractors to the Conference/Site Visit to ensure that all parties understand the requirements of the contract and the MBE Goal.
- 4.1.4 MBE subcontractors are encouraged to attend the Conference to market their participation to potential prime contractors.
- 4.1.5 Following the Conference, the attendance record and summary of the Conference will be distributed via the same mechanism described for amendments and questions (see Section 4.2.1 eMMA).
- 4.1.6 Attendees should bring a copy of the solicitation and a business card to help facilitate the sign-in process.
- 4.1.7 In order to assure adequate seating and other accommodations at the Conference, please e-mail the Pre-Proposal Conference Response Form (Attachment A) no later than the time and date indicated on the form. In addition, if there is a need for sign language interpretation or other special accommodations due to a disability, please notify the Procurement Officer at least five (5) Business Days prior to the Conference date. The Agency will make a reasonable effort to provide such special accommodation.

### 4.2 eMaryland Marketplace Advantage (eMMA)

- 4.2.1 eMMA is the electronic commerce system for the State of Maryland. The RFP, Conference summary and attendance sheet, Offerors' questions and the Procurement Officer's responses, addenda, and other solicitation-related information will be made available via eMMA.
- 4.2.2 In order to receive a contract award, a vendor must be registered on eMMA. Registration is free. Go to [emma.maryland.gov](https://emma.maryland.gov), click on "New Vendor? Register Now" to begin the process, and then follow the prompts.

### 4.3 Questions

- 4.3.1 All questions, including concerns regarding any applicable MBE or VSBE participation goals, shall identify in the subject line the Solicitation Number and Title (2024-01 - Lottery Central Monitoring and Control System and Related Services), and shall be submitted in writing via e-mail to the Procurement Officer.
- 4.3.2 Answers to all questions that are not clearly specific only to the requestor will be distributed via the same mechanism as for RFP amendments, and posted on eMMA.



- 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 Agency unless it issues an amendment in writing.

#### **4.4 Procurement Method**

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

#### **4.5 Proposal Due (Closing) Date and Time**

- 4.5.1** Proposals, in the number and form set forth in Section 5 Proposal Format, must be received by the Procurement Officer no later than the Proposal due date and time indicated on the Key Information Summary Sheet in order to be considered.
- 4.5.2** Requests for extension of this date or time shall 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 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 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 solicitation are requested to submit the “Notice to Vendors” form, which includes company information and the reason for not responding (e.g., too busy, cannot meet mandatory requirements).

#### **4.6 Multiple or Alternate Proposals**

Multiple 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** The 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 (See also RFP Section 5.3.2.B “Claim of Confidentiality”). This 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**

A Contract 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**

Offerors will be required to make oral presentations to State representatives. 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. Any such written clarifications or changes then become part of the Offeror's Proposal.

Offerors will select one city in which oral presentations will be made. Presentations will include descriptions and demonstrations of equipment and systems offered, as well as time for private meetings between the Evaluation Committee and representatives of the Offeror's Lottery customer in the state. Time allocated for these presentations shall not exceed 12 hours, including 90-minutes for the customer meeting. The Agency expects up to seven members to comprise the Evaluation Committee. The ~~Offeror~~ MLGCA will pay all travel costs for the Committee, following standard State travel guidelines.

## **4.11 Duration of Proposal**

Proposals submitted in response to this RFP are irrevocable for the latest of the following: 270 days following the Proposal due date and time, best and final offers if requested (see **Section 6.5.2**), or the date any protest concerning this RFP is finally resolved. 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 Agency shall post any addenda to the RFP on eMMA and shall endeavor to provide such addenda 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 eMMA for any addenda issued prior to the submission of Proposals.
- 4.12.2** Acknowledgment of the receipt of all addenda 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** Addenda 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 addenda.
- 4.12.4** Acknowledgement of the receipt of addenda to the RFP issued after the Proposal due date shall be in the manner specified in the addendum notice.
- 4.12.5** Failure to acknowledge receipt of an addendum does not relieve the Offeror from complying with the terms, additions, deletions, or corrections set forth in the addendum, 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.
- 4.13.2** The State reserves the right, in its sole discretion, to award a Contract based upon the written Proposals received without discussions or negotiations.
- 4.13.3** In the event a government entity proposes and receives the recommendation for award, the procurement may be cancelled and the award processed in accordance with COMAR 21.01.03.01.A(4).
- 4.13.4** If the services that are the subject of the RFP are currently being provided under an interagency agreement with a public institution of higher education and the State determines that the services can be provided more cost effectively by the public institution of higher education, then the RFP may be cancelled in accordance with Md. Code Ann., State Finance and Procurement Art., § 3-207(b)(2).

### **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 solicitation.

### **4.15 Protest/Disputes**

Any protest or dispute related to this solicitation or the Contract award shall be subject to the provisions of COMAR 21.10 (Administrative and Civil Remedies).

### **4.16 Offeror Responsibilities**

- 4.16.1** Offerors must be able to provide all goods and services and meet all of the requirements requested in this solicitation and the successful Offeror shall be responsible for Contract performance including any subcontractor participation.
- 4.16.2** All subcontractors shall be identified and a complete description of their role relative to the Proposal shall 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 Participation Goal" and Section 4.27 "VSBE Goal").
- 4.16.3** If the Offeror 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's Proposal shall contain an explicit statement, signed by an authorized representative of the parent organization, stating that the parent organization will guarantee the performance of the subsidiary.
- 4.16.4** A parental guarantee of the performance of the Offeror under this Section will not automatically result in crediting the Offeror with the experience or qualifications of the parent under any evaluation criteria pertaining to the actual Offeror's experience and qualifications. Instead, the Offeror will be evaluated on the extent to which the State

determines that the experience and qualifications of the parent are applicable to and shared with the Offeror, any stated intent by the parent to be directly involved in the performance of the Contract, and the value of the parent's participation as determined by the State.

#### **4.17 Acceptance of Terms and Conditions**

By submitting a Proposal in response to this RFP, the Offeror, if selected for award, shall be deemed to have accepted the terms and conditions of this RFP and the Contract, attached hereto 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 Agency reserves the right to accept or reject any exceptions.**

#### **4.18 Proposal Affidavit**

A Proposal submitted by the 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 solicitation, the successful Offeror will be required to complete a Contract Affidavit. A copy of this Affidavit is included for informational purposes as **Attachment N** of this RFP. This Affidavit must be provided within five (5) Business Days of notification of recommended award. 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**

By submitting a Proposal in response to this RFP, the Offeror, 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.

By submitting a response to this solicitation, 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**

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>.

It is strongly recommended that any potential Offeror complete registration prior to the Proposal due date and time. The 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:

**4.22.1** In connection with a procurement contract a person may not willfully:

A. Falsify, conceal, or suppress a material fact by any scheme or device.

- B. Make a false or fraudulent statement or representation of a material fact.
- C. Use a false writing or document that contains a false or fraudulent statement or entry of a material fact.
- 4.22.2** A person may not aid or conspire with another person to commit an act under **Section 4.22.1**.
- 4.22.3** 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 five (5) years or both.

#### **4.23 Payments by Electronic Funds Transfer**

By submitting a Proposal in response to this solicitation, the Offeror, 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 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:

<https://www.marylandtaxes.gov/forms/state-accounting/static-files/GADX10Form.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**). Additional information is available on GOSBA's website at:

<http://www.gomdsmbiz.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 Agency 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 solicitation 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 solicitation 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 e-mail, internet-based communications, electronic funds transfer, specific electronic bidding platforms (e.g., <https://procurement.maryland.gov>), and electronic data interchange.
- 4.25.4** In addition to specific electronic transactions specifically authorized in other sections of this solicitation (e.g., RFP § 4.23 describing payments by Electronic Funds Transfer), the following transactions are authorized to be conducted by electronic means on the terms as authorized in COMAR 21.03.05:
- A. The Procurement Officer may conduct the procurement using eMMA or e-mail to issue:
    - 1. The RFP;
    - 2. Any amendments and requests for best and final offers;
    - 3. Pre-Proposal conference documents;
    - 4. Questions and responses;
    - 5. Communications regarding the solicitation or Proposal to any Offeror or potential Offeror;
    - 6. Notices of award selection or non-selection; and
    - 7. The Procurement Officer’s decision on any Proposal protest or Contract claim.
  - B. The Offeror or potential Offeror may use eMMA or e-mail to:
    - 1. Ask questions regarding the solicitation;
    - 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 through eMMA, but only on the terms specifically approved and directed by the Procurement Officer and;
    - 3. Submit a "No Proposal Response" to the RFP.
  - C. The Procurement Officer, the Contract Monitor, and the Contractor may conduct day-to-day Contract administration, except as outlined in **Section 4.25.5** of this subsection, utilizing e-mail 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:
- A. Submission of initial Proposals;
  - B. Filing of protests;
  - C. Filing of Contract claims;
  - D. Submission of documents determined by the Agency to require original signatures (e.g., Contract execution, Contract modifications); or
  - E. 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 e-mail transmission is only authorized to the e-mail addresses for the identified person as provided in the solicitation, the Contract, or in the direction from the Procurement Officer or Contract Monitor.



## 4.26 MBE Participation Goal

### 4.26.1 Establishment of Goal and Subgoals

An overall MBE subcontractor participation goal as identified in the Key Information Summary Sheet has been established for this procurement, representing a percentage of the total Contract dollar value, including all renewal option terms, if any, has been established for this procurement.

Notwithstanding any subgoals established for this RFP, the Contractor is encouraged to use a diverse group of subcontractors and suppliers from any/all of the various MBE classifications to meet the remainder of the overall MBE participation goal.

By submitting a response to this solicitation, the Offeror acknowledges the overall MBE subcontractor participation goal and subgoals, and commits to achieving the overall goal and subgoals by utilizing certified minority business enterprises, or requests a full or partial waiver of the overall goal and subgoals.

Offerors are encouraged to enter into agreements whereby socially or economically disadvantaged individuals are able to become part of the bidding entity and acquire equity interests.

**An Offeror that does not commit to meeting the entire MBE participation goal outlined in this Section 4.26 implies that it is requesting a full or partial waiver for the remainder of the MBE goal or subgoals as applicable and, if recommended for award, shall submit documentation supporting its good faith efforts to meet the MBE goal made prior to submission of its proposal as outlined in Attachment D-1B, Waiver Guidance. Failure of an Offeror to properly complete, sign, and submit Attachment D-1A at the time it submits its Technical Response(s) to the RFP may result in the State's rejection of the Offeror's Proposal.**

### 4.26.2 Attachments

- A. D-1 to D-5 – The following Minority Business Enterprise participation instructions, and forms are provided to assist Offerors:
1. Attachment D-1A MBE Utilization and Fair Solicitation Affidavit & MBE Participation Schedule (must be submitted with Proposal)
  2. Attachment D-1B Waiver Guidance
  3. Attachment D-1C Good Faith Efforts Documentation to Support Waiver Request
  4. Attachment D-2 Outreach Efforts Compliance Statement
  5. Attachment D-3A MBE Subcontractor Project Participation Certification
  6. Attachment D-3B MBE Prime Project Participation Certification
  7. Attachment D-4A Prime Contractor Paid/Unpaid MBE Invoice Report
  8. Attachment D-4B MBE Prime Contractor Report
  9. Attachment D-5 Subcontractor Paid/Unpaid MBE Invoice Report
- B. The Offeror shall include with its Proposal a completed MBE Utilization and Fair Solicitation Affidavit (**Attachment D-1A**) whereby:



1. The Offeror acknowledges the certified MBE participation goal and commits to make a good faith effort to achieve the goal and any applicable subgoals, or requests a waiver, and affirms that MBE subcontractors were treated fairly in the solicitation process; and
2. The Offeror responds to the expected degree of MBE participation, as stated in the solicitation, by identifying the specific commitment of certified MBEs at the time of Proposal submission. The Offeror shall specify the percentage of total contract value associated with each MBE subcontractor identified on the MBE participation schedule, including any work performed by the MBE prime (including a prime participating as a joint venture) to be counted towards meeting the MBE participation goals.
3. The Offeror requesting a waiver should review **Attachment D-1B** (Waiver Guidance) and **D-1C** (Good Faith Efforts Documentation to Support Waiver Request) prior to submitting its request.

***If the Offeror fails to submit a completed Attachment D-1A with the Proposal as required, the Procurement Officer shall determine that the Proposal is not reasonably susceptible of being selected for award, unless the inaccuracy is determined to be the result of a minor irregularity that is waived or cured in accordance with COMAR 21.06.02.04.***

- 4.26.3** Offerors are responsible for verifying that each MBE (including any MBE prime and MBE prime participating in a joint venture) selected to meet the goal and any subgoals and subsequently identified in **Attachment D-1A** is appropriately certified and has the correct NAICS codes allowing it to perform the committed work.
- 4.26.4** Within ten (10) Business Days from notification that it is the recommended awardee or from the date of the actual award, whichever is earlier, the Offeror must provide the following documentation to the Procurement Officer:
- A. Outreach Efforts Compliance Statement (**Attachment D-2**);
  - B. MBE Subcontractor/Prime Project Participation Certification (**Attachment D-3A/3B**); and
  - C. Any other documentation required by the Procurement Officer to ascertain Offeror responsibility in connection with the certified MBE subcontractor participation goal or any applicable subgoals.
  - D. Further, if the recommended awardee believes a waiver (in whole or in part) of the overall MBE goal or of any applicable subgoal is necessary, the recommended awardee must submit a fully-documented waiver request that complies with COMAR 21.11.03.11.

***If the recommended awardee fails to return each completed document within the required time, the Procurement Officer may determine that the recommended awardee is not responsible and, therefore, not eligible for Contract award. If the Contract has already been awarded, the award is voidable.***

- 4.26.5** A current directory of certified MBEs is available through the Maryland State Department of Transportation (MDOT), Office of Minority Business Enterprise, 7201 Corporate Center Drive, Hanover, Maryland 21076. The phone numbers are (410) 865-1269, 1-800-544-6056, or TTY (410) 865-1342. The directory is also available on the MDOT website at <http://mbe.mdot.maryland.gov/directory/>. The most current and up-to-date information on MBEs is available via this website. **Only MDOT-certified MBEs may be used to meet the MBE subcontracting goals.**

- 4.26.6** The Offeror that requested or implied to request a waiver of the goal or any of the applicable subgoals will be responsible for submitting the Good Faith Efforts Documentation to Support Waiver Request (**Attachment D-1C**) and all documentation within ten (10) Business Days from notification that it is the recommended awardee or from the date of the actual award, whichever is earlier, as required in COMAR 21.11.03.11.
- 4.26.7** All documents, including the MBE Utilization and Fair Solicitation Affidavit & MBE Participation Schedule (**Attachment D-1A**), completed and submitted by the Offeror in connection with its certified MBE participation commitment shall be considered a part of the Contract and are hereby expressly incorporated into the Contract by reference thereto. All of the referenced documents will be considered a part of the Proposal for order of precedence purposes (see Contract – **Attachment M, Section 2.1**).
- 4.26.8** The Offeror is advised that liquidated damages will apply in the event the Contractor fails to comply in good faith with the requirements of the MBE program and pertinent Contract provisions. (See Contract – **Attachment M, Liquidated Damages for MBE, section 39**).
- 4.26.9** As set forth in COMAR 21.11.03.12-1(D), when a certified MBE firm participates on a contract as a prime contractor (including a joint-venture where the MBE firm is a partner), a procurement agency may count the distinct, clearly defined portion of the work of the contract that the certified MBE firm performs with its own work force towards fulfilling up to fifty-percent (50%) of the MBE participation goal (overall) and up to one hundred percent (100%) of not more than one of the MBE participation subgoals, if any, established for the contract.

In order to receive credit for self-performance, an MBE prime must list its firm in Section 4A of the MBE Participation Schedule (**Attachment D-1A**) and include information regarding the work it will self-perform. For the remaining portion of the overall goal and the subgoals, the MBE prime must also identify other certified MBE subcontractors [see Section 4B of the MBE Participation Schedule (**Attachment D-1A**)] used to meet those goals. If dually-certified, the MBE prime can be designated as only one of the MBE subgoal classifications but can self-perform up to 100% of the stated subgoal.

As set forth in COMAR 21.11.03.12-1, once the Contract work begins, the work performed by a certified MBE firm, including an MBE prime, can only be counted towards the MBE participation goal(s) if the MBE firm is performing a commercially useful function on the Contract. Refer to MBE forms (**Attachment D**) for additional information.

## **4.27 VSBE Goal**

### **4.27.1 Purpose**

- A. The Contractor shall structure its procedures for the performance of the work required in the Contract to attempt to achieve the VSBE participation goal stated in this solicitation. VSBE performance must be in accordance with this section and **Attachment E**, as authorized by COMAR 21.11.13. The Contractor agrees to exercise all good faith efforts to carry out the requirements set forth in this section and **Attachment E**.
- B. A certified Veteran-Owned Small Business Enterprises (VSBE) must be verified by the State Department of Veterans Affairs or US Department of Veteran's Affairs [Vets First Verification Program](#) (VetBiz) and registered as a VSBE on the State's eProcurement platform, eMaryland Marketplace Advantage (eMMA). The listing of VSBEs is available through the "Vendor Search" on [eMMA](#).

### **4.27.2 VSBE Goal**

- A. A VSBE participation goal of the total Contract dollar amount has been established for this procurement as identified in the Key Information Summary Sheet.
- B. By submitting a response to this solicitation, the Offeror agrees that this percentage of the total dollar amount of the Contract will be performed by verified veteran-owned small business enterprises.

#### **4.27.3 Solicitation and Contract Formation**

- A. In accordance with COMAR 21.11.13.05 C (1), this solicitation requires Offerors to:
  - 1. Identify specific work categories within the scope of the procurement appropriate for subcontracting;
  - 2. Solicit VSBEs before Proposals are due, describing the identified work categories and providing instructions on how to bid on the subcontracts;
  - 3. Attempt to make personal contact with the VSBEs solicited and to document these attempts;
  - 4. Assist VSBEs to fulfill, or to seek waiver of, bonding requirements; and
  - 5. Attempt to attend pre-Proposal or other meetings the procurement agency schedules to publicize contracting opportunities to VSBEs.
- B. The Offeror must include with its Proposal a completed VSBE Utilization Affidavit and Prime/Subcontractor Participation Schedule (**Attachment E-1**) whereby the Offeror:
  - 1. Acknowledges it: a) intends to meet the VSBE participation goal; or b) requests a full or partial waiver of the VSBE participation goal. If the Offeror commits to the full VSBE goal or requests a partial waiver, it shall commit to making a good faith effort to achieve the stated goal; and
  - 2. Responds to the expected degree of VSBE participation as stated in the solicitation, by identifying the specific commitment of VSBEs at the time of Proposal submission. The Offeror shall specify the percentage of contract value associated with each VSBE prime/subcontractor identified on the VSBE Participation Schedule.
- C. As set forth in COMAR 21.11.13.05.B(2), when a verified VSBE firm participates on a Contract as a Prime Contractor, a procurement agency may count the distinct, clearly defined portion of the work of the contract that the VSBE Prime Contractor performs with its own work force towards meeting up to one hundred percent (100%) of the VSBE goal.
- D. In order to receive credit for self-performance, a VSBE Prime must list its firm in the VSBE Prime/Subcontractor Participation Schedule (**Attachment E-1**) and include information regarding the work it will self-perform. For any remaining portion of the VSBE goal that is not to be performed by the VSBE Prime, the VSBE Prime must also identify verified VSBE subcontractors used to meet the remainder of the goal.
- E. Within 10 Business Days from notification that it is the apparent awardee, the awardee must provide the following documentation to the Procurement Officer:
  - 1. VSBE Project Participation Statement (**Attachment E-2**);
  - 2. If the apparent awardee believes a full or partial waiver of the overall VSBE goal is necessary, it must submit a fully-documented waiver request that complies with COMAR 21.11.13.07; and

3. Any other documentation required by the Procurement Officer to ascertain Offeror responsibility in connection with the VSBE participation goal.

*If the apparent awardee fails to return each completed document within the required time, the Procurement Officer may determine that the apparent awardee is not reasonably susceptible of being selected for award.*

#### 4.28 Living Wage Requirements

- A. 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 Maryland Department of Labor 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.
- B. 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 website <http://www.dlir.state.md.us/labor/prev/livingwage.shtml>.
- C. 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.
- D. 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.

- E. 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.
- F. The Offeror shall identify in the Proposal the location from which services will be provided.
- G. **NOTE:** Whereas the Living Wage may change annually, the Contract price will not change because of a Living Wage change or a change in the State minimum wage.

#### **4.29 Federal Funding Acknowledgement**

This Contract does not contain federal funds.

#### **4.30 Conflict of Interest Affidavit and Disclosure**

- 4.30.1** The Offeror shall complete and sign the Conflict of Interest Affidavit and Disclosure (**Attachment H**) and submit it with its Proposal.
- 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 COMAR 21.05.08.08A.
- 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. For policies and procedures applying specifically to Conflict of Interests, the Contract is governed by COMAR 21.05.08.08.
- 4.30.4** Participation in Drafting of Specifications: Disqualifying Event: Offerors are advised that Md. Code Ann. State Finance and Procurement Article §13-212.1(a) provides generally that “an individual who assists an executive unit in the drafting of specifications, an invitation for bids, a request for proposals for a procurement, or the selection or award made in response to an invitation for bids or a request for proposals, or a person that employs the individual, may not: (1) submit a bid or proposal for that procurement; or (2) assist or represent another person, directly or indirectly, who is submitting a bid or proposal for that procurement.” Any Offeror submitting a Proposal in violation of this provision shall be classified as “not responsible.” See COMAR 21.05.03.03.

#### **4.31 Non-Disclosure Agreement**

##### **4.31.1 Non-Disclosure Agreement (Offeror)**

A Non-Disclosure Agreement (Offeror) is not required for this procurement. However, the Contractor shall assure that the details of the games planned by the MLGCA are not disclosed to persons or organizations other than the personnel and agents and subcontractors of the Contractor whose assistance in the production of the games is necessary, until the MLGCA publicly announces the game.

#### **4.32 HIPAA - Business Associate Agreement**

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

#### **4.33 Nonvisual Access**

- 4.33.1** The bidder or offeror warrants that the information technology offered under this bid or proposal (1) provides equivalent access for effective use by both visual and non-visual



means consistent with the standards of § 508 of the federal Rehabilitation Act of 1973 and Code of Maryland Regulations 14.33.02; (2) provides an individual with disabilities with non-visual access in a way that is fully and equally accessible to and independently usable by the individual with disabilities so that the individual is able to acquire the same information, engage in the same interactions, and enjoy the same services as users without disabilities, with substantially equivalent ease of use; (3) will present information, including prompts used for interactive communications, in formats intended for both visual and nonvisual use; (4) if intended for use in a network, can be integrated into networks for obtaining, retrieving, and disseminating information used by individuals who are not blind or visually impaired; and (5) is available, whenever possible, without modification for compatibility with software and hardware for nonvisual access. The bidder or offeror further warrants that the cost, if any, of modifying the information technology for compatibility with software and hardware used for nonvisual access will not increase the cost of the information technology by more than 15 percent.

- 4.33.2** If the information technology procured under this solicitation does not meet the non-visual access standards set forth in the Code of Maryland Regulations 14.33.02, the State will notify the bidder or offeror in writing that the bidder or offeror, at its own expense, has 12 months after the date of the notification to modify the information technology in order to meet the non-visual access standards. If the bidder or offeror fails to modify the information technology to meet the nonvisual access standards within 12 months after the date of the notification, the bidder or offeror may be subject to a civil penalty of a fine not exceeding \$5,000 for a first offense, and a fine not exceeding \$10,000 for a subsequent offense.
- 4.33.3** The bidder or offeror shall indemnify, defend and hold harmless the State for liability resulting from the use of information technology that does not meet the applicable non-visual access standards.
- 4.33.4** For purposes of this provision, the phrase 'equivalent access' means the ability to receive, use, and manipulate information and operate controls necessary to access and use information technology by nonvisual means. Examples of equivalent access include keyboard controls used for input and synthesized speech, Braille, or other audible or tactile means used for output.
- 4.33.5** Prior to any IT solution being pushed to production or going live, the Contractor shall provide DoIT with a comprehensive accessibility audit report demonstrating conformance with WCAG 2.1 that includes the results from automated and manual testing tools (including the use of JAWS, VoiceOver and NVDA). The Contractor shall leverage a variety of commonly used accessibility testing procedures, including accessing the site through mainstream web browsers and evaluating accessibility, and performing comprehensive mobile accessibility testing using physical iOS and Android devices (not mobile emulators) to ensure the native accessibility features work with the respective IT solution. The report shall include a detailed timeline for the remediation of all identified accessibility issues. The Contractor may use an independent third-party accessibility testing company to conduct this work.
- 4.33.6** A testing and remediation plan must be provided for accessibility issues discovered with respect to information technology provided under the Contract. A testing and remediation plan must include items identified in paragraphs 4.33.3 and 4.33.3.1. If the Contractor will use any subcontractors as part of its plan, the Contractor must name the subcontractors in this plan. The Contractor shall remediate any accessibility issues identified in the accessibility audit, by DoIT, or any other state agency. The Contractor must conduct

validation testing on all remediated accessibility issues and provide a copy of the validation testing results in an Excel or other document.

**4.33.7** The Contractor agrees that the use of out-of-the-box or third-party source code does not waive a Contractor's obligation to ensure that a product complies with the requirements of this Section. Furthermore, the Contractor agrees that it bears sole responsibility to determine if any out-of-the-box source code or third-party code is accessible and to remediate any noncompliance with the State's nonvisual access requirements or cause any noncompliance to be remediated to ensure compliance with such requirements.

**4.33.8** Ten percent (10%) of all invoiced amounts shall be held back from each payment (the "Retention Amount"), as retention money to guarantee Contractor's performance of the obligations set forth in this clause. Contractor may invoice the State for release of the Retention Amount upon DoIT's written approval to place the IT solution into production. DoIT reserves the right to use the Retention Amount to pay for third-party solutions to remediate WCAG 2.1 Level A and AA accessibility issues if the Contractor is unable to remediate after 90 days following launch of the website or application.

#### **4.34 Mercury and Products That Contain Mercury**

This solicitation 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 Services (DHS) Hiring Agreement**

This solicitation does not require a DHS Hiring Agreement.

#### **4.37 Small Business Reserve (SBR) Procurement**

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

#### **4.38 Bonds**

##### **4.38.1 Proposal Bond**

- A. Each Offeror must submit with its Proposal a Proposal Bond or other suitable security, as summarized in **4.38.3**, in the amount of five percent (5%) of the Total Evaluated Price, guaranteeing the availability of the goods and services at the offered price for 270 days after the due date for receipt of Proposals.
- B. The Offeror may request a release of the bond after the date of the award in return for a release signed by the Contractor and accepted by the Agency.
- C. The cost of this bond, or other suitable security, is to be included in the total prices proposed and is not to be proposed and will not be recoverable as a separate cost item.

##### **4.38.2 Performance Bond**

- A. The successful Offeror shall deliver a Performance Bond, or other suitable security, to the State after notification of recommended award.



- B. The successful Offeror must submit a Performance Bond, or other suitable security in the amount of ~~\$50,000,000.00~~\$25,000,000, guaranteeing that the Contractor shall well and truly perform the Contract.
- C. The Performance Bond shall be in the form provided in **Appendix 3** and underwritten by a surety company authorized to do business in the State and shall be subject to approval by the State, or other acceptable security for bond as described in COMAR 21.06.07, as summarized in **4.38.3**.
- D. The Performance Bond shall be maintained throughout the term of the Contract, and renewal option period(s), if exercised. Evidence of renewal of the Performance Bond ~~and payment of the required premium~~ shall be provided to the State.
- E. The Performance Bond may be renewable annually. The Contractor shall provide to the State, 30 days before the annual expiration of the bond, confirmation from the surety that the bond will be renewed for the following year. Failure to timely provide this notice shall constitute an event of default under the Contract. Such a default may be remedied if the Contractor obtains a replacement bond that conforms to the requirements of the Contract and provides that replacement bond to the State prior to the expiration of the existing Performance Bond.
- F. The cost of this bond, or other suitable security, is to be included in the total prices proposed and is not to be proposed and will not be recoverable as a separate cost item.
- G. After the first year of the Contract, the Contractor may request a reduction in the amount of the Performance Bond. The amount and the duration of the reduction, if any, will be at the Agency's sole discretion. If any reduction is granted, the Agency's shall have the right to increase the amount of the Performance Bond to any amount, up to the original amount, at any time and at the Agency's sole discretion.

#### **4.38.3 Acceptable Security**

Acceptable security shall be as described below, identified within and excerpted from COMAR 21.06.07:

- A. Acceptable security for Proposal, performance, and payment bonds is limited to:
  - 1. A bond in a form satisfactory to the State underwritten by a surety company authorized to do business in this State;
  - 2. A bank certified check, bank cashier's check, bank treasurer's check, cash, or trust account;
  - 3. Pledge of securities backed by the full faith and credit of the United States government or bonds issued by the State;
  - 4. An irrevocable letter of credit in a form satisfactory to the Attorney General and issued by a financial institution approved by the State Treasurer.

#### **4.38.4 Surety Bond Assistance Program**

Assistance in obtaining bid, performance and payment bonds may be available to qualifying small businesses through the Maryland Small Business Development Financing Authority (MSBDFA). MSBDFA can directly issue bid, performance or payment bonds up to \$750,000. MSBDFA may also guarantee up to 90% of a surety's losses as a result of a Contractor's breach of Contract; MSBDFA exposure on any bond guaranteed may not, however, exceed \$900,000. Bonds issued directly by the program will remain in effect for the duration of the Contract, and those surety bonds that are guaranteed by the program will remain in effect for the duration of the surety's exposure under the Contract. To be eligible for bonding assistance, a business must first be denied bonding by at least one surety on both the standard and specialty markets within 90 days of submitting a

bonding application to MSBDFA. The applicant must employ fewer than 500 full-time employees or have gross sales of less than \$50 million annually, have its principal place of business in Maryland or be a Maryland resident, must not subcontract more than 75 percent of the work, and the business or its principals must have a reputation of good moral character and financial responsibility. Finally, it must be demonstrated that the bonding or guarantee will have a measurable economic impact, through job creation and expansion of the state's tax base. Applicants are required to work through their respective bonding agents in applying for assistance under the program. Questions regarding the bonding assistance program should be referred to:

Maryland Department of Commerce  
Maryland Small Business Development Financing Authority  
MMG Ventures  
826 E. Baltimore Street  
Baltimore, Maryland 21202  
Phone: (410) 333-4270  
Fax: (410) 333-2552

#### **4.39 Maryland Healthy Working Families Act Requirements**

On February 11, 2018, the Maryland Healthy Working Families Act went into effect. All offerors should be aware of how this Act could affect your potential contract award with the State of Maryland. See the Department of Labor, Licensing and Regulations web site for Maryland Healthy Working Families Act Information: <http://dllr.maryland.gov/paidleave/>.

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## 5 Proposal Format

### 5.1 Two Part Submission

Offerors shall submit Proposals in separate volumes (or envelopes):

- A. Volume I –Technical Proposal
- B. Volume II – Financial Proposal

### 5.2 Proposal Delivery and Packaging

#### 5.2.1 No Electronic Submission

Proposals delivered by facsimile and e-mail shall not be considered.

#### 5.2.2 No Pricing Information in Technical Proposal

Provide no pricing information in the Technical Proposal. Provide no pricing information on the media submitted in the Technical Proposal.

#### 5.2.3 How to Submit

Offerors may submit Proposals by hand or by mail as described below to the address provided in the Key Information Summary Sheet.

- A. Any Proposal received at the appropriate mailroom, or typical place of mail receipt, for the respective procuring unit by the time and date listed in the RFP will be deemed to be timely. The State recommends a delivery method for which both the date and time of receipt can be verified.
- B. For hand-delivery, Offerors are advised to secure a dated, signed, and time-stamped (or otherwise indicated) receipt of delivery. Hand-delivery includes delivery by commercial carrier acting as agent for the Offeror.

#### 5.2.4 Due Date

The Procurement Officer must receive all Proposal material by the RFP due date and time specified in the Key Information Summary Sheet. Requests for extension of this date or time will not be granted. Except as provided in COMAR 21.05.03.02F, Proposals received by the Procurement Officer after the due date will not be considered.

#### 5.2.5 Packaging

Offerors shall provide their Proposals in two separately sealed and labeled packages as follows:

- A. Volume I - Technical Proposal consisting of:
  - 1. One (1) original executed Technical Proposal and all supporting material marked and sealed;
  - 2. ~~Eight (8)~~Nine (9) duplicate copies of the above separately marked and sealed;
  - 3. One (1) electronic version of the Technical Proposal in Microsoft Word format, version 2016 or greater;
  - 4. the Technical Proposal in searchable Adobe PDF format; and
  - 5. a second searchable Adobe PDF copy of the Technical Proposal with confidential and proprietary information redacted (see **Section 4.8**).

**B. Volume II - Financial Proposal consisting of:**

1. One (1) original executed Financial Proposal and all supporting material marked and sealed,
2. Eight (8) duplicate copies of the above separately marked and sealed,
3. An electronic version of the Financial Proposal in Excel and a searchable Adobe PDF format, and
4. A second searchable Adobe pdf copy of the Financial Proposal, with confidential and proprietary information redacted (see **Section 4.8**).

**5.2.6 Labeling and Packaging of Sealed Proposal**

Affix the following to the outside of each sealed Proposal. Include 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. Unless the resulting package will be too unwieldy, the State's preference is for the separately sealed Technical and Financial Proposals to be submitted together in a single package to the Procurement Officer and including a label bearing:

- A. RFP title and number,
- B. Name and address of the Offeror, and
- C. Closing date and time for receipt of Proposals

**5.2.7 Labeling and Packaging of Electronic Media**

Label each electronic media (CD, DVD, or flash drive) on the outside with the RFP title and number, name of the Offeror, and volume number. Electronic media must be packaged with the original copy of the appropriate Proposal (Technical or Financial).

**5.3 Volume I - Technical Proposal**

NOTE: Omit all **pricing information** from the Technical Proposal (Volume I). Include pricing information only in the Financial Proposal (Volume II).

**5.3.1 General Organization and Numbering.**

In addition to the instructions below, responses in the Offeror's Technical Proposal shall reference the organization and numbering of Sections in the RFP (e.g., "Section 2.2.1 Response . . ."; "Section 2.2.2 Response . . ."). All pages of both Proposal volumes shall be consecutively numbered from beginning (Page 1) to end (Page "x").

**5.3.2 Additional Technical Responses Required**

**5.3.2.1 Retailer Equipment, Supplies and Hardware**

- A. With regards to accessibility to the Retailer, the Offeror shall describe what additional equipment is available to be provided by the Contractor.
- B. Describe the process and options for Retailers to order consumables, including via phone and through the terminal.
- C. Describe delivery plans and options for delivery of consumables.

**5.3.2.2 Instant Ticket Warehousing**

- A. The Offeror shall describe its processes for Retailers to order new inventory (TelSell, terminal orders and call-ins) and describe how it will be fulfilled.

- B. The Offeror shall describe how it would differentiate orders in MLGCA's warehouse if there are multiple carriers being used at the same time.
- C. The Offeror shall describe how it will integrate Lottery automation tools, TelSell and other systems to its proposed inventory control and distribution system and the LCMCS with a preference towards real-time integration.

#### **5.3.2.3 Third Party System and Support – Analytic (SAS) Tool**

If a reasonable alternative is proposed by the Offeror other than the SAS tool, the Offeror shall detail how it compares with the SAS tool for identifying unusual claims

#### **5.3.2.4 Marketing and Promotions**

##### **A. Promotion and Coupons.**

- 1. What are the number of concurrent promotions your system supports?
- 2. What are the number of concurrent promotional types and any limitations?
- 3. What are your system limitations re: coupons? Do you support single use coupons?
- 4. How long does it take to launch a promotion in your system?
- 5. Do you support the option of paying or not paying retailer commissions on promotional tickets?
- 6. What licensed properties (if any) are available at no charge for draw game promotions? What is available at an additional cost?
- 7. How is promotional priority assigned? Do certain promotion engines automatically have priority?

##### **B. Game Comparison Information - Maryland's Fast Play.**

- 1. What is the maximum number of active Fast Play games that your system can support?
- 2. What is your cadence or process to launch new Fast Play games? For reference, Maryland launches several new games about every 2 months.
- 3. How long does it take to design and deliver new Fast Play games?
- 4. Describe the process to close Fast Play games, for both fixed and progressive top prizes.
- 5. What is your average per cap sales and those of your best performing customer, excluding any iLottery Fast Play sales?
- 6. What, if any, licensed properties do you have available? Specify those available at no additional cost.

##### **C. Game Comparison Information - Maryland's Keno Games.**

- 1. What is the frequency and ease of change to your winning number selection animation and winning number recap/display screens?
- 2. With regards to the Keno Show architecture, how many animation skins can be used in rotation at one time?

3. Screen layout options – If the Lottery wanted to add a static or permanent Play Responsibly logo to the screen, would it be possible?
  4. Does the Lottery have creative control over the presentation of winning number recap screens or are the positions of the numbers fixed?
  5. Does the Lottery have creative control over the animated drawing mechanism, or are the number selector and number selections in hard coded places on the screen? Provide sample screen shots.
  6. What is your experience with Bonus and Super Bonus features?
  7. Do you support Keno Kicker promotions, which involve selection of a 21<sup>st</sup> winning number during random drawings?
  8. What is your average per cap sales, and those of your best performing customer?
- D. Game Comparison Information - Maryland's Racetrax Offerings (Or a comparable alternative.).
1. Describe your horse racing lottery game race animation, winner selection and identification and informational display screens.
  2. What is your horse racing offering graphics quality? Provide a sample video.
  3. Would the Lottery be able to localize, or modify race track graphics for Maryland based on other tracks?
  4. Currently, information for the last 20 races, statistics about horses and recent races are displayed, can your system provide this?
  5. What is your randomization of race names, horse names, colors, and other attributes?
  6. What is your experience with Bonus type features with your horse racing game?
  7. Explain the design of your race game(s), including:
    - a) Are winning horses / numbers fully random or weighted?
    - b) How are prizes determined?
  8. What is your average per cap sales, and those of your best performing customer?
- E. General Sales Information.
1. Provide your average sales per terminal and per Retailer for all of your states combined and anonymous data for your best state.
  2. Provide self-service sales per terminal and per retailer for all of your states combined and for your best state. Segregate full service from draw game only terminals.
- F. Ticket Specifications and Limitations.
1. What are the character limits for each area of the ticket including: promo messages, marketing messages, trigger/award messages, Fast Play instructions, Fast Play callouts, and MLR area?
  2. What are your art specifications for terminal game tickets including graphic quality, pixel density limitation/recommendation for thermal printers? Can multiple bitmaps or other graphics be printed on a terminal issued ticket?

3. What are your ticket length limitations?

**5.3.2.5 Field Service**

- A. Explain your company philosophy on self-service installations? Do you do a one-stop delivery and installation or drop off equipment and come back to connect it?
- B. Describe your plans to replace all vendor provided Keno & Racetrax monitors in the field, and how long it will take?
- C. How will you minimize revenue losses due to Keno and Racetrax monitors being out of service?
- D. Describe your plans to replace all self-service terminals and how long it will take?
- E. Recognizing that Maryland self-service terminals generate over \$20 million each week, how will you minimize losses due to self-service terminals being out of service?

**5.3.3 Order within the Technical Proposal**

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:

A. 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.

B. Claim of Confidentiality (If applicable, submit under TAB A-1)

Any information which is claimed to be 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. An explanation for each claim of confidentiality shall be included (see **Section 4.8 “Public Information Act Notice”**). The entire Proposal cannot be given a blanket confidentiality designation - any confidentiality designation must apply to specific sections, pages, or portions of pages of the Proposal and an explanation for each claim shall be included.

C. Offeror Information Sheet and Transmittal Letter (Submit under TAB B)

The Offeror Information Sheet (see **Appendix 2**) and a Transmittal Letter shall accompany the Technical Proposal. The purpose of the Transmittal Letter is to transmit the Proposal and acknowledge the receipt of any addenda to this RFP issued before the Proposal due date and time. Transmittal Letter should be brief, be signed by an individual who is authorized to commit the Offeror to its Proposal and the requirements as stated in this RFP.

D. Executive Summary (Submit under TAB C)

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”**).



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 exhibits or attachments. Acceptance or rejection of exceptions is within the sole discretion of the State. **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.**

E. 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**. If references are required in **RFP Section 1**, those references shall be submitted in this section and shall contain the information described in both **Section 1** and **Section 5.3.2.15.3.3.1**.

F. Offeror Technical Response to RFP Requirements and Proposed Work Plan (Submit under TAB E)

1. The Offeror shall address each RFP requirement (RFP **Section 2** and **Section 3**) in its Technical Proposal with a cross reference to the requirement and describe how its proposed goods and services, including the goods and 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 an RFP requirement shall include an explanation of how the work will be performed. The response shall address each requirement in **Section 2** and **Section 3** in order, and shall contain a cross reference to the requirement.
2. 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.
3. 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 goods and services as outlined in RFP **Section 2**, Contractor Requirements: 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.
4. Implementation Schedule - Offeror shall provide the proposed implementation schedule with its Proposal.
5. The Offeror shall identify the location(s) from which it proposes to provide services, including, if applicable, any current facilities that it operates, and any required construction to satisfy the State's requirements as outlined in this RFP.
6. The Offeror shall provide a draft Problem Escalation Procedure (PEP) that includes, at a minimum, titles of individuals to be contacted by the 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 **Section 3.8**.
7. The Offeror shall provide a Voluntary Product Accessibility Template (VPAT) or an Accessibility Conformance Report (ACR) for any pre-existing digital technology, software, or source code proposed to be provided under the Contract containing a comprehensive analysis of the Offeror's conformance to accessibility standards in Code of

Maryland Regulations 14.33.02 (See RFP §4.33). The completed VPAT must adhere to the current published standards (currently - version 2.5 REV WCAG or 2.5 REV 508 or their latest rendition). Failure to supply a VPAT or ACR for an pre-existing coded solution may result in the Offeror's Proposal being deemed not reasonably susceptible for award.

8. The Offeror shall provide a Backup solution/ strategy recommendation as part of its Proposal.
9. The Offeror shall include a deliverable description and schedule describing the proposed Deliverables as mapped to the State SDLC and the Deliverables table in **Section 2.4.4**. The schedule shall also detail proposed submission due date/frequency of each recommended Deliverable.
10. The Offeror shall include an SLA as identified in **Section 2.6**, including service level metrics offered and a description how the metrics are measured, any SLA credits should the service level metrics not be met, and how the State can verify the service level. The Offeror shall describe how service level performance is reported to the State.

**11. Product Requirements**

- a) Details for each offering: The Offeror shall provide the following information for each offering:
  - i) Offering Name;
  - ii) Offeror relationship with manufacturer (e.g., manufacturer, reseller, partner);
  - iii) Manufacturer;
  - iv) Short description of capability;
  - v) Version (and whether version updates are limited in any way);
  - vi) License type (e.g., user, CPU, node, transaction volume);
  - vii) Subscription term (e.g., annual);
  - viii) License restrictions, if any;
  - ix) Operational support offered (e.g., customer support, help desk, user manuals online or hardcopy), including description of multiple support levels (if offered), service level measures and reporting;
  - x) Continuity of operations and disaster recovery plans for providing service at 24/7/365 level;
  - xi) Ability of the offering to read and export data in existing State enterprise data stores. Offerors in their Proposals shall describe the interoperability of data that can be imported or exported from the Solution, including generating industry standard formats;
  - xii) Any processing or storage of data outside of the continental U.S;
  - xiii) Any limitations or constraints in the offering, including any terms or conditions (e.g., terms of service, ELA, AUP, professional services agreement, master agreement).
  - xiv) Compatibility with the State's existing single sign-on system, SecureAuth or other single sign-on approaches;
  - xv) APIs offered, and what type of content can be accessed and consumed;

- xvi) Update / upgrade roadmap and procedures, to include: planned changes in the next 12 months, frequency of system update (updates to software applied) and process for updates/upgrades;
- xvii) Frequency of updates to data services, including but not limited to, datasets provided as real-time feeds, and datasets updated on a regular basis (e.g., monthly, quarterly, annually, one-time);
- xviii) What type of third-party assessment (such as a SOC 2 Type II audit) is performed, the nature of the assessment (e.g., the trust services criteria and scope of assessment), and whether the results of the assessment pertinent to the State will be shared with the State. See also **Section 3.9**;
- xix) Offeror shall describe its security model and procedures supporting handling of State data. If more than one level of service is offered, the Offeror shall describe such services. Include, at a minimum:
  - (1) procedures for and requirements for hiring staff (such as background checks),
  - (2) any non-disclosure agreement Contractor Personnel sign,
  - (3) whether the service is furnished out of the continental U.S. (see security requirements in **Section 3.7**),
  - (4) Certifications such as FedRAMP,
  - (5) Third party security auditing, including FISMA,
  - (6) Published Security Incident reporting policy, and
  - (7) Cybersecurity insurance, if any, maintained.

12. New and Unused Hardware. Affirm that all proposed transaction processing computers, networking equipment, Retailer Terminals and peripherals, diagnostic equipment, etc. are new and unused; that all Hardware proposed is compliant with current electronic technology manufacturing standards and of current manufacture by the Offeror or its suppliers; and that all hardware models installed shall represent the then-current equivalent or better equipment in case a proposed device is phased out or replaced. Describe any additional or alternative functionality which the LCMCS can offer in meeting the objectives of this RFP.

G. Experience and Qualifications of Proposed Staff (Submit under TAB F)

As part of the evaluation of the Proposal for this RFP, Offerors shall propose not less than six (6) key resources and shall describe in a Staffing Plan how additional resources shall be acquired to meet the needs of the Agency. All other planned positions shall be described generally in the Staffing Plan, and may not be used as evidence of fulfilling company or personnel minimum qualifications.

The Offeror shall identify the qualifications and types of staff proposed to be utilized under the Contract including information in support of the Personnel Experience criteria in **Section 3.10.2**. Specifically, the Offeror shall:

1. 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.

2. Include individual resumes for 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.
3. Include letters of intended commitment to work on the project, including letters from any proposed subcontractor(s). Offerors should be aware of restrictions on substitution of Key Personnel prior to RFP award (see Substitution Prior to and Within 30 Days After Contract Execution in Section 3.11.5).
4. 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. If proposing differing personnel work hours than identified in the RFP, describe how and why it proposes differing personnel work hours.

**H. Offeror Qualifications and Capabilities (Submit under TAB G)**

The Offeror shall include information on past experience with similar projects and services including information in support of the Offeror Experience criteria in **Section 3.10.1**. 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 goods and 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 the 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.

**I. 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 goods and 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 goods and 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 goods and services provided.

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

**J. 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 goods and 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 goods and services provided;
3. The dollar value of the contract;
4. The term of the contract;
5. Payments made to minority and women-owned business subcontractors as a percentage of fees paid under the Contract;
6. Any minority and women-owned business spending goals as a percentage of fees paid under the contract;
7. The State employee contact person (name, title, telephone number, and, if possible, e-mail address); and
8. 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.

**K. Financial Capability** (Submit under TAB J)

The Offeror, and all independent entities that comprise ownership of the Offeror, must include in its Proposal a commonly-accepted method to prove its fiscal integrity. This shall include the source of funding required for the capital investment to acquire and/or manufacture all equipment as well as operational costs prior to the new system Go Live date. The Offeror shall include Financial Statements, including a Profit and Loss (P&L) statement and a Balance Sheet, for the last two (2) years (independently audited preferred). If there are no Financial Statements available for the Offeror, statements must be provided for all financially responsible entities participating in the Proposal.

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.

**L. 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 3.6**. See **Section 3.6** for the required insurance certificate submission for the apparent awardee.

**M. 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 VSBE subcontracting goal(s), 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. 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) of this RFP.

N. 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, complaint number, and a brief description of the final ruling or determination; and
4. In instances where litigation is ongoing and the Offeror has been directed not to disclose information by the court, provide the name of the judge and location of the court.

O. Economic Benefit Factors (Submit under TAB N)

Does not apply.

P. Technical Proposal - Required Forms and Certifications (Submit under TAB O)

1. All forms required for the Technical Proposal are identified in Table 1 of **Section 7** – RFP Attachments and Appendices. Unless directed otherwise by instructions within an individual form, complete, sign, and include all required forms in the Technical Proposal, under TAB O.
2. Offerors shall furnish any and all agreements and terms and conditions the Offeror expects the State to sign or to be subject to in connection with or in order to use the Offeror's services under this Contract. This includes physical copies of all agreements referenced and incorporated in primary documents, including but not limited to any software licensing agreement for any software proposed to be licensed to the State under this Contract (e.g., EULA, Enterprise License Agreements, Professional Service agreement, Master Agreement) and any AUP. The State does not agree to terms and conditions not provided in an Offeror's Technical Proposal and no action of the State, including but not limited to the use of any such software, shall be deemed to constitute acceptance of any such terms and conditions. Failure to comply with this section renders any such agreement unenforceable against the State.
3. For each service, hardware or software proposed as furnished by a third-party entity, Offeror must identify the third-party provider and provide a letter of authorization or such other documentation demonstrating the authorization for such services. In the case of an open source license, authorization for the open source shall demonstrate compliance with the open source license.
4. A Letter of Authorization shall be on letterhead or through the provider's e-mail. Further, each Letter of Authorization shall be less than twelve (12) months old and must provide the following information:
  - a) Third-party POC name and alternate for verification

- b) Third-party POC mailing address
- c) Third-party POC telephone number
- d) Third-party POC email address
- e) If available, a Re-Seller Identifier

#### **5.4 Volume II – 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 Agency.

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## 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 review Proposals, participate in Offeror oral presentations and discussions, and provide input to the Procurement Officer. The Agency 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

The most important criteria to be used to evaluate each Technical Proposal are listed below with Level 1 Criteria having greater importance than Level 2 Criteria. Unless stated otherwise, any sub-criteria within each criterion have equal weight.

#### 6.2.1 Offeror's Technical Response to Requirements and Work Plan (See RFP § 5.3.23.F)

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 address and demonstrate an understanding of the work requirements and include plans to meet or exceed them.

The extent to which the Offeror's proposed services, solutions, and capabilities will provide innovative concepts and solutions that will drive increase in sales and revenues is a critical evaluation criterion.

#### A. Level 1 Criteria – Revenue Generating Programs and Systems that Support Them

1. Terminals (2.3.2.1)
2. Monitor Games General (2.3.3.1)
3. Draw Games (2.3.3.1)
4. Fast Play Games (2.3.3.1.D / ~~2.3.16.4.22~~ 2.3.12.2 / 2.3.13.10 / 5.3.2.4)
5. Keno (2.3.16.4.3)
6. Racetrax (2.3.16.4.4.C) (Or a comparable alternative.)
7. Instant Ticket Program – Tel-Sell, intuitive ordering capability, warehouse shipping system, sorter (2.3.4.2 / 2.3.4.3 / 2.3.6)
8. Communications Network (2.3.11)
9. Conversion Plan and Support (2.3.12)
10. Promotional Capabilities (2.3.16.34.1)
11. My Lottery Rewards Program (2.3.7)

#### B. Level 2 Criteria – Tasks Ancillary to Revenue Generating Programs

1. Staffing – Conversion and Ongoing (2.3.15)

2. Consumables Ordering and Delivery (~~2.3.2.5~~2.3.17.3.B)
3. Retailer Licensing System (2.3.13.2)
4. Business Intelligence Suite and Support (2.3.13.9)
5. Field Service Plan (2.3.17.~~4~~)
6. Sales Force Automation Tool (2.3.10)
7. XCAP Program (2.3.13.3)
8. System Features: Computer system design, storage capacity, memory, robustness (1.1.2)
9. Data Centers – reliability and security (2.3.5.2 / 2.3.5.3)
10. Optional Offerings (2.5)
11. Real Time Data Feed to Sales Tools (2.3.4.2.D)
12. System Security (~~2.7.7~~3.7.7)

C. Level 3 Criteria

1. Monitors (2.3.2.3)
2. Other Retailer Equip and Supplies (2.3.2.4)
3. Develop and Support Future Lottery Games (2.3.3.2)
4. Ticket Scanning Messaging (2.3.5.4)
5. Additional Game Requirements (2.3.5.5)
6. Website and Apps Support (2.3.8)
7. Third Party System and Support (includes ICS and SAS tool) (2.3.9)
8. Claims/Checkwriter (2.3.13.4)
9. Claims and Retailer Tax Reporting (2.3.13.5)
10. Back Office – Finance Requirements (2.3.13.6)
11. Subscription Program (2.3.13.7)
12. Sales Threshold Monitoring (2.3.13.10)
13. Reports (2.3.18)
14. Contractor-Supplied Hardware, Software, and Materials (2.3.19)
15. Required Project Policies, Guidelines and Methodologies (2.3.20)
16. Product Requirements (2.3.21)
17. Maintenance and Support (2.3.22)
18. Deliverables (2.4)

- 6.2.2** Offeror Qualifications and Capabilities, Client References, Financial Capability and Legal Action Summary, including from proposed subcontractors (See RFP § ~~5.3.23.H~~, 5.3.3.I, 5.3.3.K and 5.3.3.M)

**6.2.3 Experience and Qualifications of Proposed Staff and Subcontractors (See RFP § 5.3.2.G 5.3.3.G)**

## **6.3 Financial Proposal Evaluation Criteria**

All Qualified Offerors (see **Section 6.5.2.D**) 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**

### **6.4.1 General**

Although Maryland law does not authorize procuring agencies 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:

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

### **6.4.2 Identical to Other State**

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**

- A. 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.
- B. With or without discussions, the State may determine the 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.

### **6.5.2 Selection Process Sequence**

- A. A determination is made that the MDOT Certified MBE Utilization and Fair Solicitation Affidavit (**Attachment D-1A**) is included and is 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.
- B. 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 the Offeror's ability to perform the services, as well as to 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.

- C. 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.
- D. The Financial Proposal of each Qualified Offeror (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.
- E. 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. **Offerors may only perform limited substitutions of proposed personnel as allowed in Section 3.11 (Substitution of Personnel).**

#### **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.

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

Upon receipt of a Notification of Recommendation for Contract award, the apparent awardee shall complete and furnish the documents and attestations as directed in Table 1 of **Section 7 – RFP Attachments and Appendices**.

## 7 RFP ATTACHMENTS AND APPENDICES

### Instructions Page

A Proposal submitted by the Offeror must be accompanied by the completed forms and/or affidavits identified as “with Proposal” in the “When to Submit” column in Table 1 below. All forms and affidavits applicable to this RFP, including any applicable instructions and/or terms, are identified in the “Applies” and “Label” columns in Table 1.

For documents required as part of the Proposal submit one (1) copy of each with signatures.

All Offerors are advised that if a Contract is awarded as a result of this solicitation, the successful Offeror will be required to complete certain forms and affidavits after notification of recommended award. The list of forms and affidavits that must be provided is described in Table 1 below in the “When to Submit” column.

For documents required after award, submit three (3) copies of each document within the appropriate number of days after notification of recommended award, as listed in Table 1 below in the “When to Submit” column.

**Table 1: RFP ATTACHMENTS AND APPENDICES**

Applies?	When to Submit	Label	Attachment Name
Y	Before Proposal	A	Pre-Proposal Conference Response Form
Y	With Proposal	B	Financial Proposal Instructions and Form
Y	With Proposal	C	Bid/Proposal Affidavit (see link at <a href="http://procurement.maryland.gov/wp-content/uploads/sites/12/2018/04/AttachmentC-Bid_Proposal-Affidavit.pdf">http://procurement.maryland.gov/wp-content/uploads/sites/12/2018/04/AttachmentC-Bid_Proposal-Affidavit.pdf</a> )
Y	With Proposal	D	MBE Forms D-1A (see link at <a href="http://procurement.maryland.gov/wp-content/uploads/sites/12/2018/05/AttachmentDMBE-Forms-1.pdf">http://procurement.maryland.gov/wp-content/uploads/sites/12/2018/05/AttachmentDMBE-Forms-1.pdf</a> ) <b>IMPORTANT:</b> If this RFP contains different Functional Areas or Service Categories. A separate Attachment D-1A is to be submitted for each Functional Area or Service Category where there is an MBE goal.
Y	10 Business Days after recommended award	D	MBE Forms D-1B, D-1C, D-2, D-3A, D-3B (see link at <a href="http://procurement.maryland.gov/wp-content/uploads/sites/12/2018/05/AttachmentDMBE-Forms-1.pdf">http://procurement.maryland.gov/wp-content/uploads/sites/12/2018/05/AttachmentDMBE-Forms-1.pdf</a> ) <b>Important:</b> Attachment D-1C, if a waiver has been requested, is also required within 10 days of recommended award.

Applies?	When to Submit	Label	Attachment Name
Y	As directed in forms	D	MBE Forms D-4A, D-4B, D-5 (see link at <a href="http://procurement.maryland.gov/wp-content/uploads/sites/12/2018/05/AttachmentDMBE-Forms-1.pdf">http://procurement.maryland.gov/wp-content/uploads/sites/12/2018/05/AttachmentDMBE-Forms-1.pdf</a> )
Y	With Proposal	E	Veteran-Owned Small Business Enterprise (VSBE) Form E-1A (see link at <a href="http://procurement.maryland.gov/wp-content/uploads/sites/12/2018/04/AttachmentE-VSBEForms.pdf">http://procurement.maryland.gov/wp-content/uploads/sites/12/2018/04/AttachmentE-VSBEForms.pdf</a> ) <b>IMPORTANT:</b> If this RFP contains different Functional Areas or Service Categories. A separate Attachment E-1A is to be submitted for each Functional Area or Service Category where there is a VSBE goal.
Y	5 Business Days after recommended award	E	VSBE Forms E-1B, E-2, E-3 (see link at <a href="http://procurement.maryland.gov/wp-content/uploads/sites/12/2018/04/AttachmentE-VSBEForms.pdf">http://procurement.maryland.gov/wp-content/uploads/sites/12/2018/04/AttachmentE-VSBEForms.pdf</a> ) <b>Important:</b> Attachment E-1B, if a waiver has been requested, is also required within 10 days of recommended award.
Y	With Proposal	F	Maryland Living Wage Requirements for Service Contracts and Affidavit of Agreement (see link at <a href="http://procurement.maryland.gov/wp-content/uploads/sites/12/2018/04/AttachmentF-LivingWageAffidavit.pdf">http://procurement.maryland.gov/wp-content/uploads/sites/12/2018/04/AttachmentF-LivingWageAffidavit.pdf</a> )
N	With Proposal	G	Federal Funds Attachments (see link at <a href="http://procurement.maryland.gov/wp-content/uploads/sites/12/2018/04/AttachmentG-FederalFundsAttachment.pdf">http://procurement.maryland.gov/wp-content/uploads/sites/12/2018/04/AttachmentG-FederalFundsAttachment.pdf</a> )
Y	With Proposal	H	Conflict of Interest Affidavit and Disclosure (see link at <a href="http://procurement.maryland.gov/wp-content/uploads/sites/12/2018/05/AttachmentH-Conflict-of-InterestAffidavit.pdf">http://procurement.maryland.gov/wp-content/uploads/sites/12/2018/05/AttachmentH-Conflict-of-InterestAffidavit.pdf</a> )
Y	5 Business Days after recommended award – However, suggested with Proposal	I	Non-Disclosure Agreement (Contractor) (see link at <a href="http://procurement.maryland.gov/wp-content/uploads/sites/12/2018/04/Attachment-I-Non-DisclosureAgreementContractor.pdf">http://procurement.maryland.gov/wp-content/uploads/sites/12/2018/04/Attachment-I-Non-DisclosureAgreementContractor.pdf</a> )
N	5 Business Days after recommended award – However, suggested with Proposal	J	HIPAA Business Associate Agreement (see link at <a href="http://procurement.maryland.gov/wp-content/uploads/sites/12/2018/04/Attachment-J-HIPAABusinessAssociateAgreement.pdf">http://procurement.maryland.gov/wp-content/uploads/sites/12/2018/04/Attachment-J-HIPAABusinessAssociateAgreement.pdf</a> )

<b>Applies?</b>	<b>When to Submit</b>	<b>Label</b>	<b>Attachment Name</b>
N	With Proposal	K	Mercury Affidavit (see link at <a href="http://procurement.maryland.gov/wp-content/uploads/sites/12/2018/04/Attachment-K-MercuryAffidavit.pdf">http://procurement.maryland.gov/wp-content/uploads/sites/12/2018/04/Attachment-K-MercuryAffidavit.pdf</a> )
Y	With Proposal	L	Location of the Performance of Services Disclosure (see link at <a href="http://procurement.maryland.gov/wp-content/uploads/sites/12/2018/04/Attachment-L-PerformanceofServicesDisclosure.pdf">http://procurement.maryland.gov/wp-content/uploads/sites/12/2018/04/Attachment-L-PerformanceofServicesDisclosure.pdf</a> )
Y	5 Business Days after recommended award	M	Sample Contract (included in this RFP)
Y	5 Business Days after recommended award	N	Contract Affidavit (see link at <a href="https://procurement.maryland.gov/wp-content/uploads/sites/12/2020/03/Attachment-N-Affidavit.pdf">https://procurement.maryland.gov/wp-content/uploads/sites/12/2020/03/Attachment-N-Affidavit.pdf</a> )
N	5 Business Days after recommended award	O	DHS Hiring Agreement (see link at <a href="http://procurement.maryland.gov/wp-content/uploads/sites/12/2018/04/Attachment-O-DHSHiringAgreement.pdf">http://procurement.maryland.gov/wp-content/uploads/sites/12/2018/04/Attachment-O-DHSHiringAgreement.pdf</a> )
<b>Appendices</b>			
<b>Applies?</b>	<b>When to Submit</b>	<b>Label</b>	<b>Attachment Name</b>
Y	N/A	Appx 1	Abbreviations and Definitions (included in this RFP)
Y	With Proposal	Appx 2	Offeror Information Sheet (see link at <a href="http://procurement.maryland.gov/wp-content/uploads/sites/12/2018/04/Appendix2-Bidder_OfferorInformationSheet.pdf">http://procurement.maryland.gov/wp-content/uploads/sites/12/2018/04/Appendix2-Bidder_OfferorInformationSheet.pdf</a> )
Y	5 Business Days after recommended award	Appx 3	Performance Bond (see link at <a href="http://procurement.maryland.gov/wp-content/uploads/sites/12/2018/05/Appendix-z-Performance-Bond.dotx">http://procurement.maryland.gov/wp-content/uploads/sites/12/2018/05/Appendix-z-Performance-Bond.dotx</a> )
Y	With Proposal	Appx 4	Proposal Bond (see link at <a href="http://procurement.maryland.gov/wp-content/uploads/sites/12/2018/05/Appendix-y-Bid_Proposal-Bond.dotx">http://procurement.maryland.gov/wp-content/uploads/sites/12/2018/05/Appendix-y-Bid_Proposal-Bond.dotx</a> )
Y	N/A	Appx 5	Current Monitors Deployed



<b>Applies?</b>	<b>When to Submit</b>	<b>Label</b>	<b>Attachment Name</b>
Y	N/A	Appx 6	Data Feeds
Y	N/A	Appx 7	Reports
Y	N/A	Appx 8	Liquidated Damages / SLAs
<b>Additional Submissions</b>			
<b>Applies?</b>	<b>When to Submit</b>	<b>Label</b>	<b>Document Name</b>
Y	5 Business Days after recommended award		Evidence of meeting insurance requirements (see <b>Section 3.6</b> ); 1 copy
Y	10 Business Days after recommended award		Problem Escalation Plan; 1 copy
Y	10 Business Days after recommended award		Fully executed Escrow Agreement; 1 copy

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**Attachment A. Pre-Proposal Conference Response Form**

**Solicitation Number 2024-01**

Lottery Central Monitoring and Control System and Related Services

A Pre-Proposal conference will be held on August 9, 2024, at MLGCA Headquarters.

Please return this form by August 2, 2024 advising whether or not your firm plans to attend. The completed form should be returned via e-mail to the Procurement Officer at the contact information below:

John Lloyd  
MLGCA  
E-mail: [john.lloyd@maryland.gov](mailto:john.lloyd@maryland.gov)

Please indicate:

\_\_\_\_\_ Yes, the following representatives will be in attendance.

Attendees (Check the RFP for limits to the number of attendees allowed):

- 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”):

Offeror:

\_\_\_\_\_  
*Offeror Name (please print or type)*

By:

\_\_\_\_\_  
*Signature/Seal*

Printed Name:

\_\_\_\_\_  
*Printed Name*

Title:

\_\_\_\_\_  
*Title*

Date:

\_\_\_\_\_  
*Date*

**Directions to the Pre-Proposal Conference**

The conference will be conducted in the Studio Conference Room within the MLGCA’s headquarters, located at 1800 Washington Blvd., Baltimore, MD 21230. The Agency offices are on the third floor.

Visitors should park in the Red Lot. When entering, use the left entrance lane and use the speaker to announce that you are attending the Lottery conference.

**Attachment B. Financial Proposal Instructions & Form**

**B-1 Financial Proposal Instructions**

In order to assist Offerors in the preparation of their Financial Proposal and to comply with the requirements of this solicitation, 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 Financial Proposal Form is used to calculate the Offeror's TOTAL Proposal PRICE. 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.
- B) 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.
- C) All calculations shall be rounded to the nearest cent, e.g., .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.
- F) 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.F, and may cause the Proposal to be rejected.
- H) If option years are included, Offerors must submit pricing for each option year. 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.
- I) 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 solicitation. 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 Agency does not guarantee a minimum or maximum number of units or usage in the performance of the 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 Financial Proposal Form**

The Financial Proposal Form shall contain all price information in the format specified on these pages. Complete the Financial Proposal Form only as provided in the Financial Proposal Instructions. Do not amend, alter or leave blank any items on the Financial Proposal Form. If option years are included, Offerors must submit pricing for each option year. Failure to adhere to any of these instructions may result in the Proposal being determined not reasonably susceptible of being selected for award.

See separate Excel Financial Proposal Form labeled, “***Financial Proposal V2***”.xls.

<b>Attachment C.      Proposal Affidavit</b>
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See link at [http://procurement.maryland.gov/wp-content/uploads/sites/12/2018/04/AttachmentC-Bid\\_Proposal-Affidavit.pdf](http://procurement.maryland.gov/wp-content/uploads/sites/12/2018/04/AttachmentC-Bid_Proposal-Affidavit.pdf).

**Attachment D. Minority Business Enterprise (MBE) Forms**

See link at <http://procurement.maryland.gov/wp-content/uploads/sites/12/2018/05/AttachmentDMBE-Forms-1.pdf>.

This solicitation includes a Minority Business Enterprise (MBE) participation goal of 28 percent and all of the following subgoals:

- 10 percent for African American-owned MBE firms;
- \_\_\_\_\_ percent for Hispanic American-owned MBE firms;
- \_\_\_\_\_ percent for Asian American-owned MBE firms;
- 10 percent for Women-owned MBE firms.

<b>Attachment E.      Veteran-Owned Small Business Enterprise (VSBE) Forms</b>
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See link at <http://procurement.maryland.gov/wp-content/uploads/sites/12/2018/04/AttachmentE-VSBEForms.pdf>.

This solicitation includes a VSBE participation goal of 1%.



**Attachment F. Maryland Living Wage Affidavit of Agreement for Service  
Contracts**

See link at <http://procurement.maryland.gov/wp-content/uploads/sites/12/2018/04/AttachmentF-LivingWageAffidavit.pdf> to complete the Affidavit.

- 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.shtml> and clicking on Living Wage for State Service Contracts.

<b>Attachment G.      Federal Funds Attachments</b>
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This solicitation does not include a Federal Funds Attachment.

<b>Attachment H.      Conflict of Interest Affidavit and Disclosure</b>
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See link at <https://procurement.maryland.gov/wp-content/uploads/sites/12/2018/05/AttachmentH-Conflict-of-InterestAffidavit.pdf>

<b>Attachment I.      Non-Disclosure Agreement (Contractor)</b>
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This solicitation does not require a Non-Disclosure Agreement.

<b>Attachment J.      HIPAA Business Associate Agreement</b>
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This solicitation does not require a HIPAA Business Associate Agreement.

<b>Attachment K.      Mercury Affidavit</b>
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This solicitation does not include the procurement of products known to likely include mercury as a component.



<b>Attachment L.      Location of the Performance of Services Disclosure</b>
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The Offeror is required to complete the Location of the Performance of Services Disclosure. The Disclosure must be provided with the Proposal.

See link at <http://procurement.maryland.gov/wp-content/uploads/sites/12/2018/04/Attachment-L-PerformanceofServicesDisclosure.pdf>.

**Attachment M. Contract**

State Lottery and Gaming Control Agency (MLGCA)

“Lottery Central Monitoring and Control System and Related Services”

2024-01

THIS CONTRACT (the “Contract”) is made this \_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_ by and between \_\_\_\_\_ (the “Contractor”) and the STATE OF MARYLAND, acting through the MARYLAND State Lottery and Gaming Control Agency (“MLGCA” or the “Agency”).

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

**1. Definitions**

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

- 1.1 “COMAR” means Code of Maryland Regulations.
- 1.2 “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 Advantage vendor ID number is (eMMA Number).
- 1.3 “Financial Proposal” means the Contractor’s [pick one: Financial Proposal or Best and Final Offer (BAFO)] dated \_\_\_\_\_ (Financial Proposal date or BAFO date).
- 1.4 Minority Business Enterprise (MBE) – Any legal entity certified as defined at COMAR 21.01.02.01B (54) which is certified by the Maryland Department of Transportation under COMAR 21.11.03.
- 1.5 “RFP” means the Request for Proposals for Lottery Central Monitoring and Control System and Related Services, Solicitation # 2024-01, and any amendments, addenda, and attachments thereto issued in writing by the State.
- 1.6 “State” means the State of Maryland.
- 1.7 “Technical Proposal” means the Contractor’s Technical Proposal dated. \_\_\_\_\_ (Technical Proposal date), as modified and supplemented by the Contractor’s responses to requests clarifications and requests for cure, and by any Best and Final Offer.
- 1.8 “Veteran-owned Small Business Enterprise” (VSBE) means A business that is verified by the Center for Verification and Evaluation (CVE) of the United States Department of Veterans Affairs as a veteran-owned small business. See Code of Maryland Regulations (COMAR) 21.11.13.
- 1.9 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 perform in accordance with this Contract and Exhibits A-D, which are listed below and incorporated herein by reference. If there is any conflict between this Contract and the Exhibits, the terms of the Contract shall control. If there is any conflict among the Exhibits, the following order of precedence shall determine the prevailing provision:

Exhibit A – The RFP

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

Exhibit C – The Technical Proposal

Exhibit D – The Financial Proposal

- 2.2 The Procurement Officer may, at any time, by written order, make unilateral changes in the work within the general scope of the Contract. 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 Agency following any required prior approvals, including approval by the Board of Public Works, if such approval is required (the "Effective Date") and shall continue until \_\_\_\_\_ ("Initial Term").
- 3.2 In its sole discretion, the Agency shall have the unilateral right to extend the Contract for one five (5) Year term renewal option of five (5) at the prices established in the Contract. "Term" means the Initial Term and any Renewal Term(s).
- 3.3. The Contractor's performance under the Contract shall commence as of the date provided in a written NTP.
- 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, copyrights & 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 Agency shall pay the Contractor in accordance with the terms of this Contract and at the prices quoted in the Financial Proposal. Unless properly modified (see above Section 2), payment to the Contractor pursuant to this Contract, including the Initial Term and any Renewal Term, shall not exceed the Contracted amount.

The total payment under a fixed price Contract or the fixed price element of a combined fixed price – time and materials Contract shall be the stated percentage of Lottery sales and any firm fixed price equipment charges submitted by the Contractor in its Financial Proposal. Total payments shall not exceed the approved Not To Exceed ("NTE") value.

- 4.2 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 30 days after the Agency's receipt of a proper invoice from the Contractor as required by RFP section 3.3.

The Contractor may be eligible to receive late payment interest at the rate of 9% per annum if:

- (1) The Contractor submits an invoice for the late payment interest within thirty days after the date of the State's payment of the amount on which the interest accrued; and
- (2) A contract claim has not been filed under State Finance and Procurement Article, Title 15, Subtitle 2, Annotated Code of Maryland.

The State is not liable for interest:

- (1) Accruing more than one year after the 31st day after the agency receives the proper invoice; or
- (2) On any amount representing unpaid interest. Charges for late payment of invoices are authorized only as prescribed by Title 15, Subtitle 1, of the State Finance and Procurement Article, Annotated Code of Maryland, or by the Public Service Commission of Maryland with respect to regulated public utilities, as applicable.

Final payment under this Contract will not be made until after certification is received from the Comptroller of the State that all taxes have been paid.

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.

- 4.3 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.
- 4.4 Payment of an invoice by the Agency is not evidence that services were rendered as required under this Contract.

## **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 (as defined in **Section 7.2**), 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.
- 5.5 Upon termination or expiration 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 Agency or developed by Contractor relating to the Contract, except as provided for in **Section 8. Confidential or Proprietary Information and Documentation**.

**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 Contractor is covered by a patent 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 Agency or licensed by the Agency from third parties, including all information provided by the Agency 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 Agency will have no rights to the same except as expressly granted in this Contract. Any SaaS Software developed by Contractor during the performance of the Contract will belong solely and exclusively to Contractor and its licensors. For all Software provided by the Contractor under the Contract, Contractor hereby grants to the State a nonexclusive, irrevocable, unlimited, perpetual, non-cancelable, and non-terminable right to use and make copies of the Software and any modifications to the Software. 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**, Contractor shall defend, indemnify and hold harmless the State and its agents and employees, from and against any and all claims, costs, losses, damages, liabilities, 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.
- 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. Except as otherwise provided herein, Contractor shall not acquire any right, title or interest (including any intellectual property rights subsisting therein) in or to any goods, Software, technical information, specifications, drawings, records, documentation, data or any other materials (including any derivative works thereof) provided by the State to the Contractor. Notwithstanding anything to the contrary herein, the State may, in its sole and absolute discretion, grant the Contractor a license to such materials, subject to the terms of a separate writing executed by the Contractor and an authorized representative of the State as well as all required State approvals.
- 7.6. Without limiting the generality of the foregoing, neither Contractor nor any of its subcontractors shall use any Software or technology in a manner that will cause any patents, copyrights or other intellectual property which are owned or controlled by the State or any of its affiliates (or for which the State or any of its subcontractors has received license rights) to become subject to any encumbrance or terms and conditions of any third party or open source license (including, without limitation, any open source license listed on <http://www.opensource.org/licenses/alphabetical>) (each an "Open Source License"). These restrictions, limitations, exclusions and conditions shall apply even if the State or any of its subcontractors becomes aware of or fails to act in a manner to address any violation or failure to comply therewith. No act by the State or any of its subcontractors that is undertaken under this Contract as to any Software or technology shall be construed as intending to cause any patents, copyrights or other intellectual property that are owned or controlled by the State (or for which the State has received license rights) to become subject to any encumbrance or terms and conditions of any open source license.
- 7.7. The Contractor shall report to the Agency, promptly and in written detail, each notice or claim of copyright infringement received by the Contractor with respect to all Deliverables delivered under this Contract.
- 7.8. The Contractor shall not affix (or permit any third party to affix), without the Agency's consent, any restrictive markings upon any Deliverables that are owned by the State, and if such markings are affixed, the Agency 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 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 or cloud infrastructure, if applicable) shall be held in 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 Contractor Personnel 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 of the obligations hereunder, and bound by, confidentiality at least as restrictive as those 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 rightfully 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.

## **9. Loss of Data**

- 9.1 In the event of loss of any State data or records where such loss is due to the act or omission of the Contractor or any of its subcontractors or agents, the Contractor shall be responsible for restoring or recreating, as applicable, 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. At no time shall any Contractor actions (or any failures to act when Contractor has a duty to act) damage or create any vulnerabilities in data bases, systems, platforms, and applications with which the Contractor is working hereunder.
- 9.2 In accordance with prevailing federal or state law or regulations, the Contractor shall report the loss of non-public data as directed in **RFP Section 3.7**.
- 9.3 Protection of data and personal privacy (as further described and defined in RFP Section 3.8) shall be an integral part of the business activities of the Contractor to ensure there is no inappropriate or unauthorized use of State information at any time. To this end, the Contractor shall safeguard the confidentiality, integrity and availability of State information and comply with the conditions identified in **RFP Section 3.7**.

## **10. Indemnification and Notification of Legal Requests**

- 10.1. At its sole cost and expense, Contractor shall (i) indemnify and hold 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. 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 obligations or performance under this Contract, or (ii) to pay any judgment or settlement of any such suit, claim



or action. Notwithstanding the foregoing, the Contractor shall promptly notify the Procurement Officer of any such claims, demands, actions, or suits.

- 10.3. 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. .

#### **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 Prevails**

- 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, task order, or Notice to Proceed issued thereunder, or any software, or any software license acquired hereunder.
- 13.3 Any and all references to the Maryland Code, annotated and 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 or agent working for the Contractor to solicit or secure the Contract, and that the Contractor has not paid or agreed to pay any person, partnership, corporation, or other entity, other than a bona fide employee or agent, 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, fails to provide any required annual and renewable bond 30 days prior to expiration of the current bond then in effect, 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. 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 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 Section 11-206 of the State Finance and Procurement Article, Annotated Code of Maryland, 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 Section 13-221 of the State Finance and Procurement Article of the Annotated Code of Maryland, which requires that every business 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, \$200,000 or more, shall within 30 days of the time when the aggregate value of these contracts, leases or other agreements reaches \$200,000, file with the Secretary of State of Maryland certain specified information to include disclosure of beneficial ownership of the business.

**23. Political Contribution Disclosure**

The Contractor shall comply with Election Law Article, Title 14, Annotated Code of Maryland, which requires that every person that enters into a procurement contract 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](http://www.elections.state.md.us/campaign_finance/index.html).

**24. Retention of Records**

The Contractor and subcontractors shall retain and maintain all records and documents in any way relating to this Contract for (i) three (3) years after final payment by the State hereunder, or (ii) any applicable federal or State retention requirements (such as HIPAA) or condition of award, whichever

is longer, and shall make them available for inspection and audit by authorized representatives of the State, as designated by the Procurement Officer, at all reasonable times. The Contractor shall provide copies of all documents requested by the State, including, but not limited to itemized billing documentation containing the dates, hours spent and work performed by the Contractor and its subcontractors under the Contract. All records related in any way to the Contract are to be retained for the entire time provided under this section.

## **25. Right to Audit**

- 25.1 The State reserves the right, at its sole discretion and at any time, to perform an audit of the Contractor'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 services performed pursuant to the Contract.
- 25.2 Upon three (3) Business Days' notice, the State shall be provided reasonable access to Contractor's records to perform any such audits. The Agency 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 Agency's election. The Agency may copy any record related to the services performed pursuant to the 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.
- 25.3 The right to audit shall include any of the Contractor's subcontractors including but not limited to any lower tier subcontractor(s). The Contractor shall ensure the Agency has the right to audit such subcontractor(s).

## **26. Compliance with Laws**

The Contractor hereby represents and warrants that:

- A. 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;
- B. 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;
- C. It shall comply with all federal, State and local laws, regulations, and ordinances applicable to its activities and obligations under this Contract; and
- D. 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 The Contractor, by submitting cost or price information certifies that, to the best of its knowledge, 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 of its obligations 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, each at the State's sole and absolute discretion; provided, however, that a Contractor may assign monies receivable under a contract after written 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:
- (a) For infringement of patents, trademarks, trade secrets and copyrights as provided in **Section 7 "Patents, Copyrights, Intellectual Property"** 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, loss, costs, expenses, suits or actions in any way related to this Contract and regardless of the basis on which the claim is made, Contractor's 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 ("Indemnification") 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, Contractor represents and warrants that it will comply 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. As part of such compliance, Contractor may not discriminate on the basis of race, color, religion, ancestry, 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 otherwise unlawful forms of discrimination in the solicitation, selection, hiring, or commercial treatment of subcontractors, vendors, suppliers, or commercial customers, nor shall Contractor retaliate against any person for reporting instances of such discrimination. 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. 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 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 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 Contractor under Title 19 of the State Finance and Procurement Article of the Annotated Code of Maryland, as amended from time to time, Contractor agrees to provide within 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 Commercial Nondiscrimination Policy as set forth under Title 19 of the State Finance and Procurement Article of the Annotated Code of Maryland, and to 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.
- 30.3 The Contractor shall include the language from 30.1, or similar clause approved in writing by the Agency, in all subcontracts.

### **31. Prompt Pay Requirements**

- 31.1 If the Contractor withholds payment of an undisputed amount to its subcontractor, the Agency, 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 Agency concerning a withheld payment between the Contractor and a subcontractor under this **section 31**, 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 Agency and the Contractor in any other proceeding; or
  - (c) Result in liability against or prejudice the rights of the Agency.
- 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 MBE program.

- 31.5 To ensure compliance with certified MBE subcontract participation goals, the Agency 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:
    - 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 Agency determines that the Contractor is not in compliance with certified MBE participation goals, then the Agency 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 Agency determines that the Contractor is in material noncompliance with MBE Contract provisions and refuses or fails to take the corrective action that the Agency requires, then the Agency 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 Agency 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 Agency does not guarantee a minimum or maximum number of units or usage in the performance of this Contract.

## **34. 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.

**35. Effect of Contractor Bankruptcy**

All rights and licenses granted by the Contractor under this Contract are and shall be deemed to be rights and licenses to “intellectual property,” and the subject matter of this Contract, including services, is and shall be deemed to be “embodiments of intellectual property” for purposes of and as such terms are used and interpreted under § 365(n) of the United States Bankruptcy Code (“Code”) (11 U.S.C. § 365(n) (2010)). The State has the right to exercise all rights and elections under the Code and all other applicable bankruptcy, insolvency and similar laws with respect to this Contract (including all executory statement of works). Without limiting the generality of the foregoing, if the Contractor or its estate becomes subject to any bankruptcy or similar proceeding: (a) subject to the State’s rights of election, all rights and licenses granted to the State under this Contract shall continue subject to the respective terms and conditions of this Contract; and (b) the State shall be entitled to a complete duplicate of (or complete access to, as appropriate) all such intellectual property and embodiments of intellectual property, and the same, if not already in the State’s possession, shall be promptly delivered to the State, unless the Contractor elects to and does in fact continue to perform all of its obligations under this Contract.

**36. Miscellaneous**

- 36.1 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.
- 36.2 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.
- 36.3 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.
- 36.4 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.

**37. Contract Monitor and Procurement Officer**

- 37.1 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, 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. The Agency may change the Contract Monitor at any time by written notice to the Contractor.
- 37.2 The Procurement Officer has responsibilities as detailed in the Contract, and is the only State representative who can authorize changes to the Contract. The Agency may change the Procurement Officer at any time by written notice to the Contractor.

**38. 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:

George Hanson  
1800 Washington Blvd., Suite 330, Baltimore MD 21230  
Phone Number: 410-230-8834  
E-Mail: George.Hanson1@maryland.gov

With a copy to:

John Lloyd  
Maryland Lottery and Gaming Control Agency (MLGCA)  
1800 Washington Blvd. Suite 330  
Baltimore, MD 21230 Phone Number: (410) 230-8790  
E-Mail: john.lloyd@maryland.gov

If to the Contractor:

(Contractor's Name)  
(Contractor's primary address)  
Attn: \_\_\_\_\_

Parent Company Guarantor

Contact: \_\_\_\_\_  
Attn: \_\_\_\_\_

### **39. Liquidated Damages for MBE**

- 39.1 The Contract requires the Contractor to comply in good faith with the MBE Program and Contract provisions. The State and the Contractor acknowledge and agree that the State will incur damages, including but not limited to loss of goodwill, detrimental impact on economic development, and diversion of internal staff resources, if the Contractor does not comply in good faith with the requirements of the MBE Program and MBE Contract provisions. The parties further acknowledge and agree that the damages the State might reasonably be anticipated to accrue as a result of such lack of compliance are difficult to ascertain with precision.
- 39.2 Therefore, upon issuance of a written determination by the State that the Contractor failed to comply in good faith with one or more of the specified MBE Program requirements or MBE Contract provisions, the Contractor shall pay liquidated damages to the State at the rates set forth below. The Contractor expressly agrees that the State may withhold payment on any invoices as a set-off against liquidated damages owed. The Contractor further agrees that for each specified violation, the agreed upon liquidated damages are reasonably proximate to the loss the State is anticipated to incur as a result of such violation.
- (a) Failure to submit each monthly payment report in full compliance with COMAR 21.11.03.13B (3): \$500 per day until the monthly report is submitted as required.

- (b) Failure to include in its agreements with MBE subcontractors a provision requiring submission of payment reports in full compliance with COMAR 21.11.03.13B (4): \$500 per MBE subcontractor.
- (c) Failure to comply with COMAR 21.11.03.12 in terminating, canceling, or changing the scope of work/value of a contract with an MBE subcontractor and amendment of the MBE participation schedule: the difference between the dollar value of the MBE participation commitment on the MBE participation schedule for that specific MBE firm and the dollar value of the work performed by that MBE firm for the Contract.
- (d) Failure to meet the Contractor's total MBE participation goal and sub goal commitments: the difference between the dollar value of the total MBE participation commitment on the MBE participation schedule and the MBE participation actually achieved.
- (e) Failure to promptly pay all undisputed amounts to an MBE subcontractor in full compliance with the prompt payment provisions of the Contract: \$100 per day until the undisputed amount due to the MBE subcontractor is paid.

39.3 Notwithstanding the assessment or availability of liquidated damages, the State reserves the right to terminate the Contract and exercise any and all other rights or remedies which may be available under the Contract or Law.

#### **40. Parent Company Guarantee (If applicable)**

If a Contractor intends to rely on its Parent Company in some manner while performing on the State Contract, the following clause should be included and completed for the Contractor's Parent Company to guarantee performance of the Contractor. The guarantor/Contractor's Parent Company should be named as a party and signatory to the Contract and should be in good standing with SDAT.

(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.

#### **41. Compliance with federal Health Insurance Portability and Accountability Act (HIPAA) and State Confidentiality Law**

HIPAA clauses do not apply to this Contract.

#### **42. 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 with the MLGCA's account, 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.

#### **43. Product Substitution/Technical Enhancements**

During the term of the Contract, the MLGCA may desire to incorporate new products or technologies that are within the scope of the Contract but were not available in the marketplace at the time of execution of the Contract. Such new products and technologies may offer significant advantages to the State in terms of economy, efficiency, quality and effectiveness and therefore it may be in the State's interest to take advantage of such new products or technologies in a manner consistent with applicable law and the Contract.

- A. A product or device provided by the Contractor during the term of this Contract may be substituted by the Contractor only under the following conditions:
  - i. The replacement item shall be of equal or greater performance and technical capabilities than the item being replaced;
  - ii. The price of the replacement item shall not exceed the price of the item being replaced; and
  - iii. The substitution shall be pre-approved in writing by the Procurement Officer.

Any request for substitution shall be submitted in writing to the Procurement Officer. The request shall include the reason for substitution; a list of the items being replaced; a list of the replacement items including product documentation, literature, etc.; and the price of the replacement items.

- B. Enhancement or replacement of technology may be accepted by the MLGCA at its sole discretion. Any request for such enhancement or substitution shall be submitted in writing to the Procurement Officer and the Contract will be amended accordingly.
- C. Nothing in this Contract shall preclude the MLGCA from utilizing future technical enhancements to the printing processes, evolving printing technologies, or enhancements and proprietary games or play styles developed by the Contractor, so long as the price charged for such possible future option is fair and reasonable.

#### **44. 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 fully 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.

##### **44.1 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.

#### **44.2 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.

#### **45. Good Faith**

The 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.

#### **46. News/Press Releases**

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.

#### **47. 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.

#### **48. 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.

#### **49. Rights in Products**

- A. All original written material including, but not limited to, reports, and/or other documentation originated and prepared exclusively for the MLGCA pursuant to this Contract ("New Intellectual Property") shall belong exclusively to the MLGCA.
- B. All preexisting ideas, concepts, know-how and techniques and each invention, discovery and improvement thereof, previously made or conceived of by either the Contractor or the MLGCA, as the case may be, whether reduced to practice or not ("Preexisting Party Innovations"), and any and all domestic, foreign or other intellectual property and other proprietary rights whatsoever relating



thereto, whether registered, recorded or otherwise protected under patent, copyright, trademark, trade secret or other law (“Intellectual Property Rights”) shall remain the sole and exclusive property of the party hereto which made or conceived of same.

- C. In furtherance of the foregoing, for work originated and prepared exclusively for MLGCA, Contractor shall deliver to the MLGCA good and marketable title, free and clear of any lien or encumbrance to all work product and deliverables hereunder; provided that, Contractor shall be permitted to incorporate into said work product and deliverables software and other materials, technologies or other works owned by third parties (a “Third Party Preexisting Work”) under the terms of a blanket developer license or other authority; provided further, such Third Party Preexisting Work is specifically identified to the MLGCA prior to the delivery of such materials and Contractor obtains at no additional cost for the benefit of the MLGCA, its successors, assigns and contractors, an irrevocable, perpetual, nonexclusive, royalty-free right and license, for wherever the MLGCA can lawfully operate, to make, use, sell, offer for sale, reproduce, sublicense and distribute and otherwise exploit said Third Party Preexisting Works.

## **50. Intellectual Property Protection**

To the extent that full ownership of any New Intellectual Property does not automatically vest in the MLGCA by virtue of this Contract or otherwise, Contractor hereby irrevocably transfers and assigns to the MLGCA all right, title and interest in any New Intellectual Property for work originated and prepared exclusively for MLGCA. In the event the Lottery elects to file an application for the protection of the New Intellectual Property anywhere in the world based on work product or deliverables made by an employee of Contractor, such employee and Contractor shall assist the MLGCA, at the MLGCA’s expense, in preparing such application and shall execute all documents necessary for the MLGCA to file, effect and maintain title to such application in the name of the MLGCA. Contractor agrees to require each of its employees and authorized agents who provide services on behalf of Contractor to execute and provide the MLGCA with a copy of an assignment acceptable to the MLGCA prior to the provision of any services by each such person, and to disclose to the MLGCA the name of each such person and agent prior to the commencement of work by such person or agent.

The Contractor shall promptly provide written notice to the MLGCA of each claim received, or reasonably anticipated to be asserted, that the service, work product, deliverables, or New Intellectual Property infringe or otherwise violate any third-party Intellectual Property Rights (“Third Party Infringement Claims”). Such notice shall include all available information regarding the actual or anticipated notice or claim, the likely parties thereto and an assessment of liability thereunder based on all reasonably available information. Further, from time to time and as changes in circumstances warrant, Contractor shall update in writing the MLGCA on the status of all anticipated notices and claims.

The Contractor shall hold and save harmless the State of Maryland, the MLGCA, the Commission, and its agents, officers, and employees from liability of any nature or kind arising out of a claim or suit, including Third Party Infringement Claims, for or on account of the use of any service, work product or deliverable furnished or used in the performance of any Contract resulting from this RFP or the New Intellectual Property. The Contractor agrees to defend any and all such threatened or actual claims and suits, and to pay all damages and costs, including attorneys and witness fees, subject to the right of the State to provide additional legal counsel at the State's own expense; provided that, the MLGCA (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.

In addition to Contractor’s obligations stated above, if any service, work product, deliverable, or New Intellectual Property becomes, or can be reasonably anticipated to become, the subject of a Third Party Infringement Claim, the Contractor, at its own expense and with the consent of the MLGCA, shall within

thirty (30) days from the time Contractor first learns of such a claim or potential claim, perform the following:

- A. Procure for the MLGCA the right to continue receiving the service or using the work product, deliverable, or New Intellectual Property;
- B. Replace the service, work product, deliverable, or the New Intellectual Property with a non-infringing service, work product, deliverable, or Intellectual Property substantially complying with the applicable specifications; or
- C. Modify the service, work product, deliverable, or New Intellectual Property so that it becomes non-infringing and performs in a substantially similar manner to the original service, work product, deliverable, or New Intellectual Property.

The Contractor shall not affix any restrictive markings upon any work product, deliverable, New Intellectual Property or other data and if such markings are affixed, the MLGCA shall have the right at any time to modify, remove, obliterate, or ignore such warnings.

Contractor agrees to treat all New Intellectual Property as confidential and trade secret proprietary information. Except as expressly permitted in paragraph 50, Contractor shall not sell, copy, transfer, publish, disclose, display, or otherwise make available any New Intellectual Property to any person or third party (including any of its subsidiaries), except those with a need to know such New Intellectual Property in order to accomplish the purposes of this Contract. Contractor shall secure and protect the New Intellectual Property in a manner consistent with the maintenance of the rights in the New Intellectual Property, and shall take appropriate action by instruction and/or agreement with its employees who are permitted access to such New Intellectual Property, to satisfy its obligations hereunder. The foregoing restrictions continue to apply (even after the termination of this Contract) without limit in time.

SIGNATURES ON NEXT PAGE



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

Contractor

State of Maryland

State Lottery and Gaming Control Agency  
(MLGCA)

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

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

John A. Martin  
Director

Date

PARENT COMPANY (GUARANTOR) (if  
applicable)

By:

\_\_\_\_\_

\_\_\_\_\_

By:

Date

\_\_\_\_\_

Date

Approved for form and legal sufficiency  
this \_\_\_\_ day of \_\_\_\_\_, 20\_\_.

\_\_\_\_\_

Assistant Attorney General

APPROVED BY BPW: \_\_\_\_\_

(Date)

(BPW Item #)

<b>Attachment N.</b>	<b>Contract Affidavit</b>
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See link at <https://procurement.maryland.gov/wp-content/uploads/sites/12/2020/03/Attachment-N-Affidavit.pdf>

**Attachment O.      DHS Hiring Agreement**

This solicitation does not require a DHS Hiring Agreement.

**Attachment P. CORPORATE DIVERSITY ADDENDUM**

[https://dat.maryland.gov/SDAT%20Forms/PPR\\_Forms/2023\\_Corporate\\_Diversity\\_Addendum.pdf](https://dat.maryland.gov/SDAT%20Forms/PPR_Forms/2023_Corporate_Diversity_Addendum.pdf)

## Appendix 1. – Abbreviations and Definitions

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

1. Acceptable Use Policy (AUP) - A written policy documenting constraints and practices that a user must agree to in order to access a private network or the Internet.
2. Access – The ability or the means necessary to read, write, modify, or communicate data/information or otherwise use any information system resource.
3. Ad Hoc Reports - Reports generated as needed as opposed to on a production schedule.
4. Application Program Interface (API) – Code that allows two software programs to communicate with each other.
5. Associated Equipment – Hardware located on the Licensee’s premises that is connected to the Central System for the purpose of performing communication, validation, or other functions.
6. Back-up Data Center (“BDC”) or Back-up Site - The secondary central data center. For purposes of this RFP, the BDC is the real-time functional duplicate of the Primary Data Center (PDC). It is geographically separate from the PDC, to prevent a disaster from affecting both Centers at the same time. A hot Back-up Site is defined as operating a system which receives a mirror image of all transactions on a real-time basis from the active system with the capability to automatically take over processing in the event of a failure at the Primary Site with minimal service disruption to the Lottery Central System and with no loss or corruption of data. The Contractor shall employ a minimum of two computer systems (i.e. a Master System and a Duplex System) with no shared peripherals at the Back-up Site.
7. Back-up System – The Back-up or redundant environment that comprises the components of the System, taken as a single physical and/or logical group, that are designated as being redundant to the Primary System. The Back-up System is responsible for the accurate processing of a transaction in a secure manner if the Primary System is not functional.
8. Business Day(s) – The official working days of the week to include Monday through Friday. Official working days excluding State Holidays (see definition of “Normal State Business Hours” below).
9. Central System or Lottery Central System– A computer system located at a location provided by the Contractor and approved by the MLGCA that contains all of the servers, telecommunications network, and other devices required for the operation and control of the Lottery Central Monitoring and Control System.
10. COMAR – Code of Maryland Regulations available on-line at <http://www.dsd.state.md.us/COMAR/ComarHome.html>.
11. Commission - The Maryland State Lottery and Gaming Control Commission (“MLGCC”).
12. Contract – The Contract awarded to the successful Offeror pursuant to this RFP. The Contract will be in the form of **Attachment M**.
13. Contract Monitor – 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, 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. The Agency may change the Contract Monitor at any time by written notice to the Contractor.

14. Contractor – The selected Offeror that is awarded a Contract by the State.
15. Contractor Personnel – Employees and agents and subcontractor employees and agents performing work at the direction of the Contractor under the terms of the Contract awarded from this RFP.
16. Data Breach – The unauthorized acquisition, use, modification or disclosure of State data, or other Sensitive Data.
17. Data Centers – Primary and back-up sites for the Lottery Central System.
18. eMMA – eMaryland Marketplace Advantage (see RFP **Section 4.2**).
19. Enterprise License Agreement (ELA) – An agreement to license the entire population of an entity (employees, on-site contractors, off-site contractors) accessing a software or service for a specified period of time for a specified value.
20. Failover - Hardware, software or manually initiated method of continuing System processing in the event of System, component, application, communications or operation failure(s), in as short a time as possible and with little or no impact to the Lottery Central System. The remaining system(s) shall immediately assume the load in case of failure in one system, without loss or corruption of any data and transactions received prior to the time of the failure.
21. Go-Live – The date, following the uncompensated conversion period, on which the new LCMCS fully operates and processes all Lottery transactions.
22. Information System – A discrete set of information resources organized for the collection, processing, maintenance, use, sharing, dissemination, or disposition of information.
23. Information Technology (IT) – All electronic information-processing hardware and software, including: (a) maintenance; (b) telecommunications; and (c) associated consulting services.
24. Key Personnel – All Contractor Personnel identified in the solicitation as such that are essential to the work being performed under the Contract. See RFP **Sections 3.10**.
25. Local Time – Time in the Eastern Time Zone as observed by the State of Maryland. Unless otherwise specified, all stated times shall be Local Time, even if not expressly designated as such.
26. Lottery Law – State Government Article, Title 9, Subtitle 1, Annotated Code of Maryland and Code of Maryland Regulations (“COMAR”) 36.01 - .02
27. Minority Business Enterprise (MBE) – Any legal entity certified as defined at COMAR 21.01.02.01B (54) which is certified by the Maryland Department of Transportation under COMAR 21.11.03.
28. MLGCA - Maryland State Lottery and Gaming Control Agency or Lottery.
29. MUSL – Multi- State Lottery Association.
30. 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.
31. Notice to Proceed (NTP) – A written notice from the Procurement Officer that work under the Contract, project, Task Order or Work Order (as applicable) is to begin as of a specified date. The NTP Date is the start date of work under the Contract, project, Task Order or Work Order. Additional NTPs may be issued by either the Procurement Officer or the Contract Monitor regarding the start date for any service included within this solicitation with a delayed or non-specified implementation date.
32. NTP Date – The date specified in an NTP for work on Contract, project, Task Order or Work Order to begin.

33. Offeror – An entity that submits a Proposal in response to this RFP.
34. Personally Identifiable Information (PII) – Any information about an individual maintained by the State, including (1) any information that can be used to distinguish or trace an individual identity, such as name, social security number, date and place of birth, mother’s maiden name, or biometric records; and (2) any other information that is linked or linkable to an individual, such as medical, educational, financial, and employment information.
35. Primary Data Center (“PDC”) or Primary Site – The location from which the Primary System(s) are operated.
36. Primary System - The components of the Central System, taken as a single physical and/or logical group, that are designated as being primarily responsible for the accurate processing of a transaction in a secure manner.
37. Procurement Officer – Prior to the award of any Contract, the sole point of contact in the State for purposes of this solicitation. 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 Agency may change the Procurement Officer at any time by written notice to the Contractor.
38. Progressive Jackpot – A prize that increases as play occurs such as on a Fast Play game where each ticket increases the Jackpot by a certain amount.
39. Proposal – As appropriate, either or both of the Offeror’s Technical or Financial Proposal.
40. Protected Health Information (PHI) – Information that relates to the past, present, or future physical or mental health or condition of an individual; the provision of health care to an individual; or the past, present, or future payment for the provision of health care to an individual; and (i) that identifies the individual; or (ii) with respect to which there is a reasonable basis to believe the information can be used to identify the individual.
41. Request for Proposals (RFP) – This Request for Proposals issued by the State Lottery and Gaming Control Agency (Agency), with the Solicitation Number and date of issuance indicated in the Key Information Summary Sheet, including any amendments thereto.
42. Security Incident – A violation or imminent threat of violation of computer security policies, Security Measures, acceptable use policies, or standard security practices. “Imminent threat of violation” is a situation in which the organization has a factual basis for believing that a specific incident is about to occur.
43. Security or Security Measures – The technology, policy and procedures that a) protects and b) controls access to networks, systems, and data.
44. Sensitive Data - Means PII; PHI; other proprietary or confidential data as defined by the State, including but not limited to “personal information” under Md. Code Ann., Commercial Law § 14-3501(e) and Md. Code Ann., St. Govt. § 10-1301(c) and information not subject to disclosure under the Public Information Act, Title 4 of the General Provisions Article; and information about an individual that (1) can be used to distinguish or trace an individual’s identity, such as name, social security number, date and place of birth, mother’s maiden name, or biometric records; or (2) is linked or linkable to an individual, such as medical, educational, financial, and employment information.
45. Service Level Agreement (SLA) - Commitment by the Contractor to the Agency that defines the performance standards the Contractor is obligated to meet.
46. Software - The object code version of computer programs licensed pursuant to this Contract. Embedded code, firmware, internal code, microcode, and any other term referring to software that is necessary for



proper operation is included in this definition of Software. Software includes all prior, current, and future versions of the Software and all maintenance updates and error corrections. Software also includes any upgrades, updates, bug fixes or modified versions or backup copies of the Software licensed to the State by Contractor or an authorized distributor.

47. Software as a Service (SaaS) - A software licensing and delivery model in which software is licensed on a subscription basis and is centrally hosted. For the purposes of this RFP, the terms SaaS and PaaS are considered synonymous and the term SaaS will be used throughout this document.
48. Solution - All Software, deliverables, services and activities necessary to fully provide and support the RFP scope of work. This definition of Solution includes all System Documentation developed as a result of this Contract. Also included are all Upgrades, patches, break/fix activities, enhancements and general maintenance and support of the Solution and its infrastructure.
49. State – The State of Maryland.
50. Source Code – Executable instructions for Software in its high level, human readable form which are in turn interpreted, parsed and/or compiled to be executed as part of a computing system.
51. System Availability – The period of time the Solution works as required excluding non-operational periods associated with planned maintenance.
52. System Documentation – Those materials necessary to wholly reproduce and fully operate the most current deployed version of the Solution in a manner equivalent to the original Solution including, but not limited to:
  - a. Source Code: This includes source code created by the Contractor or subcontractor(s) and source code that is leveraged or extended by the Contractor for use in the Contract;
  - b. All associated rules, reports, forms, templates, scripts, data dictionaries and database functionality;
  - c. All associated configuration file details needed to duplicate the run time environment as deployed in the current deployed version of the system;
  - d. All associated design details, flow charts, algorithms, processes, formulas, pseudo-code, procedures, instructions, help files, programmer’s notes and other documentation;
  - e. A complete list of Third Party, open source, or commercial software components and detailed configuration notes for each component necessary to reproduce the system (e.g., operating system, relational database, and rules engine software);
  - f. All associated user instructions and/or training materials for business users and technical staff, including maintenance manuals, administrative guides and user how-to guides; and
  - g. Operating procedures.
53. Technical Safeguards – The technology and the policy and procedures for its use that protect State Data and control access to it.
54. Telecommunications Network – A communications system that connects the Primary and Back-up Sites to equipment in Retailer locations and the Central System.
55. Third Party Software – Software and supporting documentation that:
  - a. are owned by a third party, not by the State, the Contractor, or a subcontractor;
  - b. are included in, or necessary or helpful to the operation, maintenance, support or modification of the Solution; and
  - c. are specifically identified and listed as Third-Party Software in the Proposal.

56. Total Proposal Price - The Offeror's total price for goods and services in response to this solicitation, included in Financial Proposal **Attachment B** – Financial Proposal Form.
57. Upgrade - A new release of any component of the Solution containing major new features, functionality and/or performance improvements.
58. UPS – Uninterruptible Power Supply System
59. Veteran-owned Small Business Enterprise (VSBE) – A business that is verified by the Center for Verification and Evaluation (CVE) of the United States Department of Veterans Affairs as a veteran-owned small business. See Code of Maryland Regulations (COMAR) 21.11.13.
60. XCAP™ – Maryland Lottery and Gaming Control Agency extended cashing program which allows designated XCAP retailers to pay up to \$5,000.00 in winnings.

## Appendix 2. – Offeror Information Sheet

See link at [http://procurement.maryland.gov/wp-content/uploads/sites/12/2018/04/Appendix2-Bidder\\_OfferorInformationSheet.pdf](http://procurement.maryland.gov/wp-content/uploads/sites/12/2018/04/Appendix2-Bidder_OfferorInformationSheet.pdf).

Bidder/Offeror	
Company Name	
Street Address	
City, State, Zip Code	
Contractor Federal Employer Identification Number (FEIN)	
Contractor eMM ID Number	As of the Bid/Proposal submission date, are you registered to do business with the state of Maryland?
SBE / MBE/ VSBE Certification	
SBE	Number: Expiration Date:
VSBE	Number: Expiration Date:
MBE	Number: Expiration Date: Categories to be applied to this solicitation (dual certified firms must choose only one category).
Bidder/Offeror Primary Contact	
Name	
Title	
Office Telephone Number (with area code)	
Cell Telephone Number (with area code)	
E-mail Address	
Authorized Bid/Proposal Signatory	
Name	
Title	
Office Telephone Number (with area code)	
Cell Telephone Number (with area code)	
E-mail Address	

### **Appendix 3. – Performance Bond**

(see link at <http://procurement.maryland.gov/wp-content/uploads/sites/12/2018/05/Appendix-z-Performance-Bond.dotx>)

## **Appendix 4. – Proposal Bond**

(see link at [http://procurement.maryland.gov/wp-content/uploads/sites/12/2018/05/Appendix-y-Bid\\_Proposal-Bond.dotx](http://procurement.maryland.gov/wp-content/uploads/sites/12/2018/05/Appendix-y-Bid_Proposal-Bond.dotx))

**Appendix 5. – Currently Deployed Monitors**

Size	Quantity
32"	4,410
42"	2,125
55"	70

## **Appendix 6. – Data Feeds – Types of Files and Frequency of Uploads**

Available Fast Play games	Near real-time
All Game Winning Numbers	Near real-time
List of Games with gameplay instructions, odds and prizes	Daily
Fast Play progressive jackpot current amount (currently via api feed)	Near real-time
Keno and Racetrax hot and cold numbers (currently via an SFTP site)	Near real-time
Retailer Finder with XCAP locations noted (currently via iFrame)	Daily
Scratch and Fast Play game updates (text files)	Daily
Prizes remaining by tier – Scratch	Daily
Prizes remaining by tier –Fast Play	Near real-time
Keno and Racetrax winner counts after each drawing (currently via an SFTP site)	Near real-time
ePlayslip (currently iFrame, but preferably an api)	Near real-time
api feed for apps to display appropriate messages when a ticket is scanned	Near real-time
Daily accounting data feeds – to be determined	Daily
Cash Pop Information - For each drawing: draw date, draw time, winning number, total sales, sales by Pop cost, prizes by Pop cost, number of Pops per ticket by Pop cost, entry method (terminal entry, quick pick, bet slip, ePlayslip)	Near real-time
Detailed activity reports are to be provided to a variety of corporate accounts via data feeds and/or emails.	Daily
Data feeds for SAS analytics	Daily
Pick Game Draw Statistics - For each drawing of each game: draw date, draw time, total sales, broken down by terminal generated and subscription, the number of winning tickets for each bet type and the prize based on a 50-cent bet. Straight, Box, Pick 3 Front/Back Pair, Combination, Straight/Box, Pick 5 Front/Back 4, Pick 5 Front/Back 3, Pick 5 Front/Back Pair	After each drawing



Bonus Match 5 and Multi-Match Statistics - For each drawing: draw date, draw time, total sales, broken down by terminal generated and subscription, the prize tier, number of winners, prize amount.	After each drawing
Multistate Game Statistics – For each drawing: draw date, draw time, total sales, broken down by terminal generated and subscription, the prize tier, number of total winners, prize amount, number of MD winners and location sold, and if applicable number of multiplier feature winners.	After each drawing

## Appendix 7. – Required Reports and Queries

*Note: This list identifies the minimum required data and reports. MLGCA will consider different content and formats based on what the Successful Offeror provides to other customers, but the Agency reserves the right to require changes to meet our business needs.*

### Tel-Sell Reports

- A. Weekly Activation: The number of packs of scratch tickets and associated value, by game, activated daily and summarized by week.
- B. Weekly Settlement: The number of packs of scratch tickets and associated value, by game, settled daily and summarized by week.
- C. Weekly Validation: The number of scratch ticket prizes validated by game, prize amount, and prize tier, daily and summarized by week.
- D. Weekly Inventory: The number of packs for all active games in the Warehouse, in confirmed status at retailer locations, and active but not settled at retailers.
- E. Out of Stock: The amount of time a self-service bin was not loaded with scratch inventory, including the game and price of the last game loaded. Options to summarize by store or chain shall be provided.
- F. Initial Allocation Distribution Reports:
  - **Allocation Packing Status** – For each month’s allocations: scheduled shipping date, total orders created, total packs, average packs per order and daily counts of orders packed, manifests created, total packs, packs per order and % complete.
  - **Allocation Details** – A list of all retailers receiving an allocation of new games including: Retailer ID, retailer business name, District Manager, average scratch sales, number of facings
  - **Excluded Retailers** – For all retailers not receiving an allocation of new games: Retailer ID, retailer business name, District Manager, number of packs for each game included in the launch, average scratch sales, number of facings, comments.

### Sales Reports

- A. Business Intelligence Reports: Below is a partial list of the types of BI reports the Agency finds useful.
  - Inventory Management
    - Instant Game Life Cycle
    - Sales run rate for all instant games with relation to Tel-Sel ordering
    - Pack History
    - Retailer pack history
    - Activations, Settlements, Returns

- Replenishment
- Out of Stock reporting and management (vending/non vending locations)
- Inventory activation tracking (real-time)
- Draw Game cancel report
- Customer Basket Data for vending transactions
- Activity Sales Detail
- Monitoring sales performance in the following categories:
  - Real-Time data
  - Daily
  - Weekly
  - Monthly
  - Quarterly
  - Yearly
    - FY
    - CY
    - Breakdowns
      - Chain
      - Territory
      - Region
      - Zip code
      - NAICS codes
      - XCAP
      - Customizable by administrator
- Reporting based on independent retailers who are listed as owners for multiple locations

B. Monthly Saturation Report:

**Independent**

- Territory
- Instants Retailer Count
- Active vs on hand comparison by game
- Total of activated price points on hand
- All price points on hand by game
- Overall comparison to previous month's performance

**Corporate**

- Corporate Name
- Instants Retailer Count
- Active vs on hand comparison by game
- Total of activated price points on hand
- All price points on hand by game

- Overall comparison to previous month's performance
- C. Daily Sales Update: Sales by day, by game and wager option (bonus options), including comparisons to prior year. Also include draw, Fast Play and scratch prizes cashed, pack counts and values activated and returned, Fast Play by game, promotion values, selling terminals, current jackpots.
- D. Weekly Sales To Goal: Current YTD sales and estimated profits versus budget targeted sales and profits.
- E. Weekly Self Service Sales Report: Detail for all self-service terminals for the current week and the 13-week average providing sales by game type – draw, fast play, scratch. Additionally, provide sales by store for all locations that have self-service broken out by clerk sales and self-service.
- F. Liability Analysis: Current week sales, prizes won and expected liabilities by terminal game by draw. Also include the most recent 8 weeks, summarized by week.
- G. MD Weekly Sales: Sales by game for the current week, prior year, year over year change in value and percentage. Sales by game for the prior month, week over week change in value and percentage. Commentary on current week sales. Pie chart of sales by game for the current week.
- H. Fast Play Weekly Sales Report: Sales tracking report for all Fast Play games; contains sales for games currently in market as well as historical sales for closed games by launch and price point. Also includes information about closed games and weekly sales data from other jurisdictions that have Fast Play.
- I. Fast Play Game Specification Tracker: This report provides information on all Fast Play games, to include: game number, game name, price point, payout %, top prize amount or seed value, progressive indicator, progressive contribution, estimated jackpot amount, number of top prizes, overall odds, sales for the first and last 12 weeks of sales for the initial launch and any relaunches.
- J. Fast Play Jackpot Tracker: Tracking report for all jackpot hits for Fast Play games.

### **Marketing and MLR**

- A. Promotions Tracker: A monthly report on the current and ongoing promotions throughout the lottery industry. This report lists System, Second-Chance, Loyalty, and other promotions offered by each state's lottery, describing the time period, prizes, and objectives of each promotion.
- B. Promotion & 2nd Chance Post-Mortem/Recaps: Provided after the completion of each System and Second-Chance promotion, this report offers performance data on a promotion and comparison of the promotion to ones like it in the past. These recaps offer reporting on number of entries, number of individuals who entered, sales, comparison of sales over time and to other similar promotions, player demographic, etc.
- C. Weekly 2nd Chance Report: This weekly report is a quick look at the current total number of entries and the overall unique entries of each active/live second-chance

promotion.

- D. Promotions Winners Report: This is an ongoing report that is updated and disseminated monthly, showing total entries and unique entries for every second-chance promotion and Points for Drawings®. The report shows the entry data broken out by drawing, date, individual ticket, and unique entries, as well as overview information on each promotion.
- E. MLR Program Budget Tracker:
  - 1. Monthly Bonusing Tool Report** - This projection report is issued monthly to set the parameters for rewards for each achievement of the upcoming month. The bonusing tool determines the percentage of occurrence of Prize Points, Draw Points, and Coupons per completion of each achievements, and attempts to balance the outcome to stay within the monthly Points for Prizes® and Coupon budgets.
  - 2. Bonus Promotion Rewards Report** - This weekly report shows the reward counts for each currently running achievement, showing the number of unique players, total reward count, and reward value for each reward awarded. The report also shows the current correlation of the reward values to the monthly and yearly budget.
- F. Coupon Budget Tracker: This report shows the issued and redeemed data per month for each coupon offered through the MLR program. The data shown includes the total number of coupons issued, the retail value of the coupons issued, the total number of coupons redeemed, and the retail value of the redeem
- G. Achievement Performance Recaps:
  - 1. Bonus Promotions Rewards Report – Weekly** - As described above, this report shows the current rewards counts per each active/live achievement, including total rewards and total unique players per achievement.
  - 2. Bonus Promotions Rewards – Monthly Final Budget** - This monthly report shows achievement performance for the entire month, and how it compares to the budget.
- H. Monthly MLR Dashboard Report: This report shows the monthly performance data of the MLR program, including Monthly Active Users, total entries, retail value, averages per player, trends in ticket entry and player registration, player awards and achievement limit hitting, top ranked games, percentage of budget awarded, and points distribution among players.
- I. Monthly Mobile Report: This monthly report shows the number of active users on mobile devices broken down into platform and city.
- J. Weekly Store Prize Redemption: An ongoing list, reported weekly, of all items purchase with Prize Points from the Points for Prizes® Store, including cost in Prize Points and value in dollars.
- K. PFD History Report: An ongoing list of all PFDs showing the number of entries, draw points entered, and unique players per PFD.

**Field Service**

- A. Carryover Report: Details of all Retailer service calls not timely completed.
- B. Chronic Equipment: A list of all terminals and peripherals that have had multiple service calls to address the same issue.
- C. Equipment KPI: Weekly and monthly reporting on number of calls to Hotline, number dropped or abandoned, average hold time, number and percentage cleared by phone, number and percentage dispatched. Statistics on most common failures, by component / cause.
- D. Equipment Inventory: Inventory of all terminals and peripherals required under the contract – required quantity, spares, total delivered, quantity due, deployed, inventory, damaged.

**Financial and Claims**

<b>1099 Revenue Report</b>	
Report showing by retailer, their mailing information for tax returns, and the various commissions	Retailer ID
	Retailer name as reported to the Internal Revenue Service (IRS)
	Facility Name / Location Name
	Mailing Address for tax documents
	Tax ID
	Amount Played
	Amount Won
	Sales Commissions
	Cashing Commissions
	Bonus Commissions
	Total Commissions
<b>Check Register</b>	
Report showing all checks processed within a reporting period	Check Date
	Check Number
	Check Voided
	Date Check Voided
	Payee Name (including mailing address)
	Memo/Comment Field
	Claim Number
	Gross Amount
	Liability Offset Amount - Child Support
	Liability Offset Amount - CCU
	Liability Offset Amount - VEP

	Federal Tax Withholding Amount
	State Tax Withholding Amount
	Net Amount (i.e., Check Amount)
	User that processed Check or Void
<b>Claim Details</b>	
Report showing all claims processed within a reporting period	
	<b>CLAIMANT INFORMATION:</b>
	Claim Number
	First Name
	Last Name
	Address 1
	Address 2
	City
	State
	Zip Code
	Phone Number
	SSN
	State of Driver's License
	Driver's License Number
	US Citizen (Yes or No)
	MD Resident (Yes or No)
	Birth date
	<b>TICKET INFORMATION</b>
	Retailer Voucher Number
	Ticket Type
	Validation Type
	Date Won
	Claim Date
	Amount
	<b>PAY DETAILS</b>
	Gross Amount
	Federal Tax Withholding Amount
	State Tax Withholding Amount
	Liability Offset Amount - Child Support
	Liability Offset Amount - CCU
	Liability Offset Amount - VEP
	Net Amount (i.e., Check Amount)
	Check Number
<b>INVOICE ACTIVITY DETAIL</b>	
Report that details invoice information per retailer. It also	Retailer ID



subtotals all columns for each retailer. Final totals for all retailer for the reporting period.	
	Amount Sold
	Amount Cashed
	Vouchers Issued Amount
	Vouchers Redeemed Amount
	Sales Commissions
	Cashing Commissions
	Bonus Commissions
	Adjustments
	Retailer Invoice Total
<b>RETAILER INVOICE</b>	
Report that selects by the retailer's activity for the reporting period.	Sweep Amount
	Retailer ID
	Amount Sold
	Amount Cashed
	Vouchers Issued Amount
	Vouchers Redeemed Amount
	Sales Commissions
	Cashing Commissions
	Bonus Commissions
	Adjustments
	Retailer Invoice Total
	Rebill Adjustment
<b>MLGCA INVOICE</b>	
Report that includes ALL of the retailer's activity for the reporting period.	Sweep Amount
	Amount Sold
	Amount Cashed
	Sales Commissions
	Cashing Commissions
	Bonus Commissions
	Total Commissions and Bonus
	Vendor Fee
	Vendor Adjustments
	Vendor Invoice Total (i.e., Sweep Amount)
<b>NACHA File</b>	
ACH file per banking requirements	To Be Determined
<b>POSITIVE PAY FILE</b>	

Positive pay file per MLGCA's bank's requirements	To Be Determined
<b>RETAILER ADJUSTMENTS</b>	
Lists all adjustments for the reporting period	Retailer ID
	Retailer Name
	Adjustment Amount
	Adjustment Type
	Comments
	Impact on Commissions
	Adjustment Date
<b>RETAILER EXCUSION REPORT</b>	
Lists all retailers excluded from the sweep file for the reporting period	Created By
	Retailer ID
	Retailer Name
	Transaction Type
	Sweep Amount
	Comments
	User Name
	Transaction Date
<b>RETAILER SWEEP SUMMARY</b>	
Lists all retailers included in the sweep for the reporting period	Transaction Type
	Bank Account Type
	Bank Routing Number
	Bank Account Number
	Retailer Number
	Retailer Name
	Amount
<b>Annual W2G File</b>	
An Excel file identifying all claimants of prizes over \$600 that are reportable for tax purposes	Validation Number
	SSN/FID
	First Name
	Last Name
	Address
	City
	State
	Zip code
	Date Won

	Date Claimed
	Gross Amount
	Federal Withholding
	State Withholding
	View Site Status Information
<b>W2G Report</b>	
A file identifying all claimants of prizes over \$600 that are reportable for tax purposes within a user selected timeframe	Tax year
	Month
	SSN/FID
	First Name
	Last Name
	Address
	City
	State
	Zip code
	Date Won
	Date Claimed
	Gross Amount
	W2G Processed (Y/N)
<b>Setoff Report</b>	
A file and report identifying all claimants subject to setoff withholding within a user selected timeframe	Claim number
	Date / time paid
	SSN/FID
	First Name
	Last Name
	Claim center
	Taxes withheld
	Setoffs by type

### **Agent Administration**

<b>Bank Activity Report</b>	
Report showing all retailer bank account information added or modified during the reporting period.	Application Number
	Retailer Number

	Business Name
	Application Type
	Application Status
	Routing Number
	Account Number
	Account Type
	Date and time of initial EFT transaction
	Name of individual who processed the EFT
<b>Active XCAP List</b>	
A report identifying all active XCAP retailers	Retailer Number
	Business Name
	Business Address
	Business Ownership Type
	Tax ID
	Retailer Status
	T-down status
<b>Terminated XCAP List</b>	
A report identifying all XCAP retailers in terminated status	Retailer Number
	Business Name
	Business Address
	Business Ownership Type
	Tax ID
	Retailer Status
	T-down status
<b>T-Down List</b>	
A report identifying all retailers currently T-Down	Retailer Number
	Business Name
	Territory
	Retailer Status
	T-down status
	Date processed
	Reason / Comment
	Last Modified By
<b>Owner DOB</b>	
A report to identify all retailers where one or more owners of record are over ## years of age	Retailer Number

	Business Name
	Territory
	Owners Name
	Owners DOB
<b>Retailers with a Security Interest</b>	
A report to identify all retailers where there is a Security Interest	Retailer Number
	Business Name
	Territory
	Date Security Interest established
<b>Retailers with common tax ID</b>	
A query to identify all retailers with co-ownership	Selected SSN or tax ID
	Retailer Number
	Business Name
	Business Address
	Owners Name

### **Security**

<b>Transaction Look-up</b>	
A query to display all data associated with a ticket transaction number. (Limited access)	Transaction Number
	Date & time of purchase
	Play details for tickets sold, claim details for validation transactions, creation and cashing details for vouchers – game, draw(s), selections, QP
	Retailer number
	Retailer name
	Prize won, if any
	Prize paid y/n
<b>Fast Play Reconstruction</b>	
A report identifying all ticket information for Fast Play sales. (Limited access)	Transaction Number
	Date & time of purchase
	Play details for tickets sold / claim details for validation transactions – game, draw(s), selections, QP
	Retailer number
	Retailer name
	Prize won, if any
	Prize paid y/n

<b>Ticket Stock Delivery</b>	
Database access to identify the retailer location that received a particular roll of ticket stock	Stock serial number
	Retailer number per shipping record
	Retailer name
	Date received by the retailer
<b>Security Alerts</b>	
Reporting must be provided on all of the following anomalies	Previously paid
	Coupon queries
	Stolen tickets scanned
	Expired tickets scanned
	Scratch game not activated (Note a daily report of these anomalies will be required in Excel format. Data fields to be discussed.)
	Password errors – over X per day
<b>Terminal Event Logs</b>	
A report showing clerk and self-service transactions at a particular terminal	Date and time created
	Retailer name
	Retailer number
	Transaction date and time
	Transaction details – excluding full transaction number
	Terminal error messages
<b>District Manager Inventory Actions</b>	
A report showing all inventory actions initiated by a DM	DM Name
	District Number
	Transaction Date
	Game number
	Pack number
	Status Change Type
	Location / retailer moved from
	Location / retailer moved to

**Sales – (Note: Sales Force Automation Tool is separate)**

<b>Retailer Lookup</b>	
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A query to display all retailer data based on any retailer specific data point.	Retailer Number
	Business Name
	Business Address
	District
	City
	County
	State (Selling location mailing address may not be MD)
	Zip
	Phone
	Owner name
	Status change history
Names, addresses and tax ID must be viewable for any retailer selected, with percentage of ownership.	
Terminal and peripheral equipment provided	

### **Product Development**

<b>Instant Game Detail</b>	
A report of all key data points for all scratch games	Game Name
	Game Number
	Start orders
	Last orders
	Sales start – activations
	Sales end – last activation
	Validation start
	Last validation
	Last settle
	Last return
	Winner purge
	Manufacturer
	Price
	Tickets per Pack
	Number of packs shipped
	Number of omits
	Packs per carton
	Pack weight
	Ticket size
	Starting ticket per pack
	Packs per pool
	VIRN algorithm



	Low tier settle percentage
	Product category
	Sell Priority
	Initial order override %
	Days to Settle
	Game seed
	Vendor key
	Allow TelSell Initials
	Top Prizes claimed
<b>Fast Play Detail</b>	
A report of all key data points for all Fast Play games	Game Name
	Game Number
	Sales start
	Sales end
	Validation start
	Last validation
	Winner purge
	Price
	Pool size
	Pools loaded
	Top Prizes claimed
	Progressive seed
	Progressive increment
<b>Quick Pick Usage</b>	
A report showing the number and value of tickets sold using Replay, quick pick, physical play slips and e-playslips, available for a week, a month, a quarter, or a fiscal year.	Game Name
	Tickets purchased by play entry method

### **Customer Service Center (Claims) and Subscriptions**

<b>Subscription Deposit Verification</b>	
A listing of all subscription entries processed on a day or date range,	Start date
Note if a subscription is entered and subsequently cancelled it should be shown separately on the report and not in the deposit total.	End date

	Date activated
	First name
	Last name
	Purchase nickname
	Type – new or extension
	Check number
	Check amount
<b>Additional Subscription Reports</b>	
Details provided on request	Active subscriptions detail / summary
	Cancelled extension details
	Cancelled subscription details
	Check detail data
	Payout checks requested
	Subscription staff list and permissions
	Ineligible claimants in groups
	Outstanding / future draws by game
	Extensions by activation date detail / summary
	Refund calculation for game stepdowns
	Activations by game and play duration
	Subscriptions detail or summary by activation date, draw date, purchase date
	Subscription winners – funds to wallet or paid by check
	Voided subscriptions details
	Wallet balance total and detail by player
	Wallet transaction detail details for a player(s)
<b>Annuity Detail</b>	
Details of current annuity prize winners	Lottery User ID
	Annuity ID
	Annuity Type
	Claim ID , if any
	Claimant/Beneficiary – name, address, last 4 of SSN
	Original prize amount
	Original claim date
	Final Payment Due Date
	Status – Active or Completed
<b>Payment Batch Detail</b>	
Details of current annuity prize payments	Lottery User ID
	Annuity ID

	Annuity Type
	Anniversary / payment date
	Claimant/Beneficiary – name, last 4 of SSN
	Gross payment
	Merchandise value
	Federal withholding
	State withholding
	Child Support setoff
	CCU setoff
	VEP setoff
	Total withheld
	Net paid
<b>Annuity Letter Report</b>	
Details of current annuity prize letters to be generated	Lottery User ID
	Annuity ID
	Annuity Type
	Claimant/Beneficiary – name
	Status – Active or Completed
	Lifetime prize Yes / no
	Next payment date – or N/A
	Start date
	End date
<b>Canceled Payments</b>	
Details of checks not produced	Lottery User ID
	Annuity ID
	Annuity Type
	Claimant/Beneficiary – name
	Status – Active or Completed
	Payment Date
	Payment Amount
	Date cancelled
	Canceled by
	Comments
<b>Claimant Detail</b>	
Details of individual annuitants	Lottery User ID
	Claimant/Beneficiary – name
	Annuity Details – to be agreed to

**Other Reports**

<b>Drawing Certification</b>	
Report showing sales and prize details for one, or a series of drawings for a game.	Game Name
	First draw – date and number
	Last draw – date and number
	Sales – Terminal and subscription, by day
	Prize pool
	Winning numbers
	Prizes by tier and terminal versus subscription – For Pball and Mega Millions, include prizes by subtype and in total. For games with rolling jackpots include prior draw carryforward amounts.
<b>Draw Close</b>	
Report showing game close details for one, or a series of drawings for a game.	Game Name
	First draw – date and number
	Last draw – date and number
	Sales, Cancels and Net – Current, prior days, subscriptions, promotions, and total
	Game close time
<b>Game Scan</b>	
Report showing game prize details for one, or a series of drawings for a game.	Game Name
	First draw – date and number
	Last draw – date and number
	Winners by type / tier
<b>CARES File</b>	
Quarterly report showing all claims processed	Claimant name and address
	claimant tax ID
	date claimed
	game
	gross prize
	tax withholding
	setoffs
	net prize
<b>High Tier Winner Report</b>	

Report used to identify top prize information following drawings	Game name
	Draw date
	Date and time sold
	Selling Retailer name, ID and city
	Partially redacted ticket serial number
	Draw #
	Prize Tier
	Gross Prize amount

## Appendix 8. – Liquidated Damages

### A. SYSTEM CONVERSION PERIOD

#### 1. Condition

The Contractor shall complete all key milestone dates as agreed upon in the Conversion Plan as described in the plan and comply with all other Contractual requirements in effect during the Conversion Period.

#### 2. Damages

- a. \$10,000 per day for each missed key milestone date, as agreed upon in the Conversion Plan, prior to Start-up date.
- b. \$150,000 per day following the planned Start-up date for each Day of delay in completion of all agreed upon milestone dates in the Conversion Plan.
- c. \$500 per day for each and every failure to provide a deliverable or resolve an acceptance test problem pursuant to the agreed upon schedule or to comply with all other contractual requirements in effect, until such requirement is provided or performed.

### B. RETAILER INSTALLATION – CONVERSION PERIOD

#### 1. Condition

The Contractor shall install all Terminals, Monitors, and associated Hardware in accordance with the schedule, which shall be agreed to by the Contractor and the MLGCA. The only exception to this timeframe would be for installations awaiting work to be done by a Retailer. A Retailer shall be considered to be installed and operational when required equipment has been installed at the designated location, is in good running and working order, connected to the PDC and BDC, and is capable of processing wagers and issuing Tickets in conjunction with the LCMCS, and the Retailer has received training which is deemed satisfactory and verified by the MLGCA. If the LCMCS fails to support any or all Terminals, then said Terminal(s) shall not qualify as being operational.

#### 2. Damages

In the event that the Contractor fails to install Retailer Terminals, Monitors and associated Hardware as specified, up to \$700 per Day per Terminal or Monitor until installed. For any Terminal/Monitor that is not installed after fifteen (15) Days from the scheduled installation date, up to \$1,500 per Day per Terminal/Monitor for each subsequent Day.

### C. RETAILER INSTALLATION – ONGOING

#### 1. Condition

The Contractor shall install all Terminals, Monitors, and associated Hardware within 14 days of notice from the Lottery. The only exception to this timeframe would be for installations awaiting work to be done by a Retailer. A Retailer shall be considered to be installed and operational when required equipment has been installed at the designated location, is in good running and working order, connected to the PDC and BDC, and is capable of processing wagers and issuing Tickets in conjunction with the LCMCS, and the Retailer has received training which is deemed satisfactory and verified by the MLGCA.

#### 2. Damages

In the event that the Contractor fails to install Retailer Terminals, Monitors and Associated Hardware as specified, up to \$700 per Day per Terminal or Monitor until installed. For any hardware not installed after fifteen (15) Days from the scheduled installation date, up to \$1,500 per Day per Terminal/Monitor for each subsequent Day.

**D. TIMELY AND ACCURATE REPORTS OR FILES**

1. Condition

Reports, files and export data shall be created and available on a pre-defined, scheduled and ad hoc basis according to the schedule approved by the MLGCA. This condition applies to the primary LCMCS, back-up LCMCS, BI system, data warehouse, and export data.

2. Damages

\$5,000 per Day for each late or inaccurate report, file or data export, until the required report or file is provided or corrected.

**E. RETAILER OUTAGE**

1. Condition

For any Retailer who is completely unable to sell and cash Tickets the Contractor shall make the repairs necessary to make the Retailer operational within three business (3) hours of notification of the outage during a Retailer's sales hours. In all cases, the determination as to whether or not a Retailer is operational shall be made solely by the MLGCA.

2. Damages

If there has been a maintenance delay beyond the allowable three (3) hour repair time as set forth above, liquidated damages shall be based upon the average dollar value of lost revenue to the State. Lost revenue is determined by multiplying the current Revenue Contribution Rate (which is 26.0%) times the Retailer's average daily sales for the same day of the week for the thirteen (13) weeks immediately prior\*. For a Retailer where multiple Terminals or Monitors are installed, if at least one Terminal or Monitor (as applicable) remains operational then liquidated damages may not be assessed under this Section.

\*Example – Retailer with only one Terminal and/or Monitor averages \$1,000 per day in sales on Tuesday for prior 13 weeks. On the day of the service call sales are \$350, indicating lost sales equal to \$650 and lost revenue equal to \$169.

**F. RETAILER TERMINAL PREVENTATIVE MAINTENANCE**

1. Condition

All Retailer Terminals are to be serviced during the required 120-day preventative maintenance cycle. Components of the required service will be as described in the Offeror's maintenance plan, but in general are required to assure all features and peripherals are operating correctly and the terminal is clean and undamaged. Preventative maintenance will be considered completed whenever there is a service call at the Retailer location.

2. Damages



If a Terminal has not been serviced for a period of 150 days, damages of \$25 per day for each day beyond 150 days will be assessed. Damages may be waived when the Retailer is seasonal or open less than 5 days per week.

**G. RETAILER TROUBLE REPORTING AND HOTLINE**

3. Condition

The Contractor shall employ sufficient resources to meet the performance standards of the Retailer Trouble Reporting Hotline. ~~Ninety Nine percent (99%)~~ Eighty five percent (85%) of calls to the Hotline shall be answered by a live representative within ~~thirty (30)~~ sixty (60) seconds. Average wait times shall not exceed one (1) minute for any 30-minute period on any Business Day. The Contractor shall provide weekly call statistics for the Retailer Trouble Reporting Hotline within five (5) days of the end of each Business Week. Within two (2) Business Days after notification from the Director that a performance standard is not being met, the Contractor shall employ additional resources as necessary to meet the performance standard as set forth by the MLGCA. The Hotline shall be available 99.99% of the Business Day excluding scheduled maintenance times.

4. Damages

For each day the Contractor staff fails to answer 99% of calls within 30 seconds, damages of \$1,000 will apply. If the Contractor does not bring deficient performance up to the standards within ~~two (2)~~ five (5) Days of notification, up to \$10,000 per Day thereafter, for each specific corrective action required by the Director that the Contractor has not taken.

**H. WINNING NUMBERS HOTLINE**

1. Condition

The Contractor shall employ sufficient resources to meet the performance standards of Winning Numbers Hotline. Ninety Nine percent (99%) of calls to the Hotline within a twenty-four (24) hour period shall be answered on the first call attempt. The Contractor shall provide weekly call statistics for the Winning Numbers Hotline within five (5) days of the end of each month. Within two (2) Business Days after notification from the Director that a performance standard is not being met, the Contractor shall employ additional resources as necessary to meet the performance standard as set forth by the MLGCA. The Hotline shall be available 99.99% of the day, defined as 24 hours, excluding scheduled maintenance times.

2. Damages

If the Contractor does not bring deficient performance up to the standards within two (2) Days of notification, up to \$1,000 per Day thereafter, for each specific corrective action required by the Director that the Contractor has not taken.

**I. FAILURE TO MODIFY GAMES, TO INSTALL ADDITIONAL GAMES OR IMPLEMENT REQUESTS FOR SYSTEM CHANGES**

1. Condition

The Contractor shall modify games, install additional games, or implement requests for LCMCS changes within the agreed upon time frame. For Fast Play games, each game scheduled shall be considered separately for purposes of calculation of liquidated damages. In addition, the Contractor shall complete acceptance testing of the required modification or addition to the LCMCS, and receive the Director's written approval of such test, within the time frame specified.

2. Damages

Up to \$50,000 per Day per game that the modification of a game, installation of an additional game, or implementation of a request for an LCMCS change exceeds the required completion date.

**J. UNAUTHORIZED SOFTWARE/HARDWARE MODIFICATIONS**

1. Condition

The Contractor shall not modify any software or hardware without the prior written consent of the Director or his designee.

2. Damages

Up to \$50,000 per violation or occurrence.

**K. UNAUTHORIZED ACCESS**

1. Condition

The Contractor shall preclude unauthorized persons, that is, personnel who are not authorized by the Director or a designee, from accessing any Facility or the LCMCS.

2. Damages

Up to \$10,000 for each person for each occurrence in violation. An occurrence shall be defined as each and every act that permits access by an unauthorized person.

**L. FAILURE TO SUPPORT AN INSTANT TICKET GAME**

1. Condition

The LCMCS shall handle Instant Ticket transactions and produce reports for all games ordered by the MLGCA from its Instant Ticket suppliers.

2. Damages

Up to \$10,000 per Day per game for any Instant Game for which the Contractor does not provide timely and/or correct Instant Ticket transaction handling and reporting.

**M. SECURITY/PROBLEM NOTIFICATION – FAILURE TO TIMELY REPORT**

1. Condition

The Contractor shall comply with the reporting requirements of Section 3.27.9.

2. Damages

Up to \$5,000 per each reportable event for which the Contractor does not provide timely and/or correct notification and reporting.

**N. INVALID WINNING TICKETS**

1. Condition

The Contractor shall be liable for all winning tickets issued by the LCMCS and presented for redemption that are not identified as valid, winning saleable tickets on the validation files, for which the MLGCA becomes liable for payment.

2. Damages

Equal to the amount of the liability incurred by the MLGCA for each ticket.

**O. RETAILER WEBSITES UNAVAILABILITY**

1. Condition

The websites shall be unavailable for access and unable to perform functions no more than two (2) minutes total from the time an issue is detected or reported to the Contractor during any Business Day, excluding scheduled maintenance time as approved by the MLGCA.

2. Damages

Up to \$1,000 per day or portion thereof when a Retailer website is not accessible and/or performing its functions.

**P. PERFORMANCE**

1. Condition

The Send-to-Cut time for any Retailer Terminal, PSST or other device capable of producing or validating Tickets shall not exceed four (4) seconds, from the Terminal or device to the LCMCS and back. This time includes the total round-trip communications time and the processing of the transaction by the LCMCS(s). The Send-to-Cut time shall be under three (3) seconds 99% of the time. At no time shall the Send-to-Cut time exceed four (4) seconds.

2. Damages

\$5,000 per hour or portion thereof when the Send-to-Cut time exceeds three (3) seconds for over one (1) % of the Retailer Network.

**Q. BACK OFFICE FUNCTIONALITY**

1. Condition

All Back-Office Functionality, not specified elsewhere within this section, shall be available on the LCMCS at all times. At no time shall any of this functionality be unavailable for more than one (1) hour in any twenty-four (24) hour period.

2. Damages

\$5,000 per hour for each hour, for each Back-Office Function, in excess of one (1) hour that any Back-Office function as defined in Section 2.3.13 is unavailable.

**R. SYSTEM OUTAGE**

1. Condition

The LCMCS shall be “down” no more than two (2) minutes total during any Business Day. When cumulative downtime extends beyond two (2) minutes during any Business Day, liquidated damages may be imposed.

2. Damages

- a. The dollar value of sales data during the five-minute period just prior to the LCMCS outage will be used to calculate damages. (If the LCMCS outage occurs at the beginning of game day or game “cut off” time, sales data for the same day and time of the previous

week data will be used to calculate damages. If the previous week falls on a holiday or is an unusual occurrence, the MLGCA will compare sales data for the same day and time of the previous two to three weeks to calculate damages.)

- b. The MLGCA will determine the extent of LCMCS outage, as specified above, and will divide the sales data for the five-minute period by five to determine the dollar value of loss sales per minute that shall be imposed for LCMCS outage.
- c. The total dollar value of loss sales per minute will be multiplied by the total number of minutes of LCMCS outage minus two minutes to determine the total lost sales during the outage period.
- d. The MLGCA will multiply the current Revenue Contribution Rate by the total lost sales during the outage period to determine the total liquidated damage penalty.
- e. For each minute of downtime, or fraction thereof, beyond two (2) minutes, the Director may impose liquidated damages of up to the amount as determined above.

#### **S. SYSTEM DEGRADED PERFORMANCE**

The MLGCA shall be solely responsible for determining, through existing reporting programs, the degraded performance described herein.

##### **1. Condition**

The LCMCS shall have “degraded performance” no more than two (2) minutes total during any Business Day. The LCMCS shall be considered as having degraded performance when the LCMCS cannot process transactions from a significant percentage of the installed and operational Terminals or when transactions are unable to be processed for an individual game or multiple games. The extent of degraded performance shall be determined by using existing game activity reports. Whenever the LCMCS has “degraded performance” which collectively exceeds two (2) minutes during any Business Day, the Director may impose liquidated damages as determined below.

##### **2. Damages**

- a. The total number of wagers processed during the same day and time period just prior to the onset of degraded performance will be used to calculate an average number of wagers per minute. (If degraded performance occurs at the beginning of game day or game “cut off” time, wager data for the same day and time of the previous week will be used to calculate the average number of wagers per minute. If the previous week falls on a holiday or is an unusual occurrence, the MLGCA will compare wager data for the same day and time for the previous two to three weeks to determine an average number of wagers per minute.)
- b. The actual number of wagers processed during the total number of minutes of degraded performance will be used to calculate an average number of wagers per minute during the period of degraded performance.
- c. The average number of wagers processed per minute during degraded performance shall be divided by the average number of wagers processed per minute during the same day and time period just prior to the onset of degraded performance to determine the percentage of performance for each minute of degraded performance.
- d. The dollar value of sales during the same day and time period just prior to the degraded performance will be used to calculate damages. (If the degraded performance occurs at the beginning of game day or game “cut off” time, sales data for the same day and time of the previous two-three weeks will be used to calculate damages. If the previous week falls on

- a holiday or is an unusual occurrence, the MLGCA will compare sales data for the same day and time for the previous two-three weeks to calculate damages.)
- e. The MLGCA will determine the extent of degraded performance, as specified above, and will multiply the actual percentage of degraded performance by the sales data to determine the dollar value of lost sales.
  - f. The MLGCA will determine average dollar value of lost sales per minute by dividing the dollar value of lost sales by the total number of minutes of degraded performance to determine the average dollar value of lost sales per minute that shall be imposed for degraded performance. (If degraded performance occurs at the beginning of game day or game “cut off” time, wager data for the same day and time of the previous week will be divided by sales data to determine the dollar value of lost sales per minute that shall be imposed for degraded performance. If the previous week falls on a holiday or is an unusual occurrence, the MLGCA will compare sales data for the same day and time for the previous two-three weeks to determine the dollar value of lost sales per minute that shall be imposed for degraded performance.)
  - g. The average dollar value of lost sales per minute will be multiplied by the total number of minutes of degraded performance, minus two minutes, to determine the total sales lost.
  - h. The MLGCA will multiply the current Revenue Contribution Rate by the total lost sales to determine the total liquidated damage penalty.

**T. EQUIPMENT PROVIDED FOR LOTTERY USE**

1. Condition

The Contractor shall have staff physically present to address equipment issues experienced by Lottery staff during the Lottery’s normal operating hours – Monday through Friday from 07:00 until 18:00 including Sales Force Automation tools, Warehouse systems, and checkwriter systems at casinos, the Lottery Customer Resource Center, and Finance.

2. Damages

Up to \$100 per hour or portion thereof when staff functions are delayed because of equipment issues.