



**TEXAS LOTTERY COMMISSION**  
**REQUEST FOR PROPOSALS FOR**  
**INSTANT TICKET MANUFACTURING AND SERVICES**

**#362-12-0001**

**RESPONSES TO PROPOSERS'**  
**QUESTIONS**

**AND**

**RFP AMENDMENTS**

**December 16, 2011**

**REQUEST FOR PROPOSALS  
FOR  
INSTANT TICKET MANUFACTURING AND SERVICES  
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RFP AMENDMENTS**

**DATE: December 16, 2011**

**Note to All Prospective Proposers:**

The following responses include questions raised and answers provided during the pre-proposal conference held on November 17, 2011, and questions submitted in writing by the RFP deadline.

In its answers to the following questions, the Texas Lottery has attempted to provide both accurate and thorough responses. Some answers may clarify or modify the RFP, and every Prospective Proposer is on notice of each answer's content. Answers that modify the RFP are so noted. Answers apply only to the facts as presented in each specific question.

Proposers shall review all sections of the RFP along with this document to ensure a complete understanding of the requirements. Any exceptions to the RFP shall be noted in the proposal, as required under Section 2.8 of the RFP.

**PRE-PROPOSAL CONFERENCE QUESTIONS AND RESPONSES –  
NOVEMBER 17, 2011**

- A. On the offered options section, I'm not quite sure whether it is mandatory that vendors supply pricing for the offered options section.

**RESPONSE:** Pricing for all offered options should be included in the separately sealed Cost Proposal.

**WRITTEN QUESTIONS RECEIVED BY DECEMBER 6, 2011 @ 4:00 P.M.**

1. **Part 1, Section 1.4, Schedule of Events, Page 3** - Due to the nature of the unique requirements in this RFP, will the Lottery consider adding a second round of Questions and Responses to enable vendors to get further clarification on first round Lottery feedback to key RFP sections?

**RESPONSE:** Yes. Please see Amendment No. 1 to the RFP.

2. **Part 2, Section 2.6, Submission of Proposal, Page 9** - *The RFP section states: "For Parts 4, 6 and 7 only, Proposers shall provide a section-by-section response to the RFP."*

We believe the list of section-by-section responses may not be accurate. Will the Lottery please confirm that a section-by-section response is only required for Parts 4, 7 and 8?

**RESPONSE:** A section-by-section response is required for Parts 4, 6, 7 and 8. Please see Amendment No. 2 to the RFP.

- 3. Part 2, Section 2.6.2, Submission of Proposal, Page 9** - *The RFP section states: "All Proposals submitted must be bound in a three-ring binder, organized and arranged to correspond directly with the numbered sections of this RFP, and all pages must be numbered."*

Do pre-printed materials (i.e., articles, fact sheets) need to be numbered? If so, do these items need to be numbered sequentially within the section in which they are presented?

**RESPONSE:** Pre-printed materials do not have to be numbered, but should have an identifying title.

- 4. Part 3, Section 3.10, Federal Tax Withholding From Payments, Page 17** - *The RFP section states: "If required by law, the Texas Lottery will deduct a 3% federal income tax withholding on vendor payments issued for goods or services after Dec. 31, 2012."*

Since the Federal government has eliminated this requirement, will the Lottery delete this section?

**RESPONSE:** The withholding will not be required due to the repeal by Congress. Please see Amendment No. 3 to the RFP.

- 5. Part 3, Section 3.13.2, Lottery Approval of Staffing, Page 19** - *The RFP section states: "The Successful Proposer shall provide the Texas Lottery written notification and justification within three (3) Working Days of any personnel changes in accordance with Section 4.2.4."*

The three-day notice period is very short and since the Lottery is insisting on termination rights for any breach, including something as minor as failing to meet this notice requirement, we request that the Lottery extend this period to five business days.

**RESPONSE:** Please see Amendment No. 4 to the RFP.

- 6. Part 3, Section 3.16.1, Term of Contract, Page 20** - *The RFP section states: "Any Contract resulting from this RFP will commence on the Contract execution date and continue through August 31, 2018 subject to the termination provisions in this RFP and subject to the Texas Lottery being continued and funded by the Texas Legislature."*

The Lottery establishes a date certain for the expiration of the initial term of the contract awarded under this RFP. However, no mechanism appears in this clause to account for delays caused by the actions of unsuccessful bidders, the Texas Lottery Commission,

other agencies or departments of the Texas state government or other third parties over which the successful vendor has no control. Therefore, the successful vendor bears all the risk for costs associated with such delays. For instance, a litigation associated with this RFP could conceivably last 12 months reducing the term from roughly 6 years to 5 years through no fault of the successful vendor. How will the Lottery address this unfair distribution of risk? For instance, and only as an example, will the Lottery extend the term commensurate with the delay in the effective date?

**RESPONSE:** The Texas Lottery declines to amend the RFP.

7. **Part 3, Section 3.16.5, Term of Contract, Page 20** - *The RFP section states: “At the end of the Contract term, or upon earlier termination under any provision of this Contract, the Successful Proposer shall, in good faith and with reasonable cooperation, aid in the transition to any new arrangement and provider, if requested by the Texas Lottery.”*

Given the competitive nature of our industry, will the Lottery include a requirement that any such cooperation will be subject to appropriate nondisclosure obligations undertaken by all parties as reasonably necessary?

**RESPONSE:** The Texas Lottery declines to amend the RFP.

8. **Part 3, Section 3.17, Termination at Will, Page 20** - *The RFP section states: “The Texas Lottery, in its sole discretion, may terminate, in whole or in part, any Contract resulting from this RFP at will and without cause upon no less than thirty (30) Days’ advance written notice. The Texas Lottery also may terminate any Contract immediately with written notice if the Executive Director, in his or her sole judgment, believes that the integrity or security of the Texas Lottery is in jeopardy and it is in the best interest of the Texas Lottery to do so. The Texas Lottery’s right to terminate for convenience any Contract resulting from this RFP is cumulative of all rights and remedies which exist now or in the future.”*

Please confirm that the successful vendor will receive payment for services rendered prior to any termination at will under this Section 3.17.

**RESPONSE:** The Texas Lottery will pay for all authorized services received or requested through the contract termination date.

9. **Part 3, Section 3.18(i), Termination For Cause, Page 21** - *The RFP section states: “The Successful Proposer fails to comply with any of the terms, conditions or provisions of the Contract, in any manner whatsoever...”*

The contract terms allow for termination by the Lottery for any breach of any provision of the contract, regardless how minor. Will the Lottery please limit the right to terminate to only breaches of material obligations under the contract?

**RESPONSE:** The Texas Lottery declines to amend the RFP.

10. **Part 3, Section 3.19, Termination for Cause, Page 20** - *The RFP section states: “The Texas Lottery reserves the right to terminate, in whole or in part, any Contract resulting from this RFP upon no less than five (5) Days’ notice upon any of the following conditions:*

*(a) The failure of the Texas Legislature to appropriate funds to the Texas Lottery for any Contract resulting from this RFP.*

*(b) Any act or omission by the Texas Legislature which renders performance by the Texas Lottery impossible.”*

Please confirm that the successful vendor will have the opportunity to cure the breach, if such breach is susceptible to cure, prior to the termination of the contract under Section 3.18 of the RFP.

**RESPONSE:** The Texas Lottery declines to amend the RFP.

11. **Part 3, Section 3.21, Effect of Termination – Executed Working Papers, Page 22** - *The RFP section states: “The Texas Lottery, in its sole discretion, may require the Successful Proposer to complete production and delivery of instant tickets for which working papers have been executed prior to expiration or termination of any Contract resulting from this RFP, even if such production and delivery extends beyond the initial Contract period or any extension thereof.”*

This section is unclear as to compensation for tickets produced pursuant to working papers executed prior to expiration or termination of the contract. Will the Lottery please confirm that compensation for such tickets will be paid pursuant to the terms of the applicable working papers?

**RESPONSE:** Please refer to the response to Question No. 8 above.

12. **Part 3, Section 3.25, Successful Proposer Site Visits, Page 24** - *The RFP section states: “The Texas Lottery shall have the free and unrestricted right, acting by itself or through its authorized representatives, to enter the premises of the Successful Proposer and any Subcontractors, and to enter any other sites involved in providing goods and/or services under any Contract resulting from this RFP, to examine their operations and to inspect and copy the records of the Successful Proposer and/or Subcontractors pertaining to goods and services provided under any Contract resulting from this RFP. The Successful Proposer agrees that the Successful Proposer and its Subcontractors shall implement all reasonable quality control and security procedures requested by the Texas Lottery or representatives as designated by the Texas Lottery. The Texas Lottery will use reasonable efforts not to disrupt the normal business operations of the Successful Proposer (or Subcontractor, as applicable) during site visits announced or unannounced.”*

Due to federal and state laws and regulations, will the Lottery please confirm that such site visits will be subject to all applicable safety and security procedures?

**RESPONSE:** The Texas Lottery will comply with all applicable laws and regulations. The Successful Proposer should notify the Lottery of all applicable laws and regulations (that may affect the Lottery) before the site visit.

**13. Part 3, Section 3.26, Intellectual Property Rights, Pages 24 – 26**

In the definitions of “Intellectual Property Rights” the Lottery includes “worldwide legal rights or interests that the party may have acquired by assignment or license with the right to grant sublicenses”. The intent of adding these two separately identified groups of rights is unclear. Regarding rights acquired by assignment, how do such rights differ qualitatively from rights that are developed independently by the Successful Vendor? Regarding the rights acquired by license with right to sublicense, and just to clarify, is the intent that the Lottery and Vendor would enter a sublicense for such rights embodied in a product or service provided to the Lottery? If not, what is the intent of this language? The language could be interpreted to include (a) the license itself, or (b) all rights under the license, even if they are not included in a product provided to the Lottery.

**RESPONSE:** The Texas Lottery declines to amend the RFP.

**14. Part 3, Section 3.26.3, Intellectual Property Rights - Ownership of Prior Rights by the Successful Proposer, Page 25**

The second sentence refers to licensing to the Lottery “[a]ll intellectual property relating to the goods and/or services” provided by the Successful Proposer under the contract. Since this language is very broad and can easily be interpreted to incorporate rights of the Successful Proposer that may not actually be supplied directly to the Lottery (such as rights in production methods, similar artwork or designs, prior works, etc.) which are owned by the Successful Proposer and not intended for the use of or on behalf of the Lottery, please confirm whether the intent of this provision is to provide a license to the rights embodied by the goods and/or services supplied to the Lottery? If not, and the intent is the license of rights exceeding those embodied in the goods and/or services provided to the Lottery, please clarify the scope of the rights the Lottery requires to be licensed by the Successful Proposer.

**RESPONSE:** The Texas Lottery declines to amend the RFP.

**15. Part 3, Section 3.27.1, Pre-existing and Third Party Rights, Pages 26 - 27**

- a) Please confirm that it is not the intent of the Lottery that third-party intellectual properties (such as famous brand names, logos, images, etc.) separately licensed by the Successful vendor as value-added goods and/or services offered to the Lottery (such as those offered by MDI Entertainment, LLC, Alchemy 3, LLC or GTECH Printing, Inc.) are not included in the obligations to provide a royalty-free, worldwide, perpetual license under this Section 3.27.1.

**RESPONSE:** Section 3.27.1 does not include branded, proprietary or licensed games provided as a Specified Option under RFP section 8.32.4.

What is the scope of “pre-existing” rights or limitations? Is it limited to pre-existing rights of third parties? If it is intended to include the pre-existing rights of the Successful Proposer, then please explain the relationship between Section 3.26.3 and this Section 3.27.1 in detail.

**RESPONSE:** The Texas Lottery declines to amend the RFP.

**16. Part 3, Section 3.29, Intellectual Property Search, Pages 27 - 28**

We object to the onerous registration requirement under this section. In the event the Lottery is unwilling to negotiate this requirement, please confirm that the expense being imposed upon the successful vendor is limited to filing the application. It would be unfair and unduly burdensome to expect the successful vendor to incur the expense to defend actions taken by the Trademark Offices.

**RESPONSE:** The Texas Lottery declines to amend the RFP.

**17. Part 3, Section 3.31, Right to Audit, Page 28 - *The RFP section states: “The Successful Proposer understands that acceptance of state funds under this Contract acts as acceptance of the authority of the State Auditor’s Office, or its designee, to conduct an audit, other assurance services or investigation in connection with those funds. The Successful Proposer further agrees to cooperate fully with the State Auditor’s Office in the conduct of the audit, other assurance services or investigation, including providing all records requested. The Successful Proposer shall ensure that this provision concerning the State Auditor’s Office’s authority to audit state funds and the requirement to cooperate fully with the State Auditor’s Office is included in any subcontracts it awards. Additionally, the State Auditor’s Office shall at any time have access to and the rights to examine, audit, excerpt, and transcribe any pertinent books, documents, working papers, and records of the Successful Proposer relating to this Contract.”***

Due to the competitive nature of our industry, will the Lottery include a requirement that any such cooperation will be subject to appropriate nondisclosure obligations undertaken by all parties as reasonably necessary?

**RESPONSE:** The Texas Lottery declines to amend the RFP.

**18. Part 3, Section 3.33.1, Bonds and Insurance, Pages 29 – 30**

- a) Will the Lottery accept being listed as a “loss payee” as opposed to an “additional insured”?

**RESPONSE:** No.

- b) Paragraph 3.33.1 of the RFP states that insurers must be admitted and authorized to do business in the State of Texas. We have Lloyds of London as an insurer. Will the Lottery accept Lloyds of London as a non-admitted insurer?

**RESPONSE:** TLC will only accept insurers that meet the requirements of 3.33.1.

- c) Paragraph 3.33.1 of the RFP states that the insurer must provide 30 days notice by certified mail to the Texas Lottery for canceled, non-renewed, or materially changed coverage. Our policies state that the Insurer will provide 90 days notice to the Insured. Will the Lottery accept 30 days notice from Insured as opposed to Insurer?

**RESPONSE:** The Texas Lottery declines to amend the RFP.

**19. Part 3, Section 3.32.2, Indemnification, Page 29**

Will the Lottery reinsert the opportunity for the successful vendor to object to the settlement or compromise of a claim by the Lottery subject to posting acceptable collateral such as a bond?

**RESPONSE:** The Texas Lottery declines to amend the RFP.

**20. Part 3, Section 3.33.2, Bonds and Insurance, Page 30 - *The RFP section states: "The Successful Proposer shall be responsible for ensuring that any subcontractor(s) used in the performance of the Contract maintains the required insurance as stated in Sections 3.33 – 3.39 (covering all goods and services provided by such subcontractors) throughout the Contract term and any renewals thereof."***

- a) Will the Lottery please define what the term subcontractor means in this instance?

**RESPONSE:** Please see the definition of "Subcontractor" in the RFP Glossary of Terms.

- b) Does Lottery require that any and all insurance coverage being maintained by the Successful Proposer also be maintained by a subcontractor, supplier or HUB vendor (please clarify whether HUB vendors or suppliers are included in definition of subcontractor)?

**RESPONSE:** Subcontractors should provide insurance coverage equal to the value of the goods/services provided.

**21. Part 3, Section 3.34, Self Insurance, Page 30 - *The RFP section states: "The Successful Proposer may not elect to provide entirely or in part for the insurance/bond protections described in this RFP through self-insurance. A deductible provision contained in an insurance policy that meets the requirements of this RFP is not considered as self-insurance unless the deductible amount exceeds five percent (5%) of the face amount of the insurance policy."***

Section 3.34 of the RFP states that Lottery will not accept a deductible amount that exceeds five percent (5%) of the face amount of an insurance policy. We are a very large company in which low deductibles are not available in the insurance marketplace for certain lines of coverage. Will the Lottery accept higher deductible amounts for required insurance coverage?

**RESPONSE:** The Texas Lottery has accepted higher amounts on a case by case basis. For negotiation purposes, Proposers should note this is an issue through the exception process in the RFP.

**22. Part 3, Section 3.43.1, Force Majeure/Delay of Performance, Page 32**

Will the Lottery change the three-day notice to the five-day notice for a force majeure event that is in the current contract? Also, will the Lottery change the notice requirement to run from the date the event became known, or reasonably should have become known, to the successful vendor?

**RESPONSE:** The Texas Lottery declines to amend the RFP.

**23. Part 3, Section 3.49, Hiring of Lobbyist, Consultant and/or Advisor; Supplemental Information, Page 34** - *The RFP section states: "The Proposer shall list the names, addresses and telephone numbers for all lobbyists, consultants, and/or advisors who will perform services related to the Proposer's operations or interests in the State of Texas, pursuant to previously executed contracts, or during the three (3) years prior to the issuance of the RFP, who have performed services related to the Proposer's operations or interests in the State of Texas for the Proposer or any Subcontractors of the Proposer. The Proposer shall immediately notify the Texas Lottery in the event of change of lobbyist, consultant, or advisor information.*

Is the disclosure requirement under this Section 3.49 intended for the response to the RFP? Or is it a requirement only of the successful vendor as part of the contracting process?

**RESPONSE:** The information requested in RFP section 3.49 must be included with the Proposal.

**24. Part 3, Section 3.54, Sanctions and Remedies Schedule, Page 36**

- a) Each subsection of Section 3.54 appears to cover a distinct and unique circumstance; therefore will the Lottery confirm that it therefore will not assess sanctions for a single event under multiple sanctions provisions?

**RESPONSE:** No.

- b) Section 2261.101 authorizes the assessment of fair and feasible sanctions for the breach or substandard performance of the contract by the Successful Proposer. However, Section 3.54 does not appear to provide the Successful Proposer the opportunity to object to such

assessment or defend its performance of the contract. What avenues for such objection are available to the Successful Proposer? Is the Lottery willing to negotiate with the Successful Proposer to establish a clear process under which the Successful Proposer would have the right to object to any such assessment within a certain reasonable period of time following its receipt of the notice of assessment and, in the event the Successful Proposer does object to any such assessment, the parties would schedule a time to review such assessment? Of course, any portion of the sanctions assessed to which the Successful Proposer does not object would be due and payable.

**RESPONSE:** The Texas Lottery declines to amend the RFP.

- c) Please clarify whether the assessment of sanctions shall be in lieu of the right of the Lottery to institute a cause of action for consequential damages, except where noted or otherwise authorized in the contract?

**RESPONSE:** The Texas Lottery's assessment of sanctions is not exclusive, but instead is cumulative of all rights and remedies available to the Lottery at law or in equity.

- d) Will the Lottery assess sanctions against the Successful Proposer in the event and to the extent the incident was caused by the Lottery, its retailers, third parties not under the control or direction of the Successful Proposer, or events of Force Majeure? If the answer to the question regarding any of the foregoing circumstances is yes, on what basis does the Lottery determine such action to be authorized?

**RESPONSE:** The Texas Lottery declines to amend the RFP.

25. **Part 3, Section 3.54.1, General, Page 36** - *The RFP section states: "Section 2261.101 of the Texas Government Code requires that all state contracts contain a remedies schedule, a graduated sanctions schedule, or both. Pursuant to that statutory provision, sanctions and remedies will apply for the incidents specified in this section. The sanctions and remedies will be referred to as —sanctions."*

Section 2261.101 establishes the authority of state agencies to create and incorporate a schedule of graduated sanctions that are fair and feasible for breach or substandard performance of the contract by the Successful Proposer. How did the Lottery determine the fairness of the amounts to be assessed as sanctions? How do these amounts relate to potential actual damages incurred by the Lottery for the events described in Sections 3.54.4-3.54.28? Was a review of actual losses or damages incurred by the Lottery historically for such events undertaken to determine the fairness of the amounts to be assessed?

**RESPONSE:** The sanctions in RFP sections 3.54.4 - .28 are consistent with sanctions in the Texas Lottery's current instant ticket and manufacturing services contracts. All sanctions were considered (both the trigger event and the sanction amount) before the RFP was issued.

**26. Part 3, Sections 3.54.2, Assessment of Sanctions and Section 3.54.3, Failure to Assess Sanctions, Page 36**

While we understand the desire of the Lottery not to inadvertently waive any right to assess sanctions for a failure of the Successful Proposer to perform its obligations under the contract, given the length of the contract term it is difficult to understand the fairness of authorizing the Lottery to assess a sanction in year 12 (assuming the contract is extended) for an event that occurred potentially on day 1 of the contract. Given this inherent unfairness, is the Lottery willing to negotiate a reasonable expiration of the right to assess sanctions under the contract?

**RESPONSE:** The Texas Lottery declines to amend the RFP.

**27. Part 3, Section 3.54.5, Missing/Incomplete Intellectual Property Search, Page 36 -**  
*The RFP section states: "The failure of the Successful Proposer to adequately conduct an intellectual property search as required by this RFP may result in the Successful Proposer being assessed sanctions in the amount of ten thousand dollars (\$10,000) per incident."*

What steps did the Lottery undertake to determine the fairness of a \$10,000 dollar sanction for a missing or incomplete intellectual property search?

**RESPONSE:** Please see the response to question 25 above.

**28. Part 3, Section 3.54.6, Omitted Packs and Quality Control Packs/Tickets, Page 36 and Section 3.54.18, Invalidated Drawing, Page 39**

Is the payment of lottery prizes by an entity other than the Lottery authorized under Texas law? If so, please provide a citation for review.

**RESPONSE:** Payments by a Successful Proposer of the prize amount of any apparent winning ticket from an omit/quality control pack or for entries selected in an invalidated drawing are not lottery prizes, but instead sanctions for the Successful Proposer's failure to meet contract performance requirements.

**29. Part 4, Section 4.1.1, Years of Experience, Page 47 -** *The RFP section states: "Proposers must indicate the number of years' experience the Proposer has in manufacturing instant tickets and providing related services as specified in this RFP. Each Proposer shall include descriptions and verifiable references (including names, titles, addresses and telephone numbers) documenting its experience for all engagements of comparable complexity and sensitivity for the past five (5) years."*

There are two consecutive sections labeled 4.1.1, would the lottery prefer that we simply combine these sections or re-number the entire section accordingly?

**RESPONSE:** Please refer to these sections as 4.1.1, paragraph one or 4.1.1, paragraph two.

30. **Section 4.1.3.b, Experience of Responding Firm – Penalties, Page 47** - *The RFP section states: “The Proposer shall state whether or not any of the following have occurred during the last five years: .The Proposed has been assessed any penalties or liquidated damages under any existing or past contracts and if so note the reason for and the amount of the penalty or liquidated damages for each incident.”*

Would the Lottery consider setting a minimum threshold for reporting (i.e., \$20,000 per incident or \$100,000 cumulative in any 1 year)?

**RESPONSE:** Please see Amendment No. 5 to the RFP.

31. **Part 6, Section 6.3.3, Texas Lottery Goals and Expectations, Page 58** - *The RFP section states: “The Texas Lottery, through negotiations with all Apparent Successful Proposers desires to establish common prices for the goods/services included in the Base price and certain Specified Options as identified in the Sealed Cost Proposal (Attachment H).”*

- a) Would the Lottery please elaborate further on the anticipated process for these negotiations?

**RESPONSE:** Negotiations will commence after the announcement of the Apparent Successful Proposer.

- b) Will apparent successful proposers have access to prices bid by all bidders prior to the common price negotiations?

**RESPONSE:** No.

- c) If a proposer is the low price bidder in any given cell prior to common price negotiations, will the price in that cell be subject to further negotiation?

**RESPONSE:** The Texas Lottery reserves the right to negotiate all contract prices.

- d) At what point in time do proposers agree or disagree to the common pricing arrangement, before the negotiation process or after “common pricing” has been established?

**RESPONSE:** The Texas Lottery declines to answer the question.

- e) How does the Lottery anticipate it will proceed and award individual games if one or none of the proposers agree to common pricing?

**RESPONSE:** Please see Section 1.1 and Part 6 of the RFP.

32. **Part 8, Section 8.3.1, Ticket Stock, Page 65** - *The RFP section states: "Tickets may be printed on various stocks, including but not limited to: 10 point virgin/recyclable coated two (2) sides and 10 point foil stock coated one (1) side and foil laminate one (1) side. The ticket stock coated two (2) side and foil must not curl, separate, or be easily split."*

Table 1 is included in Attachment H for tickets produced on c-2-s stock, but the RFP provides no Table 2 for pricing tickets produced on foil stock. Would the Lottery please provide Table 2?

**RESPONSE:** Please refer to Attachment H Sealed Cost Proposal, Specified Options, Other Specified Options (page 108) item #7 of the RFP. Proposers are asked to provide a price per square inch for foil ticket stock. A second pricing table is not required.

33. **Part 8, Section 8.33, Invited Options: Break Open Tickets, Page 86**

The Lottery's requirement for break-open tickets as part of the invited options list may create an advantage for a single vendor. Would the Lottery consider removing this item from the invited options list and placing it on the offered options category?

**RESPONSE:** No, Proposers are not required to submit specifications and pricing for Invited Options. Please refer to the Glossary of Terms for the definition of Invited Option.

34. **Attachment G, Scoring Matrix, Page 104** - *The RFP section states: "The Texas Lottery will review and consider all items in the Cost Proposals; some items may be given greater consideration than others."*

Will the Lottery please describe how it intends to compare the prices submitted by the various proposers during this process? Does the Lottery anticipate applying all prices submitted by a given vendor for a forecast product mix for a specified period of time, or does the Lottery mean to compare base ticket prices on a cell by cell basis?

**RESPONSE:** Please see the response to Question No. 31. The Texas Lottery declines to amend the RFP.

35. **Attachment H, Sealed Cost Proposal, Page 105**

Does the "common pricing" requirement apply to the drawing services portion of the RFP services?

**RESPONSE:** No, please refer to Attachment H "Common Price".

36. **Attachment H, Table 1, Price Grid**

Can bidders include additional ticket sizes in addition to the required sizes?

RESPONSE: Yes, the Texas Lottery has requested pricing for currently anticipated ticket sizing. However, Proposers may submit ticket pricing for additional sizing in the Offered Options Section response.

**37. Attachment H, Specified Options, Page 107**

Will the Lottery please clarify that when the Lottery states that a price is to be “per square inch” that it is intended to mean “per square inch per thousand tickets”?

RESPONSE: Please review the introduction to the Specified Options Section of Attachment H, Sealed Cost Proposal of the RFP (“Each Proposer should indicate the additional cost per thousand (1,000) tickets for the options listed below....”).

**38. General Request**

Could the Texas Lottery please provide current contractual pricing information for all primary and secondary suppliers?

RESPONSE: Proposers may submit a public information request for information related to existing contracts via email at [openrecords@lottery.state.tx.us](mailto:openrecords@lottery.state.tx.us) or facsimile at 512.344.5189.

**39. Clarification: Submission of Proposal (Section 2.6.2, pages 9-10)**

The RFP states that all pages of proposals must be numbered. Typically, inserts (including but not limited to financial statements, verifications of insurance, and HSP documentation) would not be numbered, or may be numbered independent to the numbering scheme of the main text. May inserts be exempted from the requirement that pages be numbered?

RESPONSE: Please see the response to Question No. 3.

**40. Clarification: Submission of Proposal (Section 2.6.6, page 10)**

The RFP requires a PDF file of Vendors’ proposals on compact disc (absent the Cost Proposal). Is the disc to include complete HSP information, and if so, must that also be searchable?

RESPONSE: The HSP does not need to be included in the CD.

**41. Clarification: Performance Bond (Section 3.35, page 30)**

Will the Lottery accept an annual renewable performance bond?

RESPONSE: Yes.

**42. Clarification: General Liability Insurance (Section 3.36, page 30)**

Could the Lottery please confirm that the “fifty thousand (\$50,000) fire damage” insurance minimum described in Section 3.36 refers to the tenant’s legal liability coverage?

RESPONSE: Yes, tenant's legal liability is the same as fire damage.

43. **Clarification: Account Team (Section 4.2.2.[1], page 49)**

Could the Lottery please clarify whether the “knowledge and experience of accounting” referred to in this section refers to ticket accounting, to financial accounting, or to both?

RESPONSE: Please see Amendment No. 6 to the RFP.

44. **Clarification: Pricing (Attachment H, page 107)**

Regarding the cost breakdown of the four items included in the base ticket cost at the top of this page: is it the Texas Lottery's intention to have Vendors disclose their actual costs for each of the four options listed, or is it the intention to have prices listed such that the Lottery can request them as credits against the base pricing and/or to achieve a common base price among Vendors?

RESPONSE: The Texas Lottery will use this information in achieving a common base price among vendors.

45. **Clarification: Pricing (Attachment H, page 107)**

Regarding the cost for “additional spot colors,” could the Lottery please clarify whether these are base spot colors, overprint spot colors, or both?

RESPONSE: Both.

46. **RFP Reference Number 3.16.2, RFP Page Number 20**

Would the Lottery please consider adding the text in *bold red italics* below:

The Texas Lottery reserves the right to extend any Contract resulting from this RFP, at its sole discretion, *prior to the end of the initial Contract period, or any extension thereof, or at a time mutually agreed upon by both parties*, for up to two (2) additional three (3) year periods, at the Contract rate or rates as modified during the term of the Contract.

RESPONSE: The Texas Lottery declines to amend the RFP.

47. **RFP Reference Number 3.16.4, RFP Page Number 20**

The Lottery has indicated its preference to establish common prices among those successful proposers willing to accept such common pricing, however, Section 3.16.4 states that the “...Lottery reserves the right to re-negotiate prices at any time during the Contract term or any renewal period.”

- 1) Could the Lottery please confirm that its right to “re-negotiate prices at any time during the Contract term or any renewal period” does not apply to the established common price for the base contract term?

RESPONSE: The Texas Lottery reserves the right to re-negotiate all prices at any time.

- 2) In the event the answer to the question above is no, the Lottery's intent with regard to pricing in this RFP could potentially be compromised. Therefore, could the Lottery please confirm that, in the event of a renegotiation of the common price for the base term, the Lottery will renegotiate and establish new common pricing with all successful proposers who subject to the original common price?

**RESPONSE:** Yes.

- 3) Finally, will the Lottery please clarify whether the establishment of common pricing will also be a goal for renewal periods?

**RESPONSE:** Common pricing is the goal for the entire Contract term, including renewals.

**48. RFP Reference Number 3.18, RFP Page Number 20, 21**

Would the Lottery please consider adding the text in *bold red italics* below, as it applies to Termination for Cause, and remove the language marked with strikethrough:

(d) A court of competent jurisdiction finds that the Successful Proposer has failed to adhere to any laws, ordinances, rules, regulations or orders of any public authority having jurisdiction *on the date such finding is final and no longer subject to appeal;*

(e) The Successful Proposer fails to remove any person *within a reasonable time period* from work relating to the Contract upon written notice from the Texas Lottery;

(i) The Successful Proposer fails *in any material respect* to comply with any of the terms, conditions or provisions of the Contract ~~in any manner whatsoever.~~

**RESPONSE:** The Texas Lottery declines to amend the RFP.

**49. RFP Reference Number 3.21, RFP Page Number 22**

Would the Lottery please consider adding the following language following the last sentence of Section 3.21:

*The Texas Lottery shall pay the Successful Proposer for any such completed production and delivery of instant tickets in accordance with the terms of RFP 3.9, PAYMENT.*

**RESPONSE:** The Texas Lottery declines to amend the RFP; however, please see the response to question 8 above.

**50. RFP Reference Number 3.22, RFP Page Number 22**

Would the Lottery please consider adding the following language in *bold red italics* below and deleting the language marked with strikethrough:

If any Contract entered into as a result of this RFP is terminated for any reason, the Texas Lottery and the State of Texas shall not be liable to the Successful Proposer for any

damages, losses, financial obligations, breach of contract, or any other claims or amounts arising from or related to any such termination, *except that (i) the Texas Lottery shall pay the Successful Proposer in accordance with the terms of RFP Section 3.9, PAYMENT, for any uncompensated services performed and production and delivery of instant tickets occurring up to the effective date of termination, however and (ii) the Successful Proposer may be entitled to the remedies provided in Gov't Code, Chapter 2260.*

**RESPONSE:** Please see the response to question 49 above.

**51. RFP Reference Number 3.23.7, 3.32, 3.54.6, RFP Page Number 23, 28, 36**

Section 3.23.7 states that the Successful Proposer warrants and agrees to pay the apparent prize value of misprinted, quality control or omitted tickets that do not validate as winners. The same provision expressly states that altered tickets are not misprinted tickets. There are a number of unintended consequences that may result from the enforcement of such a provision. First, with regard to misprinted tickets, the TLC's Lottery Game Rules, Rule 401.304, expressly states that liability for a void ticket is limited to a refund of the sales price of the ticket or a replacement ticket. To quote from the Rule, *"Liability for void tickets, if any, limited to replacement of ticket or refund of sales price." See TAC 401.304(e)(3).* Per TAC 401.301(58), a "Void ticket" includes *"any ticket that is . . . printed or produced in error,"* while any "invalid ticket" is one that *"that fails to meet all validation requirements of the commission."*

By requiring the successful proposer to pay the apparent prize value of a misprinted, invalid ticket, the Lottery is attempting to legally obligate the successful proposer to pay damages that the Lottery itself is not legally obligated to pay and, as such, may result in a legally unenforceable penalty. Moreover, by allowing a player with an invalid or void ticket to claim an apparent prize value despite applicable Lottery rules disallowing such benefit, the Lottery would be changing standard industry practices and past rules and procedures. Therefore, the enforcement of this requirement could potentially result in liability to the successful proposer that exceeds its ability to pay, as there is no way of predicting a prize amount printed in error.

Additionally, RFP Section 3.32 states that the successful proposer shall indemnify the Lottery against any and all claims, demands, causes of action, liabilities, lawsuits, losses, damages, costs, expenses and attorneys' fees that may be incurred by any actual or alleged act or omission of the successful proposer. This broad indemnification provision would fully protect the Lottery in the event the Lottery were required to pay a judgment to a player that resulted from a dispute over a misprinted, void and invalid ticket. The risk associated with this provision is likely to be uninsurable in customary commercial insurance markets, and would require a specialized policy that would take months to investigate and likely be cost-prohibitive. The successful proposer's Cost Proposal would necessarily be affected by this risk.

As to the issue of altered tickets, over the years, it has become well-established that altered tickets cannot be validated by the system and therefore prizes are not paid. Given the sophistication with which some thieves approach altering tickets, in many cases, the

distinction between a misprinted ticket and an altered ticket may be difficult, and in some cases impossible to determine. The Lottery's current rule that prohibits payment on an invalid ticket acts as a deterrent to prevent misguided individuals from attempting to alter tickets.

By establishing a requirement that allows for prize payments on misprinted tickets that the system cannot validate, the Lottery is lowering the standard for those persons who may attempt to alter a ticket, while at the same time offering a new incentive for thieves to alter the ticket so that it looks like a *misprint*, as opposed to a valid winner. In so doing, the Lottery may unwittingly be inviting a new wave of altered tickets.

- 1) Could the Lottery please confirm that a "*misprinted ticket*" as the term is used in this section, is a "*ticket printed or produced in error*" and therefore within the definition of a Void Ticket as set forth in Texas Administrative Code §401.301(58)?

**RESPONSE:** The Texas Lottery declines to amend the RFP. Please see the response to question 28.

- 2) Based on the foregoing, would the Lottery please consider amending Section 3.23.7 with the following additions (in *red bold italics*) and deletions (strikethrough):

The Successful Proposer warrants *that it will pay* and agrees to pay *any amount paid by the Texas Lottery and any costs incurred by the Texas Lottery as the result of and/or in connection with an* ~~the apparent prize value misprinted, quality control or omitted~~ *instant ticket. s that do not validate as winners.* Altered tickets are not misprinted tickets. *If an instant ticket appears to be a winner in all respects (i.e., no evidence of tampering/alteration, etc.) but the host computer record does not match the data printed on the physical ticket, the Successful Proposer warrants that it will pay and agrees to pay any amount paid by the Texas Lottery and any costs incurred by the Texas Lottery as a result of and/or in connection with the misprinted ticket.*

**RESPONSE:** The Texas Lottery declines to amend the RFP.

- 3) If the Lottery is willing to make the aforementioned changes, would the Lottery also be willing to consider amending RFP Section 3.54.6 of the RFP as follows:

In addition, the Successful Proposer ~~shall~~ *may* also be responsible for payment of *those amounts paid to players by the Texas Lottery that result* ~~any apparent winning ticket from omit packs or quality control packs/tickets presented to the Texas Lottery by a player~~ *for prize payments*, except in the event of theft, fraud or wrongdoing.

**RESPONSE:** The Texas Lottery declines to amend the RFP.

## 52. RFP Reference Number 3.26.3, RFP Page Number 25

Would the Lottery please consider amending RFP Section 3.26.3 with the following additions (red bold italics) and deletions (strikethrough):

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

**RESPONSE:** The Texas Lottery declines to amend the RFP.

**53. RFP Reference Number 3.27.2, RFP Page Number 27**

RFP Section 3.27.2 states that the successful proposer shall have and maintain during performance of a Contract “written agreement with all employees...engaged by the Successful Proposer in performance hereunder, granting the Successful Proposer rights sufficient to support all performance and grants of rights by the Successful Proposer.”

- 1) Could the Lottery please clarify the statement “rights sufficient to support all performance and grants of rights by Successful Proposer” as it is used in RFP Section 3.27.2?

**RESPONSE:** The Texas Lottery declines to amend the RFP.

- 2) Could the Lottery please clarify whether or not a vendor’s standard agreements that are signed by employees prior to their employment, and which relate to Intellectual Property protection, will be sufficient to satisfy this requirement?

**RESPONSE:** The Texas Lottery declines to amend the RFP.

- 3) Alternatively, could the Lottery please provide a standard form of agreement for vendor’s to use to satisfy the requirement of RFP Section 3.27.2?

**RESPONSE:** No.

**54. RFP Reference Number 3.33.2, RFP Page Number 30**

RFP Section 3.33.2 states that the successful proposer shall be responsible for ensuring that any subcontractor(s) used in the performance of the Contract maintains the required insurance as stated in RFP Section 3.33-3.39. As many of the successful proposer’s

subcontractor(s) will be small businesses, and in some cases Historically Underutilized Business (HUB) entities, would the Lottery be willing to consider amending this provision so that subcontractors are required to carry the same categories of insurance as set forth in RFP Section 3.33-3.39, but at limits that are commensurate with the goods or services being provided by such subcontractor(s)?

**RESPONSE:** Please refer to the response to Question No. 20 (b) above.

**55. RFP Reference Number 3.41, RFP Page Number 32**

RFP Section 3.41 states that the Texas Lottery reserves the right to request, and the Successful Proposer must provide, a complete list of all sanctions and liquidated damages assessed against the successful proposer during any calendar year for the following: (iii) a complete account of all goods or services provided in consideration of contract sanctions or liquidated damages that would have been assessed, including the jurisdiction, the reason for the penalty or liquidated damages and the goods or services provided in lieu of the assessment.

This vendor's internal document-retention policies do not require it to keep detailed descriptions of goods/services that have been provided in lieu of a Liquidated Damages (LD) assessment or in lieu of cash. In all instances, however, this vendor maintains a record of the value of all goods and services provided in lieu of a cash payment relative to an LD assessment. Could the Lottery please confirm that, in the event this information is requested to be provided and a record does not exist that describes the goods/services provided in lieu of a cash payment of LDs, the Lottery will accept information as to the value of the goods/services provided, rather than a description of the goods/services themselves?

**RESPONSE:** The Texas Lottery declines to amend the RFP.

**56. RFP Reference Number 3.54, RFP Page Number 36**

It is well-established, particularly with mature lotteries, that a calculation of actual damages can be achieved with relative ease. In recent years, many state lotteries have recognized that contractual terms setting fixed sanctions/LDs may often overstate the damages lotteries actually incur for performance failures and, to avoid issues and disputes involving the potential unenforceability of such terms as illegal penalties, have agreed to terms that:

- 1) Allow the Contractor to submit evidence of the Lottery's actual damages resulting from any incident subject to sanctions,
- 2) Require the lottery to fairly consider such evidence in determining the amount of any such damages assessment, and
- 3) Establish each fixed sanction as a "maximum" assessable damage.

Would the lottery please consider adding these terms in substance to the contract to be awarded resulting from this RFP?

**RESPONSE:** The Texas Lottery declines to amend the RFP.

**57. RFP Reference Number, 3.54.8, RFP Page Number 37**

In some cases, a delay in a deliverable identified in Working Papers or approved Customer Specifications Documents could cause scheduling delays to subsequent deliverables for the same project. Therefore, could the Lottery please confirm that a delay in deliverables, as set forth above, that necessarily causes an adjustment to subsequent deliverables deadlines, will result in a per-day LD assessment for only the deliverable that caused the delay, but will not result in LDs being assessed for delays in those deliverable deadlines that must be adjusted as a result?

**RESPONSE:** The Texas Lottery declines to amend the RFP.

**58. RFP Reference Number 3.54.18, RFP Page Number 39**

Would the Lottery please consider amending RFP Section 3.54.18 by adding the language in bold red italics as follows:

If the Successful Proposer's failure to follow approved procedures *has a materially adverse effect on a second chance drawing and, as a result*, the Texas Lottery invalidates the results of a completed promotional second chance drawing, then, at the Lottery's sole discretion, the Successful Proposer i) may be assessed sanctions in an amount equal to the total of any prize amounts paid to players whose entries were selected in the drawing, or, ii) the Successful Proposer instead shall be required to pay such apparent prize amounts directly to players who entries were selected in the drawing. In these cases, the Successful Proposer will be provided with contact information for the player and must notify the Texas Lottery in writing once the prize amount has been paid. All such prize amounts payments resulting from this provision shall be paid directly by the Successful Proposer to the player within 10 calendar days from the date of notification by the Texas Lottery.

**RESPONSE:** The Texas Lottery declines to amend the RFP.

**59. RFP Reference Number 3.66.2, RFP Page Number 45**

RFP Section 3.66.2 states that the Texas Lottery will assign an investigator to monitor the successful proposer throughout the Contract term and during any renewals. Will the Lottery please clarify the following:

- 1) Please provide a description of the types of activities of the Successful Proposer the investigator will be assigned to monitor?

**RESPONSE:** The investigator conducts background checks for personnel, performs site visits to evaluate physical security and may conduct other activities as determined by the Texas Lottery.

- 2) Could the Lottery please confirm that all costs associated with the engagement of such investigator will be borne by the Texas Lottery?

**RESPONSE:** The Texas Lottery will bear all costs for initial background investigations and annual physical security site visit evaluations.

- 3) Could the Lottery please confirm that any such investigator will be required to enter into a non-disclosure agreement on behalf of the successful proposer, and in a form agreed upon by the successful proposer, prior to commencement of any such monitoring/investigation?

**RESPONSE:** No.

**60. RFP Reference Number 3.67, RFP Page Number 46**

In accordance with the purpose and goals stated in RFP Section 1.1 of this RFP, the Texas Lottery intends to enter into a non-exclusive contract with each successful proposer to provide the services described in this RFP and expressly reserves the right to engage **other vendor(s)** to perform similar services (emphasis added).

Does the Texas Lottery intend the term “**other vendors**” to mean entities other than proposers in this procurement? If so, the Lottery’s engagement of such other vendors to perform “similar services” would potentially be unfair to successful proposers. Specifically, RFP Section 1.1.6 advises that, in FY 2011, the Lottery “produced approximately 85 instant games” and the Lottery “anticipates [a] similar...number of games and overall ticket production going forward.”

The apparent purpose of the above disclosure is to inform would-be proposers of the scope of the opportunity being offered, thereby creating an expectation that the Lottery plans to allocate such total production amount between (among) the “multiple vendors” who become successful proposers in this procurement. RFP Section 1.1.9, which summarizes the Lottery’s goals, advises that successful proposers who accept “the common prices established by the Texas Lottery may be offered an opportunity to produce a comparable number of games.” RFP Section 1.1.10 specifies that any proposer who refuses to accept common prices would at most have a more limited opportunity to supply services and games.

- a) Does the Texas Lottery intend the term “other vendors” to mean entities other than the proposers who respond to this procurement?

**RESPONSE:** The Texas Lottery declines to amend the RFP.

- b) If so, could the Lottery please confirm that it will not provide any other vendor the opportunity to furnish similar services unless such vendor accepts the common prices established by successful proposers for such services in this procurement?

RESPONSE: The Texas Lottery declines to amend the RFP.

**61. RFP Reference Number 3.35, RFP Page Number 30**

Would the Lottery be willing to accept an industry-standard Performance Bond form in lieu of the Sample Bond form included in Attachment F?

RESPONSE: No.

**62. RFP Reference Number 3.35, RFP Page Number 30**

When writing bonds, it is standard practice in today's Surety Market for a bond to be annually renewable, failure to non-renew language be included in the bond form and contract, and no forfeiture language. Lotteries have accepted these changes into their RFPs and contracts.

1) RFP Section 3.35.2 states that *"the bond shall be forfeited to the Texas Lottery."* It is the desire of the Surety Companies to "cure the default" in lieu of strict forfeiture. "Cure the default" language is included in an industry-standard bond form. Therefore, would the Lottery be willing to replace the wording in RFP Section 3.35.2 with the following:

*"If the Vendor defaults in the performance of its contractual obligations, or if the Lottery incurs damages due to the Vendor's breach of its duties, the surety shall have the option to cure the default or tender funds sufficient to pay the cost of completion, up to an amount not to exceed the penal sum of the bond. With the concurrence of the Lottery, the surety may assume the remainder of the contract to perform or sublet."*

RESPONSE: No.

2) The Surety industry requires that Performance Bonds be written on an annual basis. Attachment F, Performance Bond, appears to have the annual language included in the bond form. Would the Lottery be willing to amend RFP Section 3.35 to clarify that the Performance Bond can be renewed on an annual basis?

RESPONSE: Performance bonds may be renewed on an annual basis.

3) Surety Companies currently require specific wording on their bond forms. Would the Lottery be willing to amend RFP Section 3.35 to include the following:

*Neither non-renewal by the Surety, nor failure or inability of the Principal to file a replacement bond in the event the Surety exercises its right to not renew this Bond, shall itself constitute a loss to the Obligee recoverable under this bond or any extension thereof.*

RESPONSE: No.

**63. RFP Reference Number 3.36, RFP Page Number 30**

Regarding General Liability coverage, insurance policies today are written on a Combined Single Limit Basis (CSL) in lieu of Split limits. Would the Lottery be willing to accept evidence of \$5,000,000 CSL for Bodily Injury and Property Damage per occurrence and \$5,000,000 Aggregate written on a Commercial General Liability form?

**RESPONSE:** The RFP identifies minimum required limits. Vendors wishing to submit alternative policy packages must clearly indicate how the package fully meets or exceeds the minimum requirements outlined in the RFP. Submission of alternative packages may require additional disclosure and specific evidence of policy coverage endorsements and exclusions.

**64. RFP Reference Number 3.43, RFP Page Number 32**

The definition of force majeure is “an act of God or any other cause of like kind not reasonably within a party’s control.” Will the Lottery please confirm that the term “like kind” extends to acts other than acts of God that are also outside of a party’s control, e.g. political acts such as war and terrorism?

**RESPONSE:** The Texas Lottery declines to amend the RFP.

**65. RFP Reference Number 4.6.3(a), RFP Page Number 51**

Due to the length of the required financial statements and/or complete tax returns, would the Lottery be willing to allow proposers to submit all financial information on CD only?

**RESPONSE:** Yes, the audited financial statements and/or completed tax returns may be submitted on CD only.

**66. RFP Reference Number 4.6.2, RFP Page Number 50**

If a proposer is a subsidiary and does not prepare its own financial statements, would the Lottery be willing to accept the financial statements of its parent corporation?

**RESPONSE:** Yes, the audited financial statements of the parent corporation may be submitted if Attachment B is completed by the parent corporation’s chief financial officer.

**67. RFP Reference Number 8.3.2, RFP Page Number 65**

At the end of RFP Section 8.3.2, it appears that Retail Samples (Voids) should be a separate requirement. Did the Lottery intend for Retail Samples (Voids) to be numbered as 8.3.3? If so, would the Lottery please renumber the subsequent sections?

**RESPONSE:** Please see Amendment No. 7 to the RFP.

## AMENDMENTS TO RFP

The following have been adopted by Amendment to the RFP, as permitted by Section 2.13 of the RFP.

### Amendment No. 1

#### 1.4 SCHEDULE OF EVENTS

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

DATE	EVENT
November 7, 2011 (4:00 p.m., CENTRAL TIME)	Issuance of RFP
November 17, 2011 (1:30 p.m., CENTRAL TIME)	Pre-Proposal Conference at Texas Lottery Headquarters
November 28, 2011 – December 9, 2011 (as may be revised by the Texas Lottery)	Mandatory HSP Workshops
December 6, 2011 (4:00 p.m., CENTRAL TIME) (Late Questions will not be answered)	Written Questions Due
December 16, 2011	Responses to Written Questions Issued
<b>January 3, 2012</b> <b>(4:00 p.m., CENTRAL TIME)</b> <b>(Late Questions will not be answered)</b>	<b>Written Questions Due (Round 2)</b>
<b>January 13, 2012</b>	<b>Responses to Written Questions Issued (Round 2)</b>
<b>January 27, 2012</b> <b>(4:00 p.m., CENTRAL TIME)</b> <b>(Late Proposals will not be considered)</b>	<b>Deadline for Proposals</b>
<b>February 20-March 2, 2012</b>	<b>Site Visits</b>
<b>on or before</b> <b>March 16, 2012</b> <b>(or as soon as possible thereafter)</b>	<b>Announcement of Apparent Successful Proposer</b>

### Amendment No. 2

2.6.2 The Proposer shall submit one (1) signed original and fifteen (15) copies of its Proposal. For Part 5 only, Proposers shall provide one (1) signed original and two (2) copies of all required HSP documentation. All Proposals submitted must be bound in a three-ring

binder, organized and arranged to correspond directly with the numbered sections of this RFP, and all pages must be numbered. For Parts 1, 2, and 3 only, Proposers may provide a blanket acknowledgment and acceptance in lieu of a section-by-section response. For Parts ~~4, 6 and 7~~ **only 4, 6, 7 and 8** only, Proposers shall provide a section-by-section response to the RFP. For Part 5, Proposers shall follow the instructions for completing and submitting a HSP. If a Proposer is claiming any part(s) of its Proposal is confidential, the Proposer must provide a detailed response to Section 1.7. A Proposer may not amend a commitment to comply with a specific section of this RFP by a later reference back to that section.

### **Amendment No. 3**

**3.10** This Section intentionally left blank.

#### **~~FEDERAL TAX WITHHOLDING FROM PAYMENTS~~**

~~If required by law, the Texas Lottery will deduct a 3% federal income tax withholding on vendor payments issued for goods or services after Dec. 31, 2012.~~

### **Amendment No. 4**

3.13.2 This section is intentionally left blank.

~~The Successful Proposer shall provide the Texas Lottery written notification and justification within three (3) Working Days of any personnel changes in accordance with Section 4.2.4.~~

4.2.4 The Successful Proposer shall provide the Texas Lottery written notification of any key personnel changes involving employees or any Subcontractors actively involved in the service of the Texas Lottery project. The Successful Proposer shall provide written notification and justification to the TLC **at least within** three (3) business days **before any changes to key Account Team** of the personnel changes. The resume of the person who is to be hired or placed should be sent to the Texas Lottery, and the Successful Proposer must receive written approval from the Texas Lottery prior to the person working on the account.

### **Amendment No. 5**

4.1.3 (b) The Proposer has been assessed any penalties or liquidated damages **greater than five thousand dollars (\$5,000)** under any existing or past contracts and if so note the reason for and the amount of the penalty or liquidated damages for each incident.

### **Amendment No. 6**

4.2.2(1) **Ticket** Accounting

## **Amendment No. 7**

### **8.3.1 Point of Sales (POS) Pieces**

Except as otherwise specified by the Texas Lottery, the Successful Proposer shall be required to provide one (1) Point of Sales (POS) piece in a 4" x 4" size which shall be included in each shrink-wrapped pack of tickets. An additional 500 4" x 4" pieces must be delivered two weeks prior to ticket delivery.

~~8.3.2~~ The POS pieces must be printed on front and back according to Texas Lottery specifications as indicated in the working papers for a specific game. The working papers must include sample draft artwork of the POS.

### **8.3.2 Retail Samples (Voids)**

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