



TEXAS LOTTERY COMMISSION
REQUEST FOR PROPOSALS FOR
LOTTERY OPERATIONS AND SERVICES

#362-10-0001

RESPONSES TO PROPOSERS' QUESTIONS

and

AMENDMENTS TO THE RFP

April 12, 2010

**REQUEST FOR PROPOSALS
FOR
LOTTERY OPERATIONS AND SERVICES
RESPONSES TO PROPOSERS' QUESTIONS**

Note to All Prospective Proposers:

The following responses include questions submitted in writing by the required deadline for the second round of written questions.

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

Some questions raise issues the Texas Lottery believes are more appropriately addressed during the contract negotiation stage of this solicitation process and, in these instances, the Texas Lottery has declined to respond.

The Texas Lottery reviewed all questions submitted by the deadline, but declines to respond to some questions when the Texas Lottery believes providing the information would impair competition or otherwise harm the interests of the Texas Lottery. For example, the Texas Lottery may deny a proposer's request for specific and proprietary information about a program or strategy devised by the current Lottery Operator when the Texas Lottery believes such information represents only one possible solution to a problem and the sharing of such information would discourage innovation and lessen competition.

Some questions may state a proposition with which the Texas Lottery disagrees. The failure of the Texas Lottery to contradict the statement or otherwise respond to the question does not indicate agreement with the statement.

In some cases, the Texas Lottery is providing responses to questions which reflect current business operations. The Texas Lottery is looking for innovative thinking and solutions. Unless otherwise specified in the RFP, Proposers may offer solutions that vary from the current practice that they believe will further the Texas Lottery's vision, mission and core values.

Proposers should review all sections of the RFP along with this document to ensure a complete understanding of the requirements. Any exceptions to the RFP should be noted in the Proposal, as required under Section 2.12 of the RFP.

WRITTEN QUESTIONS RECEIVED BY MARCH 22, 2010 @ 4:00 P.M.

1. Now that Gartner is no longer employed by the TLC, can you please inform us what role Gartner was to have played on the Evaluation Committee for the RFP? Can you please clarify for all the potential bidders who will be a part of the evaluation committee for this RFP? Will there be an independent, outside group that plays a role in reviewing, evaluating and scoring any proposal that is submitted; and helping ensure that the entire process is transparent and objective? And, what is the role of the Office of Comptroller of Public Accounts in this process?

Response: The Evaluation Committee will be comprised exclusively of Texas Lottery Commission employees and a representative from the Texas Comptroller of Public Accounts. The Texas Lottery will ensure transparency and objectivity in the evaluation and scoring of proposals by conducting the evaluation in accordance with the terms of the RFP, the Texas Lottery's rules and statutes governing the procurement process. See section 2.20 of the RFP for additional information.

2. The TLC has explicitly stated on the record that the length of the contract and the evaluation criteria (10% price) has been designed to ensure that the successful bidder is positioned to grow sales and provide a robust solution for the future. Given that TLC sales have historically underperformed versus the industry and the incumbent vendor has been the only vendor that the TLC has ever had, has the TLC considered an alignment of incentives model whereby the successful vendor only profits if the returns to the state increase?

Response: Prior to issuance of the RFP, a variety of reasonable options for compensating the Lottery Operator were examined by Texas Lottery staff. The compensation method described in the RFP is the product of that process. The Texas Lottery continually seeks to optimize revenue to the Foundation School Fund.

3. In the event that the Successful Proposer is able to resume activities under the Contract after the Texas Lottery obtains access to the Successful Proposer's source code, could the Lottery please confirm that it would return the Successful Proposer's source code and proprietary materials to escrow, or in the absence of an escrow arrangement, to the Successful Proposer?

Response: Based upon the scenario set forth above, the Texas Lottery will return the Successful Proposer's source code and proprietary materials to the escrow agent upon the Successful Proposer's resumption of services

under the Contract so long as the Successful Proposer fully performs services in accordance with the Contract requirements.

4. In reference to its previous response to our question, with regard to information the Lottery provides to the Successful Proposer for use in and preparation of the Works, would this information be deemed confidential, and thus subject to obligations of non-disclosure?

Response: Yes. See section 3.25.6 of the RFP for additional information

5. Could the Lottery please confirm that the Successful Proposer will *not* be held responsible for any claim of infringement wherein the Lottery instructs the Successful Proposer to proceed with the development of a Work, despite the Successful Proposer's recommendation against the development of such Work?

Response: The Lottery declines to amend the language of the RFP. Whether circumstances might arise in which the Successful Proposer would not be responsible for a claim of infringement would depend on the facts specific to the case.

6. The scope of information requested in Section 3.58.4 includes the Successful Proposer's highly confidential and proprietary information, and such information, if needed by the Texas Lottery, would be provided according to the escrow provisions of Section 3.58.5. Would the Texas Lottery consider amending Section 3.58.4 to exclude the requirement that the Successful Proposer deliver copies of source code, object code, entity relationship diagrams, or any technical documentation related to any Works that the Successful Proposer may deliver to the Texas Lottery?

Response: For clarification purposes, Section 3.58.4 refers to delivery of "Works" to the Texas Lottery that includes computer software, whereas Section 3.58.5 refers to placing in escrow specific source code and computer documentation for those portions of the software that do not constitute "Works". Please refer to the definition of "Works" contained within the "Glossary of Terms" section of the RFP. For such Works that include computer software, the Texas Lottery will allow the Successful Proposer to consider placing source code (as well as related items described in Section 3.58.4) in a separate source code escrow account that may be accessed by the Texas Lottery at its discretion.

For further clarification, section 3.58.2 of the RFP contains two incorrect references to the escrow account under "Section 3.58.4", which should instead be references to section 3.58.5.

7. RFP Attachment B, Financial Commitment and Responsibility, is to be completed by the parent corporation's chief financial officer and asks for the "up to" dollar value for which it intends to be responsible with regard to the financial obligations of its subsidiary. In contrast, Section 4.7.2(2) states that, if the Proposer wishes to rely on the financial soundness of its parent and include the consolidated financial statements of the parent, the parent must serve as guarantor of the Proposer, be held accountable for it, and "unconditionally guarantee" the prompt and complete performance of all terms and conditions of the RFP and resulting contract.

1) Because such an unconditional guarantee may be considered in conflict with the requirement in Attachment B for an "up to" dollar value, could the Lottery please confirm the following:

That Attachment B, although not referenced in Section 4.7.2, is the form of guarantee that should be used in the event a Proposer intends to rely on the financial soundness and submit the consolidated financial statements of its parent entity; and 2) That, in order to be consistent with Section 4.7.2, the "up to" dollar value to be provided in Attachment B may be unlimited, and therefore, Proposers are not required to submit a numerical dollar figure?

Response: Yes. Please see Amendment No. 34, Attachment B has been revised to remove the "up to" dollar value.

8. Privileges to modify password requirements, expiration periods, audit logs, reporting permissions, access controls, etc., could create a potential security risk to the Lottery's system, and therefore, such privileges should only be granted under a very limited set of circumstances and only to previously authorized individuals. Systems are typically configured to log access-control events associated with a user attempting to access a resource without the appropriate authorizations. If these logs are unintentionally deleted or modified, there is a risk that anomalies, unusual activity, unauthorized access events, etc. documented within the logs may not be detected in a timely manner. Furthermore, the ability to modify system logs may require accounts to be granted increased access privileges – and as a result, more accounts will have increased access to resources, which in turn would increase the risk of individuals using these privileges to obtain unauthorized access to information assets and network resources. In light of the foregoing, could the Lottery please confirm that its intention, under Section 7.8, Requirement 10, is for authorized Lottery staff to have the right to view and access such information, but not have the right to modify or update such information, except pursuant to a demonstrable need and only upon agreement by the Successful Proposer?

Response: Please see Amendment No. 28. It is the Texas Lottery's intent to control System access privileges for Texas Lottery personnel.

9. As a Specified Option, the TLC asks proposers to offer in-lane **terminals** designed for use in multi-lane stores such as supermarkets. This proposer has a multi-lane solution that is integrated directly into the retailer’s point of sale equipment (cash register) and back-office application, thereby eliminating the need for a dedicated terminal in each lane. Tickets can be printed on the retailer’s cash register printer, or a dedicated lottery printer can be attached if the TLC desires lottery-grade paper. However, because this solution would not be responsive to the Response Requirement in its present form, we respectfully request that the TLC consider modifying the requirement slightly, by substituting the word “solution” for the word “terminals.” In this way, proposers would have more flexibility in responding but still be required to fully describe their solution.

[Response: Please see Amendment Nos. 29 and 30.](#)

10. Section 7.12 – Sales Terminals and Related System Sales Equipment, Table 64, Item 4, page 152. Who is responsible for paying any bank fees associated with debit card purchases?

[Response: In this RFP, the Texas Lottery has not specified that the fees would be the responsibility of the proposer. In the future, the Texas Lottery may elect to place some player-activated sales terminals in new/different retail trade venues \(e.g., airport terminals, shopping malls, etc.\) that may/may not be locations associated with/supported by a specific retailer. In that instance and consistent with the Texas Lottery’s response to a similar question during the January 20 pre-proposal conference, the Texas Lottery and the Successful Proposer would need to reach an agreement regarding responsibility for bank fees associated with debit card purchases.](#)

11. Section 7.12 – Sales Terminals and Related System Sales Equipment, Table 64, Item 16, page 152. This RFP Detail Requirement states: “At the Texas Lottery’s request, the Proposer’s Retailer Sales Terminals must have the capability to be equipped with smart card readers.” Will the Lottery please confirm that this would be a pre-production request and the vendor would not be required to modify existing terminals to be equipped with smart card readers? How should smart card readers be priced?

[Response: Please see Amendment No. 33.](#)

12. Section 7.12 – Sales Terminals and Related System Sales Equipment, Table 64, Item 17, page 152. This RFP Detail Requirement states: “As the Texas Lottery’s request, the Proposer’s Retailer Sales Terminals must have the capability to perform ticket branding during validation transactions on Retailer Sales Terminals.” Will the Lottery please confirm that this would be a pre-production

request and the vendor would not be required to modify existing terminals to be equipped with branding devices? How should branding devices be priced?

Response: The Texas Lottery would request ticket branding as a pre-production request. Ticket branding should be priced as part of the Base System and Services Pricing.

13. Responses to Proposers' Questions and Amendments to the RFP dated February 26, 2010, Question No. 82, page 41. Who is the Lottery's current ICS vendor?

Response: The current Lottery Operator contracts with Elysm Consulting, Inc. for the ICS.

14. Responses to Proposers' Questions and Amendments to the RFP dated February 26, 2010, Question No. 84, page 4.1. In the Lottery's answer to Question No. 84, it is states: "Proposers are asked to provide unit pricing in increments of 500." Will the Lottery please clarify "Unit?" Would each lane be considered a unit?

Response: A "unit" is all of the equipment that is required for lottery transactions at each point-of-sale where a player can purchase a ticket and/or have a ticket validated. This may vary based on the Proposer's solution to facilitate lottery sales in a multi-lane retail environment.

Yes, each lane would be considered a "unit."

AMENDMENTS TO RFP

The following have been adopted by Amendment to the RFP, as permitted by Section 2.17 of the RFP.

Amendment No. 28

Table 52. System Security Requirements

Detail Requirements
10. The Successful Proposer's System must have access control features that allow the Texas Lottery to control System access privileges on an as-needed basis for viewing and updating information (i.e., strong password requirements and expiration periods, audit logs, reporting, permissions, access controls, etc.). The Successful Proposer's System must allow authorized Texas Lottery personnel to be the system administrator for Texas Lottery personnel.

Amendment No. 29

Table 65. Sales Terminals and Related System Sales Equipment Response Requirements

Specified and Invited Options
6. As a Specified Option, the Proposer must offer in-lane terminals solutions designed for use in multi-lane stores such as supermarkets. The Proposer shall thoroughly describe the design, installation, maintenance and functionality of the terminal solution . If the Texas Lottery exercises this option, the Proposer must install and maintain the terminals solutions .

Amendment No. 30

Texas Lottery-Specified Options

Proposers are **required** to submit specifications and pricing for the following Specified Options. The unit cost is a one-time fee that is for the use of the equipment or services for the remainder of the Contract.

- a. ~~In-counter Ticket Dispensing Unit~~ (Section 7.12). ~~The Proposer must offer an automated in-counter ticket dispensing unit. The Proposer shall thoroughly describe the design, installation, maintenance and functionality of the unit. If the Texas Lottery exercises this option, the Successful Proposer must install and maintain the units.~~

Price Per Unit: _____

- b. **In-lane Solutions Terminals** (Section 7.12). The Proposer must offer an in-lane ~~terminal~~ **solution** designed for use in multi-lane stores such as supermarkets. The Proposer shall thoroughly describe the design, installation, maintenance and functionality of the **solution** ~~terminal~~. If the Texas Lottery exercises this option, the Successful Proposer must install and maintain the **solutions** ~~terminals~~.

Price Per Unit: _____

Price for up to 500 Units: _____

Price for 501-1000 Units: _____

Price for 1001-1500 Units: _____

Price for 1501-2000 Units: _____

Greater than 2001 Units: _____

Amendment No. 31

6.1 Overview

Account Management and Administration activities apply to the provision and delivery of all services that are required to provide and support the Lottery Gaming System, sales & marketing, and warehouse & distribution, and related services as further described in ~~Section 1.1.4~~ **Section 1.1.3**.

Amendment No. 32

Table 124. Conversion Milestones Service Levels

SLR #	SLR Name
3.60.63	Failure to Cooperate Fully and in Good Faith in the Conversion to any New System
3.60.64	Failure to Provide a Detailed Conversion Plan within 45 Days of Contract Execution
3.60.65	Failure to Deliver According to the Final Approved Detailed Conversion Plan

Table 135. End of Contract Conversion Plan Service Levels

SLR #	SLR Name
3.60.63	Failure to Cooperate Fully and in Good Faith in the Conversion to any New System

Amendment No. 33

Table 64. Sales Terminals and Related System Sales Equipment Requirements

Functionality
16. At the Texas Lottery's request, the The Proposer's Retailer Sales Terminals must have the capability to be equipped with smart card readers.

Amendment No. 34

**ATTACHMENT B
FINANCIAL COMMITMENT AND RESPONSIBILITY**

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

_____ is a fully-owned subsidiary
of

(Subject)

_____ and that as such _____

(Parent)

(Parent)

is fully responsible for any and all financial obligations

of

_____. up to _____.

(Subject)

(Dollar Value)

Signature: _____

Title: _____

Date: _____