



REPORT AND RECOMMENDATION

on the

PROPOSAL EVALUATION

for

**LOTTERY OPERATIONS AND SERVICES
(RFP No. 362-10-0001)**

Prepared by the
Evaluation Committee
Issued November 17, 2010

I.

INTRODUCTION

On January 4, 2010, the Texas Lottery Commission (“Commission”, “Texas Lottery” or “TLC”) issued a Request for Proposals for Lottery Operations and Services (the “RFP”). The RFP was issued pursuant to the Commission’s authority under Texas Government Code Chapter 466 and the Commission’s rules at Title 16 Texas Administrative Code Section 401.101. The scoring matrix used in this procurement was included as Attachment G to the RFP and encompassed all of the factors required to be considered by the Evaluation Committee in evaluating proposals, as set forth in Section 401.101 of the Commission’s rules and Section 2.20 of the RFP.

II.

BACKGROUND: DEVELOPMENT AND ISSUANCE OF THE RFP

Prior to issuance of the RFP, the agency conducted a comprehensive review of existing operations. The objective was to develop a RFP that would meet the agency’s needs going forward, promote competition and provide best value to the State of Texas. This process began in April 2009 with the Commission’s issuance of two Requests for Information (“RFIs”) seeking information from interested persons about various components of lottery operations and services.¹ Following the issuance of the RFP and prior to the submission of proposals, the TLC

¹ On April 24, 2009, the TLC issued the following RFIs to gather information to assist the agency in developing the RFP:

- The *Request for Information for Sales, Marketing, Warehouse and Distribution Services* invited respondents “to submit descriptions of their capabilities and contemplated solutions relative to the sales, marketing, warehousing and distribution activities in support of lottery products at retailer locations.” § 1.1(a). As stated in the RFI, the TLC issued this RFI “to request information for a potential future solicitation(s). The Texas Lottery’s objective is to gather information from all interested parties and identify the potential capabilities and interests of the vendor community in providing sales, marketing, warehousing and distribution services. The Texas Lottery invites responses from interested Respondents including, but not limited to, logistics providers, contract sales and marketing providers or others who have substantial experience in warehousing, distribution and retailer sales related activities. The Texas Lottery affords the Respondents to this RFI wide latitude in their responses and invites presentations on a broad range of creative solutions.” § 1.1(b).
- The *Request for Information for Lottery Gaming System and Related Services* invited respondents “to submit descriptions of their capabilities and contemplated solutions relative to the implementation and operation of a lottery gaming system (instant and on-line products) and associated gaming support services, including design, development, implementation and on-going operation.” § 1.1(a). As stated in the RFI, the TLC issued this RFI “to request information for a potential future solicitation(s). The Texas Lottery’s objective is to gather information from all interested parties and identify the potential capabilities and interests of the vendor community in providing these services. The Texas Lottery invites responses from interested Respondents including, but not limited to, lottery system service providers, large scale transaction processing service providers, and/or vendors interested in teaming or partnerships such as prime contractor / subcontractors. As a result, the Texas Lottery provides the Respondents to this RFI wide latitude in their responses and invites presentations on a broad range of creative solutions.” § 1.1(b).

On May 6, 2009, the TLC conducted two RFI “Forums”. The Forums were public meetings to provide an opportunity for interested persons to learn about the TLC’s business operations. Attendees could ask questions of the TLC staff, and had the opportunity to submit additional written questions to which the TLC staff responded in writing. Representatives from eight (8) entities participated in the Forum for Sales, Marketing, Warehouse and Distribution Services, and representatives from five (5) entities participated in the Forum for Lottery Gaming System and Related Services. On June 3, 2009, the Commission received eleven (11) written responses to the Sales,

provided opportunities for prospective proposers to meet with, to ask questions of, and to receive written responses from TLC staff about the RFP process. On two occasions, the TLC amended the RFP schedule to provide additional time for the preparation of proposals.

A. PREPARATION OF THE RFP

From June to December 2009, senior TLC staff drafted the RFP document with the assistance of the TLC's in-house attorneys, outside counsel, the Attorney General's Office, the Texas Comptroller of Public Accounts (the "Comptroller"), and the Commission's outside technical consultant.²

On July 20, 2009, the Commission's then-Deputy Executive Director Gary Grief³ requested that the Comptroller assign one of its staff members to serve on the Evaluation Committee for the RFP. The Comptroller agreed and designated the Director of the Texas Procurement and Support Services ("TPASS") Division to serve on the Committee.⁴

On November 18, 2009, Mr. Grief appointed the members of the Evaluation Committee. Michael Fernandez, Director of the TLC's Administration Division, was appointed to chair the Committee, and the following persons were appointed as the other Committee members:

- Michael Anger – Director, Lottery Operations Division
- Kathy Pyka – Controller, Office of the Controller
- Robert Tirloni – Products Manager, Lottery Operations Division
- Ed Rogers – Retailer Services Manager, Lottery Operations Division
- Toni Erickson – Support Services Manager, Administration Division
- Ron Pigott – Director, TPASS Division – Texas Comptroller's Office

Each of the TLC employees who served on the Evaluation Committee hold senior management positions with responsibilities directly related to lottery operations and services, and each of these persons has served previously on evaluation committees for other RFPs at the Commission.⁵ Mr. Pigott, the Committee member from the Comptroller's office, has statewide management and oversight responsibility for state procurement activities in Texas.

Marketing, Warehouse and Distribution Services RFI and five (5) written responses to the Lottery Gaming System and Related Services RFI.

² Gartner, Inc., was the TLC's technical consultant. Following the disclosure by Gartner on December 30, 2009, of a consulting contract between Gartner and GTECH Corp. (the TLC's current lottery operator), the TLC terminated its contract with Gartner on January 4, 2010. Subsequently, the Commission retained Battelle Memorial Institute ("Battelle") as a technical consultant to conduct benchmarking tests and to provide due diligence services during the Evaluation Committee's review of proposals.

³ Mr. Grief was appointed by the Texas Lottery Commissioners to serve as the Executive Director of the TLC on March 9, 2010.

⁴ TPASS manages and oversees state procurement activities for the State of Texas. See the Comptroller's website at: <http://www.window.state.tx.us/procurement/prog/>.

⁵ In May 2010, Committee Member Ed Rogers announced his plans to retire from the TLC effective July 31, 2010 and was removed from the Evaluation Committee. In August 2010, Mr. Rogers was retained by the Commission's outside counsel to serve as a consultant during the proposal evaluation process. Mr. Rogers was later rehired by the agency through a competitive job posting process effective November 1, 2010 and was called on by the agency to act as a technical advisor to the Committee.

On November 20, 2009, TLC staff provided a draft of the RFP to the State of Texas Contract Advisory Team (“CAT”) for review.⁶ CAT provided comments and questions on the draft RFP, which the Commission staff considered, responded to, and addressed in the RFP, as appropriate.

On November 23, 2009, the TLC issued a Solicitation Announcement stating that the agency expected to issue an RFP for Lottery Operations and Services in the near future, and informing interested persons how to obtain a printed copy of the RFP.

B. RFP ISSUANCE AND PRE-PROPOSAL PERIOD

The Commission issued the RFP on January 4, 2010. On that date, the RFP was posted on the Commission’s website and the Electronic State Business Daily (“ESBD”) website maintained by TPASS, and mailed to interested persons who responded to the Solicitation Announcement and requested a printed copy of the RFP. Prospective proposers were required to attend one of two mandatory pre-proposal conferences, and each prospective proposer was required to meet separately with TLC staff at least once for a one-on-one Historically Underutilized Business (“HUB”) Subcontracting Plan (“HSP”) workshop.

The pre-proposal conferences were held at the TLC headquarters on January 20 and February 2. All attendees at the pre-proposal conferences were required to sign a non-disclosure agreement. Representatives from nineteen (19) entities attended one or both of the pre-proposal conferences. After the conferences, the TLC provided two opportunities for prospective proposers to submit written questions. The deadline for submitting the first round of questions was February 9, to which TLC staff provided written responses on February 26. The deadline for submitting the second round of questions was March 22, to which TLC staff provided written responses on April 12. TLC staff also responded to questions that were asked at the pre-proposal conferences and included the answers in the written responses.

In February and March 2010, the TLC scheduled HSP workshops where the TLC’s HUB Coordinator (Joyce Bertolacini), Purchasing and Contracts staff, and in-house counsel met with each prospective proposer separately to discuss HUB subcontracting requirements, to answer questions specific to conducting the good faith effort for HUB subcontracting opportunities and completing the required HSP forms, and to review drafts of HSP forms as requested by the proposer. TLC staff responded to written questions regarding the HSP requirements, but in its responses did not disclose any prospective proposer’s specific business information to the other prospective proposers. Each prospective proposer had the opportunity to request additional meetings with TLC staff during the pre-proposal period to discuss issues relating to compliance with the HSP requirements and to review drafts of HSP forms.

At the February 11, 2010, Open Meeting of the Texas Lottery Commission, Mr. Grief announced he intended to approve an amendment to the RFP schedule providing a thirty (30)-day extension to the deadline for submitting proposals (from April 27/28 to May 27/28). This extension was formalized in Amendment No. 1 to the RFP issued on February 17.

⁶ Pursuant to the Texas Government Code, CAT assists state agencies in improving contract management practices by reviewing the solicitation of major contracts. TEX. GOV’T CODE §2262.101(1).

On May 4, in response to an April 30 request from prospective proposer INTRALOT, Inc., Mr. Grief extended the deadline for submitting proposals a second time, from May 27/28 to June 29/30. This extension was formalized in Amendment No. 35 to the RFP issued on May 4.

The Commission issued a total of forty-three (43) amendments to the RFP. All amendments were posted on the Commission's website and, with the exception of Amendment No. 43, on the ESBD. Amendments were initiated to provide clarification and in response to questions raised by prospective proposers.

Cost proposals and the Proposer's Commitment (Attachment A to the RFP) were due by 4 p.m. on June 29. Technical proposals, the Bid Bond/Proposal Security (required by RFP Section 2.9), and Protest/Litigation Bonds (required by RFP Section 2.10) were due by 4 p.m. on June 30. The Commission received three (3) timely submitted proposals, including cost proposals, from the following proposers:

- GTECH Corporation ("GTECH")
- INTRALOT, Inc. ("INTRALOT")
- Scientific Games International, Inc. ("Scientific Games")

Cost proposals were delivered to the agency's outside counsel. Upon receipt of the technical proposals, the TLC attorney for this procurement (Andy Marker) and the Purchasing and Contracts Administrator (Angela Zgabay-Zgarba) reviewed the proposals for completeness and compliance with the RFP filing requirements. Purchasing and Contracts staff retained the original technical proposals and outside counsel for the TLC retained the sealed cost proposals. The cost proposals remained sealed until after scoring of the technical proposals was completed.

After the proposals were submitted, on July 8, the TLC issued Amendment No. 43, which revised the schedule for oral presentations by proposers and site visits, and set November 12, 2010 (or as soon as possible thereafter) as the date for the announcement of the apparent successful proposer.

III.

SUMMARY OF THE EVALUATION PROCESS

1. Guidelines for Evaluation Committee Members. On January 14, 2010, each member of the Evaluation Committee was provided with and asked to review the "Request for Proposals (RFP) Guidelines for Evaluation Committee Members," prepared by TLC legal staff.
2. Non-Disclosure Agreement. On or before January 14, each committee member signed a non-disclosure agreement.
3. Distribution of Proposals. Copies of each proposal were distributed to the Evaluation Committee for their independent review. Copies of each proposal also were sent to Battelle Memorial Institute ("Battelle"), the Texas Lottery's outside technical consultant. In addition, designated TLC employees from the Lottery Operations Division, Administration Division, Enforcement Division, and Office of the Controller, and the TLC's Internal Auditor were available to provide technical advice to the Committee as requested, and each of these

persons received portions of the proposals that were relevant to his or her particular area of technical knowledge.⁷

4. Responses to Detailed Requirements. The Committee and Battelle both reviewed the proposals for responses provided to the detailed requirements set forth in the RFP.
5. Due Diligence and Benchmarking Services. Battelle provided technical due diligence and benchmarking services to assist the Evaluation Committee in its review. In addition, Battelle provided the Committee (i) a detailed, written review of each proposal; (ii) written questions for site visits for each proposer; (iii) written results of proposed lottery gaming system benchmarking tests for each proposal; (iv) analysis of the estimated start-up costs and operation costs for each proposer; and (v) a site visit summary report for each proposer.
6. Financial Soundness Review. The TLC's Office of the Controller completed a review of the financial soundness of each proposer, including Battelle's analysis of each proposer's estimated start-up and first-quarter operating costs, and presented findings to the Executive Director for a determination of whether each proposer met the RFP minimum requirements for financial soundness.⁸ The Executive Director reviewed the findings and determined that each of the proposers demonstrated financial soundness and, therefore, satisfied this RFP requirement.
7. HUB Subcontracting Plan Review. The agency's HUB Coordinator completed a review of the HSP submitted by each proposer. The HUB Coordinator determined that additional information was required from each proposer to clarify the HSPs. The Contracts Administrator faxed and/or e-mailed the clarification letters to the proposers. Responses were received and included in the review by the HUB Coordinator. Following this review, the HUB Coordinator presented findings to the Executive Director for a determination of whether each proposer met the good faith effort required for the HSP.⁹ The Executive Director reviewed the findings and determined that each of the proposers demonstrated good faith in preparing its HSP and, therefore, satisfied this RFP requirement.
8. Evaluation Committee Review of Proposals. The Evaluation Committee met as a group on numerous occasions between August 16 and November 10 to review and discuss each of the proposals submitted, and to consider responses received to clarification questions and reference questionnaires. TLC technical advisors and outside technical consultants attended the Evaluation Committee meetings and provided technical advice as requested. The TLC Executive Director, TLC attorneys, outside counsel, and a representative from the Attorney General's Office also attended the meetings.
9. Clarification of Technical Proposals. The Evaluation Committee determined that additional information was required from each proposer to clarify the technical proposals. The Committee drafted written questions on items requiring clarification, and the Contracts

⁷ Each of these persons was available to the committee as a non-voting technical advisor to the Committee and signed a non-disclosure agreement.

⁸ Evaluation Committee member Kathy Pyka, the Commission's Controller, did not participate in the financial soundness review. Ms. Pyka did review the final draft, without specific cost information, of the financial soundness report produced by the TLC Office of the Controller.

⁹ Evaluation Committee members Michael Fernandez and Toni Erickson did not participate in the HSP review. Mr. Fernandez and Ms. Erickson did review the final draft of the HSP report produced by the TLC's HUB Coordinator and Purchasing and Contracts Manager.

Administrator faxed and/or e-mailed the clarification letters to the proposers. Responses were reviewed by the Evaluation Committee.

10. Reference Questionnaires. The Evaluation Committee met and prepared reference questionnaires addressing the areas of (a) warehouse and distribution; (b) sales and marketing; (c) lottery gaming system; and (d) system conversion. Purchasing and Contracts staff distributed the questionnaires to lottery customers (*i.e.*, other state lotteries) identified by the proposers in their proposals. Responses were reviewed by the Evaluation Committee. In addition, Ed Rogers made reference phone calls and reported back to the Committee.
11. Oral Presentations. Each proposer was provided the opportunity to make an oral presentation to the Evaluation Committee at TLC headquarters in Austin. Each presentation was followed by a question-and-answer session with the Evaluation Committee the next day. Between September 8 and September 17, each proposer made a presentation to the Committee. TLC technical advisors, outside technical consultants, the TLC Executive Director, TLC attorneys, TLC Purchasing and Contracts staff, outside counsel, and a representative from the Attorney General's Office also attended the presentations and question-and-answer sessions. No proposer was notified of or attended any other proposer's oral presentation or question-and-answer session.
12. Question-and-Answer Sessions. On the day following each proposer's oral presentation, the Evaluation Committee met with the proposer to ask questions and to provide an opportunity for the proposer to respond. Prior to each question-and-answer session, the TLC attorney for this procurement advised the proposer that its answers to Committee members' questions, and answers provided in response to written requests for clarification, did not amend or change the written proposal submitted, and, to the extent that such responses or the oral presentations went beyond the written proposal and unilaterally modified the commitment made in the proposal, that information would not be considered in evaluating the proposal.
13. Site Visits. Between September 27 and October 7, the Evaluation Committee, accompanied by outside technical consultants, the TLC Executive Director, TLC in-house attorneys, outside counsel, and a representative from the Attorney General's Office, conducted site visits that included each proposer's U.S. headquarters, the facilities of a state lottery customer of each proposer, and one or more retailer locations under the jurisdiction of a lottery customer of each proposer.
14. Benchmarking. During the site visits, Battelle conducted technical lottery gaming system benchmarking tests for each proposer's system to determine if the system, including all hardware, software and the network, operated to specifications as required in the RFP and as described in the respective proposal. Battelle provided the Evaluation Committee with the written results of the benchmarking tests for each proposal.
15. Scoring Technical Proposals. At a meeting at 9 a.m. on November 15, each member of the Evaluation Committee independently scored each of the technical proposals using the scoring matrix published in the RFP, as amended. The Contract Administrator collected the signed scoring sheets from each committee member and tabulated the technical scores.
16. Cost Proposals. The Evaluation Committee then re-convened to open and review the cost proposals. The cost proposals were returned to Purchasing and Contracts staff to compute the cost proposal scores using the cost points worksheet. The Evaluation Committee met at 4

p.m. on November 15, to receive the computation of costs in the cost points worksheet. Purchasing and Contracts staff distributed the analysis and compilation of the cost points worksheet. Score sheets were returned to each Committee member with technical scores and cost points computed and totaled. Each Committee member reviewed his or her score sheets to verify all points as computed and totaled, and signed his or her individual scoring sheets and submitted them to Purchasing and Contracts staff. The scoring summary matrix was compiled using an average of the technical scores for each proposer by Purchasing and Contracts staff and distributed to the Evaluation Committee.

17. Final Scores. The individual scoring sheets, together with the scoring summary sheet prepared by Purchasing and Contracts staff, are attached. Below are the final results for the proposers out of a possible 5000 points:

| | Technical Proposal Points | Cost Points | Total Points |
|------------------|---------------------------|-------------|--------------|
| GTECH | 4329 | 500 | 4829 |
| INTRALOT | 3736 | 417 | 4153 |
| Scientific Games | 4071 | 462 | 4533 |

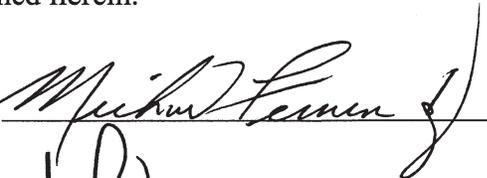
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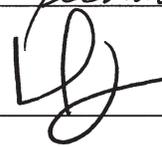
RECOMMENDATION

Based upon the foregoing, the Evaluation Committee recommends that the Executive Director name GTECH Corporation the Apparent Successful Proposer and enter into contract negotiations.

EVALUATION COMMITTEE REPORT AGREEMENT

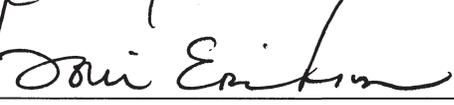
The Evaluation Committee has worked diligently to conduct and document a fair and impartial evaluation for the procurement of Lottery Operations and Services. All members of the Evaluation Committee have been actively involved in the process and have developed this Report and Recommendation. The members of the Evaluation Committee, as indicated below, support the findings and recommendations contained herein.

Michael Fernandez, Evaluation Committee Chair 

Michael Anger, Evaluation Committee Member 

Kathy Pyka, Evaluation Committee Member 

Robert Tirloni, Evaluation Committee Member 

Toni Erickson, Evaluation Committee Member 

Ron Pigott, Evaluation Committee Member 