



REQUEST FOR PROPOSALS

for

MULTI-PLAYER VIDEO LOTTERY MACHINES

January 27, 2006

By the

**DELAWARE STATE LOTTERY
1575 McKee Road, Suite 102
Dover, Delaware 19904**

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PART 1 - PROPOSAL SUBMISSION

1.0 Introduction

On July 16, 1994, the Horse Racing Redevelopment Act (" the Act") was enacted in the State of Delaware allowing the three existing racetracks, upon license approval, to implement video lottery terminals within their facilities. The purpose of the Act was to increase the economic activity and vitality of Delaware's harness and thoroughbred horse racing industries.

The three Delaware racetracks licensed and authorized to operate video lottery terminals pursuant to the Act are Delaware Park, Dover Downs, and Harrington Raceway. Presently a total of 6581 video lottery terminals are installed at the three tracks.

Legislation was recently enacted in the State allowing for the operation of multi-player video lottery machines in addition to video lottery terminals currently in operation at existing agent locations. The Delaware State Lottery (hereinafter referred to as the "DSL" or the "Lottery") is issuing this Request for Proposals (RFP) to invite interested manufacturers and/or distributors of multi-player video lottery machines containing games such as poker, blackjack, roulette, horseracing, craps etc. to submit proposals for the lease, installation, and operation of these machines at the three racetracks. It is anticipated that several providers may qualify under this RFP. This RFP is being issued under the terms of the Delaware procurement provisions in 29 Del. C. §4820(b) and 29 Del. C. §§6981-82.

Precise quantities and types of machines ordered will depend on the needs of the tracks. It is anticipated that multiple quantities of machines containing different game types will be needed.

The written agreements with successful bidders resulting from this RFP will become binding and effective after approval by the Lottery Director. In the following text, the terminology "the successful bidder" refers to a particular firm, among several likely to receive awards. Similarly the term "the contract" will refer to a particular contract, of the several likely to be executed by the Lottery. Please note that all contracts will be contingent upon the successful bidder's being granted a technology provider license by the Lottery.

1.1 Lottery Objectives

The Lottery has the following objectives for issuing this RFP and entering into contracts for the installation and operation of multi-player video lottery machines:

- To qualify manufacturers and/or distributors of multi-player video lottery machines to supply the necessary equipment for the State of Delaware;
- To contract only with manufacturers and/or distributors who are or will be licensed as technology providers under the standards set forth in 29 Del. C. §4805 (a) (17). Please note that the licensing of bidders will commence upon the selection of the successful bidders. Contracts with successful bidders will be contingent upon the bidder being granted a technology provider license by the DSL;
- To contract with the bidders (please see definition of "bidder" under "Glossary of Terms") whose proposals are determined to be the most advantageous to the State taking into consideration the evaluation factors set forth in this RFP;
- To install machines that will be able to meet the needs of the Lottery for at least the next five years;
- To obtain machines that are operationally sound, provide the highest level of integrity and security, and minimize risk for the Lottery;

- To possibly obtain machines from multiple bidders that are sufficiently flexible to meet the Lottery's changing requirements and in the best interests of the State; and
- To maximize the net proceeds from video lottery sales for the State of Delaware

1.2 Communications Through the Chairman of the Evaluation Committee

The Lottery is the sole point of contact with regard to all procurement and contractual matters relating to the goods and services described herein. The Lottery is the only office authorized, and hereby reserves the right to clarify, modify, amend, alter or withdraw the specifications, terms, and conditions of this RFP and any contracts awarded as a result of the RFP.

All communications concerning this procurement must be addressed in writing to:

Mr. Donald R. Johnson
Chairman of the Evaluation Committee
Delaware State Lottery
1575 McKee Road, Suite 102
Dover, Delaware 19904

Voice: (302) 744-1615
FAX: (302) 739-6706

1.3 Restrictions on Communications

Questions or comments concerning this procurement shall be addressed in writing to the Chairman. Committee personnel and Lottery employees are permitted to communicate with bidders concerning this RFP only under the circumstances described in the Lottery's "Procedures and Guidelines for Procurement" document (see Appendix A). Any bidders causing or attempting to cause a violation or circumvention of those standards may, in the sole discretion of the Lottery, be disqualified from further consideration. Once this RFP has been issued, bidders are to have no contact with any other potential bidders regarding the contents of the RFP or the contents of any bidder's proposal.

1.4 Term of Contracts

The contracts resulting from this RFP are expected to be in effect for a period of five (5) years. The contracts may be extended at the discretion of the Lottery, with the concurrence of a successful bidder, for up to three (3) two-year extensions.

The written agreements resulting from this RFP will become binding and effective after approval by the Director of the DSL. The apparent successful bidders are expected to enter into written agreements within thirty (30) days after notification by the DSL. The contracts thus entered into will be contingent upon the bidder being granted a technology provider license by the DSL. The licensing process will commence upon the selection of successful bidders. (Please visit the Lottery website at www.delottery.com and go to "Video Lottery Rules and Regulations" to learn more about the technology provider licensing process).

1.5 Glossary of Terms

"agency" - the Delaware State Lottery Office created pursuant to 29 Del. C. chapter 48.

"agent" or "licensed agent" or "licensed video lottery agent" - a person licensed by the Director of the agency to conduct licensed video lottery operations.

"applicant" - any person applying for a license authorized under these regulations.

"background investigation" - the security, fitness and background checks conducted for licensure of an applicant under 29 Del. C. chapter 48.

"bidder" - a technology provider that may respond to this RFP. For purposes of this RFP, the bidder shall either be a North American based manufacturer or distributor, or, if a non-North America based manufacturer, shall have a North America presence by virtue of an active division or office within North America.

"central system or central computer system" - the hardware, software and network components which link and support all multi-player video lottery machines and the central site.

"central system provider" - a person with whom the agency has contracted for the purpose of providing and maintaining a central communication system and the related management facilities with respect to operating and servicing the multi-player video lottery machines.

"central site" - the location where the central video lottery communications control systems shall be located.

"certification" - the authorization by the Lottery in accordance with its inspection and approval of multi-player video lottery machines and games, such certification to relate to hardware, firmware, or software.

"credit" - the opportunity provided to a player to play a video game or redeem the credit for cash.

"Director" - the Director of the Delaware State Lottery Office as established by 29 Del. C. chapter 48.

"Distributor" – a third party representative of an original manufacturer of multi-player video lottery machines.

"Draw" – the amount retained by the house in a game of poker.

"franchise game" - any game for which the technology provider is required to pay an additional fee to a third party.

"key employee" - an individual employee, person or agent of an applicant or licensee who has the power to exercise considerable influence over significant decisions concerning the applicant's or licensee's business.

"kind, type and number" - the varieties of multi-player video lottery machines that may be selected for installation, and the quantities in which they may be installed.

"license" - the authorization granted by the agency which permits an applicant to engage in defined video lottery operations as an agent or technology provider.

"license application" - the process by which a person requests licensure for participation in the video lottery operations.

"licensee" - any person authorized by the Director to participate in video lottery operations.

"lottery" - the public gaming system or games established by law and operated by the Delaware State Lottery Office.

"manufacturer" - an entity that designs and assembles multi-player video lottery machines including the design and manufacture of software for use in these machines.

"maximum wager limit" - the maximum amount that can be wagered on a single play on any single video game event outcome, as determined by the Lottery Director.

"multi-player video lottery game" – any game played on a multi-player video lottery machine, such as a variation of poker, roulette, blackjack, craps or horseracing.

"multi-player video lottery machine" – a machine consisting of multiple player stations that are capable of accepting bills and/or credit slips in order to play games of chance, the results of which are randomly determined.

"multi-player video lottery station" – one terminal among several video display terminals that make up a multi-player video lottery machine. Each station is capable of accepting bills and/or credit slips in order to play games of chance, the results of which are randomly determined.

"net proceeds" - the total amount of credits or cash played less the total amount of credits or cash won by the players.

"owner" - a person who owns, directly or indirectly, ten percent or more of an applicant or licensee.

"person" - an individual, general partnership, limited partnership, corporation or other legal entity.

"player" - an individual who plays a multi-player video lottery machine.

"premises" - the building and grounds occupied by a licensed agent where the agent's video lottery operations occur or support facilities for such operations exist, such as facilities for the service of food or drink, including those areas not normally open to the public, such as areas where records related to video lottery operations are kept. "Premises" do not include areas where such operations or facilities do not take place or exist, such as racetrack areas that are wholly unrelated to video lottery operations. The boundaries of the premises will be delineated on the floor plan in an agent's business plan.

"request for proposals (RFP)" - a document developed under the direction of the Delaware State Lottery Office for the purpose of soliciting responses from potential technology providers as a means of acquiring bids for goods or services.

"service technician" - any person who performs service, maintenance and repair operations on multi-player video lottery machines.

"successful bidder" - a technology provider who has responded to this RFP, has been evaluated by the Evaluation Committee and found qualified to provide multi-player video lottery machines to the Lottery. It should be noted, however, that being designated a successful bidder does not in itself guarantee an order for machines nor does it insure the issuance of a technology provider license.

"technology provider" - any person seeking to contract with the agency for the provision of goods or services, including management services, related to video lottery operations, the provision of which requires a license pursuant to 29 Del. C. chapter 48.

"video display terminal" – a gaming device that primarily uses a video display to communicate gaming information to the player.

"video game" - any game played on a multi-player video lottery machine, such as a variation of poker, blackjack, roulette, craps or horseracing.

"video game event outcome" - the result of a video game achieved by a player at a multi-player video lottery machine.

"video lottery" - any lottery conducted with a video lottery terminal, linked video lottery terminals and/or multi-player video lottery machines.

"video lottery operations employee" - an individual employee, person or agent of an applicant or licensee who is responsible for the security of multi-player video lottery machines, or responsible for handling multi-player video lottery machine proceeds, or is otherwise employed in a position that allows direct access to the internal workings of multi-player video lottery machines.

1.6 Schedule

All dates are subject to change by the Lottery.

<u>Event</u>	<u>Date</u>
RFP Issued	January 27, 2006
Bidders' Written Questions Due	March 3, 2006
Responses by Lottery to Questions	March 17, 2006
Bidders' Proposals Due	April 14, 2006
Site Visits, presentations and/or Demonstrations	May 12, 2006
Apparent Winning Proposal(s) Designated	June 9, 2006
Approval by the DSL Director	June 16, 2006
Contracts Executed by	July 14, 2006
Full Production Operation Date	September 1, 2006

All schedule dates for delivery of documents have a deadline of 3:00 P.M. Eastern Time associated with them.

1.7 Information From Other Sources

The Lottery reserves the right to obtain from sources, other than the bidder, information concerning a bidder which the Lottery deems pertinent to this RFP and to consider such information in evaluating the bidder's proposal.

1.8 RFP Clarification Process

Clarification questions regarding the RFP may be submitted to the Lottery in accordance with the schedule noted above. Such clarifications must be sent in a timely manner to the Chairman of the Evaluation Committee (see RFP 1.2). Clarifications must be hand-delivered, delivered by a contract delivery service, or sent through the U.S. Postal Service. All bidder questions and all Lottery answers will be made available to every RFP recipient. Any change in the RFP will be communicated by published responses and/or RFP amendments.

1.9 Amendments to Request for Proposals

An amendment to the RFP shall be issued to:

- A. Make changes in the RFP
- B. Correct defects or ambiguities in the RFP

C. Change the date, place, or time of the bid opening

Amendments to the RFP shall be so identified and shall be sent to all vendors to whom the agency distributed an RFP.

The agency will obtain verification of bidder receipt of all amendments issued.

1.10 Clarifications to the Proposals

Clarifications from bidders may be requested by the Lottery for the purpose of resolving ambiguities or questioning information presented in the proposals. Clarifications may occur throughout the proposal evaluation process. Clarification responses shall be in writing and shall address only the information requested. Clarifications of proposals will be issued by, and responses received by, the Chairman of the Evaluation Committee. Clarification responses must be hand-delivered, delivered by a contract delivery service, or sent through the U.S. Postal Service. Responses shall be submitted within the reasonable time frame specified by the Lottery.

1.11 Proposal Due Date

Proposals pursuant to this RFP must be submitted and received by the RFP Evaluation Committee Chairperson of the DSL as of the date and time shown in the schedule section of this RFP. Any proposal received after this date and time shall not be considered and shall be returned unopened. The proposing firm bears the risk of delays in delivery. Delivery is the sole responsibility of the bidder.

The official date and time of receipt will be indicated by the DSL date and time stamp. Late proposals that are rejected will be returned unopened to the bidder.

1.12 Demonstrability of Proposed Multi-Player Video Lottery Machines

The Lottery requires that all equipment and software proposed by the bidders, at a minimum, be capable of a demonstration that indicates the bidder's ability to meet the Lottery's requirements.

The demonstration(s) may consist of a simulation at the Delaware State Lottery's offices in Dover, Delaware or at the bidder's facilities, or may consist of observing operations at another jurisdiction; or a presentation at some other appropriate venue, as approved by the Lottery. The Delaware State Lottery Evaluation Committee is limited to travel in North America for any such demonstrations.

It is not required that every software and hardware item in the proposed configuration already be operational in some setting; however, the Lottery does not intend to install configuration items which are at the specifications or prototype stage only. Products bid must have been satisfactorily tested both in bidder development laboratories and by prospective customers, and be in production or ready for production and delivery to customers.

Products that are not demonstrable may subject the bidder's proposal to rejection.

1.13 Proposal Form

Each proposal shall consist of two sections as described below, with the two sections packaged and sealed separately for submission by hand delivery, contract delivery service, or U.S. Postal Service to the address of the Chairman of the Evaluation Committee (RFP 1.2).

The first proposal section must include descriptive and technical matter to the exclusion of price or cost submissions and must be appropriately labeled on the exterior of the submission package. Seven copies of this part are to be delivered.

The contents of the technical (non-price) volume must follow this outline:

- A. Transmittal letter.
- B. Disclosure of litigation, if any (See 1.15).
- C. Agreement to comply with all Terms and Conditions (Part 2)--exceptions must be noted.
- D. Proposal (bid) bond (See 1.26).
- E. Litigation bond (See 1.27).
- F. Statement of Non-Collusion (See Appendix B).
- G. Response to Specifications (Part 3); in identical order to Part 3 subsections. Each game type, such as poker, blackjack, roulette, etc., can have a separate response to specifications.

The second proposal section is to include the price information and must be so identified on the exterior of the submission package. The price proposal must be signed in ink by an individual authorized to legally bind the bidder. Seven copies of the second part are to be delivered.

The contents of the pricing volume must follow this outline:

- A. Transmittal letter.
- B. Pricing for the baseline products and services. Each game type, such as poker, blackjack, roulette etc., can have a separate price.
- C. Separately priced optional features with each game type.

1.14 Opening of Proposals

The technical proposals will be opened publicly by the RFP Chairperson immediately after the proposal due date and time at the DSL offices, 1575 McKee Road, Suite 102, Dover, DE 19904. The name of each bidder and such other relevant information as is specified in this RFP will be read publicly. All other information contained in the proposals shall be kept confidential so as to avoid disclosure of contents prejudicial to competing bidders during the process of negotiation. The Lottery may extend the time and place for opening of bids from that set forth above on not less than two (2) calendar days notice, by certified delivery, facsimile machine or other electronic means to those bidders who obtained copies of the RFP. Price proposals shall remain sealed throughout the technical proposal evaluation.

1.15 Litigation and Investigations

Each bidder must include in its proposal a complete disclosure of any pending civil or criminal litigation or investigation involving the company. This is a continuing disclosure requirement; any litigation or investigation commencing after submission of a proposal must be disclosed in a timely manner in a written statement to the Lottery. If an award has been made and is now under appeal, state the amount of the award, if known. Failure to notify the Lottery of an investigation may result in rejection of the bidder's proposal or termination of the contract.

1.16 Change of Financial Condition

If a bidder who has submitted a proposal in response to this RFP experiences a substantial change in financial condition prior to the award of a contract pursuant to this RFP, or if a successful bidder experiences a substantial change in financial condition during the term of a contract with the Lottery, then the Lottery's Deputy Director for Video Lottery must be notified in writing at the time the change occurs or is identified. A "substantial change" in financial condition is defined as any event which, following generally accepted accounting practices, would require a notation in the audited annual report. Failure to notify the Lottery of such a change may result in the rejection of bidder's proposal or termination of the contract.

1.17 Proposal Contents

Each bidder is expected to provide the Lottery with information, evidence and demonstrations that will make possible the selection of the proposals most advantageous to the Lottery and in the best interests of the State, taking into consideration the evaluation factors set forth in this RFP.

At a minimum, proposals must be fully responsive to the specific requirements stated in this RFP. All proposed hardware, software, and services must be included in the final delivered system unless specifically excluded by the Lottery.

Each proposal must identify any requirement of this RFP that the bidder cannot satisfy.

1.18 Proposal Disclosure Prohibition

Disclosure by a bidder of proposal contents prior to the award of a contract under this RFP may result in rejection of the proposal. In particular the bidder must complete a Statement of Non-Collusion for submission with the proposal (Appendix B).

1.19 Disclosure and Ownership of Proposal Contents by the DSL

All proposals will become the property of the DSL and will not be returned to the bidders. All bidders should be aware that government solicitations and responses are in the public domain. If the bidder wishes, it may specifically label each page of the proposal deemed to contain trade secrets, commercial or financial information, or proprietary data of a privileged or confidential nature under 29 Del. C. chapter 100. Such requests will not be legally binding on the Evaluation Committee to prevent disclosure under the Freedom of Information Act but may be evaluated under the provisions of the Act, 29 Del. C. chapter 100. Any final decisions will be made at the sole discretion of the DSL.

Any and all materials submitted by the bidder become the property of the DSL and may be returned only at the option of the DSL. The DSL reserves the right to use any and all information contained in a proposal to the extent permitted by law.

1.20 Multiple Proposals from One Bidder Not Allowed

A bidder may submit a single proposal only. However, within this single proposal, multiple specifications (Part 3 of this RFP) and price (Part 4 of this RFP) submissions (one per game type such as poker, blackjack, roulette, etc.) are permitted. Multiple proposals from a single bidder will not be considered and the bidder will be subject to disqualification.

1.21 Nonexclusive Rights

Nothing in this RFP or any contracts resulting from this RFP shall preclude the Lottery from leasing other multi-player video lottery machines, services, or related equipment, for use in DSL video lottery operations.

1.22 Costs Associated with Proposal

Neither the Lottery nor the State of Delaware shall be liable for any of the costs incurred by a bidder in preparing or submitting a proposal.

1.23 Acceptance Period

Proposals must remain valid for one year from the date of proposal submission. Proposals containing a term of less than one year may be rejected. Bidders shall be strictly held to the terms in their proposals.

1.24 Rejection or Selection of Proposals

The Lottery anticipates placement of the multi-player video lottery machines that are the subject of this RFP in all three of the premises of Delaware's licensed video lottery agents. The Lottery cannot at this time provide an exact number of machines, if any, that may be needed by the video lottery agents, nor can the DSL list the specific location of these terminals. It is anticipated, however, that multiple quantities of machines containing different game types will be needed. Bidders should be aware that under 29 Del. C. §4820, the Lottery Director has the authority to amend the number, kind and type of multi-player video lottery machines at an agent's premises as necessary to increase revenues, protect the public welfare, or ensure the security of the video lottery.

The following table represents tentative combined requests by Delaware’s three video lottery agents for multi-player video lottery machines:

GAME TYPE	NUMBER REQUESTED
Blackjack	24
Poker	20
Roulette	6
Horseracing	2
Craps	3

As mentioned, these are tentative requests and are not firm commitments.

The Lottery reserves the right to reject any or all proposals or any portion thereof, to advertise for new proposals, to proceed to do the work otherwise, to abandon the work, or to award in whole or in part contracts deemed to be most advantageous to the Lottery and in the best interests of the State. Bidders will be held to the terms submitted in their proposals. Failure to meet obligations may result in cancellation of any award.

The acceptance of a proposal shall not insure that the apparent successful bidder will be selected to provide machines initially or in the twelve (12) month period for which the proposal must be valid, nor shall it diminish the Lottery's right to negotiate specific contract terms, including price, with the apparent successful bidders. Any negotiations regarding price will be governed by the terms of RFP Section 5.11.

1.25 Non-material and Material Deviations

A proposal may be rejected if it is incomplete, conditional, or fails to include a material term or component required by the RFP. Failure to respond to any section of the RFP in a material way or to follow the format of the RFP may result in disqualification of a bidder’s proposal. This determination to reject a proposal will be at the sole discretion of the DSL’s Evaluation Committee.

Material deviations in the proposal will result in rejection.

1.26 Proposal Bid Bond

Each bidder must submit a proposal bond in the amount of \$50,000 U.S. to guarantee for one year after submission of the proposal the availability of the goods and services at the price(s) quoted in the proposal. A letter of credit will not be acceptable. The bond may be forfeited to the Lottery if the bidder's proposal is withdrawn or the bidder refuses or fails to be bound by any provision of the proposal.

1.27 Litigation Bond

Each bidder must submit with the proposal a litigation bond in the amount of \$50,000 U.S. A claim upon the bond may be made by the Lottery if the following three conditions are all met:

- A. The bidder sues the Delaware State Lottery, the State of Delaware, or any of their officers, employees, or agents with regard to any matter relating to the award of contracts pursuant to this RFP.
- B. The Lottery is the prevailing party in such suit.
- C. The court determines that such suit or any portion thereof was frivolous, was commenced in bad faith, or was not based upon reasonable grounds.

The purpose of the bond is to discourage unwarranted litigation by permitting the Lottery to recover damages, including reasonable attorneys' fees, resulting from such litigation. The litigation bond shall remain in effect for a period of two (2) years from the date of proposal submission.

After contracts are signed with the successful bidders, a litigation bond may be released with the approval of the Lottery, if a bidder completes a covenant not to sue.

1.28 Independent Price Determination

By submission of a proposal, the bidder certifies, and in the case of a joint proposal, each party thereto certifies as to its own organization, that in connection with this proposal:

- A. The prices in the proposal have been arrived at independently, without consultation, communication, or agreement, for the purpose of restricting competition as to any matter relating to such prices with any other bidder or with any competitor.
- B. Unless otherwise required by law, the prices which have been quoted in the proposal have not been knowingly disclosed by the bidder and will not knowingly be disclosed by the bidder prior to award directly or indirectly to any other bidder or to any competitor.
- C. No attempt has been made or will be made by the bidder to induce any other person or entity to submit or not submit a proposal for the purpose of restricting competition.

1.29 Hiring of DSL and VLEU Staff

At all times during the proposal evaluation period and continuing for one year following either the award of contracts or the rejection of all proposals, bidders are prohibited from officially or unofficially making any employment offer or proposing any business arrangement whatsoever to any Evaluation Committee personnel, advisors, VLEU and Lottery employees involved in the evaluation of proposals, the contract awards, or contract negotiations. Bidders making such an offer or proposition may be disqualified from further consideration or have their contracts terminated.

1.30 Disqualification for Business Incapability

Financial and business stability and wherewithal to perform and support the DSL are required.

If at any time prior to the signing of a written agreement, the DSL reasonably determines that a bidder does not possess adequate financial ability or requisite stability to carry out the obligations of the contract, that bidder may be disqualified from further consideration.

If at any time after contract execution the DSL reasonably determines that the successful bidder does not possess adequate financial ability or business stability to continue to carry out the obligations of the contract, the contract may be terminated.

1.31 Optional Features

Optional Features are not identified in this RFP but may be identified by the Bidder and included in the Proposal. The DSL makes no commitment to a quantity or timing for acquisition of Optional Features.

1.32 Headings

The headings used in this RFP are for convenience only and shall not affect the interpretation of any of the terms and conditions hereof.

PART 2 - TERMS AND CONDITIONS

2.0 Introduction

This section describes the terms and conditions that apply to the procurement process and that will become part of the contracts executed pursuant to this RFP.

2.1 Governing Law

The proposal process, the award procedure, and any contracts resulting from this RFP shall be governed by the laws of the State of Delaware. Bidders are advised that this RFP is subject to 29 Del. C. §§4820(b), 6981-82 of the Delaware Code. Any and all litigation arising under this RFP or any contracts resulting thereunder shall be instituted in the appropriate court of the State of Delaware; and, by submitting a proposal, a bidder is deemed to waive access to any other court which may have concurrent jurisdiction within or without Delaware.

2.2 Contract Elements

The contract negotiated between the Lottery and a successful bidder shall include as integral parts thereof: this RFP, amendments to this RFP, and the successful bidder's proposal.

In the event of a conflict in language between any of the above-mentioned documents, the provisions and requirements set forth or referenced in the RFP and its amendments shall govern. In the event that an issue is addressed in the proposal that is not addressed in the RFP, no conflict in language shall be deemed to occur.

In the event of a conflict in language between any of the above-mentioned documents and the contract, the provisions and requirements set forth or referenced in the contract shall govern. In the event that an issue is not addressed in the contract, no conflict in language shall be deemed to occur.

Any alterations, variations, changes, modifications or waivers of or to provisions of the contract shall only be valid when they have been reduced to writing and duly executed and approved by each of the parties.

2.3 Term of Contracts

The contracts resulting from this RFP will be in effect for a five (5) year operational term, or such shorter period as the Lottery may determine due to causes such as contract termination or loss of State funding.

The Lottery reserves the right to extend the contract, with the concurrence of a successful bidder, for up to three, two-year periods, at a rate of compensation negotiated by the parties. Any extension must be exercised by the Lottery at least ninety (90) days prior to the end of the initial contract period, or any extension thereof, or at a time mutually agreed upon by both parties.

The Lottery further reserves the right to reactivate or further extend the initial contracts, or any extension thereof, on thirty days notice for ninety day periods if a different bidder's multi-player video lottery machines are chosen for subsequent contracts and the subsequent bidder's machines do not meet the requirements of the Lottery.

Exercising this right shall not be construed as obligating the Lottery to repeat the procurement process for any subsequent contracts or conferring any right or expectation for the successful bidders to continue operating their multi-player video lottery machines after the expiration of any such 90 day period.

2.4 Successful Bidder Responsibilities as Prime Contractor

A successful bidder will assume sole responsibility for delivery, installation and maintenance of all equipment, software and support services offered in its proposal. The Lottery will consider the successful bidder to be the sole point of contact with regard to contractual matters. For purposes of this RFP, a bidder shall have a North America presence in order to be considered a successful bidder.

2.5 Background Investigations

The Lottery may initiate investigations into the backgrounds of any officers, principals, investors, owners, subcontractors, employees, or any other associates of the bidders it deems appropriate. Such background investigations may include fingerprint identification by the Delaware State Police and the Federal Bureau of Investigation, or the appropriate non-U.S. equivalent, with all investigation expenses to be paid by the bidder. Nothing shall preclude the Lottery from accepting the results of a background investigation of a bidder conducted by a different jurisdiction.

By submission of a proposal, a bidder consents to such investigations, and to cooperate with such investigations. The Lottery may reject a proposal or terminate a contract based upon the results of these background checks.

2.6 Minority/Women-Owned Business Participation

It has been and remains the policy of the State of Delaware to promote equality of economic opportunity for minority and women-owned business enterprises (MBE/WBEs) in contracting activities. Accordingly, the parties to these contracts are strongly encouraged to utilize MBE/WBE subcontractors in the performance of these contracts.

2.7 Termination Other Than Default

The DSL may determine in its sole discretion that the contract executed with a successful bidder must be terminated, whether for default or other causes, and whether that successful bidder is due compensation related to the early termination of the contract.

2.7.1 Termination Without Compensation

The DSL may terminate (without compensation) any contract issued as a result of this RFP upon giving that successful bidder thirty (30) days written notice for any of the following reasons:

- A. If the successful bidder furnished any statement, representation, warranty, or certification in connection with this RFP or the resultant contract that is materially false, incorrect, or incomplete.
- B. If the successful bidder becomes financially unstable or is not able to obtain or maintain the financing necessary to support the contract.
- C. If at any time the DSL reasonably determines that the successful bidder does not possess adequate financial ability or business stability to continue to carry out the obligations of the contract.
- D. If the successful bidder or subcontractor or an officer or owner of a 5% or greater share of either, is convicted of a criminal offense incident to the application for or performance of any contract or subcontract whether in this jurisdiction or in another jurisdiction, within or outside the U.S.A, or is convicted of a criminal offense which in the sole discretion of the DSL reflects on the successful bidder's integrity.

- E. If any officer, employee, major subcontractor, or agent of the successful bidder who participates in the bidder's Delaware operations attempts to claim a prize in any Delaware State video lottery game.
- F. If the successful bidder commits an ethics or integrity violation as defined in the contract.
- G. If the successful bidder fails to maintain its status as a licensed technology provider.

The DSL and the State of Delaware shall not be liable for any costs incurred if termination is for any of the causes stated above.

2.7.2 Termination with Possible Compensation

The DSL may terminate any contract issued as a result of this RFP upon giving a successful bidder thirty (30) days written notice for any of the following reasons:

- A. In the event the DSL or the State no longer needs the services or products specified in the contract because of changes in laws or regulations.
- B. If funds for the purposes specified under the contract are not appropriated by the State. The successful bidder acknowledges that continuation of the contract is subject to annual appropriation of funds for the purposes specified in the contract. If funds to enable the DSL to effect continued payment under this contract are not appropriated or otherwise made available, the DSL shall have the right to terminate the contract without penalty at the end of the last period for which funds have been made available.
- C. In the event that prices proposed for contract modification or for additional services requested by the DSL cannot be mutually agreed upon by that successful bidder and the DSL.

If the contract is terminated for one of the reasons stated in this section and where it has been determined that the successful bidder is due compensation for costs incurred prior to termination, said compensation shall be limited to reasonable expenses for products, materials, supplies, and services rendered, for which the successful bidder has not yet been compensated. The DSL will make no payments for unfurnished work, work in progress, or raw materials acquired unnecessarily in advance, in excess of the DSL's delivery requirements, or initiated after receipt of notice of termination.

2.8 Termination for Default

The DSL reserves the right to terminate the contract and to pursue any and all legal remedies provided at law, in equity, in this RFP, or in the contract, for default. Default is defined as the failure of a successful bidder to fulfill the obligations of the proposal or contract.

In case of default by a successful bidder, the DSL and the State may upon thirty (30) days prior written notice to that successful bidder terminate the contract without further liability to the State, its departments, divisions, agencies, sections, commissions, officers, agents and employees, and procure the services from other sources, and hold that successful bidder responsible for any excess costs occasioned thereby. In addition to the remedy of contract termination and all other remedies available to the DSL hereunder, in the contract, at law or in equity, the DSL may in its sole discretion accept partial, incomplete or otherwise non-complying performance, and may deduct from the price to be paid under the defaulting bidder's contract a sum which in the DSL's determination reasonably reflects the difference in value between the contract as it was to have been performed and as it was actually performed.

2.9 Covenant Against Contingent Fees

Bidders must warrant that no person or selling agency has been employed or retained to solicit or secure an agreement pursuant to this RFP upon an agreement or understanding for a commission, percentage, brokerage or contingent fee, excepting bona fide employees or bona fide established commercial or selling agencies retained by the bidder for the purpose of securing business. For breach or violation of this warranty, the DSL shall have the right to terminate any contract or agreement in accordance with the termination clause, and in its sole discretion, to deduct from any contract any price or consideration or otherwise recover the full amount of any such commission, percentage, brokerage or contingent fee.

2.10 Accounting Records

Successful bidders are required to maintain books, records and all other evidence pertaining to the contract in accordance with generally accepted accounting principles (GAAP) within the U.S.A and/or with accounting standards as established in the country of their location. These records shall be available to the DSL, and its internal or external auditors (and other designees) at all times during the contract period and any extension thereof, and for three (3) full years from the expiration date and/or final payment on the contract or extension thereof, whichever is later.

2.11 Audit Requirements

Under the contracts, the successful bidders must meet specific auditing obligations:

- A. Successful bidders will be required to have a complete financial audit conducted annually. An independent public accounting firm in the country of the bidder's location shall conduct the audit. A copy of a successful bidder's certified financial statements shall be provided to the Delaware State Lottery annually.
- B. In addition, a complete internal control audit of a successful bidder's Delaware operations may be required by the Lottery, to be conducted annually by an independent certified public accounting firm. This audit shall be conducted pursuant to Statement on Auditing Standards No. 44, as issued by the American Institute of Certified Public Accountants. The Lottery reserves the right to specify the type of report, to specify the control objectives to be examined and to designate the annual period to be covered by the report and the date by which the report is due. Such audits may be conducted by the Lottery's own auditors or an independent firm specified by the Lottery or an independent firm approved by the Lottery if selected by the bidder.
- C. The Lottery reserves the right to require the first internal control audit to be conducted within 90 days of installation of a successful bidder's first multi-player video lottery machine.
- D. Both the aforementioned types of audits shall be conducted at the expense of the successful bidder(s).
- E. The Lottery's certified public accounting firm or other designate will be given the right to review the work papers of these audits, if considered necessary by the Lottery.
- F. The Lottery and its independent certified public accountants shall be given a copy of all reports including any management letters issued as a result of the specified audits.
- G. Successful bidders are required to provide, upon request, copies of filings to the Securities and Exchange Commission and/or any filings with foreign regulatory agencies.

2.12 Authority of DSL

On all questions concerning the interpretation of specifications, the acceptability and quality of material furnished and/or work performed, the classification of material, the execution of the work, the assessment of liquidated damages, and the determination of payment due or to become due, the decision of the DSL shall be final and binding.

2.13 Cooperation of the Parties

Successful bidders and the DSL agree to cooperate fully, to work in good faith and mutually to assist each other in the performance of the contract. In this connection, the parties will meet to resolve problems associated with the contract. Neither party will unreasonably withhold its approval of any act or request of the other to which its approval is necessary or desirable.

2.14 Indemnification

2.14.1 General Indemnification

A successful bidder shall indemnify, defend and hold harmless the DSL, State of Delaware, its departments, divisions, agencies, sections, commissions, officers, employees and agents from and against all losses, liabilities, penalties, fines, damages and claims (including taxes), and all related costs and expenses (including reasonable attorneys' fees and disbursements and costs of investigation, litigation, settlement, judgments, interest and penalties), arising from or in connection with any of the following:

- A. Any claim, demand, action, citation or legal proceeding against the State, its employees and agents arising out of or resulting from (i) the products provided or (ii) performance of the work, duties, responsibilities, actions or omissions of that successful bidder or any of its subcontractors under this contract, or (iii) a breach of any representation or warranty made by the successful bidder in the contract.
- B. Any claim, demand, action, citation or legal proceeding against the State, its employees and agents arising out of or related to occurrences that the successful bidder is required to insure against as provided for under the contract.
- C. Any claim, demand, action, citation or legal proceeding against the State, its employees and agents arising out of or resulting from the death or bodily injury of any person, or the damage, loss or destruction of any real or tangible personal property, in connection with the performance of services by the successful bidder, by any of its subcontractors, by anyone directly or indirectly employed by any of them, or by anyone for whose acts any of them may be liable.
- D. Any claim, demand, action, citation or legal proceeding against the State, its employees and agents which results from an act or omission of the successful bidder or any of its subcontractors in its or their capacity as an employer of a person.

These indemnification clauses shall not apply to the extent, if any, that such death, bodily injury, property damage, or other damages are caused by the negligence or reckless or intentional wrongful conduct of the State.

2.14.2 Patent/Copyright Infringement Indemnification

Any successful bidder shall indemnify, defend and hold harmless the DSL, State of Delaware, its employees and agents from and against all losses, liabilities, damages (including taxes), and all related costs and expenses (including reasonable attorneys' fees and disbursements and costs of investigation, litigation,

settlement, judgments, interest and penalties) incurred in connection with any action or proceeding threatened or brought against the State to the extent that such action or proceeding is based on a claim that any piece of equipment, software, commodity or service supplied by the successful bidder or its subcontractors, or the operation of such equipment, software, commodity or service, or the use or reproduction of any documentation provided with such equipment, software, commodity or service infringes any United States or foreign patent, copyright, trade secret or other proprietary right of any person or entity, which right is enforceable under the laws of the United States.

In addition, should the equipment, software, commodity, or service, or the operation thereof, become or in the successful bidder's opinion be likely to become the subject of a claim of infringement, the successful bidder shall at the successful bidder's sole expense (i) procure for the State the right to continue using the equipment, software, commodity or service or, if such option is not reasonably available to the successful bidder, (ii) replace or modify the same with equipment, software, commodity or service of equivalent function and performance so that it becomes non-infringing.

2.15 Bonds and Insurance

All required bonds and insurance must be issued by companies which are at least 'A' rated by A.M. Best & Co., are duly licensed, admitted, and authorized to do business in the State of Delaware and are acceptable to the DSL. Required coverage must be put into effect as of the effective date of the contract and must remain in effect throughout the term. A successful bidder must submit copies of each required insurance contract or certificates attesting to such insurance coverage, and any renewals thereof, to the DSL. The DSL must receive thirty (30) days advance written notice of cancellation, termination, or failure to renew any policy.

The successful bidder shall purchase adequate insurance for the performance of the contract and, by submission of a bid, agrees to indemnify and save harmless and to defend all legal or equitable actions brought against the State, any agency, officer and/or employee of the State, for and from all claims of liability which is or may be the result of the successful bidder's actions during the performance of the contract. The purchase or non-purchase of such insurance or the involvement of the successful bidder in any legal or equitable defense of any action brought against the successful bidder based upon work performed pursuant to the contract will not waive any defense which the State, its agencies and their respective officers, employees and agents might otherwise have against such claims, specifically including the defense of sovereign immunity where applicable, and the State and all agencies, officers and employees thereof shall not be financially responsible for the consequences of work performed, pursuant to said contract.

2.15.1 Insurance

The successful bidder shall purchase and maintain insurance for claims set forth below which may arise out of or result from the successful bidder's operations under the contract, whether such operations be by the successful bidder or by any subcontractor or by anyone directly or indirectly employed by any of them, or by anyone for whose acts any of them may be liable:

- A. Claims under workers' compensation, disability benefit and other similar employee benefit acts per statute in each state in which the successful bidder does business.
- B. Claims for damages because of bodily injury, occupational sickness or disease, or death of the successful bidder's employees.
- C. Claims for damages because of bodily injury, sickness or disease, or death of any person other than successful bidder's employees.

- D. Claims for damages because of injury to or destruction of tangible property, including loss of use resulting therefrom.
- E. General Liability Insurance coverage with limits of not less than \$2,000,000 U.S. for injury to any one person, \$4,000,000 U.S. for any one occurrence of personal injury and \$1,000,000 U.S. for any one occurrence of property damage.
- F. Property Insurance on all buildings, furniture, fixtures, computer and communications equipment used in operating and supporting the multi-player video lottery machines in an amount equal to or greater than the actual replacement cost thereof. Coverage shall include an All Risk Property Floater to insure personal property including contents, equipment, and mobile items against fire, theft, collision, and flood. The State of Delaware, the Lottery, and Lottery agents will not be responsible for insuring any equipment or facilities included in or associated with the contract.
- G. Automotive Liability Insurance covering drivers and vehicles employed in connection with the operation of the contract with limits of not less than \$1,000,000 U.S. for personal injury to each person and \$250,000 U.S. for property damage.
- H. Errors and Omissions Insurance with limits of not less than \$1,000,000 U.S. per claim, to be in force and effect at all times which will indemnify the successful bidder and the DSL for direct loss which may be incurred due to any error caused by the successful bidder, its officers, employees, agents, subcontractors or assigns regardless of negligence.

A STATEMENT OF SELF-INSURANCE TO COVER THE ABOVE REQUIREMENTS IS NOT ACCEPTABLE AND SHALL BE CONSIDERED NON-RESPONSIVE TO THIS RFP.

Errors and Omissions Insurance must continue until one year past the term of the contract. All other insurances covered by this section must be effective when performance commences under the contract and continue through the life of the contract and any authorized extensions.

Certificates of insurance must be furnished to the DSL Director on date of contract execution, with the exception of the certificate for Errors and Omissions Insurance, which must be furnished to the DSL Director prior to installation of the first machine.

The required insurance coverage shall be written for not less than any limits of liability as required by the contract, and shall include contractual liability as applicable to the successful bidder's obligations under the Indemnification clause of the contract.

2.15.2 Performance Bond

Upon notification of receiving the award, the successful bidder will be required to obtain a performance bond in the amount of \$250,000 U.S. for the duration of the contract. The performance bond may be paid to the DSL if the bidder defaults in the performance of the contract or has occasioned uncompensated liquidated damages.

The performance bond will be assessed for the amount of all liquidated damage payments due the DSL which have not been received within thirty (30) calendar days after written notice of their being incurred has been given to the successful bidder.

A performance bond may be in the form of a policy or certificate issued by a reputable surety company. A certified check or cashier's check made payable to the DSL may be accepted in lieu of the surety company issued policy/certificate. A Letter of Credit will not be acceptable.

The performance bond shall be conditioned on the faithful compliance and performance by the successful bidder of each and every term and condition of the contract and the proposal, plans and specifications thereof. Each term and condition shall be met at the time and in the manner prescribed by the contract and specifications. The performance bond shall also contain the successful bidder's guarantee to indemnify and save harmless the State and the agency from all costs, damages and expenses due to the successful bidder's failure to comply and perform the work and complete the contract in accordance with the terms of the contract.

2.15.3 Fidelity Bond

Prior to contract execution, the successful bidder will be required to obtain a Fidelity Bond in the amount of \$1,000,000 U.S. covering any loss to the State due to any fraudulent or dishonest act on the part of the successful bidder's officers, employees, agents or subcontractors.

2.16 **Liquidated Damages**

Successful bidders must acknowledge:

- A. If a successful bidder does not fulfill the obligations of the contract, damage to the Lottery will result.
- B. Establishing the precise value of such damage would be costly, difficult, and time consuming.
- C. The liquidated damage amounts specified herein are good faith efforts to quantify the damages that could be reasonably anticipated at the time of the making of the contracts.
- D. The Lottery may, therefore, in its discretion, deduct liquidated damages from the compensation otherwise due to a successful bidder. All assessments of liquidated damages shall be within the discretion of the Lottery and shall be in addition to, and not in lieu of, the right of the Lottery to terminate the contract or to pursue other appropriate remedies.
- E. The Lottery shall notify a successful bidder in writing of the assessment of liquidated damages for any default specified herein and payment of such damages shall be initiated within thirty (30) days of receipt of the assessment notice by deducting such damages from the compensation otherwise due to that successful bidder. If timely payment is not made, the Lottery may collect such damages by making a claim against the performance bond or by any other lawful method.
- F. Excessive liquidated damages, and events leading to such, in the sole discretion of the Lottery, may be grounds for termination of the contract.

2.16.1 Notification of Liquidated Damages

All assessments of liquidated damages shall be made by the DSL Director. Upon determination that liquidated damages are to be or may be assessed, the DSL shall notify the successful bidder of the potential assessment in writing.

2.16.2 Conditions for Termination of Liquidated Damages

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

- A. Except as waived in writing by the Director, no liquidated damages imposed shall be terminated or suspended until the successful bidder issues a written notice verifying the correction of the condition(s) for which liquidated damages were imposed, and all the successful bidder's

corrections have been subjected to system testing or other verification at the discretion of the Director.

- B. If appropriate, the successful bidder shall conduct systems testing of any correction as the Director deems necessary. Such testing shall be developed jointly by the DSL and the successful bidder, and approved by the DSL, including the test script, test environment, and test results.
- C. The documentation necessary for verification and approval shall be determined by the Director. The Director shall be the sole judge of the accuracy of any documentation provided.
- D. A successful bidder's notice of correction will not be accepted until the correction is verified by the DSL.

2.16.3 Severability of Individual Liquidated Damages

If any portion of the liquidated damages provisions is determined to be unenforceable in one or more applications, that portion remains in effect in all applications not determined to be invalid and is severable from the invalid applications. If any portion of the liquidated damages provisions is determined to be unenforceable, the other provision or provisions shall remain in full force and effect.

2.16.4 Waivers of Liquidated Damages

It is expressly agreed that the waiver of any liquidated damages due the DSL shall constitute a waiver only as to such liquidated damages and not a waiver of any future liquidated damages. Failure to demand payment of liquidated damages within any period of time shall not constitute a waiver of such claim by the DSL.

2.16.5 Payment of Liquidated Damages

All assessed liquidated damages will be deducted from any moneys owed the successful bidder by the DSL and in the event the amount due the successful bidder is not sufficient to satisfy the amount of the liquidated damages, the successful bidder shall pay the balance to the DSL within thirty (30) calendar days of written notification. If the amount due is not paid in full, the balance will be deducted from subsequent payments to the successful bidder. At the DSL's sole option, the DSL may obtain payment of assessed liquidated damages through one (1) or more claims upon the Performance Bond.

2.16.6 Applicability of Liquidated Damages

The successful bidder shall not be required to pay liquidated damages for delays solely due to matters as enumerated in the section entitled "Force Majeure," for outages related solely to regulated communications carriers, due solely to the DSL's central system provider, nor for time delays specifically due to, or approved by, the DSL.

2.16.7 Late Installation

If a successful bidder does not have the ordered quantities of multi-player video lottery machines installed and accepted by the Lottery by a date specified by the Lottery, the Lottery may assess liquidated damages in the amount of one thousand dollars (\$1,000 U.S.) per machine for each day of delay. The units will be considered operational when they have been installed, tested and accepted by the Lottery and are ready to be activated by the central computer system for customer play. Any additional shipments of multi-player video lottery machines may be subject to a reasonable penalty schedule to be established by the Lottery.

2.16.8 Untimely Multi-Player Video Lottery Station Repair

A successful bidder shall ensure that all multi-player video lottery stations are repaired or replaced and operational within the "maximum repair time." "Maximum repair time" shall be measured from the time of receipt of a service call, and a repair shall be considered completed when the technician who completed the repair informs the central system provider that the station is repaired and ready to be activated for play.

For the purposes of this provision, "maximum repair time" shall be defined as follows: Two Hours for any multi-player video lottery station.

If station maintenance is not completed within the "maximum repair time," liquidated damages may be assessed at the rate of fifty dollars (\$50 U.S.) per hour or a fraction thereof that the station remains unrepaired beyond the "maximum repair time."

2.16.9 Lack of Multi-Player Video Lottery Station Preventive Maintenance

Each delivered multi-player video lottery station shall have a preventive maintenance cycle established by the manufacturer/distributor and accepted by the Lottery. For each event of neglected preventive maintenance, liquidated damages of five hundred dollars (\$500 U.S.) per station, per day, may be assessed.

2.16.10 Deficient Multi-Player Video Lottery Machine Field Service

A successful bidder shall employ sufficient resources and inventory to meet the performance standards for field service specified in this RFP. Within thirty (30) calendar days after notification from the Lottery that a performance standard is not being met, a successful bidder shall employ such additional resources as are necessary to meet the performance standard.

If that successful bidder does not bring deficient performance up to the standards specified within thirty (30) calendar days of notification, the Lottery may impose liquidated damages in the amount of one thousand dollars (\$1,000 U.S.) per day until performance is in compliance with the contract.

2.16.11 Failure to Provide Enhancements

During the term of the contract, the Lottery and a successful bidder may agree in writing to a schedule for developing, testing, and implementing or installing a modification or enhancement of an existing game or report or an addition of a new game or report.

If a successful bidder fails to meet any date specified in such a schedule, the Lottery may assess liquidated damages of \$1,000 U.S. per day for each day of delay regarding the modification, enhancement, or addition of a game and \$500 U.S. per day for each day of delay regarding the modification, enhancement, or addition of a report, or other system change.

In addition, at its sole discretion, the Lottery may require a successful bidder to retain and compensate a third party firm to complete system development tasks in order to ensure timely delivery. The third party firm must be approved by the Lottery, and if necessary, will be selected by the Lottery. A successful bidder must ensure that the third party retained under these circumstances properly complies with non-disclosure agreements regarding proprietary materials and Lottery business plans.

2.16.12 Unauthorized Modifications

A successful bidder shall not modify any software, firmware, or hardware in the multi-player video lottery machines without the prior written consent of the Lottery.

If an unauthorized modification occurs, the Lottery may assess initial liquidated damages of \$25,000 U.S. and additional liquidated damages of \$5,000 U.S. per day for each day between the issuance of a removal order and the actual removal of the unauthorized modification and restoration of the device to its previous operating state.

2.16.13 Unauthorized Access

A successful bidder shall prevent persons not authorized by the Lottery from accessing the multi-player video lottery machines.

If a successful bidder fails to prevent unauthorized access, the Lottery may impose liquidated damages of \$10,000 U.S. for each incident of unauthorized access by an unauthorized person.

2.17 Ownership of Materials and Right of Use

Ownership of all data, documentary material, and operating reports originated and prepared for the Lottery pursuant to any contracts resulting from this RFP shall belong exclusively to the Lottery.

Ownership of the multi-player video lottery machine equipment and software shall be retained by the successful bidder at the close of the contract or any extension thereto.

If for any reason other than a breach of agreement by the Lottery, a successful bidder loses the ability to comply with the terms of the contract, the Lottery shall retain the right to use the equipment, source program instructions and documentation for those items owned by a successful bidder and that are necessary to provide contractual services. Said right shall be limited to the right of the Lottery to possess and make use of such solely for the use and benefit of the State of Delaware in maintaining, altering and improving the operational characteristics of the programs and systems being used under the contracts.

If the Lottery exercises its right to use the contract items, all software programs, documentation, operating instructions, hardware, and the like, including modifications or alterations thereof, shall be kept in confidence and shall be returned together with all copies to a successful bidder when their use has been completed.

2.18 Game Playing and Prize Payment Restrictions

No officer or employee of a successful bidder or of any subcontractor who is involved in Delaware operations shall play the video lottery games of the Delaware State Lottery or be paid a prize in any video lottery game. A successful bidder shall ensure that this requirement is made known to each applicable officer and employee of the successful bidder and of any subcontractor.

2.19 Force Majeure

A Force Majeure occurrence is an event or effect that cannot be reasonably anticipated or controlled. As herein used, Force Majeure means acts of war; terrorism; action of the elements; governmental interference; rationing; or any other cause which is beyond the control of the party affected and which, by the exercise of reasonable diligence, said party is unable to prevent.

Neither a successful bidder nor the Lottery shall be liable to the other for any delay in or failure of performance under the contract of that successful bidder due to a Force Majeure occurrence. Any such delay in or failure of performance shall not constitute default or give rise to any liability for damages. The existence of such causes of such delay or failure shall extend the period for performance to such extent as determined by the Lottery Director to be necessary to enable complete performance by a successful bidder if reasonable diligence is exercised after the cause of delay or failure has been removed.

If Force Majeure conditions for the multi-player video lottery machine provider shall be expected to continue unabated for an indefinite period and the provider cannot service the contract, the Lottery retains the right to operate the machines (see RFP 2.17) and/or to terminate the contract so that business continuity can be restored.

2.20 Security Program

Prior to operations under the contract, a successful bidder shall establish a physical and software security program for its equipment, subject to the prior written approval of the Lottery.

The Lottery reserves the right to require at any time such further and additional security measures as deemed necessary or appropriate to ensure the integrity of the equipment or the games.

The Lottery reserves the right, at any time and without prior notice, to inspect and otherwise evaluate all phases of performance specified in the contract and the premises in which such work is performed.

2.21 Taxes, Fees and Assessments

A successful bidder shall pay all taxes, fees and assessments upon the multi-player video lottery machines, however designated, levied or based.

2.22 News Releases

A successful bidder shall not issue any news releases pertaining to the award of or performance of the contract without prior approval by the Lottery, and then only in cooperation with the Lottery.

2.23 Advertising

Each bidder agrees not to use the Lottery's name, logos, images, nor any data or results arising from this procurement process or contract as a part of any commercial advertising without prior written approval by the Lottery.

2.24 Hiring of Lottery Personnel

Please refer to section 1.29.

2.25 Code of Conduct for Successful Bidders

The Delaware State Lottery is an extremely sensitive enterprise because of the nature of the business and because it is government-affiliated. Therefore, it is essential that its operation, and the operation of other enterprises that would be linked to it in the public mind, avoid not only impropriety but also the appearance of impropriety. Because of this, successful bidders are expected to:

- A. Offer goods and services only of the highest standards.
- B. Use their best efforts to prevent the industry from becoming embroiled in unfavorable publicity.
- C. Make sales presentations in a responsible manner. When pointing out the perceived superiority of their goods or services over those of competitors, the successful bidder shall do so in such a manner as to avoid unfavorable publicity for the industry.
- D. Avoid promotional activities which could be interpreted as improper and provide embarrassment to the industry.

- E. Report security problems or potential security problems immediately and only to the Lottery.
- F. Comply with all DSL Video Lottery Regulations (please visit the Lottery website at www.delottery.com and go to “Video Lottery Rules and Regulations” for the latest regulations).

2.26 Tests Following Award

- A. Certification Tests. The Lottery requires that the game algorithms be certified by an independent laboratory. A successful bidder must cooperate in submitting chips and/or other appropriate materials for the testing. Certification is an expense that must be reimbursed to the Lottery by a successful bidder. The successful bidder shall also provide to the Lottery a methodology by which the machines can be subjected to an independent test that will confirm to the Lottery that subsequent machines (after initial installation) conform to all specifications in this RFP.
- B. Functional Tests. The Lottery will conduct a series of acceptance tests to fully determine the successful bidder’s equipment’s communication functionality with the Lottery’s central system. Failure of a successful bidder to pass these tests may result in the successful bidder paying liquidated damages or forfeiting up to the full amount of the performance bond. Cooperation of a successful bidder in these tests is required. It is not required that the Lottery be reimbursed for this form of testing.

The machines will be tested for each and every requirement in this RFP. A successful bidder's assistance in arranging tests will be necessary. The Lottery, at its sole discretion, will determine whether performance against the acceptance tests is adequate, and installation can proceed.

2.27 End of Contract Activity

At the end of a successful bidder’s contract, the bidder shall remove all its equipment and materials relating to the gaming system from each agent location on a Lottery-specified schedule of calendar days.

2.28 Funding Out Clause

If sufficient support is not appropriated by the Delaware General Assembly or other appropriate Federal or State agency to sustain, in whole or in part, the Delaware State Lottery's performance under the contractual agreement, or if such support is reduced such that it is insufficient to sustain said performance, then the agreement shall be null and void at the insistence of the Delaware State Lottery.

2.29 Equipment and Software Changes and Upgrades

- A. A successful bidder's services shall include software changes, including fixes to all software errors and design defects, improved versions of the software, software enhancements and new gaming features, software changes for promotions, new games from the successful bidder's library, new games defined by the Lottery, and changes to reports. A successful bidder is further required to maintain the multi-player video lottery machine software with supported releases for any third party products incorporated.

All these changes and upgrades shall be included in the bidder's base price.

- B. Changes and enhancements that exceed contract-specified requirements (and which are not otherwise accommodated by the above or by the pricing method in RFP Part 4) will have the terms and price negotiated. Any equipment made available to any of the successful bidder’s other clients shall also be made available to the DSL.

2.30 Authority of Lottery

On all questions concerning the interpretation of specifications, the acceptability and quality of material furnished and/or work performed, the classification of material, the execution of the work, and the determination of payment due or to become due, the decision of the Lottery shall be final and binding.

2.31 Lottery Approval of Staffing

The Lottery reserves the right to review and if perceived necessary, reject an employee's assignment to the Lottery contract, either at contract inception or during the term. In addition, the Lottery may require a successful bidder to provide minimum levels of staffing or service to meet the requirements as set out in the contract.

2.32 Subcontract Approval

Any proposed subcontracts shall be subject to the prior approval of the Lottery and shall include such contracting and purchasing requirements as shall be binding on agencies of the State of Delaware. The proposal and contract shall identify proposed subcontractors by name.

2.33 Compensation During Contract

A successful bidder will be compensated by the Lottery based on management and accounting reports generated by central system data and shall be based on a percentage of net proceeds generated by the successful bidder's multi-player video lottery machines.

2.34 Replacement of Under-Performing Multi-Player Video Lottery Machines

The purpose of installing multi-player video lottery machines is to maximize revenues for the State of Delaware. If it becomes clear that a population of multi-player video lottery machines is under-performing with regard to generating net proceeds, the Lottery reserves the right to alter the mix of these multi-player video lottery machines. The following procedure will apply for determining the need for, and carrying out of, replacement of under-performing multi-player video lottery machines:

The Lottery and the multi-player video lottery machine providers will generate a series of operating reports that define the performance of multi-player video lottery machines and their individual stations. The reports will apply to the overall population of multi-player video lottery machines and/or stations, to machines and/or stations provided by individual successful bidders, and to distinct groups within the population provided by individual successful bidders. Typical groups of "similar" machines and/or stations to be compared using such performance data will be machines and/or stations of the same game type, for example, multi-player blackjack games provided by a bidder compared to blackjack games provided by other bidders.

The Lottery shall continuously monitor performance. Every six (6) months on a schedule determined by the Lottery, net proceeds from the machines and/or stations will be reviewed, and the Lottery will attempt to determine if any distinct groups of machines and/or stations are "under-performing." The Lottery will exercise several tests of the following nature based on net proceeds, including:

- A. If a single or a group of multi-player machines from a single provider are under-performing average net proceeds of the total multi-player machine population by 10% or more.
- B. If a single or a group of multi-player machines is under-performing the average net proceeds of a comparable set of machines with a similar game type by 10% or more.

C. If the average of net proceeds from a group of multi-player stations are under-performing the average net proceeds of a comparable set of regular video lottery machines by 10% or more.

As a result of such performance tests the Lottery will make a determination whether a single or a group of machines is “under-performing” and correction or replacement is prudent.

For a single or a group of multi-player machines determined to be “under-performing”, the provider shall have forty-five (45) days in which to perform adjustments that are acceptable to the Lottery. At the end of the afforded adjustment period the machines will be monitored for an additional forty-five (45) days.

If the “under-performing” tests still indicate that a single or a group of machines is “under-performing”, then the Lottery reserves the right to order that those multi-player machine(s) be removed within thirty (30) days. The Lottery may then opt to replace the removed machines with machines from the same or a different successful bidder or with regular video lottery machines provided by an existing provider, based on favorable net proceeds experience as determined from the net proceeds reviews described above, or other selection criteria.

For removed machines, a successful bidder shall receive no further compensation from the Lottery, either related to net proceeds or to the effort and/or expense of removal.

2.35 Patented Devices, Materials, and Processes

A successful bidder shall provide for the use of any patented design, material, or process to be used or furnished under this contract by suitable legal agreement with the patentee or owner, and shall file a copy of any necessary agreements with the Lottery. A successful bidder shall save and hold harmless the State of Delaware, the Lottery, the Director, the Lottery staff and agents from any and all claims arising out of the use of such patented design, device, material, or process in connection with the work agreed to be performed under this contract.

Should patentable or licensable designs, devices, materials, or processes arise from the successful bidder's work under this contract, the successful bidder shall retain the right to possess, develop, and commercialize such items. The Lottery shall be granted the right or license to employ said items indefinitely in the execution of Lottery business; however, the Lottery shall not license, distribute, or otherwise commercialize such items.

2.36 Use of Copyrighted or Trademarked Materials

The successful bidder shall have the obligation to ensure that use of materials does not infringe on copyright, trademark, or other intellectual property rights of third parties. This may require the successful bidder to obtain permission for use, including payments made for such, to third parties. In particular the successful bidder is required to pay all franchise and/or licensing fees for use of games employing symbols or names involving intellectual property rights of third parties.

If it is determined that use of certain materials constitutes infringement, then the successful bidder is obligated to obtain permission or to cease such infringing use and provide the Lottery with an equivalent product. The successful bidder must indemnify the Lottery and the State of Delaware from any damages sought as a result of infringement.

2.37 Licensing as a Technology Provider

The Lottery can make an award only to successful bidders that obtain a Technology Provider license, pursuant to 29 Del. C. §4805 (a) (17). The denial of a license application will result in the elimination of a bidder as a potential technology provider regardless of the recommendations or findings of the DSL

Evaluation Committee or the Lottery Director. The failure of a successful bidder to maintain its status as a licensed technology provider during the term of the contract will result in the termination of the successful bidder's contract. Successful bidders must reimburse the Lottery for the cost of periodic background checks related to licensing. Once the successful bidders are identified, contracts may be awarded contingent on a bidder being awarded a license. (Please visit the Lottery website at www.delottery.com and go to "Video Lottery Rules and Regulations" to learn more about the technology provider licensing process).

2.38 Removal of Unapproved Equipment and Loss of License

Any multi-player video lottery machine from a successful bidder that does not conform to machines previously provided by the successful bidder for testing and acceptance will be disconnected. If any modification to a multi-player video lottery machine that has not been approved by the Lottery is supplied by a successful bidder and operated by a video lottery agent, the Lottery shall disconnect all of that successful bidder's machines and may suspend its Technology Provider License.

2.39 Assignment

The contract may not be assigned, transferred, conveyed, sublet, or otherwise disposed of without previous written approval of the DSL. Any purported assignment in violation of this section shall be null and void. Further, a successful bidder may not assign the right to receive moneys due under the contract without the prior written consent of the DSL.

2.40 Confidential Information

Any successful bidder, its officers, employees, agents, representatives, and subcontractors, shall not disclose to any other person or entity any information pertaining to the DSL's methods, systems, programs, procedures, or operations at any time without prior written approval of the DSL, except as may be necessary in its performance of the contract. The DSL, its officers, employees, agents, representatives, and contractors, to the extent permitted by law shall not disclose to any other person or entity any confidential, secret, or proprietary information or know-how, concerning the equipment, programming, software, trademarks, trade or commercial secrets, of a successful bidder or its subcontractors, at any time without the express prior written approval of a successful bidder, except as may be necessary in its performance of the contract.

In the event that any demand, claim, action, or proceeding of any nature whatsoever is made, asserted, or instituted that has as its purpose or object, or may have as its consequence, the disclosure to any person of any of the information referred to herein, each party shall immediately: notify the other party thereof; and upon request, join and support the other party should the other party seek any stay, injunction, restraining order, protective order, declaratory judgment, or any other form of interim or permanent relief, order, or judgment whose object is to avoid, prevent, delay, or limit the disclosure of such information; and shall not disclose such information unless, until, and only to the extent required to do so, by the final order of a judicial, legislative, executive or administrative authority having actual jurisdiction thereof.

2.41 Scope of Agreement

If the scope of any provision of this RFP is declared to be too broad in any respect whatsoever to permit enforcement to its full extent, then such provision shall be enforced to the maximum extent permitted by law, and the bidders and/or successful bidders hereto consent and agree that such scope may be judicially modified accordingly and that the whole of such provisions of the RFP shall not thereby fail, but the scope of such provisions shall be curtailed only to the extent necessary to conform to law.

2.42 Statutory Provisions

- A. The Lottery may require successful bidders to execute truth-in-negotiation certificates stating that the prices bid and other costs supporting the compensation are accurate, complete, and current at the time of contracting. Under 29 Del. C. §6982(b)(3), the original contract price and any additions thereto shall be adjusted to exclude significant sums where the Lottery determines the contract price was increased due to inaccurate, incomplete, or non-current price information. All such contract adjustments shall be made within one (1) year following the end of the contract.
- B. No contract shall be executed until the successful bidder has provided the Lottery with its taxpayer identification number or its Delaware business license number.

2.43 Additional Units

The Lottery reserves the right to request a successful bidder to lease to the Lottery an additional number of multi-player video lottery machines, above any initial award, during the term of the Agreement, subject to the terms of the Agreement, the RFP, and the successful bidder's Proposal. The Lottery may determine that additional multi-player video lottery machines may be ordered from a successful bidder based on the Lottery's goal of maximizing revenues from the video lottery operations while protecting the public welfare and security of the operations.

PART 3 - SPECIFICATIONS

3.0 Introduction

In addition to the technical specifications detailed in the following sections, the following conditions must be met before the multi-player video lottery machines are approved for use in Delaware:

- A. All multi-player video lottery machines and associated equipment must meet Delaware Lottery specifications before being approved for use in Delaware.
- B. Each multi-player video lottery machine approved by the Delaware Lottery for placement at a video lottery agent location must conform to the specifications of the machine prototype tested and approved by the Delaware Lottery.
- C. No modifications to approved machine hardware and/or software are permitted without obtaining previous written permission from the Delaware Lottery.
- D. The Lottery reserves the right to modify/update requirements and specifications at any time.

3.1 Hardware Specifications

The following list of specifications must be met by the bidders, yet is not intended to limit the state of the art in multi-player video lottery machines. The Lottery is interested in finding out about any additional features and/or capabilities a manufacturer may wish to present.

3.1.1 General

Each machine shall contain multiple playing stations wherein each station is independent of all other stations.

3.1.2 Seats

All units are to include seats that make the player comfortable.

3.1.3 Keyboard Functions and/or touch screen capability

There shall be sufficient keys or indicator functions on the machine to provide for the following functions:

- A. Game selection.
- B. HELP function with context sensitive assistance. When the player opts for HELP in the middle of a transaction, information relevant to that transaction appears. HELP must cover how to play games; credits; and other consumer information.

3.1.4 Security Lock

Key locks so that unauthorized personnel cannot gain access to the CPU board.

3.1.5 Self-Diagnostics

The machine must be equipped with self-diagnostics and indicators or lights that enable the agent to monitor the operating status of the terminal. Please provide a description of indicators used to monitor your machines.

3.1.6 Environment Fitness

Bidders shall describe how the multi-player video lottery machine is suitable for the conditions of Delaware agent locations (local power requirements, other environmental conditions such as temperature, humidity, dust, grease, spilled liquids, player abuse).

3.1.7 Memory Protection

Should AC power to the multi-player video lottery machine be interrupted, the gaming software must not be destroyed, modified or lost for a minimum period of seventy-two (72) hours from the occurrence of such failure.

3.1.8 Game Algorithms

Gaming algorithms may be inserted into the machine or stations either on an EPROM chip or chips, or other secure medium, or through secured downloads. For a bidder proposing downloads, the proposal must identify mechanisms that ensure security for the download, and verify that the correct version has been received.

3.1.9 Central Computer System and Player Tracking Interface

The multi-player video lottery machines and/or stations must have a messaging capability so as to operate in an on-line communications mode with the Lottery's central computer system and the agent's player tracking system. Traffic to and from the central system will include information retrieval, security, and terminal activation/deactivation messages.

The machine hardware configuration for communications will consist of a connector defined by the central system provider suitable for connection to a communications controller (or equivalent mechanism) for on-line communications over a multi-drop leased line.

3.1.10 Unique Internal Identification Number

Each multi-player video lottery machine and/or or station will be given a unique internal terminal identification number that identifies the terminal to the central system. Each successful bidder will be assigned a block of numbers.

3.1.11 Activation and De-activation Through Central System

Game play ability and bill/ticket acceptors will be totally inoperable until activated from the central computer system. Also, at the end of a gaming day, the machines shall be shut down from further play by the central system. Games in progress at the end of the day must be allowed to complete that game and any bonus rounds, if applicable. Diagnostic functions will be available at all times.

3.1.12 User Safety

Electrical and mechanical parts and design principles shall not subject a player to physical hazard or injury. Bidders must submit proof that the proposed equipment has been inspected and approved (or approval is pending) for customer safety by a reputable testing laboratory, such as Underwriters Laboratories. Bidders must certify that all proposed equipment is in compliance with all applicable FCC rules and regulations. Certification under equivalent foreign country standards is acceptable.

3.1.13 Protection of Meter Data Through Power Surge, Brownout, and Outages

A surge protector must be installed on the line that feeds electrical power to each multi-player video lottery machine. The battery backup, or an equivalent, for the electronic meters must be capable of maintaining accuracy of all accounting records and machine status reports for a period of 180 days after power is discontinued to the machine.

3.1.14 Power Switch

An on/off switch that controls the electrical current used in the operation of the multi-player video lottery machine and any associated equipment must be located in an accessible and secured place.

3.1.15 Protection from Static Interference

The operation of each multi-player video lottery machine must not be adversely affected by any static discharge or other electromagnetic interference.

3.1.16 Bill and ticket Acceptor

- A. Denominations. Each multi-player video lottery station must contain a six (6) note bill acceptor for bills in denominations of one (1) dollar, five (5) dollars, ten (10) dollars, twenty (20) dollars, fifty

(50) dollars and one hundred (100) dollars. The bill acceptor must have a "note hanging" feature, a feature that prevents rejected bills from being totally rejected from the acceptor. The bill acceptor must accept both old and new style U.S. currency. Bills must be accepted in all four directions that they may be inserted. All acceptors must have counterfeit screening capability.

- B. All machines shall be capable of operating in a ticket-in/ticket-out mode. Please describe your procedure for handling any partial (residual) credits. An example of a partial or residual credit would be when a patron inserts a \$1.25 credit slip into a \$1.00 denomination machine and has \$1.00 credit displayed, leaving \$0.25 to be issued as a partial (residual) credit.
- C. Separate Bill Acceptor Compartment. Each station of a multi-player video lottery machine shall have its own bill acceptor and cash box. The cash box compartment shall be located in a separate locked area.

3.1.17 Disabled When Open

All multi-player video lottery machines shall have a security system that temporarily disables the gaming function of a station within the machine while opened.

3.1.18 Separate Electronics Interior Area

Logic boards, hard drives and all erasable programmable read-only memory chips (EPROMs) must be in a separate, locked area within the multi-player video lottery machine.

3.1.19 Identification Plate

A permanently installed and affixed identification plate must appear on the exterior of each multi-player video lottery machine and the following information must be on the plate: (a) Manufacturer, (b) Serial number, and (c) Model number.

3.1.20 Rules of Play and Play Information Display

- A. Rules of Play. The rules of play and pay table information for each game must be available to each player. The Lottery may reject any rules of play that are considered to be incomplete, confusing, misleading or inconsistent with game rules approved by the Lottery.
- B. Credits Display. Based on the number of credits wagered, each game must display the credits awarded for the occurrence of each possible winning combination. In addition, credits wagered, won and available must also be displayed.
- C. Wager Limit. A multi-player video lottery machine must provide for a maximum wager limit on a single game for a single outcome, as established in the Video Lottery Regulations provided by the DSL.
- D. The following statements shall also be displayed on the machine:
 - 1) Machine malfunctions void all play.
 - 2) A player must be 21 years of age in order to play any video lottery machine.
- E. Stations within a machine may have different values per credit and/or may have fixed or selectable credit value.

3.1.21 New and/or Warranted as New

Bidders must certify that all proposed multi-player video lottery machines, processing hardware, networking connections, diagnostic equipment, etc., are new and/or warranted as new. Equipment proposed must be modern and of current manufacture. The acceptability for use of any new or currently installed machine shall be at the Lottery Director's discretion.

3.1.22 Magnetic Stripe Reader

Each multi-player video lottery machine and/or stations must be capable of having a magnetic stripe card reader installed. The anticipated use of such a reader is player tracking and to restrict machine access. The cost of such conversion, including the cards, shall not be the responsibility of the DSL, nor of the successful bidder, but of the video lottery agent.

3.1.23 Testing of machines

One machine of each game type delivered under the contract may be permanently installed at a site to be designated by the Lottery for acceptance testing. Please indicate if your equipment has been certified by an independent testing laboratory anywhere in the world, and if so, please provide the name, address and telephone number of a contact person within the laboratory.

3.1.24 Included Features and Options at No Additional Cost

The bidders shall describe any additional features or options that are available and are included in the base compensation rate.

3.1.25 Optional Features at Additional Cost

The bidders shall describe any additional features or options that are available and are not included in the base compensation rate.

3.2 Communications

3.2.1 Communications with the Central System

A successful bidder's multi-player video lottery machines will operate in an on-line communications mode with the Lottery's central system. The central system provider will furnish modem specifications, protocols, and formats of messages to/from the central computer system.

The Lottery's central system is operated by Scientific Games Inc. and will run on the AEGIS platform. The system will not have a proprietary protocol and is compatible with the industry standard SAS protocol (6.0 and above). Some software modifications may be necessary to conform to DSL specifications.

3.2.2 Communications Network Control and Security

- A. Dial-In Restrictions. There must be no capacity to dial into, or otherwise remotely access or control, any multi-player video lottery machine from a remote device without Lottery approval.
- B. Disconnection from the Central System. In the event of a communications disruption between the central system and any multi-player video lottery machine, the machine shall anticipate that the central system will continue to attempt to service the machine until the problem is resolved or the central system is shut down for end-of-day processing. If the central system finds a machine that is not responding within a set number of re-tries, the machine will be logged as not responding, and the central system will make allowance for servicing of all other machines and/or terminals on the network between re-tries of the multi player video lottery machine that is not responding.
- C. Anti-Streaming. Multi player video lottery machines must not disrupt a communications line by creating line interference or otherwise remaining in transmit mode when no data is to be transmitted.
- E. Testing and Monitoring. All testing or monitoring equipment must be state-of-the-art, suitable for use in a business environment.

3.2.3 Serial Communication Ports

Please indicate the number of serial ports per machine. A minimum of two serial ports are required for each multi player video lottery machine, as follows:

- A. Video Lottery Gaming Data (Normal Operations). The machine must provide a connection for transmission of data to and from the Lottery's central computer through the site controller (or equivalent mechanism) for monitoring video lottery activity.
- B. Player Tracking. The machine must provide a connection for the purpose of player tracking by the video lottery agents. Please contact agents for specific player tracking systems and requirements. The security of the Video Lottery's central computer system shall not be undermined due to this connection.

3.3 Software Requirements

3.3.1 Game Software Certification

All game software must be approved and certified by an independent testing laboratory under contract with the Delaware State Lottery. Bidders will be responsible for reimbursing the Lottery for these costs of independent testing.

The Lottery may conduct additional acceptance tests of the multi-player video lottery machines. The successful bidder must provide support, but reimbursement will not be required for such testing.

3.3.2 Randomness

For all offered multi-player video lottery game types, the bidder shall provide evidence of randomness in game play. This evidence shall be capable of being tested and verified.

3.3.3 Percentage Payout

Each game type on a multi-player video lottery machine must meet the following percentage payout specifications:

Payout Limits. Payouts shall not be less than 87% and not greater than 95% on an average annual basis. The Director, however, may approve payout percentages higher than 95%.

Please describe how payout percentages are determined and the method by which they can be changed to meet DSL requirements.

3.3.4 Continuation of Game after Malfunction

Each multi-player video lottery machine must be capable of continuing the current game with all current game features after a malfunction is cleared. The current wager and all credits prior to the malfunction must be returned to the player. This rule does not apply if a machine is rendered totally inoperable. If the malfunction occurs in one station of the multi-player machine, all other stations shall be capable of being available for play.

3.3.5 Play Transaction Records

Each multi-player video lottery machine must at all times maintain electronic accounting, regardless of whether the machine is being supplied with electrical power. Each bidder shall describe the information recorded by its accounting system and the number of games carried in game history (the Lottery recommends a minimum of 5 games).

No multi-player video lottery machine may have a mechanism that will allow or will cause the electronic accounting meters to automatically clear.

3.3.6 Software Control Features

The hardware, software and communications must be designed and operated to provide a secure environment.

- A. **Event Recording.** All station and/or machine play activity for each round (cycle of play) shall be transmitted to the central system. All other activities, such as winning events, unauthorized access to stations and/or machines, other play related transactions, other machine commands, error conditions

and operating system messages shall also be transmitted to the central computer system in accordance with the SAS (6.0 or above) protocol.

- B. Unique Addresses. It must not be possible to duplicate machine or station polling addresses such that an unknown and/or unauthorized machine or station could assume the identity of an approved machine or station.
- C. Software Version Validation. A mechanism must be provided to ensure that versions of software are approved and are the versions intended, without unauthorized modifications. Checking the software version will be performed on a routine schedule by the central system.

3.4 Game Specifications

Upon the recommendation of the Director, the Lottery shall authorize such games to be played on the premises as it shall determine from time to time shall be in the best interest of the State of Delaware.

3.4.1 Game Description

In the proposal response, the bidder shall list all of the game types being offered, such as (but not limited to) poker, blackjack, roulette, craps and/or horseracing.

3.4.2 Play Restrictions

Games offered may be based on bills or credits between one cent (\$.01 U.S.) and a maximum amount (currently \$100.00 U.S.). The amount of the maximum bet for any single Game Event Outcome shall be set by the Director in his or her discretion, and shall be published in the Video Lottery Regulations promulgated by the Lottery. The Director, in his or her discretion, may authorize extended play features from time to time to which the maximum amount shall not apply.

3.5 Local Support Staffing and Services

Any successful bidder is required to service the Lottery with an in-state support staff as defined below. Successful bidders will be permitted to subcontract this service to existing or new licensed technology providers to the Delaware Lottery, with the Director's approval.

3.5.1 Successful Bidders' Personnel

A bidder, or its subcontractor, must provide information, as specified below, which documents their organizational structure and the staffing with which Lottery operations will be implemented and run.

Bidders must identify subcontractors by name, where such are anticipated to be part of the implementation and/or ongoing operational support efforts.

- A. Implementation and Start-up Staff. Bidders, or its subcontractor, shall provide an organization chart showing names of all management, supervisory, and key employees who will be active in the implementation of the multi-player video lottery machines. Further, the bidders must indicate what specific contract function(s) each will perform and how long it is anticipated each will be on site.

Additional support staff need not be named but can be listed by title and number of positions.

- B. Ongoing Operations Staff. Bidders, or its subcontractor, shall provide an organizational chart showing names of all management, supervisory, and key employees who are expected to be active in the ongoing operation of the Lottery system. Further, the bidders must indicate what specific contract function(s) each will perform and how long it is anticipated each will be on site.

Additional support staff need not be named but can be listed by title and number of positions.

- C. Resumes and Qualifications. Bidders, or its subcontractor, shall provide resumes of all management, supervisory and key employees planned to be involved in the installation, implementation, and operation of the multi-player video lottery machines, and shall provide for each such person:

1. Full name
2. Ten-year employment history
3. A specific description of all gaming experience
4. Specific indication of what role the individual will have in this project
5. Any additional helpful information to indicate the individual's ability to successfully perform the work required under this RFP

Resumes must provide sufficient information about the required personnel as to provide the Lottery with a convincing indication that proposed personnel can perform the work specified in this RFP. The Lottery may request detailed information for a security review of individual staff following submission of the proposal.

3.5.2 Gaming System Training Programs

Successful bidders shall provide training for agent, subcontractor and Lottery staff in the operation and maintenance of their multi-player video lottery machines. Successful bidders must provide the materials, equipment and personnel for this training effort.

3.5.3 Gaming Systems Field Maintenance Program

A successful bidder, or its subcontractor(s), shall maintain a maintenance center(s) and depot(s) in the State to fully support the maintenance and repair program, and provide spare parts and technical services to maintain the machines.

- A. **Maintenance Facilities.** The bidder, or its subcontractor, shall indicate the number and types of maintenance centers and/or depots proposed for the different agents. At each agent venue, space is limited for a successful bidder to provide bench maintenance and spare parts. Spare parts space is available only on a just-in-time basis. The available space for maintenance at each agent will be provided on a pro rata basis relative to the number of multi-player video lottery machines a successful bidder provides at that venue. Thus any successful bidder, or its subcontractor, may be required to have off-track storage space.
- B. **Maintenance Program.** The bidder, or its subcontractor, shall describe the maintenance plan, program, procedures, personnel levels and capabilities for the maintenance of multi-player video lottery machines. A successful bidder will provide a single contact for their field service personnel to obtain technical support. A copy of the maintenance contract/agreement, if the work is to be outsourced to any outside provider, will be provided.
- C. **Maintenance Items.** A successful bidder, or its subcontractor, will be required during any service call to routinely check mechanical security, safety, electronic reader, and any other attachments provided by the successful bidder. A successful bidder shall be responsible for maintaining the multi-player video lottery machine in the highest level of appearance.
- D. **Response Requirements.** A successful bidder, or its subcontractor, shall be responsible to determine that all multi-player video lottery machines and their stations are operable and shall take positive action when hardware malfunction is indicated to ensure that the affected machine is returned to an operational state within the required time.

In all cases, the Lottery reserves the right to make the determination as to whether a machine is operable and whether the successful bidder, or its subcontractor, responded within the time period specified. (See RFP 2.16.8.)

- E. **User and Service Documentation.** Operating and service manuals for all multi-player video lottery machines shall be kept updated and accessible to the Lottery. The availability of multi-lingual copies shall be addressed in the proposal.
- F. **Parts Supply.** A successful bidder, or its subcontractor, shall maintain an adequate supply of parts to sustain the service of terminals that it has supplied and is required to maintain.
- G. **Trouble Tracking and Reporting System.** A successful bidder, or its subcontractor, shall maintain and manage a data base and reporting system that fulfills the following criteria:
 - 1. Tracking and various reporting of all multi-player video lottery machines and related problems whether or not actual problems were found. Records on any particular serial number machine must be maintained life long and must include machines in reserve or returned for maintenance.
 - 2. Information for various reports is to be available in real time. The real time retrieval will not be limited to inquiries for the current day only, but must include up to twelve months of activity by date.

3. Various reports shall include, but are not limited to:
 - a) By licensed agent for a given period
 - b) By part or component
 - c) Others as defined by the Lottery

4. Data shall include, but not be limited to:
 - a) Machine serial number
 - b) Component, sub-component, part identifiers
 - c) Time and date of reported problem
 - d) Nature of problem reported
 - e) Field service person identifier
 - f) Problem resolution and date and time
 - g) Elapsed time from notification to completed repair (down time)

3.5.4 Technical Support Services

Timely and committed fulfillment of the Lottery project by the successful bidders is a requirement.

The bidders must propose and identify at least one staff member to have priority for Delaware service relative to all related aspects of multi-player video lottery machine operations. This responsibility includes the software and mechanical engineering of the products. When no Lottery project requests are outstanding, such an individual can then and only then conduct work for other clients and purposes of the bidder.

3.5.5 Conversion/Expansions

The bidder shall be responsible for various types of conversions and expansions under the contract. These include:

1. Change to a new protocol for communicating with the central system
2. Replacement of machines that are in place with new machines
3. Installation of new machines due to expansion at a video lottery agent's premises.

A common set of concerns applies to all three types of conversions/expansions, namely:

- A. Minimizing risk and disruption. This includes minimizing conversion/expansion risks (downtime, data loss), maintaining good racetrack relations, and minimizing disruption for players.
- B. Schedule and tasks. This includes a chart (Gantt, PERT, or similar) identifying the major milestones to be accomplished for the construction, equipment delivery, software programming, installation, and testing.
- C. Responsibilities for the successful bidder's implementation team, for the DSL, and for the racetracks (video lottery agents).
- D. Any interim configurations, facilities, staffing, or business procedures.
- E. Quality assurance and acceptance testing. The successful bidder must conduct tests, must have an independent verification of the gaming algorithms, and must schedule acceptance testing by the DSL.

- F. Tools and techniques for project management. The bidder must propose a project team structure and process, and tools that facilitate DSL oversight of the implementation. Regular reporting, walkthroughs, and project status meetings are required.

Using these items as an outline, each bidder's proposal must briefly describe how the three types of conversions/expansions would be conducted if the bidder becomes a successful bidder.

3.6 Bidder Corporate Capability

The bidders are required to demonstrate corporate experience, technical capability, and financial means to support this contract.

3.6.1 Corporate Background Review

The bidders must formally provide the following information:

- A. Name and address of the business entity making the proposal
- B. Type of business entity (e.g., corporation, partnership, etc.)
- C. Place of incorporation, if applicable
- D. Name and location of major offices, plants and other facilities that relate to the bidder's performance under the terms of this RFP
- E. Name, address, and function of any and all subcontractors, associated companies, or consultants to be involved in any phase of this project
- F. Name, address and telephone number of bidder's representative to contact regarding all contractual matters concerning this proposal
- G. Name, address and telephone number of bidder's representative to contact regarding all technical matters concerning this proposal
- H. Name, address and telephone number of bidder's representative to contact regarding site visit schedule and other arrangements
- I. Bidder's Federal Employer Identification Number

3.6.2 Gaming Systems Experience

The bidder shall describe, in detail, the current and historical experience it has in operating multi-player video lottery or other similar type gaming machines; that is, descriptions and references for all gaming industry engagements of comparable complexity and sensitivity which have been conducted by the bidder over the past five years.

Each experience statement shall include the following details:

- A. Name of lottery or gaming enterprise(s) and size of contract (annual sales, population of lottery/gaming jurisdiction and number of machines operating within the jurisdiction).
- B. Number of machines and game types ordered and delivered to the customer.
- C. Term of the contract including effective dates.
- D. Reason for contract termination/expiration, if contract is no longer in effect.
- E. Types of services directly provided by the bidders under the contract and whether the bidder was a prime contractor or subcontractor.

- F. Any jurisdiction(s) within or outside North America that has licensed the bidder and/or a manufacturer whose machines are being offered with this proposal, to provide gaming equipment.

The descriptions must include names, titles, addresses and telephone numbers which may be contacted to verify qualifying experience.

3.6.3 Contract Performance

A successful bidder must be a business in good standing with their customers and the business community. Bidders shall state whether any of the following have occurred:

- A. During the last five years, the bidder has had a contract terminated for default or cause.

If so, the bidder shall submit full details including the other party's name, address, telephone number and the reason for the termination.
- B. During the last two years, the bidder has been assessed any penalties in excess of \$10,000 U.S. inclusive of liquidated damages under any of their existing or past contracts with any other state or provincial lottery or other gaming enterprises (including international enterprises). If so, indicate the jurisdiction/customer, the reason for the penalty, and the penalty amount of each incident.
- C. During the last two years, the bidder, a subsidiary or intermediate company, parent company or holding company was the subject of any order, judgment or decree of any federal or state authority barring (including international authorities), suspending or otherwise limiting the right of the bidder to engage in any business, practice or activity or, if trading in the stock of the company, has ever been suspended with dates and explanations.

3.6.4 Capability to Provide Machines

Capacity to provide the multi-player video lottery machines is critical to the project.

- A. Production Capability. The bidder shall describe its capability, capacity, and plans for producing or obtaining the machines proposed to meet the requirements of the RFP.
- B. Machine Certification. The bidder shall disclose if their equipment has been certified by an independent testing laboratory anywhere in the world, and if so, shall provide the name, address and telephone number of a contact person within the laboratory.

3.6.5 Software Development and Support Capabilities

Capacity to provide the software and systems support is critical to the project.

- A. Software Engineering Capability. Bidders shall describe their capability, capacity and plans for developing and manufacturing software proposed to meet the requirements of the RFP.
- B. Software Contingency. Bidders shall describe their capability, capacity and plans for maintaining and modifying software once it becomes operational and for the development and support of future software needs. Configuration management tools and procedures shall be described.

3.6.6 Research and Development Program

The success of the Lottery depends on the availability of new products, gaming features, and services. The successful bidders must be capable of supporting the Lottery in this mission.

Bidders shall describe their capability, capacity and plans for maintaining a research and development effort in the areas of game design, new concept development and operation, telecommunications, and computer hardware design and configuration.

3.6.7 Corporate Quality Program

The proposal must address the bidder's (and any major subcontractor's) corporate philosophy on providing quality products and services to its customers. As part of this disclosure, the bidder may include items such as the customer complaint resolution process, results of surveys conducted for customer satisfaction levels against pre-established performance measures, any vendor or customer partnering activities, and any continuous quality improvement programs instituted.

3.6.8 Financial Viability

In order to ensure the bidder's financial ability to perform under the contract, the Lottery requires the following financial information, if applicable:

- A. **Audited Financial Statements.** Audited financial statements for the bidder for the last three years (most recent and two prior fiscal years). If the bidder is a subsidiary of or a distributor for another corporation, the financial statements of the bidder, as well as the consolidated financial statements of the parent company, shall be submitted. If the bidder is a parent corporation, parent-only financial statements, if available, and statements for the operating division that will perform these services shall be submitted. These statements shall be prepared in accordance with generally accepted accounting principles and must have been audited by a certified public accountant licensed to do business in the state within the U.S.A. or the country in which the bidder's principal place of business is located.

If audited parent-only or bidder/subsidiary statements are not available, the Lottery will accept unaudited statements provided the bidder's chief financial officer certifies that the statements are current, accurate and complete.

- B. **Reports to Regulatory Agencies.** Reports to the Securities and Exchange Commission (SEC), to include 10K reports for the last three fiscal years (most recent and two prior fiscal years) and 10Q's for the current fiscal year and 8K reports for the current fiscal year. This requirement includes reports submitted to regulatory agencies in countries outside the USA.
- C. **Parent Corporation Commitment.** If the bidder is a subsidiary or a distributor and will rely on the financial resources of the parent to perform this contract, the parent must certify, in writing, the availability of its resources to the bidder.
- D. **Financing.** The bidder must provide a letter of commitment from a creditor, if borrowing will provide any or all of the capital necessary for the bidder to perform any work under any contract resulting from this RFP.

3.6.9 Disqualification for Financial Inability

Financial stability and wherewithal to perform and support the Lottery is a requirement. If at any time prior to the signing of a written agreement, the Lottery reasonably determines that a bidder does not possess adequate financial ability to carry out the obligations of the contract, that bidder may be disqualified from

further consideration. If at any time, the Lottery reasonably determines that a successful bidder does not possess adequate financial ability to continue to carry out the obligations of the contract, the contract may be terminated.

PART 4 - PRICING

4.0 Introduction

This section describes the manner in which the bidders shall submit pricing for the Lottery's consideration.

4.1 Separately Sealed Price Proposal

The bidders are required to provide pricing **in a separately sealed envelope**. The price envelope must include a submittal letter signed by an individual authorized to obligate the company to the bid as stated.

4.2 Duration of the Price Proposal

The price proposal must be valid for one year from the proposal submission date.

4.3 Form of the Price Submission

A bidder must submit pricing on the attached worksheet, in the following format:

- A. Pricing as a percentage of net proceeds (please see definition) from multi-player video lottery machines supplied by the bidder. Separate pricing for different game types is permitted, for e.g., different pricing for poker, blackjack, roulette, etc.

Included in the base percentage pricing will be all functions, features, services, solutions, and capabilities specified in the RFP. In particular, the bidders are reminded to include adequate compensation for hardware and software; maintenance; expenses of independent audits; and expenses of background investigations.

- B. Pricing for Optional Features

Any optional item for which there is no additional fee can be shown as No Charge (N/C).

Price bids that do not comply with this section will not be accepted. Price bids based on potential number of machines awarded will be rejected.

4.4 Pricing and Scoring of Options

The bidders are encouraged to propose options regarding innovative functions, features, services, and solutions. However, options that are separately priced shall be clearly noted in the technical proposal and their corresponding prices listed in the pricing proposal as separate line items. (Otherwise they are N/C items.)

The Evaluation Committee intends to score only:

- A. Included features of the proposal
- B. Optional features included in the System's base price. Optional features which are additionally priced--designated as such in the Technical Proposal and in the Price Proposal--will not be scored or included in the pricing evaluation but may be considered at contract negotiation time or after.

**Delaware State Lottery
Multi-Player Video Lottery Machines Request for Proposals**

4.5 Price Quotation Sheet

I. Base System Pricing

Bidders are required to quote the following as a percentage of net proceeds (see definition) from their multi-player video lottery machines, carried to four (4) decimal places (X.dddd %). This rate applies only to the five (5) year base period of the contract.

Price quoted as a percentage of net proceeds from blackjack	_____ %
Price quoted as a percentage of net proceeds from roulette	_____ %
Price quoted as a percentage of net proceeds from horseracing	_____ %
Price quoted as a percentage of net proceeds from craps	_____ %
Price quoted as a percentage of net proceeds from poker	_____ %
Price quoted as a percentage of net proceeds from other games	_____ %

Please insert additional and separate lines with each line representing pricing for only one game type.

II. Optional Features

The Bidder should quote here or on sheets attached hereto the price for bidder-offered optional items. Clearly identify the items offered. Bidders are not required to provide Optional Features. Bidders should be aware, when pricing these options that sales generated through these optional features, if selected, will be reimbursed on a percentage of net proceeds (I. Base System Pricing) in addition to the fee stated. Prices include installation and maintenance, when applicable. The offering of unique or novelty games is encouraged.

PART 5 - PROPOSAL EVALUATION

5.0 Introduction

This section describes the evaluation process that will be used to determine which proposals are most advantageous to the Lottery and to the State of Delaware. The evaluation process is governed by 29 Del. C. §§4820(b), 6981-82.

5.1 Evaluation Committee

The Lottery intends to conduct a comprehensive, fair, and impartial evaluation of proposals received in response to this RFP. In this effort, the Lottery will be represented by an Evaluation Committee. The Committee will evaluate each proposal that is properly submitted and make recommendations for award to the Director.

5.2 Goals for the Evaluation Process

The Lottery's goals for this evaluation process to secure multi-player video lottery machines are to:

- Determine all applicants that meet the minimum specifications set forth in this RFP
- Select bidders whose proposals are determined to be the most advantageous to the State based on the evaluation factors in this RFP. The Lottery has determined that award to multiple bidders is in the best interests of the State
- Secure fair, workable contracts
- Obtain the best combination of functions, features, services, solutions, quality, and cost
- Ensure a high level of quality support services
- Secure fiscally sound bidders with demonstrated records
- Provide for the timely introduction of changes, modifications, and additions deemed necessary by the Lottery
- Ensure reasonable implementation plans for installation, testing, and Lottery acceptance testing
- Ensure that the machines are highly secure
- Provide innovative, modern machines for the Lottery's video gaming that will carry the Lottery forward into future years with flexibility to adapt to ever changing needs
- Ensure that the aims, purposes, and requirements of the Lottery will be met
- Select bidders who will permit the Lottery to maximize video lottery revenues, protect the public welfare, and ensure the security of the video lottery

These guidelines are implicit within the evaluation items and are not to be construed as separate criteria.

5.3 Evaluation Steps

The evaluation process will comprise all of the following steps.

1. Review of proposals by the Evaluation Committee to assess compliance with:
 - A. Proposal submission specifications
 - B. Terms and conditions
 - C. Mandatory technical specifications (requirements)
2. Detailed evaluation of proposed functions, features, services, and solutions
3. Site visits, presentations and/or demonstrations
4. Scoring of technical proposals
5. Scoring of price proposals
6. Evaluation Committee report and recommendation to the Director
7. Review by the Director
8. Interview/negotiation with some or all bidders
9. Signing of the contract(s)

5.4 Submission Requirements, Terms, Mandatory Technical Specifications

Proposals are required to meet all submission requirements as stated in Part 1; to signify compliance with terms and conditions noted in Part 2, to meet all technical mandates identified in Part 3; and to provide costs in the format specified in Part 4. Proposals that fail to do so may be rejected.

The Lottery reserves the right to permit cure of minor irregularities when in the Lottery's best interests and when non-prejudicial to competition.

5.5 Site Visits, presentations and/or Demonstrations

Prior to completion of the evaluation process, each bidder may be required to demonstrate its proposed multi-player video lottery machines and explain how its components would be applied to the specifications described in this RFP.

It is expected that these demonstrations would occur at the Delaware State Lottery offices in Dover, Delaware, at bidder manufacturing or development facilities, at an existing installation location, or some other appropriate venue, as approved by the Lottery. The Delaware Evaluation Committee is limited to North America for any travel regarding site visits and demonstrations.

5.6 Technical Proposal Scoring

Technical scoring will be done by game type and will include separate evaluations for game types such as poker, blackjack, roulette, craps, horseracing etc.

Each of the technical (non-price) factors in RFP Part 3 will be graded by the Evaluation Committee based on its best professional judgment, considering all proposal text, clarifications, and site visits and demonstrations. A weighted scoring system will provide numerical scores that represent the Committee's assessments of the relative merits of the proposals.

The scoring system will be based on weights assigned for each of Parts 3.1 - 3.6, with a total of 85 points available:

RFP PARTS ASSIGNED WEIGHTS FOR EVALUATION

3.1	Hardware Specifications	15
3.2	Communications	10
3.3	Software Requirements	15
3.4	Game Specifications	20
3.5	Local Support Staffing and Services	10
3.6	Bidder Corporate Capability	15

The weighted scoring system will use a 60-100% grading scale to multiply the points available for each of the six parts of Part 3. The 60-100% scale is defined as follows:

90-100	The Evaluation Committee perceived no real limitations and little or no room for improvement in the approach; excellent.
80-89	The Committee has perceived at least one significant limitation or possible improvement, but overall the approach was very good.
70-79	The approach has several significant limitations and needs for improvement.
60-69	The approach has numerous significant limitations and needs for improvement and is the minimum judged acceptable. Proposals that would receive lesser scores than this may be rejected by the Evaluation Committee.

The final score for each Proposal will be obtained by summing the results from each section, with a perfect final score being 85 points.

Although the sections will be scored using different weights, the bidders are cautioned that a) every section contains mandatories which must be met regardless of the section's weight; and b) a poor response to a lesser weighted section still can have a significant negative impact on the bidder's final technical score.

The weighted scoring system will provide numerical scores that represent the Committee's assessments of the relative technical merits of the proposals. The scores will be used to develop a preference ranking based on non-price factors.

5.7 Scoring of Optional Features

The bidders are encouraged to propose optional functions, features, services, and solutions. However, only options included in the quoted base price will be scored.

5.8 Price Evaluation

Price evaluation will occur after technical scoring, and will involve only proposals that are acceptable based on proposal submission requirements and compliance with mandatory technical requirements. Price scoring

will be done by game type and will include separate price evaluations for game types such as poker, blackjack, roulette, craps, horse racing etc.

The maximum price points made available is 15.

Price points will be calculated using the following formula:

$$\text{PRICE POINTS} = 15 * (\text{LOW BID}/\text{BID})$$

5.9 Scoring and Pricing Combined

The Lottery will take the technical preference score for each proposal and add to it the respective price evaluation score in order to establish a total integrated score for each proposal.

5.10 Recommendation by the Evaluation Committee

Upon completion of the evaluation and scoring, the Evaluation Committee shall rank all proposals in order of preference for each game type based on the bidders' ability to provide the requested services and commodities to the Lottery.

The Committee will prepare a recommendation as to the proposals that best satisfy the requirements and business objectives of the Lottery, and are most advantageous to the State. However, if at this point the compliance review and scoring still do not clearly indicate the best proposals, the recommendation will be based on the Committee's best professional judgment as to which proposals and game types best meet the Lottery's stated objectives and are most advantageous to the State. It is the intention of the Evaluation Committee to prepare a separate recommendation for each game type {poker, blackjack, roulette, etc.}.

As part of the recommendation the Committee may note proposals whose scores are significantly below the norm and that do not represent any apparent technical or financial merit beyond the better-scoring proposals. The Committee may determine that such less desirable proposals will not be included in their recommendation of successful bidder proposals.

The results of the evaluation process and the recommended winning proposals will be documented in a report that will be presented to the Director. The report will identify the proposals that best satisfy the Lottery's stated objectives and are most advantageous to the State taking into consideration the technical and price evaluation factors in the RFP.

5.11 Director Actions

Upon receipt of the Committee's report, the Director is free to engage in dialogue with members of the Committee. The Director may take as much time as necessary to review the report and to query the Committee. Once the Director is satisfied with his review of the final report and the recommendation of the Committee, he can take one of the following courses of action:

- A. After receipt of the Committee's recommendation, the Director is free to accept or reject the Committee's report. If the Director accepts the report, the Director shall interview an appropriate number of bidders deemed qualified by the Committee. The Director may negotiate with one or more bidders during the same period. At any point in the negotiation process, the Director may at his discretion, terminate negotiations with any or all firms.

The Director shall negotiate with the bidders for a rate of compensation and other terms that are fair and reasonable. Should the Director be unable to negotiate a satisfactory contract with a qualified bidder at a price the Director determines to be fair and reasonable, negotiations with that bidder shall

be formally terminated.

- B. Reject the recommendations of the Committee and provide guidance on further actions to take.
- C. Take such other actions as he deems appropriate.

The Director shall make the final decisions regarding the selection of the number of successful bidders, the number of machines to be awarded to each bidder, and the placement of those machines. Decisions will be based on the Director's determination, after review of the report of the Evaluation Committee, of which proposal(s) are most advantageous to the Lottery and in the best interests of the State. Designation as a successful bidder does not guarantee a successful bidder any minimum order of machines nor does it guarantee that a successful bidder will receive an order to supply machines.

Thereafter, the Director shall negotiate contracts with the preferred bidders. Negotiations shall continue at the sole option of the Lottery until agreements are reached or all proposals are rejected.

Under the Lottery statutes and the Video Lottery Regulations, the Lottery may only contract with bidders who are licensed technology providers under 29 Del. C. §4805 (a) (17). The selection of any bidder as a "successful bidder" will be conditional on that bidder being licensed by the Lottery under §4805 (a) (17). The denial of a bidder's license application will result in the elimination of that bidder as a potential contracting technology provider, regardless of the recommendation or findings by the Committee or Director. Conversely, the licensing of a technology provider shall not serve as the basis for requiring the Lottery to select the technology provider under the process outlined in this RFP.

APPENDIX A: PROCEDURES AND GUIDELINES FOR THE PROCUREMENT

GUIDELINES AND EVALUATION PROCEDURES

FOR THE DELAWARE STATE LOTTERY

MULTI-PLAYER VIDEO LOTTERY MACHINES AND SERVICES PROCUREMENT

Introduction

The purpose of this document is to describe the organizational structure, operating policy, and the proposal evaluation process to be used by the Delaware State Lottery (“Lottery”) Multi-Player Video Lottery Machines Evaluation Committee (“Committee”). By committing to the creation of this document, the Lottery intends to make known the method and process that will be used by the Committee in the development of an RFP and especially, the evaluation of Bidder proposals that are to be submitted in response to the RFP issued on January 27, 2006.

The Committee is comprised of personnel drawn from the Lottery and the Delaware State Police. In addition, the Committee may be provided support by counsel, by the State Department of Finance, by the Attorney General's Office, by the State Police, by the State Bureau of Identification, by the Office of Telecommunications Technology and by industry consultants. The Chairman has the authority to solicit any additional expertise for the benefit of the Committee's work as necessary.

The guidelines described in this document have been developed in order to assure all parties involved in the procurement that the process of RFP development and evaluation of Bidder proposals by the Committee is conducted with integrity, objectivity, fairness, and rigor while also satisfying the objectives of the Lottery.

Lottery Mission Statement

The act that created the Delaware State Lottery placed the Lottery under the immediate supervision of a Director within the Office of the Governor that eventually was transferred to the Office of the Secretary of Finance. The Lottery Office is responsible for maximizing revenue contributions to the State's General Fund, thereby helping to fund the delivery of governmental services to the people of Delaware.

In support of this directive, the Lottery will pursue its mission through the marketing, sales and distribution of innovative, entertaining and secure lottery products that ensure the public's confidence in the integrity of the games, agents, and Lottery operations.

The Lottery has established the following goals:

To achieve increased sales and revenue contributions by expanding Lottery products (new games and new types of games), Lottery markets (new players and new player profiles) and Lottery distribution channels (new agents and new types of distribution).

To develop innovative and entertaining products that appeal to both existing and potential Delaware Lottery players.

To expand the breadth and depth of the Lottery distribution channels throughout the state to make playing lottery games convenient, easy, and fun.

To increase favorable public awareness of the Lottery through the positive image enhancements of quality-oriented service, integrity-driven personnel and innovative games.

The Lottery has established the following specific objectives for issuing the multi-player video lottery machines RFP and entering into contracts with the successful bidders:

- To qualify bidders to supply the necessary equipment for the State of Delaware;
- To contract only with bidders who are licensed as technology providers under the standards set forth in 29 Del. C. §4805 (a) (17).
- To contract with the bidders whose proposals are determined to be the most advantageous to the State taking into consideration the evaluation factors set forth in this RFP
- To install machines that will be able to meet the needs of the Lottery for at least the next five years;
- To obtain machines that are operationally sound, provide the highest level of integrity and security, and minimize risk for the Lottery;
- To obtain machines that are sufficiently flexible to meet the Lottery's changing requirements;
- To maximize the net proceeds from video lottery sales for the State of Delaware.

Evaluation Committee Organization

The Committee will be comprised of and supported by personnel from the Lottery and the Delaware State Police with expertise in the areas of marketing, sales, security, investigation, finance, internal administration, gaming systems, telecommunications, and the terminal network. The Committee will be supported in its RFP development and evaluation of proposals by selected Lottery staff, staff recruited from other State agencies, and consultants, as needed.

Committee Chair

The Committee will be chaired by Donald R. Johnson, Deputy Director for Video Lottery. Mr. Johnson joined the Lottery in 1995 as Video Lottery Operations Manager. Prior to joining the Lottery, Mr. Johnson was Market Development Manager for the Electronic Department of the DuPont Company and had thirty-two (32) years of experience in marketing and product management of technology oriented products. As Chairman, Mr. Johnson will provide oversight for the activities of the Committee and will have final decision-making authority on Committee operating procedures and proposal evaluation matters. He will draw upon selected Lottery personnel as needed to expedite the business of the Committee and will also be responsible for making assignments for the use of technical services provided by consultants.

Other Members

James L. Logue

Mr. Logue joined the Delaware Lottery in 1998 in his current capacity as the Video Lottery Assistant Operations Manager. Mr. Logue, a former Eastern Regional Director for the North American Gaming Regulators Association, is a Certified Fraud Examiner (CFE) as recognized by the Association of Certified Fraud Examiners. Prior to joining the lottery, Mr. Logue served 23 years as a Delaware State Trooper in a number of diverse assignments, retiring in 1998 as the officer in charge of White Collar Crime investigations for the State.

Edward C. Parseghian

Mr. Parseghian joined the Delaware Lottery in April 2004 in his current capacity as Video Lottery Assistant

Operations Manager. Prior to joining the Lottery, Mr. Parseghian served 23 years as a Delaware State Trooper in a number of diverse assignments, retiring in 2004. He spent the last five years as part of the Delaware State Video Lottery Enforcement Unit conducting corporate and employee background investigations, and investigating violations of State and regulatory issues pertaining to the State's video lottery operations.

Sergeant Michael D. Wilbur

Sergeant Wilbur is a 26-year veteran of the Delaware State Police. For the past nine years, Sergeant Wilbur has been the supervisor for the Video Lottery Enforcement Unit overseeing all corporate and employee background investigations, and investigating violations of State and regulatory issues pertaining to the State's video lottery operations. Sergeant Wilbur is a member of NAGRA and ASIS.

The Committee Resource Team

In order to expedite efforts, the Committee will be provided support by Lottery staff and others, to be known as the Resource Team (the Team). A number of individuals have been identified that have the necessary skills and experience to support the Committee.

The profile of the Team includes capabilities in advertising, data processing, internal accounting controls, marketing research, security, and claims management. Assignments to the Team will be made by the Committee Chairman.

Members of the Team will be responsible for commenting on RFP and proposal material as assigned and to provide appropriate explanatory documentation for the record.

Legal advisory services to the Committee will be provided by the State Attorney General's Office.

Security advisory services to the Committee will be provided by the Delaware State Police.

Additional appointments to the Team may be made at the discretion of the Chairman.

Members of the Team will not be involved in the day-to-day activities of the Committee and will not score the Bidders' proposals. Team members, as well as the rest of Lottery staff, will operate on a need-to-know basis for the procurement process.

Consultants

The work of the Committee will be supported by Gary Gupta of Magnum Consultants, Inc., a management and gaming consulting firm from Wilmington, Delaware. The Chairman of the Committee has the authority to request additional consultants during the course of the evaluation.

Committee Independence and Confidentiality

It is important that the work of the Committee take place in a confidential environment free from uninvited influence of Bidders, State officials, lobbyists, and other parties interested in the procurement. It is also important that the activities and the work of the Committee be conducted in a fair, independent and objective manner. Contact or involvement by other outside parties could disrupt the dispassionate evaluations of the Committee.

As a check and balance on the Committee's evaluation process, a clear and distinct separation will be maintained between the Committee's roles and that of the Lottery Director, Wayne Lemons. The roles of the Committee are to develop an RFP, review proposals, assess alternatives, and provide a recommendation with supporting documentation. The role of Director is to consult with such advisors as he may choose and to consider the recommendation made by the Committee so as to make the final decision on the procurement.

To preserve the independence of the Committee, the Director will become involved at two points in the procurement process. The first point is to approve the RFP (this Appendix included) prior to issuance, and the second is during the final step in the evaluation process after the Committee's recommendation has been submitted for approval.

Development of an RFP

Bidder proposals will be submitted to the Lottery in response to an RFP generated by the Committee. The RFP will reflect requirements for the Lottery's operations and for fulfilling goals and objectives as documented above. The RFP will call for systems and services common to the gaming industry, and will incorporate an understanding of eligible Bidders' products and services.

The RFP will be fair and open for interested Bidders who can meet the Lottery's requirements and help the Lottery complete its mission.

The Bidders will be provided opportunities to submit clarification questions so as to gain a complete understanding of the Lottery's requirements and goals.

The Process of Proposal Evaluation

The Committee will follow a seven step procedure in evaluating the proposals submitted.

STEP ONE - COMPLIANCE REVIEW

A review is conducted by the Committee to determine if a proposal has complied with all submission requirements set forth in the Lottery bid procedures. At this point, the technical proposals will have been opened. The price proposals will remain sealed.

The Committee will reach a consensus on whether each proposal meets or fails to meet each of these mandates. Proposals that are judged to be non-compliant will be rejected and will not be considered or evaluated further.

STEP TWO - PROPOSAL EVALUATION

This step is a review of each proposed system and service capability. After a thorough evaluation of the proposals, Committee members will then engage in discussions to come to an understanding.

Clarifications may be requested from Bidders during any phase of the evaluation process for the purpose of removing ambiguities regarding information presented in the proposals or requesting additional information where the detail provided in the submission is inadequate. Requests by the Committee for clarification will be cleared through the Chairman.

STEP TWO is considered complete when the Chairman is satisfied that the Committee has evaluated all the information contained in the proposals and the clarifications.

STEP THREE - VERIFICATION

As required to further clarify and verify offerings, site visits, presentations and/or demonstrations may be made to facilities and installations where features of the proposed systems are currently demonstrable. The decision to conduct a site visit is left to the discretion of the Committee and the Chairman. If several site visits are deemed necessary, the sequence of selected Bidders will be determined by the Chairman.

The purpose of a site visit, presentations and/or demonstrations is to obtain an improved quality of evidence confirming that requirements and desirables specified in the RFP can indeed be satisfied as presented in the proposal. As a result, Committee members may qualify or correct interpretations previously made.

STEP FOUR – TECHNICAL PROPOSAL SCORING

This step calls for the quantitative evaluation of proposed systems and service capabilities against a set of management, technical, and marketing criteria. The available points for the various criteria and the scoring system are outlined in the RFP. The Committee members will then engage in consensus-building dialogue and discussion to resolve individual differences in their evaluations and assign scores for each scorable factor.

STEP FIVE - PRICE PROPOSAL SCORING

Price proposals will be opened for those Bidders whose responses have satisfied all submission and compliance requirements in STEP ONE, have completed the review in STEP TWO, have passed verification procedures in STEP THREE and have been assigned consensus scores in STEP FOUR.

The price proposals must also comply with submission requirements as specified in the RFP and any that do not may be set aside by the Committee and not considered further. Clarifications may be sought from bidders regarding their price proposals, if determined necessary by the Chairman.

The cost for each qualified proposal will be evaluated by a price proposal scoring process outlined in the RFP. In that procedure, the costs will be converted to points and combined along with the points assigned during the technical evaluations. The Committee then must determine which among the selectable proposals represents the best choices for the Lottery.

STEP SIX - COMMITTEE RECOMMENDATION

The Committee will prepare a recommendation as to the proposals that best satisfy the technical requirements and business objectives of the Lottery. However, if at this point the compliance review, scoring, and site verifications/presentations/demonstrations still do not clearly indicate the best proposals, the recommendation will be based on the Committee's best professional judgment as to which proposals are most advantageous to the State.

The results of the evaluation process and the recommended winning proposals will be documented in a report that will be presented to the Director.

STEP SEVEN - DIRECTOR ACTION

Upon receipt of the Committee's report, the Director is free to engage in dialogue with members of the Committee or with advisors. The Director may take as much time as necessary to review the report and to query the Committee. Once the Director is satisfied with his review of the final report and the recommendations of the Committee, he can take one of the following courses of action:

1. After receipt of the Committee's recommendation, the Director is free to accept or reject the Committee's report. If the Director accepts the report, the Director shall interview an appropriate number of bidders deemed qualified by the Committee. The Director may negotiate with one or more bidders during the same period. At any point in the negotiation process, the Director may at his discretion, terminate negotiations with any or all firms.

The Director shall negotiate with the bidders for a rate of compensation and other terms that are fair and reasonable. Should the Director be unable to negotiate a satisfactory contract with a qualified bidder at a price the Director determines to be fair and reasonable, negotiations with that bidder shall be formally terminated.

2. Reject the recommendations of the Committee and provide guidance on further actions to take.
3. Take such other actions as he deems appropriate.

The Director may choose to request clarifications, additional information, or additional analysis on any items or topics contained in the Committee report. Since the final decision on the winning proposals is made by the Director, the Committee will make every effort within the resources available to support requests made by the Director for further clarification or analysis.

Once the Director has reached a decision, announcements will be made subject to requirements defined by the laws of the State of Delaware.

Security of the Evaluation Process

Members of the Committee are responsible for maintaining the highest level of security necessary to ensure that all work and activities of the Committee are conducted in a highly confidential manner. Assignments are to be monitored closely and information made available according to the principle of "need to know".

Members of the Committee are expected not to have contact with Bidders regarding this procurement unless such contact is approved by the Chairman. If a Committee member is contacted by a Bidder or persons regarding the procurement then that event should be reported to the Chairman in writing.

Discussion of any aspect of the Committee's work other than with other members of the Committee is prohibited, excepting that the Committee may discuss their work with the Director regarding the recommendation.

Understanding of the requirements for integrity and the importance of confidentiality is signified by Committee members signing this document.

Committee Adoption of Procedures and Guidelines

The Committee has adopted the policies outlined in this paper and members agree to abide by the rules and the operating procedures during the course of the procurement period. Guidelines established herein apply also to other Lottery staff and supporting resource persons for the procurement.

The following Committee members provide their support and endorsement of this policy paper.

Donald R. Johnson _____
Committee Chairman

James L. Logue _____

Edward C. Parseghian _____

Sgt. Michael D. Wilbur _____

Notary Seal

STATE OF DELAWARE, COUNTY OF KENT

SIGNED BEFORE ME THIS _____TH DAY OF _____, 2006.

NOTARY PUBLIC

APPENDIX B: STATEMENT OF NON-COLLUSION

This is to certify that the undersigned bidder has neither directly nor indirectly entered into any agreement, participated in any collusion, or otherwise taken any action in restraint of free competitive bidding in connection with this proposal submitted this date to the Delaware State Lottery.

NAME OF BIDDER _____

AUTHORIZED REPRESENTATIVE _____
(Please type or print)

SIGNATURE _____

TITLE _____

Sworn to and subscribed before me this _____ day of _____, 2006.

Notary Public

My commission expires: _____