



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

REQUEST FOR PROPOSALS (RFP)

RFP #2017-02

Issue Date: June 1, 2017

**TELEVISED DRAWINGS OF LOTTERY DRAW
GAMES AND RELATED SERVICES**

NOTICE

A Prospective Offeror that has received this document from the MLGCA's website, <https://emaryland.buyspeed.com/bsa/>, or a source other than the Procurement Officer, and that wishes to assure receipt of any changes or additional materials related to this RFP should immediately contact the Procurement Officer and provide the Prospective Offeror's name and mailing address so that amendments to the RFP or other communications can be sent to the Prospective Offeror.

Minority Business Enterprises Are Encouraged to Respond to this Solicitation

**STATE OF MARYLAND
NOTICE TO VENDORS**

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

**Title: TELEVISED DRAWINGS OF LOTTERY DRAW GAMES AND RELATED SERVICES
RFP No: 2017-02**

1. If you have chosen not to respond to this RFP, please indicate the reason(s) below:

- Other commitments preclude our participation at this time.
- The subject of the solicitation is not something we ordinarily provide.
- We are inexperienced in the work/commodities required.
- Specifications are unclear, too restrictive, etc. (Explain in REMARKS section.)
- The scope of work is beyond our present capacity.
- Doing business with the State of Maryland is simply too complicated. (Explain in REMARKS section.)
- We cannot be competitive. (Explain in REMARKS section.)
- Time allotted for completion of the Proposal is insufficient.
- Start-up time is insufficient.
- Bonding/Insurance requirements are restrictive. (Explain in REMARKS section.)
- Proposal requirements (other than specifications) are unreasonable or too risky. (Explain in REMARKS section.)
- MBE or VSBE requirements. (Explain in REMARKS section.)
- Prior State of Maryland contract experience was unprofitable or otherwise unsatisfactory. (Explain in REMARKS section.)
- Payment schedule too slow.
- Other: _____

2. If you have submitted a response to this RFP, but wish to offer suggestions or express concerns, please use the REMARKS section below. (Attach additional pages as needed.)

REMARKS:

Vendor Name: _____ Date: _____

Contact Person: _____ Phone (____) _____ - _____

Address: _____

E-mail Address: _____

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

RFP KEY INFORMATION SUMMARY SHEET

Request for Proposals: **SERVICES: TELEVISED DRAWINGS OF LOTTERY
DRAW GAMES AND RELATED SERVICES**

Solicitation Number: **#2017-02**

RFP Issue Date: **June 1, 2017**

RFP Issuing Office: **Maryland State Lottery and Gaming Control Agency
Montgomery Park Business Center
1800 Washington Boulevard, Suite 330
Baltimore, MD 21230**

Procurement Officer: **Robert W. Howells
Maryland State Lottery and Gaming Control Agency
Montgomery Park Business Center
1800 Washington Boulevard, Suite 330
Baltimore, MD 21230
Telephone: 410-230-8789; Fax: 410-230-8727
E-mail Address: robert.howells@maryland.gov**

Contract Monitor: **Carole B. Gentry (for Drawing related matters)
Maryland State Lottery and Gaming Control Agency
Montgomery Park Business Center
1800 Washington Boulevard, Suite 330
Baltimore, MD 21230
Telephone: 410-230-8725; Fax: 410-230-8825
E-mail Address: carole.gentry@maryland.gov**

**Jill Baer (for Marketing and Advertising related matters)
Maryland State Lottery and Gaming Control Agency
Montgomery Park Business Center
1800 Washington Boulevard, Suite 330
Baltimore, MD 21230
Telephone: 410-230-8792; Fax: 410-230-8795
E-mail Address: jill.baer@maryland.gov**

Proposals are to be sent to: **Maryland State Lottery and Gaming Control Agency
Montgomery Park Business Center
1800 Washington Boulevard, Suite 330
Baltimore, MD 21230
Attention: Robert W. Howells**

Pre-Proposal Conference: **June 13, 2017 @ 10:00 a.m. (Local Time)**
Montgomery Park Business Center
1800 Washington Boulevard, Suite 330
Baltimore, MD 21230

Proposal Due (Closing) Date and Time: **July 12, 2017 at 2:00 p.m. (Local Time)**

MBE Subcontracting Goal: **25.0%**

VSBE Subcontracting Goal: **1.0%**

Contract Type: **Firm Fixed Price**

Contract Duration: **Three years plus two 1-year renewal options;**
Approximate Go-Live date December 11, 2017

SBR Designation: **No**

Federal Funding: **No**

Table of Contents

SECTION 1 – MINIMUM QUALIFICATIONS	8
1 Offeror Minimum Qualifications.....	8
SECTION 2 – CONTRACTOR REQUIREMENTS: SCOPE OF WORK	9
2.1 Summary Statement.....	9
2.2 Background and Purpose	9
2.3 Scope of Work - Requirements.....	13
SECTION 3 – CONTRACTOR REQUIREMENTS: GENERAL REQUIREMENTS	24
3.1 Insurance Requirements.....	24
3.2 Security Requirements.....	25
3.3 Problem Escalation Procedure	26
3.4 Invoicing.....	27
3.5 SOC 2 Type 2 Audit Report	27
3.6 MBE Reports	28
3.7 VSBE Reports.....	28
3.8 Liquidated Damages	28
3.9 End of Contract Transition	30
3.10 Substitution of Personnel.....	30
3.11 Performance Bond	33
SECTION 4 – PROCUREMENT INSTRUCTIONS	34
4.1 Pre-Proposal Conference	34
4.2 eMaryland Marketplace	34
4.3 Questions	34
4.4 Procurement Method	35
4.5 Proposals Due (Closing) Date and Time	35
4.6 Multiple or Alternate Proposals.....	35
4.7 Economy of Preparation	35
4.8 Public Information Act Notice.....	35
4.9 Award Basis.....	36
4.10 Oral Presentation	36
4.11 Duration of Proposal.....	36
4.12 Revisions to the RFP	36
4.13 Cancellations	37
4.14 Incurred Expenses.....	37
4.15 Protest/Disputes	37
4.16 Offeror Responsibilities.....	37
4.17 Mandatory Contractual Terms	38
4.18 Proposal Affidavit.....	38
4.19 Contract Affidavit.....	38
4.20 Compliance with Laws/Arrearages.....	38
4.21 Verification of Registration and Tax Payment	38
4.22 False Statements	39
4.23 Payments by Electronic Funds Transfer	39
4.24 Prompt Payment Policy	39
4.25 Electronic Procurements Authorized.....	39
4.26 Minority Business Enterprise Goals	41
4.27 Veteran-Owned Small Business Enterprise Goal	43

4.28	Living Wage Requirements	45
4.29	Federal Funding Acknowledgement	46
4.30	Conflict of Interest Affidavit and Disclosure	46
4.31	Non-Disclosure Agreement	46
4.32	HIPAA - Business Associate Agreement	46
4.33	Nonvisual Access	46
4.34	Mercury and Products That Contain Mercury	47
4.35	Location of the Performance of Services Disclosure.....	47
4.36	Department of Human Resources (DHR) Hiring Agreement.....	47
4.37	Small Business Reserve (SBR) Procurement	47
4.38	Ownership of Written Material.....	47
4.39	Proposal Disclosure Prohibition	47
4.40	Information Not Contained in RFP.....	47
4.41	Trademark Notice	48
4.42	Surety Bond Assistance Program	48
4.43	Proposal Bond.....	49
4.44	Litigation/Protest Bond.....	49
SECTION 5 – PROPOSAL FORMAT.....		51
5.1	Two Part Submission	51
5.2	Proposals	51
5.3	Delivery.....	52
5.4	Volume I – Technical Proposal.....	52
5.5	Volume II – Financial Proposal	61
SECTION 6 – EVALUATION AND SELECTION PROCESS.....		62
6.1	Evaluation Committee	62
6.2	Technical Proposal Evaluation Criteria	62
6.3	Financial Proposal Evaluation Criteria	62
6.4	Reciprocal Preference	62
6.5	Selection Procedures	63
6.6	Documents Required upon Notice of Recommendation for Contract Award	64
RFP ATTACHMENTS.....		65
ATTACHMENT A – PRE-PROPOSAL CONFERENCE RESPONSE FORM		67
ATTACHMENT B – FINANCIAL PROPOSAL INSTRUCTIONS & FORM.....		68
ATTACHMENT C – PROPOSAL AFFIDAVIT		72
ATTACHMENTS D – MINORITY BUSINESS ENTERPRISE FORMS.....		78
ATTACHMENTS E – VETERAN-OWNED SMALL BUSINESS ENTERPRISE FORMS.....		100
ATTACHMENT F – LIVING WAGE REQUIREMENTS FOR SERVICE CONTRACTS		106
ATTACHMENT G- FEDERAL FUNDS ATTACHMENT		110
ATTACHMENT H – CONFLICT OF INTEREST AFFIDAVIT AND DISCLOSURE		111
ATTACHMENT I – NON-DISCLOSURE AGREEMENT		112
ATTACHMENT J – HIPAA BUSINESS ASSOCIATE AGREEMENT.....		116
ATTACHMENT K – MERCURY AFFIDAVIT		117
ATTACHMENT L – LOCATION OF THE PERFORMANCE OF SERVICES DISCLOSURE.....		118
ATTACHMENT M – CONTRACT.....		119

ATTACHMENT N – CONTRACT AFFIDAVIT	136
ATTACHMENT O – DHR HIRING AGREEMENT	139
ATTACHMENT P – LITIGATION/PROTEST BOND.....	140
ATTACHMENT Q – PROPOSAL BOND.....	141
ATTACHMENT R – PERFORMANCE BOND.....	143
ATTACHMENT S – DRAW GAMES DRAWING PROCEDURES.....	146
ATTACHMENT T – PROPOSED AIRTIME FOR TELEVISED DRAWINGS AND AUDIENCE DELIVERY(BALT. DMA)	..147
ATTACHMENT U – PROPOSED AIRTIME FOR TELEVISED DRAWINGS AND AUDIENCE DELIVERY(BY COUNTY)	148
ATTACHMENT V – AUTHORIZATION FOR RELEASE OF INFORMATION.....	149
ATTACHMENT W – CURRENT DRAWING SCHEDULE	150
ATTACHMENT X – DRAWING MACHINE SPECIFICATIONS	151
APPENDIX 1 - Abbreviations and Definitions	156

SECTION 1 – MINIMUM QUALIFICATIONS

1 Offeror Minimum Qualifications

The Offeror shall provide proof with its Proposal that the following Minimum Qualifications have been met. These Minimum Qualifications are requirements that shall be met by an Offeror in order to receive consideration of its Proposal. Any Offeror not meeting these Minimum Qualifications will not be included in the evaluation process.

1.1.1 Production and Broadcast Facility

The Offeror shall, at the time of proposal submission, have an existing Production and Broadcast Facility capable of producing and transmitting MLGCA Drawing shows over the air, cable, and alternative programming providers. The Production and Broadcast Facility shall be located in the State and be within 25 miles of the MLGCA's headquarters at 1800 Washington Blvd, Baltimore Maryland 21230. As proof of meeting this requirement, the Offeror shall provide with its Proposal the address of its Facility and a brief description.

1.1.2 License

The Offeror shall, at the time of proposal submission, be licensed by the Federal Communications Commission and meet any other necessary Federal and State regulatory requirements to operate and broadcast within the State. As proof of meeting this requirement, the Offeror shall provide with its Proposal a copy of the License(s).

THE REMAINDER OF THIS PAGE IS INTENTIONALLY LEFT BLANK.

SECTION 2 – CONTRACTOR REQUIREMENTS: SCOPE OF WORK

2.1 Summary Statement

- 2.1.1 The Maryland State Lottery and Gaming Control Agency (MLGCA) is issuing this Request for Proposals (RFP) to invite qualified Offerors to submit proposals to:
- 1) Provide a Facility for the production and live television broadcast for the Drawings of the MLGCA’s Draw Games and Related Services in the Baltimore Designated Market Area (DMA) and beyond as directed by MLGCA. With the exception of Mega Millions®, Powerball® and Cash4Life® (three multi-state games) and an occasional remote location Drawing, all Drawings shall be conducted at the Contractors Facility);
 - 2) Promote the televised Drawings, winning numbers, jackpots, recent Lottery winners, and other related MLGCA products and promotions;
 - 3) Perform all other promotion and transmission activities, as more fully described in this RFP; and,
 - 4) Provide production personnel and other staff as required (including Drawing show hosts), design and production of the set, adequate work and storage space for MLGCA Drawings Officials, Drawing machines and a secure vault/storage space for the Drawing machines and equipment, video recording equipment, and make air time available to televise the Drawings.
- 2.1.2 It is the State’s intention to obtain services, as specified in this RFP, from a Contract between the selected Offeror and the State. The MLGCA’s existing Contract for “Televised Drawings of the Lottery’s On-Line Games and Related Services (#2010-07)” expires in December, 2017. The anticipated duration of services to be provided under this Contract is an initial term of approximately three (3) years tentatively beginning on or about Monday, December 11, 2017 and extending through December 10, 2020. The MLGCA, at its sole option, shall have the unilateral right to extend the Contract for two (2) additional one (1) year renewal periods, for a total contract term of five (5) years. See Attachment M – Contract paragraphs #3 and #4 for more information.
- 2.1.3 The Contract that results from this RFP will be a Fixed-Price Contract with price adjustment as described in COMAR 21.06.03.02A (3). See Attachment M – Contract paragraphs #4.5 and 4.6 for more information.
- 2.1.4 The MLGCA intends to make a single contract award as a result of this RFP. See RFP Section 6 for more Contract award information.
- 2.1.5 An Offeror, either directly or through its subcontractor(s), shall be able to provide all services and meet all of the requirements requested in this RFP and the successful Offeror (Contractor) shall remain responsible for Contract performance regardless of subcontractor participation in the work.
- 2.1.6 Amounts provided within the RFP are estimates only and are not a guarantee of any minimum or maximum amounts under this Contract.

2.2 Background and Purpose

2.2.1 Background

The MLGCA, an independent agency of the State of Maryland, began operations in January, 1973. Over the last forty-four years it has grown tremendously, while also frequently evolving to adapt to the challenging

retail environment. The mission of the MLGCA is to raise revenue for the State's good causes and MLGCA is now the fourth largest contributor to the State's General Fund behind individual, corporate, and sales and use taxes. While raising revenue is its top priority, the MLGCA recognizes the importance of satisfying the public's appetite for fun and entertaining games of chance which has led to the popularity and stability of the brand for more than four decades. The brand enjoys broad appeal, as approximately 64% of adult Marylanders have played the Lottery within the past 12 months. Even those who don't play regularly view the MLGCA positively.

Televising the Drawings can be mutually beneficial in helping both the MLGCA and the Contractor achieve their respective business objectives. Televising the Drawings helps to raise awareness of the MLGCA among consumers and viewers. Experience indicates that the MLGCA's Drawings, particularly during periods of high Powerball® and Mega Millions® jackpots, likely has a positive impact on the Contractor's station ratings. The Lottery has broad appeal in Maryland and is a strong, marketable brand that will add value to its co-partners.

This Contract will result in a relationship between the MLGCA and the Contractor which must be founded on mutual trust and respect and the Contractor must adopt the same attitudes and concerns towards the MLGCA's games, financial performance, legal compliance, integrity, security and minority participation and commitment to nondiscrimination as are held by the MLGCA.

2.2.2 Objectives

The MLGCA has established the following objectives for entering into this Contract:

2.2.2.1. To achieve broad viewing exposure for the Drawings, assuring the highest level of public accessibility and the greatest value for the Drawing programming;

2.2.2.2. To maintain player confidence in the integrity and transparency of the Drawing process and to promote a positive image of the MLGCA;

2.2.2.3. To obtain a Facility and related services that are operationally sound, incorporating the highest level of transparency and security, and minimizing risk for the MLGCA;

2.2.2.4. To obtain maximum value for the promotion of the Drawings, as well as maximize the value of any commercial inventory or trade considerations proposed by Offerors to promote the MLGCA overall;

2.2.2.5. To engage with a Contractor that will, over the term of the Contract, maintain creativity and innovation, thereby assisting the MLGCA to provide entertaining Drawing programs and maintain a competitive position with the other providers of entertainment.

2.2.3 Summary of Current Operations

The MLGCA currently owns, maintains and has available a set of Drawing machines, ball sets and other necessary equipment used for the Drawings that are conducted by Drawing Officials at the Contractor's Facility.

The MLGCA currently conducts multiple Drawings per day, seven days per week, 365 days a year. A detailed schedule of when the Drawings are conducted and when they are televised or their results are displayed on-screen can be found in Attachment W – Current Drawing Schedule.

The Pick 3 and Pick 4 Midday and Evening, Bonus Match 5, 5 Card Cash and Multi-Match® Drawings are currently conducted live by Drawing Officials at the current Drawings Facility. Midday and Evening Pick 3 and Pick 4 and Multi-Match are currently broadcast live. Bonus Match 5 is recorded and posted to YouTube in its entirety and the results are scrolled on TV immediately following the Pick 3 and Pick 4 Evening Drawing. 5 Card Cash is drawn at the Contractor's Facility and the winning numbers are announced and displayed graphically (using playing card graphics) during the Pick 3 and Pick 4 Evening drawing. Currently, the Drawings are produced in a separate studio space (approximately 500 sq. feet) provided to the MLGCA by its Drawings Contractor. The MLGCA's Drawings Contractor trains, schedules and provides a team of on-camera hosts for Pick 3, Pick 4 (Midday and Evening), Bonus Match 5 and Multi-Match®. In addition, the Drawings Contractor provides sufficient work space (approximately 150 sq. feet) and a secure vault storage area (approximately 1,000 sq. feet) for the Drawing machines and other MLGCA drawing equipment.

The twice-weekly Mega Millions® Drawings (Tuesday and Friday evenings) are produced by WSB TV2 in Atlanta, Georgia and are fed via satellite to member states at approximately 11:00 pm on drawing days. The twice-weekly Powerball® Drawings (Wednesday and Saturday evenings) are produced by The Florida Lottery in Tallahassee, Florida and are fed via satellite to member states at approximately 10:59 pm. For both sets of Drawings, the MLGCA's current Drawings Contractor captures the satellite feeds, broadcasts Drawings and recaps the winning numbers.

In January, 2016 the MLGCA joined a third multi-state game, called Cash4Life®. Cash4Life® Drawings are conducted by the New Jersey Lottery on Monday and Thursday evenings at 9:00 pm. They are livestreamed to the MLGCA's website, and the MLGCA's current Drawings Contractor recaps the Cash4Life® winning numbers during their airing of the Multi-Match® drawings.

By televising key draw game Drawings, the MLGCA has created a system of transparency that serves three very important purposes: 1) Maintaining public trust, as well as the trust of players; 2) Providing a convenient and reliable method for players to view Drawings and receive winning numbers of interest; and 3) Building a platform from which to promote its games, product initiatives and jackpots. It's for these reasons the Drawings have been an integral part of the MLGCA's business.

2.2.4 Classification of Drawings

For the purpose of minimizing costs, the MLGCA has decided that not all of its draw game Drawings will be televised. While the MLGCA's goal remains televising as many of its Drawings as possible, current technology provides many alternatives for consumers to watch drawings and/or review winning numbers without being in front of a television.

To reduce overall expense to produce and broadcast the drawings, the MLGCA has developed the following approach.

2.2.4.1 For *production purposes*, the MLGCA will conduct all of the Drawings for its in-State games at the Contractor's Facility. Contractor shall record these Drawings on video and upload to the MLGCA's YouTube

channel, or other online media designated by the MLGCA, immediately following the Drawing. At present, these Drawings are:

- Pick 3 Midday and Evening
- Pick 4 Midday and Evening
- Bonus Match 5
- Multi-Match®

2.2.4.2 For *broadcasting purposes*, drawings will be divided into two categories: Mandatory Drawings and Optional Drawings, which are defined below:

2.2.4.2.1 **Mandatory Drawings**. Mandatory Drawings are those that the MLGCA has determined shall be televised. Drawings presently identified as Mandatory are: the Evening Pick 3 and Pick 4 drawings, the Mega Millions® Drawings and the Powerball® Drawings.

These Drawings shall remain designated as Mandatory over the life of the contract resulting from this RFP.

Mandatory Pick 3 and Pick 4 Evening Drawings will be conducted by Drawing Officials at the Contractor's Facility. Pick 3 and Pick 4 Evening drawings are conducted seven nights per week, 365 days per year. The current drawing and broadcast time is 7:56 pm (Monday through Saturday) with Sunday evening drawings conducted and broadcast at 8:22 pm due to programming conflicts.

Mandatory Mega Millions® and Powerball® Drawings will be available via satellite coordinates which will be provided to the Contractor by the MLGCA. The twice weekly Mega Millions® Drawings (Tuesday and Friday evenings) are conducted in Atlanta, Georgia and are fed, via satellite, to member states at approximately 11:00 pm. The twice-weekly Powerball® Drawings (Wednesday and Saturday evenings) are conducted in Tallahassee, Florida and are fed, via satellite, to member states at approximately 10:59 pm. For both sets of Drawings, the Contractor shall be required to capture the satellite feeds, broadcast these Drawings and recap the winning numbers within a reasonable time frame after the Drawings occur.

2.2.4.2.2 **Optional Drawings**. Optional Drawings are those Drawings that the MLGCA may decide to televise. Drawings that have been identified as Optional are: the Pick 3 and Pick 4 Midday, the Bonus Match 5, and the Multi Match® Drawings.

The MLGCA may require the Contractor to *broadcast* one or more of the Optional Drawings over the term of the contract. However:

- Optional Pick 3 and Pick 4 Midday Drawings shall be *conducted* by Drawing Officials at the Contractor's Facility. Pick 3 and Pick 4 Midday Drawings are conducted seven days per week, 365 days per year. The current draw time is 12:27 pm.
- Optional Bonus Match 5 Drawing will be conducted by Drawing Officials in the Contractor's Facility. Bonus Match 5 Drawings are conducted seven nights per week, 365 days a year. The Drawing is conducted at 7:57 pm (Monday through Saturday) and 8:22 pm on Sunday evenings.
- Optional Multi-Match® Drawings will be conducted by Drawing Officials in the Contractor's Facility. The Drawings are conducted two times per week on Monday and Thursday evenings at 11:22 pm.

2.2.4.2.3 **Other Drawings**. The MLGCA currently has a poker-style card game in its product line-up called 5 Card Cash. Drawings for 5 Card Cash are conducted by Drawing Officials off-camera seven nights per week at approximately 7:30 pm and the winning numbers are displayed as playing cards rather than the traditional graphic of one or two digit numbers. While these Drawings are not televised, the Contractor shall create and display an animated short graphic representation of the five winning cards (from a deck of fifty-two) being

selected or turned over during the Mandatory Pick 3 and Pick 4 Evening Drawings broadcast at approximately 7:57 pm.

2.2.5 MLGCA Furnished Equipment and Staff

Drawing Officials will be present to oversee all Drawings but will not appear on camera. The MLGCA will train and provide all Drawing Officials necessary to oversee all Drawings. See Attachment S - Draw Games Drawing Procedures. A number of MLGCA personnel may be present at any of the Drawings, including two or more Drawing Officials, security personnel, independent auditors, Drawing witnesses and any other persons required by the MLGCA.

For security testing and validation purposes, MLGCA staff shall be at the Contractor's Facility approximately two (2) hours prior to each in-State Drawing and a minimum of one (1) hour after the conclusion of each Drawing, provided there are no matters that require further work or attention.

Drawing Officials and other designated MLGCA personnel shall have exclusive access to the work area and the secured storage vault at any time due to security and integrity considerations. The MLGCA will work cooperatively with the Contractor to coordinate access requirements and procedures.

2.3 Scope of Work - Requirements

The Contractor shall:

2.3.1 GENERAL REQUIREMENTS

2.3.1.1 In response to Sections 2.3.2 and 2.3.3 below, the Offeror must provide in its proposal a statement of intent to comply with the terms, conditions, and requirements of those specifications.

2.3.1.2 The following sections describe the **SCOPE OF WORK** for the providing of Televised Drawings of Lottery Draw Games and Related Services. The Contractor shall deliver all requirements outlined in this RFP, including this Section 2.3, and shall be responsible for all technical functionality and business support. The MLGCA shall not be liable or responsible for any of the costs, fees, expenses or reimbursement of expenses incurred by the Contractor (including, without limitations, all costs of labor for On-Air Talent, emcees, hosts or hostesses, including selection process and ongoing expenses, etc., benefits, payroll, drawing machines, equipment, satellite time, sets, graphics, music, taxes, production, promotion offerings, etc.) for any of the items set forth in this RFP, including this Section 2.3.

2.3.1.3 The Scope of Work is divided into Section 2.3.2 – Services Required – TASK I and Section 2.3.3 – Additional Tasks – TASK II, TASK III, and TASK IV.

The Additional Tasks may be required at any time in the sole and unilateral discretion of the MLGCA pursuant to a Notice to Proceed ("NTP"). The Contractor must submit pricing for the Additional Tasks as specified in Section 2.3.3. The Contractor shall not perform any Additional Task unless it receives a written NTP from the MLGCA. The Contractor acknowledges and understands that the MLGCA may choose not to proceed with any Additional Task.

2.3.2 SERVICES REQUIRED – TASK I

The Contractor shall perform all requirements specified in this Section 2.3.2. The Contractor shall perform all production, taping, editing, post-production and other services necessary to create and televise live Drawings conducted by the MLGCA in accordance with the provisions of this RFP and such other standards, timetables, and requirements as may be established by the MLGCA from time to time.

2.3.2.1 AIRTIME FOR TELEVISED DRAWINGS

The Contractor shall provide air time for each of the Drawings in the ranges according to the specifications provided below. Further, the MLGCA will select which, if any, of the Optional Drawings it will televise.

2.3.2.1.1. Mandatory Drawings

1. **Pick 3 and Pick 4 Evening**: The Contractor shall broadcast from its Facility these two Drawings together at a regularly scheduled time each evening between 7:55 pm and 8:30 pm (local time) Monday through Sunday, as approved by the MLGCA. A minimum of 60 seconds of airtime shall be provided.
2. **Mega Millions®**: The Contractor shall televise the Drawings at a regularly scheduled time between 10:59 pm and 11:30 pm (local time) on Tuesday and Friday evenings, as approved by the MLGCA. A minimum of 60 seconds of airtime shall be provided. This Drawing is conducted out-of-state (Atlanta, Georgia) and will be provided to the Contractor via a satellite feed.
3. **Powerball®**: The Contractor shall televise the Drawings at a regularly scheduled time between 10:59 pm and 11:30 pm (local time) on Wednesday and Saturday evenings, as approved by the MLGCA. A minimum of 60 seconds of airtime shall be provided. This Drawing is conducted out-of-state (Tallahassee, Florida) and will be provided to the Contractor via a satellite feed.

2.3.2.1.2. Optional Drawings

1. **Pick 3 and Pick 4 Midday**: The MLGCA shall conduct these two Drawings at the Contractor's Facility daily at 12:27 pm. If directed by the MLGCA, the Contractor shall televise these two Drawings at a regularly scheduled time between 12:27 pm and 1:30 pm (local time) Monday through Sunday, as approved by the MLGCA. A minimum of 60 seconds of air time shall be provided.
2. **Bonus Match 5**: The MLGCA shall conduct the Drawing at the Contractor's Facility at 7:57 pm nightly. If directed by the MLGCA, the Contractor shall televise the Drawing at a regularly scheduled time between 7:57 pm and 8:30 pm (local time) Monday through Sunday, as approved by the MLGCA. A minimum of 30 seconds of air time shall be provided.
3. **Multi Match**: The MLGCA shall conduct the Drawing at the Contractor's facility Monday and Thursday nights between 11:05 pm and 11:35 pm. If directed by the MLGCA, the Contractor shall televise the Drawing at a regularly scheduled time between 11:05 pm and 11:35 pm on Monday and Thursday, as approved by the MLGCA. A minimum of 60 seconds of air time shall be provided.

2.3.2.1.3. Other Drawings 5 Card Cash

Winning numbers for 5 Card Cash are drawn off-camera nightly by Drawing Officials at approximately 7:30 pm. Although these drawings are not televised, the Contractor shall create a short graphic representation of all the winning numbers using the images of five playing cards (from a deck of 52) after the numbers are drawn and prior to the broadcast of the Mandatory Pick 3 and Pick 4 Evening drawing. These winning cards shall then be displayed during the Pick 3 and Pick 4 Evening drawing.

2.3.2.2. DISPLAY OF WINNING NUMBERS

In addition to producing, and in some cases, both producing and providing airtime for MLGCA Drawings, the Contractor shall announce or display the winning numbers for all Drawings (Mandatory, Optional, and two (2) additional Lottery games which have Drawings that are shown graphically (5 Card Cash) or livestreamed only (Cash4Life). For reference, Drawings are conducted by MLGCA staff for 5 Card Cash seven nights per week at 7:30 pm and made available to the Contractor immediately following the Drawing in order for the Contractor to prepare an animated graphic display, which is shown during the Mandatory Pick 3 and Pick 4 Evening Drawing broadcast. Drawings for Cash4Life® are conducted in New Jersey on Monday and Thursday evenings at 9:00 pm and livestreamed to the MLGCA website. Winning numbers are displayed on the MLGCA's website immediately following each Drawing.

2.3.2.3. AVAILABILITY ON WEB

The MLGCA requires that all Drawings, both Mandatory and Optional, be uploaded by the Contractor to the Lottery's YouTube channel, or other online media designated by the MLGCA, immediately following the Drawing. The presentation must be clear and easy for consumers to understand, in a format that is suitable for internet and mobile viewing and include appropriate standby messaging between Drawings.

2.3.2.4. PROMOTION OF OTHER LOTTERY MESSAGES DURING DRAWINGS BROADCAST

During each allotted drawing broadcast, the MLGCA requires the ability to communicate a separate Lottery message in order to enhance the broadcast. These messages often announce game launches, upcoming promotions or prize winners – all topics of interest to Lottery players. The Contractor selected as a result of this contract will incorporate these promotional messages into the drawings as directed by the Lottery or one of its advertising agencies.

2.3.2.5. DRAWING TIME/TAPE DELAY OF TELEVISED DRAWINGS

Although the MLGCA has some flexibility to move or shift the actual time of its own draw game Drawings from their current drawing time, players, retailers and internal system processes have become accustomed to the current schedule. As a result, a significant shift in the times could only occur if there is a compelling marketing and/or financial reason. However, the MLGCA will consider the option of recording actual game Drawings and broadcasting those Drawings at a later time.

If the MLGCA allows a Drawing to be recorded for broadcast at a later time, the Contractor shall report the winning numbers in a mutually agreed upon way as close to the regular time for the drawing as possible.

2.3.2.6. LENGTH OF DRAWINGS

The Contractor shall provide the minimum requested amount of time for each of the Drawings to allow for the professional presentation of the winning numbers selection, recap and a variable promotional message. Drawing shall also include opening and closing segments, as well as on-air announcement from the on-camera host. The MLGCA currently anticipates that each Drawing will last between thirty (30) seconds and sixty (60) seconds, but the exact duration of each Drawing is subject to change from time to time by the MLGCA. Should the MLGCA determine that more or less time is required to televise a particular Drawing, any cost adjustment shall be negotiated in advance by the Contractor and the MLGCA.

2.3.2.7. UNINTERRUPTED BROADCAST

In the event that the designated air time to televise a Drawing ends prior to the completion of that Drawing, the Contractor shall continue the live broadcast of the Drawing uninterrupted until all the winning numbers for each game are selected. If necessary, the Drawings shall continue under emergency procedures. (See Section 2.3.2.16 - Emergencies and Appendix S - Draw Games Drawing Procedures)

2.3.2.8. PRE-EMPTION/CANCELLATION

Pre-emption or cancellation of the broadcast of a Drawing shall be avoided. If the telecast of a Drawing is pre-empted or cancelled, the MLGCA shall be notified in advance, whenever possible. If the telecast of a Drawing is pre-empted or cancelled due to an unforeseen critical event or emergency, the Drawing shall be conducted at its regularly scheduled time and the Contractor shall upload the drawing to the Lottery's YouTube Channel or comparable media, as scheduled. If appropriate, the Contractor shall notify viewers of the preemption in broadcasting the winning numbers and provide alternate instructions for how the winning numbers may be obtained. The Contractor shall televise the winning numbers (i.e., by crawl, snipe or

character generated) as soon as possible after the actual Drawing and displayed for a mutually agreed upon period of time.

2.3.2.9. CHANGES IN NUMBER OF GAMES MARKETED BY MLGCA

The MLGCA may either introduce new games or eliminate current games from its product mix during the term of the Contract. The Contractor shall, if designated by the MLGCA as a Mandatory Drawing, make additional air time available for any new game Drawings. If this new game Drawing replaces the Drawing of a current game and if it has similar production requirements as the game it replaces, no additional compensation shall be due to the Contractor. However, if the new game replaces a game with different production requirements or requires different airtime specification, Contractor may be due additional compensation which will be negotiated by the Procurement Officer.

2.3.2.10. PROMOTIONAL ACTIVITY

The MLGCA is requiring submission of a detailed promotional plan/schedule to address how the Contractor will promote the Drawings and other MLGCA products and promotions. Any costs associated with the promotional plan are to be included in the Services Required Fee.

2.3.2.10.1. Drawings: The Contractor shall provide a promotional plan for the MLGCA's televised Drawings. A proposed promotional plan must be submitted with Offeror's proposal that describes how Offeror expects to promote/support the Drawings. Plan is subject to approval by the MLGCA.

2.3.2.10.2. Other MLGCA Products and Promotions: The Contractor shall provide promotion for other MLGCA product launches and promotions as directed by the MLGCA. This promotional activity shall be flexible to accommodate the MLGCA's product and promotion schedule without increasing the proposal cost. However, the MLGCA is receptive and encourages Offerors to be creative and innovative in designing promotional concepts that could enhance the lottery brand, games and entertainment value; as well as promotions that have the potential to generate additional revenue for the Lottery's mission of contributing to the many good causes within our Charter.

2.3.2.10.3. Reporting: The Contractor shall provide the MLGCA with an electronically generated report that describes all promotional activities, including length, date/time aired, type of message, etc. for the prior quarter within fifteen (15) days of the end of each quarter.

2.3.2.11 PRODUCTION SERVICES AND FACILITY FOR DRAWINGS

Drawings occur year-round, three times each day Monday through Saturday and two times per day on Sundays. The MLGCA will conduct most of these Drawings at the Contractor's Facility. Drawings are conducted at very specific fixed times each day, as the activity coordinates with the closing of liability pools from one Drawing to the next.

The Contractor shall have the following production related responsibilities:

- A. Producing the MLGCA's Drawings broadcasting, recording and uploading to You Tube or comparable media or producing, recording and uploading to YouTube or comparable channel.
- B. Providing adequate space within its Facility to accommodate the following activities:
 - i. Secured machine vault storage
 - ii. Dedicated work space to be used by MLGCA personnel before, during and after the Drawings
 - iii. Adequate television studio space in which to conduct drawings

2.3.2.11.1. Production Services

2.3.2.11.1.1. Personnel

The Contractor shall provide key personnel to produce and be responsible for all Drawings as outlined in the Draw Games Drawing Procedures – Attachment S. The MLGCA requires professional performance from all Contractor personnel assigned to this Contract. All personnel assigned by the Contractor are subject to approval by the MLGCA and the MLGCA shall have the right to change any personnel. (See Section 3.10)

2.3.2.11.1.2. Contractor’s Responsibilities

The Contractor shall provide the MLGCA with a main point-of-contact for recording, live streaming and broadcasting of the Drawings. For each Drawing, the Contractor shall:

- Record the loading of the Drawing machines, including the pre-tests and post-tests of the Drawing machines that are conducted by the MLGCA before and after each Drawing.
- Record each live Drawing conducted by the MLGCA; safeguard and secure all recordings for the current month; and, at the conclusion of each month, not later than the fifth (5) day of the month, deliver to the MLGCA a recording containing all of the previous month’s Drawings;
- Prepare scripts and conduct rehearsals prior to the start of the actual Drawings, and provide pre- and post-production for any special or promotional Drawings as directed by the MLGCA;
- Be responsible for any equipment that is damaged and for the cost to repair or replace the damaged equipment, if the damage is caused due to the negligence of the Contractor or its staff; and
- Perform any other duties, including training of announcers and hosts, assigned by the MLGCA within the scope of the Contract.

2.3.2.11.1.3. Recording of Drawings

The Contractor shall record all televised Drawings. These recordings shall be separate and in addition to any other recording that the Contractor routinely conducts for its entire daily broadcast. The recordings shall be provided to the MLGCA using state-of-the-art technology.

The recordings of each Drawing shall be the property of the MLGCA and made available to the MLGCA at all times for review. The Contractor shall safeguard and secure all recordings for the current month and at the conclusion of each month, not later than the fifth (5) day of the next month, shall deliver to the MLGCA a state-of-the-art electronic version containing all of the previous month’s televised Drawings.

The MLGCA shall own all rights to the use of any recording of any Drawing made by the Contractor and the MLGCA shall have the sole right to grant permission for the use of any portion of any Drawing recorded by the Contractor.

2.3.2.11.1.4. Loading and Testing of Drawing Machines

The Contractor shall deliver daily to the MLGCA state-of-the-art recordings of the previous day’s loading, pre-tests and post-tests of the Drawing machines as specified in Section 2.3.2.11.1.3.

2.3.2.11.2. Broadcast Facility for Drawings

2.3.2.11.2.1. Studio

The Contractor shall provide MLGCA Drawing Officials with sufficient studio space in which to originate Drawing broadcasts as well as conduct machine pre-and post-tests before and after the actual Drawings are

completed. Space shall be located in close proximity to the work area (Section 2.3.2.11.2.4) and be able to accommodate a minimum of four (4) drawing machines at one time (one Pick 3 and one Pick 4 machine, which are approximately 28"x48" each; one BM5 machine and one 5CC/Multi-Match machine, which are approximately 30"x40" each).

Studio shall include four (4) separate 120 v, 20 amp outlets - each on a separate circuit. Contractor shall also provide four (4) power cords: 12-35JEO, and each shall have male/female L5-20 connectors (3-pole twist locks). Space shall also be able to accommodate up to six (6) personnel at one time (two Drawing Officials, a host, floor manager, auditor and security person.) Space shall be climate controlled, have adequate noise reduction allowances, sufficient and appropriate lighting, set design with green-screen capabilities, electrical output and smooth flooring to ensure the safe transfer of Drawing machines.

2.3.2.11.2.2. Secured Storage Vault, Video Monitor and Security System

The Contractor shall provide an enclosed secured storage vault of approximately one thousand (1,000) square feet dedicated to the exclusive use of the MLGCA for the storage of Drawing machines, Ball sets and equipment. The secured storage vault shall be fully finished with walls constructed from the floor to the true (not false) ceiling and specifically designed to prevent access by unauthorized individuals. The vault shall be temperature-controlled and wired for electricity (110v/120v and have 20 amp outlets) and shall have ceiling light(s), light switch, receptacles and shelving for storage of smaller equipment. The layout and design shall be subject to approval by the MLGCA.

The vault shall be in close proximity to an exterior building door to facilitate delivery and removal of Drawing machines and equipment. That door and all those along the route shall be large enough to allow passage of oversized equipment. The route from exterior door to vault should be as short and smooth as possible, and shall not include stairs unless elevator access is available. Elevator shall be of sufficient size to carry oversized equipment.

The Contractor shall provide a secured lock (chosen by MLGCA) and alarm system for the vault, one with dual access entry requirement available to only MLGCA authorized personnel. The system shall produce on demand, a printed record of all entrances.

The Contractor shall provide a high definition video monitoring system for the secured storage vault so the vault can be continuously monitored remotely from MLGCA headquarters. Footage produced by the system shall be recorded and digitally stored for a minimum of seven (7) days. At a minimum, the video monitoring system shall include four (4) high definition cameras. Two (2) cameras shall be located outside the vault, one positioned to view the studio/work area and one positioned to view the vault door. The third camera shall be located inside the vault positioned to view the equipment maintained within. A fourth camera shall be positioned to see the monitors used by the Drawing Officials.

The system shall be connected to the Contractor's back-up generator or other uninterruptible power supply with batteries and/or electrical generating capabilities and properly maintained to insure continuous operation in the event of a power outage.

The Contractor shall immediately report verbally to the Drawings Manager any problems with the monitoring system or any security incidents regarding the vault and shall follow up with a written report to the Drawings Manager and Contract Monitor within twenty (24) hours.

The Contractor shall work cooperatively and in good faith with the MLGCA to ensure that all necessary security measures, as determined by the MLGCA, are properly implemented and followed.

2.3.2.11.2.3. Production Equipment

The Contractor shall provide all standard production equipment required for the capture/recording and transmission of the Drawings.

2.3.2.11.2.4. Work Area

The Contractor shall provide a temperature-controlled, carpeted work area in the Drawing studio of not less than 300 square feet for the use of the MLGCA Drawing Officials, Producers, Security Personnel and Independent Auditors. The work area shall:

- a. Be in close proximity to the vault and at a location that allows MLGCA staff to maintain constant visual contact with the Drawing equipment at all times when they are out of the storage vault;
- b. Be available for use by the MLGCA staff a minimum of two (2) hours prior to each Drawing and a minimum of one (1) hour after the conclusion of each Drawing;
- c. Include the following:
 - Desk or cubicle providing work space for approximately three (3) people. 10' to 12';
 - Minimum of two (2) 110V electrical outlet(s);
 - A wall-mounted television (with cable) and two monitors for viewing non-broadcast taping in studio;
 - Unlimited access to copier located within the MLGCA work area;
 - Five (5) dedicated telephone lines (two phone, two Ethernet and fax) which shall be installed by the Contractor for the sole use of the MLGCA;
 - Two telephones and one facsimile machine capable of storing a minimum of twenty (20) programmable telephone numbers;
 - A wall-mounted digital clock with date read-out; and
 - Ample seating for MLGCA personnel and any witnesses that may be present.
- d. The contractor shall provide an internet connection with of minimum speed of 20 Mbps for the sole use of the MLGCA. The connection will be used for the MLGCA staff to connect to the internet and may be used for access to the security cameras. The speed of the internet connection may need to be more than 20 Mbps depending on the configuration of the security camera system and how the MLGCA accesses it.

The Contractor shall secure, maintain and repair all equipment at no additional charge. All charges for installation and use shall be the responsibility of the Contractor.

2.3.2.11.2.5 Drawing Machines and Related Equipment

Contractor shall provide six (6) new state-of-the-art automated Drawing machines, ball sets and other related equipment and provide appropriate maintenance required for operations, as directed and approved by MLGCA, and in accordance with the Specifications provided in Attachment X – Drawing Machine Specifications. MLGCA will supervise equipment specifications, delivery, testing, etc.

The Contractor shall have these Drawing machines in place, operational, and ready to conduct live Drawings upon the Go-Live Date of this Contract.

These machines, ball sets and other related equipment shall be at Contractor's expense and shall be the property of the Contractor, which shall be responsible for insuring and replacing any Drawing machines that should become damaged beyond repair.

2.3.2.12. REMOTE DRAWINGS

The Contractor shall provide, as directed by the MLGCA, four (4) remote Drawings per year during the term of the Contract and during each renewal option period if exercised. The MLGCA, in conjunction with the

Contractor, will select potential sites within the Contractor's viewing area for remote Drawings and mutually agree to the sites and dates. Contractor shall be responsible for all scripting, talent, graphics, music, and any other production required for a Remote Drawing. Contractor may lease or rent satellite trucks and/or other related third-party services required to conduct these off-site drawings with prior approval from the MLGCA. The Contractor shall maintain copies of all remote Drawings and make available to the MLGCA.

2.3.2.13. CREATIVE IDEAS FOR DRAWINGS BROADCAST

The Contractor shall recognize that viewer appeal of the televised Drawings is important to the MLGCA. While integrity and transparency are the cornerstones of the broadcast, the Drawings shall be presented for entertainment as well as for information. The Contractor shall strive to meet the MLGCA's goal of creating a broadcast franchise that develops and maintains regular viewership among the MLGCA's players, while encouraging viewership by non-players. The Contractor shall broadcast Drawings using contemporary set design that incorporate virtual reality elements, high-end graphics, technologically advanced equipment, creative music and an engaging host that, when in combination, create a visually appealing high-quality production.

The MLGCA shall have final approval of all elements relating to the Drawing broadcast, including set design, music, graphics, hosts, wardrobe, etc.

2.3.2.13.1. Music and Graphics

The Contractor shall create, record, incorporate into broadcasts and secure any required rights to music as directed and approved by the MLGCA as a part of the Drawings. The Contractor shall also create, produce and incorporate into Drawings and secure any rights to graphics as directed and approved the MLGCA as part of the Drawings. Both music and graphic elements recommended by Contractor shall be reflective of the Lottery brand personality.

2.3.2.13.2 Sets

The Contractor shall provide and maintain all set designs, set productions, back drops and/or Chroma key monitors that are necessary for a fully-functional set and the professional presentation of the Drawings, subject to the MLGCA's approval. The Contractor shall design, construct, maintain and refurbish or otherwise provide the appropriate sets for the Drawings (except Mega Millions, Powerball and Cash4Life) in accordance with the specifications established by, and subject to the approval of, the MLGCA.

The Contractor shall provide, at no additional cost to the MLGCA, an initial set design, set production, and/or backdrop at the time of the start of this Contract, and again if the MLGCA exercises the first of the two one (1) year renewal options. Any other changes in the set design, set production, or backdrop requested by the MLGCA shall be negotiated in advance by the Contractor and the MLGCA.

The Contractor shall have sets in place and ready for the Drawings a minimum of two (2) hours prior to each scheduled Drawing time.

2.3.2.13.3. Drawing Host

For each Mandatory Drawing, the Contractor shall provide an experienced Drawing Host with an engaging and professional on-camera presence and personality to narrate each of the Drawings. This Host shall reflect the MLGCA brand, which is recognized and valued for its fun and entertaining image. It is preferred that the Host be consistent, affording the MLGCA the opportunity to have an in-market personality who could also be utilized for remote Drawings, special events or other appearances. Host shall be required to undergo specific training for MLGCA Drawings and appearances prior to appearing in MLGCA Drawings broadcasts.

The Contractor may use current on-camera station talent to host the Drawings; however all on-camera Drawing Hosts shall be pre-approved by the MLGCA. Any additional cost for the host(s) shall be Contractor's responsibility and be included in the Services Required – Monthly Amount specified in Attachment B-2. The MLGCA shall have final approval on all on-air drawing hosts, wardrobe, and any substitutions.

2.3.2.13.4. Changes in Drawing Formats Due to Promotions or Second Chance Winner Announcements

Although infrequent, from time to time, the Contractor may be required to make adjustments in the format of the televised Drawings. These adjustments are required when the MLGCA utilizes existing Drawing time to announce winning numbers for second chance contests or perform quick bonus or promotional Drawings. Typically, these changes are minimal and may include things like additional on-screen graphics, script adjustments, and minor set adjustments. All are designed to fit within the existing Drawings time window.

2.3.2.14. WEBSITE LINKING

The Contractor shall utilize its primary news-oriented website to promote the Drawings and the MLGCA, and shall link the MLGCA's website with its own website.

The MLGCA's logos and trademarks are protected Intellectual Properties and the MLGCA is unable to grant the Contractor legal rights or a license to its Intellectual Properties. On a case by case basis, the MLGCA may grant permission for its logo(s) to be used in connection with advertising or promotion of the Drawings or other approved cross-promotional offerings.

The right to use trademarks or logos shall not be used in a manner constituting an express or implied commercial endorsement of either the Contractor or MLGCA. The Contractor and MLGCA shall approve, in advance, any use of its trademark or logo by the other party. Approval will not be unreasonably withheld.

2.3.2.15. OWNERSHIP RIGHTS AND RE-BROADCASTING OF DRAWINGS

The MLGCA shall exclusively own all copyrights and other intellectual Property Rights, and all television, cable, allied and other rights, in each Drawing and all portions, materials and components thereof including, without limitation, the rights to broadcast, televise, record, adapt, reproduce, transmit, televise, advertise, promote, license, synchronize, syndicate or otherwise derive benefit from the Drawings, related Intellectual Property Rights and all portions or parts thereof.

The Contractor shall grant permission to the MLGCA to re-broadcast in any format, including providing the information through an RSS feed, or to another media outlet all Drawings as required by the MLGCA.

If deemed necessary by the MLGCA, the Contractor and all Contractor's staff, Announcer, On-Air and On-Camera Talent shall execute all documentation, assignments, registrations and similar instruments deemed necessary by the MLGCA to transfer all rights to the Drawings to the MLGCA.

2.3.2.16. EMERGENCIES

The Contractor shall have and maintain an up-to-date Business Recovery Plan and implement emergency procedures in the event of any occurrence that would prevent, interrupt, or interfere with the conducting and broadcasting of the Drawings.

In the event that the Contractor's broadcast facility is evacuated or otherwise not accessible to the MLGCA's Drawing Officials, the Contractor shall make every effort to send an engineering crew to the back-up drawings facility to tape the Drawing and broadcast the Drawing at the first opportunity. At present, the MLGCA maintains a back-up facility located at its headquarters from which Drawings could be conducted in the event of an emergency. In the event of an emergency which prevents the conducting and broadcasting of the Drawings from the Contractor's Facility, the Contractor shall work with the MLGCA to develop a mutually acceptable plan and location.

2.2.2.17. SIMULCASTING OF DRAWINGS

The Contractor shall, if directed by the MLGCA, provide simultaneous Drawing broadcasts to other stations or media outlets in markets not adequately covered by the Contractor's station. The Contractor will not be required to provide such simultaneous Drawing broadcasts to any other television stations in the Contractor's primary viewing area. Any third-party costs associated with the simulcasting will be the responsibility of the MLGCA and not the Contractor.

2.3.2.18. DRAWING PROCEDURES

The Contractor shall comply with the MLGCA's Draw Games Drawing Procedures (Attachment S), which may be amended from time to time throughout the Contract term.

The MLGCA shall supervise and approve all Drawing procedures implemented during the Drawings. The MLGCA shall have the final right to determine all aspects of the format, content, and all other attributes of the Drawings.

2.3.3 ADDITIONAL TASKS – TASK II, TASK III and TASK IV

The Additional Tasks specified below may be included in or added to the Contract (individually or jointly) at any time in the sole and unilateral discretion of the MLGCA via a Notice to Proceed ("NTP"). The Contractor shall provide, only upon written NTP from the MLGCA, the Additional Tasks specified below.

2.3.3.1 TASK II (Additional) - VIRTUAL SET DESIGN AND CONSTRUCTION

If not provided, the MLGCA may decide to move toward a comprehensive virtual set that allows for increased flexibility and creativity in portraying the host and Drawing machines in a variety of virtual settings. Describe the set and provide a one-time cost that would include the development and implementation of this type of set where MLGCA Drawings would be held.

2.3.3.2 TASK III (Additional) - SPECIAL PROGRAMMING

The MLGCA is interested in having the Contractor produce and provide airtime for a 30 minute (approximately) long format program that promotes the MLGCA on an annual basis. Contractor shall provide all production services, including but not limited to script development, talent costs, set or location expenses, art direction, editing and finishing for air, etc. MLGCA and Contractor will mutually decide about the disposition of any commercial inventory that may or not be available within the program after a NTP is given to Contractor by the MLGCA. Potential topics include, but are not limited to, an interesting, informative presentation of how MLGCA proceeds benefit the good causes of the State; or a behind the scenes, insiders view of MLGCA operations.

2.3.3.3 TASK IV (Additional) - REMOTE DRAWINGS

The Contractor shall provide additional Remote, or out-of-studio Drawings, in excess of the Remote Drawings specified in Section 2.3.2.12 – Remote Drawings, as directed by the MLGCA. MLGCA requests and requires a high level of production value for all Remote Drawing presentations and expects that Contractor will exhibit creativity in location selection, format, production value, etc. MLGCA will allow, with prior approval, Contractor to lease or rent satellite trucks and subcontract other related services to conduct these off-site Drawings.

THE REMAINDER OF THIS PAGE IS INTENTIONALLY LEFT BLANK.

SECTION 3 – CONTRACTOR REQUIREMENTS: GENERAL REQUIREMENTS

3.1 Insurance Requirements

- 3.1.1 The Contractor shall maintain Commercial General Liability Insurance to cover losses resulting from, or arising out of, Contractor action or inaction in the performance of the Contract by the Contractor, its agents, servants, employees, or subcontractors, with minimum limits of \$1,000,000 per occurrence and \$2,000,000 aggregate.
- 3.1.2 The Contractor shall maintain Errors and Omissions/Professional Liability insurance with minimum limits of \$5,000,000 per claim and annual aggregate.
- 3.1.3 The Contractor shall maintain Automobile and/or Commercial Truck Insurance as appropriate with Liability, Collision, and PIP limits no less than those required by the State where the vehicle(s) is registered, but in no case less than those required by the State of Maryland.
- 3.1.4 The Contractor shall maintain Crime Insurance to cover employee theft with a minimum single loss limit of \$1,000,000 per loss, and a minimum single loss retention not to exceed \$10,000.
- 3.1.5 Within five (5) Business Days of recommendation for Contract award, and before any work begins, the Contractor shall provide the Procurement Officer with current certificates of insurance, and update such certificates periodically, but no less than annually in multi-year contracts, as directed by the Contract Monitor. Such copy of the Contractor’s current certificate of insurance shall contain at minimum the following:
- a. Workers’ Compensation – The Contractor shall maintain such insurance as necessary and/or required under Workers’ Compensation Acts, the Longshore and Harbor Workers’ Compensation Act, and the Federal Employers’ Liability Act.
 - b. Commercial General Liability as required in Section 3.1.1.
 - c. Errors and Omissions/Professional Liability as required in Section 3.1.2.
 - d. Automobile and/or Commercial Truck Insurance as required in Section 3.1.3.
 - e. Crime Insurance as required in Section 3.1.4.
- 3.1.6 The State of Maryland shall be listed as an additional insured on any Commercial General Liability, Auto Liability, Professional/Cyber Liability, and excess liability or umbrella policies with the exception of Workers’ Compensation Insurance, which is currently handled by the Chesapeake Employer’s Insurance Company (formerly Injured Workers’ Insurance Fund). This means the faces of the certificates of insurance for these policies must state, “The State of Maryland is an Additional Insured.” All insurance policies shall be endorsed to include a clause that requires that the insurance carrier provide the Contract Monitor, by certified mail, not less than 30 days’ advance notice of any non-renewal, cancellation, or expiration. In the event the Contract Monitor receives a notice of non-renewal, the Contractor shall provide the Contract Monitor with an insurance policy from another carrier at least 15 days prior to the expiration of the insurance policy then in effect. All insurance policies shall be with a company licensed by the State to do business and provide such policies.
- 3.1.7 The Contractor shall require that any subcontractors providing primary services (as opposed to non-critical, ancillary services) under this Contract obtain and maintain the same levels of insurance and shall provide the Contract Monitor with the same documentation as is required of the Contractor.

3.2 Security Requirements

3.2.1 Employee Identification

- (1) Each person who is an employee or agent of the Contractor or subcontractor shall display his or her company ID badge at all times while on State premises. Upon request of authorized State personnel, each such employee or agent shall provide additional photo identification.
- (2) At all times at any facility, the Contractor's personnel shall cooperate with State site requirements that include but are not limited to being prepared to be escorted at all times, providing information for badge issuance, and wearing the badge in a visible location at all times.

3.2.2 Contingency/Disaster Recovery Plans

- (1) The Contractor and any relevant subcontractor(s) shall have robust contingency and disaster recovery plans in place to ensure that the services provided under this Contract will be maintained in the event of disruption to the Contractor/subcontractor's operations (including, but not limited to, disruption to information technology systems), however caused.
- (2) The contingency and disaster recovery plans shall be designed to ensure that services under this Contract are restored after a disruption within 24 hours in order to avoid unacceptable consequences due to the unavailability of services.
- (3) The Contractor and any relevant subcontractor(s) shall test the contingency/disaster recovery plans at least twice annually to identify any changes that need to be made to the plan(s) to ensure a minimum interruption of service. Coordination shall be made with the State to ensure limited system downtime when testing is conducted. At least one annual test shall include backup media restoration and failover / fallback operations.
- (4) Such contingency and disaster recovery plans shall be available for the MLGCA to inspect and practically test at any reasonable time, and subject to regular updating, revising, and testing throughout the term of the Contract.

3.2.3 Incident Response Requirement

- (1) The Contractor shall notify the Contract Monitor when any Contractor and/or subcontractor system that may access, process, or store State data or work product is subject to unintended access or attack. Unintended access or attack includes compromise by computer malware, malicious search engine, credential compromise or access by an individual or automated program due to a failure to secure a system or adhere to established security procedures.
- (2) The Contractor shall notify the Contract Monitor within one (1) Business Day of the discovery of the unintended access or attack by providing notice via written or electronic correspondence to the Contract Monitor and Procurement Officer.
- (3) The Contractor shall notify the Contract Monitor within one (1) Business Day if there is a threat to the Contractor's and/or subcontractor's systems as it pertains to the use, disclosure, and security of the Department's Sensitive Data.
- (4) If an unauthorized use or disclosure of any Sensitive Data occurs, the Contractor must provide written notice to the Contract Monitor within one (1) Business Day after the Contractor's discovery of such

use or disclosure and, thereafter, all information the State requests concerning such unauthorized use or disclosure.

- (5) The Contractor, within one (1) Business Day of discovery, shall report to the Contract Monitor any improper or non-authorized use or disclosure of Sensitive Data. The Contractor shall provide such other information, including a written report, as reasonably requested by the MLGCA. The Contractor's report shall identify:
 - (a) The nature of the unauthorized use or disclosure;
 - (b) The Sensitive Data used or disclosed;
 - (c) Who made the unauthorized use or received the unauthorized disclosure;
 - (d) What the Contractor has done or shall do to mitigate any deleterious effect of the unauthorized use or disclosure; and
 - (e) What corrective action the Contractor has taken or shall take to prevent future similar unauthorized use or disclosure.
 - (f) The Contractor shall provide such other information, including a written report, as reasonably requested by the State.
- (6) The Contractor shall comply with all applicable laws that require the notification of individuals in the event of unauthorized release of PII or other event requiring notification. In the event of a breach of any of the Contractor's security obligations or other event requiring notification under applicable law, the Contractor agrees to assume responsibility for informing all such individuals in accordance with applicable law and indemnify, hold harmless, and defend the State and its officials and employees from and against any claims, damages, or other harm related to such security obligation breach or other event requiring the notification.
- (7) This Section 3.2.3 shall survive expiration or termination of the Contract.

3.3 Problem Escalation Procedure

- 3.3.1 The Contractor shall provide and maintain a Problem Escalation Procedure (PEP) for both routine and emergency situations. The PEP shall state how the Contractor will address problem situations as they occur during the performance of the Contract, especially problems that are not resolved to the satisfaction of the MLGCA within appropriate timeframes.
- 3.3.2 The Contractor shall provide contact information to the Contract Monitor, as well as to other MLGCA personnel as directed, should the Contract Monitor not be available.
- 3.3.3 The Contractor shall provide the PEP no later than ten (10) Business Days after Contract Commencement. The PEP, including any revisions thereto, must also be provided within ten (10) Business Days after the start of each Contract year and within ten (10) Business Days after any change in circumstance which changes the PEP. The PEP shall detail how problems with work under the Contract will be escalated in order to resolve any issues in a timely manner. The PEP shall include:
 - a. The process for establishing the existence of a problem;
 - b. Names, titles, and contact information for progressively higher levels of personnel in the Contractor's organization who would become involved in resolving a problem;
 - c. For each individual listed in the Contractor's PEP, the maximum amount of time a problem will remain unresolved with that individual before the problem escalates to the next contact person listed in the Contractor's PEP;
 - d. Expedited escalation procedures and any circumstances that would trigger them;

- e. The method of providing feedback on resolution progress, including the frequency of feedback to be provided to the MLGCA;
- f. Contact information for persons responsible for resolving issues after normal business hours (e.g., evenings, weekends, holidays, etc.) and on an emergency basis; and
- g. A process for updating and notifying the Contract Monitor of any changes to the PEP.

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

3.4 Invoicing

3.4.1 General

3.4.1.1 All invoices for services shall be signed by the Contractor and submitted to the Contract Monitor. All invoices shall include the following information:

- (1) Contractor name and address;
- (2) Remittance address;
- (3) Federal taxpayer identification number (or if sole proprietorship, the individual's social security number);
- (4) Invoice period (i.e. time period during which services covered by invoice were performed);
- (5) Invoice date;
- (6) Invoice number;
- (7) State assigned Contract number;
- (8) State assigned (Blanket) Purchase Order number(s);
- (9) Goods or services provided (A detailed record of times that Drawings were aired, duration or length, any preemptions and reason for preemptions); and
- (10) Amount due.

Invoices submitted without the required information cannot be processed for payment until the Contractor provides the required information.

3.4.1.2 The MLGCA reserves the right to reduce or withhold Contract payment in the event the Contractor does not provide the MLGCA with all required deliverables within the time frame specified in the Contract or otherwise materially breaches the terms and conditions of the Contract until such time as the Contractor brings itself into full compliance with the Contract. Also see the "Living Wage" provision of the Contract, if applicable, which allows for withholding of payment under certain circumstances. Any action on the part of the MLGCA, or dispute of action by the Contractor, shall be in accordance with the provisions of Md. Code Ann., State Finance and Procurement Article §§ 15-215 through 15-223 and with COMAR 21.10.04.

3.4.2 Invoice Submission Schedule

The Contractor shall submit monthly invoices in accordance with the amounts specified in Attachment B – Financial Proposal Form to the MLGCA, Attn: Carole B. Gentry, by the 15th of the month following the month in which the services were performed.

3.5 SOC 2 Type 2 Audit Report

A SOC 2 Type 2 Audit Report is not a Contractor requirement for this Contract.

3.6 MBE Reports

If this RFP includes an MBE Goal (see Section 4.26), the Contractor and its MBE subcontractors shall provide the following MBE Monthly Reports based upon the commitment to the goal:

- (1) **Attachment D-4A**, the MBE Participation Prime Contractor Paid/Unpaid MBE Invoice Report by the 10th of the month following the reporting period to the Contract Monitor and the MBE Liaison Officer;
- (2) **Attachment D-4B** (*if applicable*), the MBE Prime Contractor Report by the 10th of the month following the reporting period to the Contract Monitor and the MBE Liaison Officer; and
- (3) **Attachment D-5**, the MBE Participation Subcontractor Paid/Unpaid MBE Invoice Report by the 10th of the month following the reporting period to the Contract Monitor and the MBE Liaison Officer.

3.7 VSBE Reports

If this solicitation includes a VSBE Goal (see Section 4.27), the Contractor and its VSBE subcontractors shall provide the following VSBE Monthly Reports based upon the commitment to the goal:

- (1) **Attachment E-3**, the VSBE Participation Prime Contractor Paid/Unpaid VSBE Invoice Report by the 10th of the month following the reporting period to the Contract Monitor and the VSBE Liaison Officer; and
- (2) **Attachment E-4**, the VSBE Participation Subcontractor Paid/Unpaid VSBE Invoice Report by the 10th of the month following the reporting period to the Contract Monitor and the VSBE Liaison Officer.

3.8 Liquidated Damages

3.8.1 General - It is agreed by the Contractor and the MLGCA that:

- a. If the Contractor does not provide or perform the requirements specified in Section 3.8.5, damage(s) to the MLGCA will result.
- b. Proving such damage(s) will be costly, difficult, and time consuming.
- c. The damage figures listed below represent a good faith effort to quantify the range of harm that could reasonably be anticipated at the time of the making of the Contract and is not considered a penalty.
- d. Liquidated damages shall become due within thirty (30) calendar days after written notification by the MLGCA to the Contractor. The MLGCA may, at its sole discretion, deduct liquidated damages from payments due to the Contractor, and such deduction(s) shall not be a ground upon which the Contractor may file a contract dispute. The Contractor's surety shall be liable under the Performance Bond for all liquidated damages assessed against the Contractor.
- e. Nothing in this provision shall be construed as relieving the Contractor from performing all Contract requirements whether listed herein or not, nor is the MLGCA's right to enforce or to seek other remedies from failure to perform any other Contract duty hereby diminished.
- f. Remedies of the MLGCA specified in this section or elsewhere in the Contract for breach or failure of performance by the Contractor shall in no way limit any other remedies available to the MLGCA under the Contract; under any statute or regulation; or at law or in equity including, without limitation, all remedies

of a buyer under the Uniform Commercial Code. All rights, powers and remedies shall be cumulative and concurrent. Any failure of the MLGCA to exercise a remedy shall not be a waiver of any breach or non-performance by the Contractor nor shall it prevent the MLGCA from later exercising that or any other remedy.

- g. The Contract will be used by the MLGCA to monitor Contractor performance and will provide the basis for determining liquidated damages.

3.8.2 Liquidated Damages Assessment: Collections, Withholds

- a. Once the MLGCA has determined that liquidated damages are to be assessed, the MLGCA Director shall notify the Contractor of the assessment (or assessments). At the Director's discretion, the assessment notice may direct payment of the assessment by the Contractor. If payment is thus directed, the Contractor shall pay the assessment within thirty (30) calendar days of receipt of the assessment notice unless directed otherwise by the Director. If the Director determines that any damage was caused in part by the MLGCA, the Director shall reduce damage assessment against the Contractor proportionately.
- b. Any liquidated damages assessment may also be collected, at the Director's discretion, by withholding the funds from any payment (or payments) due the Contractor after the date of assessment.

3.8.3 Conditions for Termination of Liquidated Damages

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

- a. Except as waived by the Director, no liquidated damages imposed on the Contractor shall be terminated or suspended until the Contractor issues a written notice of correction to the Director verifying the correction of condition(s) for which liquidated damages were imposed.
- b. The necessary level of documentation to verify corrections will be determined by the Director, who is the sole judge of the accuracy of any documentation provided.
- c. The Contractor shall certify that each defect is corrected.

3.8.4 Severability of Individual Liquidated Damages Clauses

If any portion of any provision on liquidated damages in this Contract is determined to be unenforceable in one or more of its applications, the remaining portion remains in effect in all applications not determined to be invalid that are severable from the invalid applications. If any portion of this liquidated damages provision is determined to be unenforceable in total, the other portions shall remain in full force and effect.

3.8.5 Damages Imposed

3.8.5.1 Failure to Broadcast Drawing (With Prior Notification to MLGCA)

In the event the Contractor fails to broadcast a Drawing at the required time after prior notification to MLGCA of a network programming conflict (e.g. live sporting events, associated programming, etc.), the Director may impose liquidated damages in the amount of One Thousand Dollars (\$1,000.00) per occurrence.

3.8.5.2 Failure to Broadcast Drawing

In the event the Contractor fails to broadcast a Drawing at the required time, the Director may impose liquidated damages in the amount of Twenty Five Thousand Dollars (\$25,000.00) per occurrence.

3.8.5.3 Improper Broadcast of Drawing

In the event the Contractor improperly broadcasts a Drawing, the Director may impose liquidated damages in the amount of Twenty Thousand Dollars (\$20,000.00) per occurrence.

3.8.5.4 Report of Security Incident

In the event the Contractor fails to produce and deliver timely, sufficient and accurate reports of any problems with the video monitoring system or any security incidents regarding the storage vault, the Director may impose liquidated damages in the amount of Ten Thousand Dollars (\$10,000.00) per occurrence.

3.8.5.5 Timely and Accurate Recording of the Drawings

In the event the Contractor fails to make and provide a clear, acceptable and useable recording of a Drawing, the Director may impose liquidated damages in the amount of Ten Thousand Dollars (\$10,000.00) per occurrence.

3.8.5.6 Unauthorized Access

In the event the Contractor fails to preclude access to the storage vault by unauthorized personnel, the Director may impose liquidated damages in the amount of Ten Thousand Dollars (\$10,000.00) per occurrence.

3.9 End of Contract Transition

The Contractor shall cooperate in the orderly transition of services from the Contract awarded under this RFP to any subsequent contract for similar services. The transition period shall begin ninety (90) days before the Contract end date, or the end date of any final exercised option or contract extension. The Contractor shall work toward a prompt and timely transition, proceeding in accordance with the directions of the Contract Monitor. The Contract Monitor may provide the Contractor with instructions to meet specific transition requirements prior to the end of Contract.

3.10 Substitution of Personnel

3.10.1 Continuous Performance of Key Personnel.

Unless substitution is approved per paragraphs 3.10.2-3.10.4 of this section, Key Personnel shall be the same personnel proposed in the Contractor's Technical Proposal, which will be incorporated into the Contract by reference. Such identified Key Personnel shall perform continuously for the duration of the Contract, or such lesser duration as specified in the Technical Proposal. Key Personnel may not be removed by the Contractor from working under this Contract, as described in the RFP or the Contractor's Technical Proposal, without the prior written approval of the Contract Monitor.

If the Contract is task order based, the provisions of this section apply to Key Personnel identified in each task order proposal and agreement.

3.10.2 Definitions.

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

Extraordinary Personal Circumstance – Any circumstance in an individual’s personal life that reasonably requires immediate and continuous attention for more than fifteen (15) days and precludes the individual from performing his/her job duties under this Contract. Examples of such circumstances may include, but are not limited to: a sudden leave of absence to care for a family member who is injured, sick, or incapacitated; the death of a family member, including the need to attend to the estate or other affairs of the deceased or his/her dependents; substantial damage to, or destruction of, the individual’s home that causes a major disruption in the individual’s normal living circumstances; criminal or civil proceedings against the individual or a family member; jury duty; and military service call-up.

Incapacitating – Any health circumstance that substantially impairs the ability of an individual to perform the job duties described for that individual’s position in the RFP or the Contractor’s Technical Proposal.

Sudden – When the Contractor has less than thirty (30) days’ prior notice of a circumstance beyond its control that will require the replacement of any Key Personnel working under the Contract.

3.10.3 Key Personnel General Substitution Provisions.

The following provisions apply to all of the circumstances of staff substitution described in paragraph 3.10.4 of this section.

1. The Contractor shall demonstrate to the Contract Monitor’s satisfaction that the proposed substitute Key Personnel have qualifications at least equal to those of the Key Personnel for whom the replacement is requested.
2. The Contractor shall provide the Contract Monitor with a substitution request that shall include:
 - A detailed explanation of the reason(s) for the substitution request;
 - The resume of the proposed substitute personnel, signed by the substituting individual and his/her formal supervisor;
 - The official resume of the current personnel for comparison purposes; and
 - Any evidence of any required credentials.
3. The Contract Monitor may request additional information concerning the proposed substitution. In addition, the Contract Monitor and/or other appropriate State personnel involved with the Contract may interview the proposed substitute personnel prior to deciding whether to approve the substitution request.
4. The Contract Monitor will notify the Contractor in writing of: (i) the acceptance or denial, or (ii) contingent or temporary approval for a specified time limit, of the requested substitution. The Contract Monitor will not unreasonably withhold approval of a requested Key Personnel replacement.

3.10.4 Replacement Circumstances

3.10.4.1 Voluntary Key Personnel Replacement. To voluntarily replace any Key Personnel, the Contractor shall submit substitution request as described in paragraph 3.10.3 of this section to the Contract Monitor at least fifteen (15) days prior to the intended date of change. Except in a circumstance described in paragraph 3.10.4 (2) of this clause, a substitution may not occur unless and until the Contract Monitor approves the substitution in writing.

3.10.4.2 Key Personnel Replacement Due to Vacancy. The Contractor shall replace Key Personnel whenever a vacancy occurs due to the sudden termination, resignation, leave of absence due to an Extraordinary Personal Circumstance, Incapacitating injury, illness or physical condition, or death of such

personnel. (A termination or resignation with thirty (30) days or more advance notice shall be treated as a Voluntary Key Personnel Replacement as per Section 3.10.4.1 of this section.).

Under any of the circumstances set forth in this paragraph 3.10.4.2, the Contractor shall identify a suitable replacement and provide the same information or items required under paragraph 3.10.3 of this section within fifteen (15) days of the actual vacancy occurrence or from when the Contractor first knew or should have known that the vacancy would be occurring, whichever is earlier.

3.10.4.3 Key Personnel Replacement Due to an Indeterminate Absence. If any Key Personnel has been absent from his/her job for a period of ten (10) days due to injury, illness, or other physical condition, leave of absence under a family medical leave, or an Extraordinary Personal Circumstance and it is not known or reasonably anticipated that the individual will be returning to work within the next twenty (20) days to fully resume all job duties, before the 25th day of continuous absence, the Contractor shall identify a suitable replacement and provide the same information or items to the Contract Monitor as required under paragraph 3.10.3 of this section.

However, if this person is available to return to work and fully perform all job duties before a replacement has been authorized by the Contract Monitor, at the option and sole discretion of the Contract Monitor, the original personnel may continue to work under the Contract, or the replacement personnel will be authorized to replace the original personnel, notwithstanding the original personnel's ability to return.

3.10.4.4 Directed Personnel Replacement.

3.10.4.4.1 The Contract Monitor may direct the Contractor to replace any personnel who are perceived as being unqualified, non-productive, unable to fully perform the job duties due to full or partial Incapacity or Extraordinary Personal Circumstances, disruptive, or known, or reasonably believed, to have committed a major infraction(s) of law, agency, or Contract requirements. Normally, a directed personnel replacement will occur only after prior notification of problems with requested remediation, as described in paragraph 3.10.4.4.2. If after such remediation the Contract Monitor determines that the personnel performance has not improved to the level necessary to continue under the Contract, if at all possible at least fifteen (15) days notification of a directed replacement will be provided. However, if the Contract Monitor deems it necessary and in the State's best interests to remove the personnel with less than fifteen (15) days' notice, the Contract Monitor can direct the removal in a timeframe of less than fifteen (15) days, including immediate removal.

In circumstances of directed removal, the Contractor shall, in accordance with paragraph 3.10.3 of this section, provide a suitable replacement for approval within fifteen (15) days of the notification of the need for removal, or the actual removal, whichever occurs first.

3.10.4.4.2 If deemed appropriate in the discretion of the Contract Monitor, the Contract Monitor shall give written notice of any personnel performance issues to the Contractor, describing the problem and delineating the remediation requirement(s). The Contractor shall provide a written Remediation Plan within ten (10) days of the date of the notice and shall implement the Remediation Plan immediately upon written acceptance by the Contract Monitor. If the Contract Monitor rejects the Remediation Plan, the Contractor shall revise and resubmit the plan to the Contract Monitor within five (5) days, or in the timeframe set forth by the Contract Monitor in writing.

Should performance issues persist despite the approved Remediation Plan, the Contract Monitor will give written notice of the continuing performance issues and either request a new Remediation Plan within a specified time limit or direct the substitution of personnel whose performance is at issue with a qualified substitute, including requiring the immediate removal of the Key Personnel at issue.

Replacement or substitution of personnel under this section shall be in addition to, and not in lieu of, the State's remedies under the Contract or which otherwise may be available at law or in equity.

3.11 Performance Bond

- 3.11.1 The Contractor shall deliver to the Procurement Officer, within ten (10) days after notice of recommended award, a Performance Bond or other suitable security in the amount of Two Hundred Thousand Dollars (\$200,000.00) guaranteeing that the Contractor shall well and truly perform the Contract.
- 3.11.2 The Bond shall be in the form provided in Attachment R and underwritten by a surety company authorized to do business in the State and shall be subject to approval by the MLGCA, or other acceptable security for bond as described in COMAR 21.06.07 (See Section 4.42)
- 3.11.3 The Bond shall be maintained throughout the term of this Contract, and option period, if exercised. Evidence of renewal of the Performance Bond and payment of the required premium shall be provided to the MLGCA. This Bond shall also secure liquidated damages.
- 3.11.4 The Bond may be renewable annually. The Contractor shall require that the surety provide to the MLGCA thirty (30) days written notice of non-renewal, cancellation, or material modification of the Bond by either the surety or the Contractor. Non-renewal, cancellation or material modification of the Bond by the Surety will not constitute an event of default by the Contractor provided that the Contractor obtains an acceptable replacement Performance Bond to be effective prior to the expiration of the thirty (30) day notice period.
- 3.11.5 Failure of the Contractor to submit and maintain the required Performance Bond coverage throughout the term of the Contract, and any option period, if exercised, will constitute an event of default under the Contract.
- 3.11.6 After the first year of the Contract, the Contractor may request a reduction in the amount of the Bond. The amount and the duration of the reduction, if any, will be at the MLGCA's sole discretion. If any reduction is granted, the MLGCA shall have the right to increase the amount of the Bond to any amount, up to the original amount, at any time and at the MLGCA's sole discretion.
- 3.11.7 The Performance Bond is forfeited to the MLGCA, in whole or in part, if the Contractor defaults in the performance of its contractual obligations or if the MLGCA incurs damages due to the willful or negligent performance of the Contractor or its subcontractors. However, the surety shall have the option within thirty (30) days of notice of default to cure the default or tender funds sufficient to pay the cost of completion up to an amount not to exceed the penal sum of the bond. With the concurrence of the MLGCA, the surety may assume the remainder of the Contract to perform or sublet.
- 3.11.8 The cost of this Bond, or other suitable security, is to be included in the total prices proposed and is not to be proposed and will not be recoverable as a separate cost item.

THE REMAINDER OF THIS PAGE IS INTENTIONALLY LEFT BLANK.

SECTION 4 – PROCUREMENT INSTRUCTIONS

4.1 Pre-Proposal Conference

- 4.1.1 A Pre-Proposal Conference (Conference) will be held at the date, time, and location indicated on the RFP Key Information Summary Sheet (near the beginning of the RFP, after the Title Page and Notice to Vendors). All prospective Offerors are encouraged to attend in order to facilitate better preparation of their Proposals.
- 4.1.2 The Conference will be summarized. As promptly as is feasible after the Conference, a summary of the Conference and all questions and answers known at that time will be distributed to all prospective Offerors known to have received a copy of this RFP. This summary, as well as the questions and answers, will also be posted on eMaryland Marketplace (See Section 4.2) and the MLGCA’s website (mdlottery.com).
- 4.1.3 In order to assure adequate seating and other accommodations at the Conference, please e-mail or fax the Pre-Proposal Conference Response Form (**Attachment A**) to the attention of the Procurement Officer at least five (5) Business Days prior to the Pre-Proposal Conference date. In addition, if there is a need for sign language interpretation and/or other special accommodations due to a disability, please notify the Procurement Officer at least five (5) Business Days prior to the Pre-Proposal Conference date. The MLGCA will make a reasonable effort to provide such special accommodation.

4.2 eMaryland Marketplace

- 4.2.1 Each Offeror shall indicate its eMaryland Marketplace (eMM) vendor number in the Transmittal Letter (cover letter) submitted at the time of its Proposal submission to this RFP.
- 4.2.2 eMM is an electronic commerce system administered by the Maryland Department of General Services. In addition to using the MLGCA website (mdlottery.com) and possibly other means for transmitting the RFP and associated materials, the summary of the Pre-Proposal Conference, Offeror questions and Procurement Officer’s responses, amendments, and other RFP-related information will be provided via eMM.
- 4.2.3 In order to receive a contract award, a vendor must be registered on eMM. Registration is free. Go to <https://emaryland.buyspeed.com/bsol/login.jsp>, click on “Register” to begin the process, and then follow the prompts.

4.3 Questions

- 4.3.1 Written questions from prospective Offerors will be accepted by the Procurement Officer prior to the Conference. If possible and appropriate, such questions will be answered at the Conference. (No substantive question will be answered prior to the Conference.) Questions to the Procurement Officer shall be submitted via e-mail to the Procurement Officer’s e-mail address indicated on the RFP Key Information Summary Sheet (near the beginning of the solicitation, after the Title Page and Notice to Vendors). Identify in the subject line the RFP Number and Title. Questions, both oral and written, will also be accepted from prospective Offerors attending the Conference. If possible and appropriate, these questions will be answered at the Conference.
- 4.3.2 Questions will also be accepted subsequent to the Conference and should be submitted to the Procurement Officer via email in a timely manner prior to the Proposal due date. Questions are requested to be submitted at least five (5) days prior to the Proposal due date. The Procurement Officer, based on the availability of time to research and communicate an answer, shall decide whether an answer can be given before the Proposal due date. Time permitting, answers to all substantive questions that have not previously been

answered, and are not clearly specific only to the requestor, will be distributed to all vendors that are known to have received a copy of the RFP in sufficient time for the answer to be taken into consideration in the Proposal.

4.4 Procurement Method

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

4.5 Proposals Due (Closing) Date and Time

- 4.5.1 Proposals, in the number and form set forth in RFP Section 5.2 “Proposals” must be received by the Procurement Officer at the Procurement Officer’s address no later than the Proposal Due date and time indicated on the RFP Key Information Summary Sheet (near the beginning of the RFP, after the Title Page and Notice to Vendors) in order to be considered.
- 4.5.2 Requests for extension of this time or date will not be granted. Offerors mailing Proposals should allow sufficient mail delivery time to ensure timely receipt by the Procurement Officer. Except as provided in COMAR 21.05.03.02.F and 21.05.02.10, Proposals received after the due date and time listed in the RFP Key Information Summary Sheet will not be considered.
- 4.5.3 Proposals may be modified or withdrawn by written notice received by the Procurement Officer before the time and date set forth in the RFP Key Information Summary Sheet for receipt of Proposals.
- 4.5.4 **Proposals may not be submitted by e-mail or facsimile. Proposals will not be opened publicly.**
- 4.5.5 Vendors not responding to this RFP are requested to submit the “Notice to Vendors” form, which includes company information and the reason for not responding (e.g., too busy, cannot meet mandatory requirements, etc.). This form is located in the RFP immediately following the Title Page (page ii).

4.6 Multiple or Alternate Proposals

Multiple and/or alternate Proposals will not be accepted.

4.7 Economy of Preparation

Proposals should be prepared simply and economically and provide a straightforward and concise description of the Offeror’s Proposal to meet the requirements of this RFP.

4.8 Public Information Act Notice

- 4.8.1 An Offeror should give specific attention to the clear identification of those portions of its Proposal that it considers confidential and/or proprietary commercial information or trade secrets, and provide justification why such materials, upon request, should not be disclosed by the State under the Public Information Act, Md. Code Ann., General Provisions Article, Title 4. (Also, see RFP Section 5.4.2.2 “Claim of Confidentiality”). This confidential and/or proprietary information should be identified by page and section number and placed after the Title Page and before the Table of Contents in the Technical Proposal and if applicable, separately in the Financial Proposal.

4.8.2 Offerors are advised that, upon request for this information from a third party, the Procurement Officer is required to make an independent determination whether the information must be disclosed.

4.9 Award Basis

The Contract shall be awarded to the responsible Offeror submitting the Proposal that has been determined to be the most advantageous to the State, considering price and evaluation factors set forth in this RFP (see COMAR 21.05.03.03F), for providing the goods and services as specified in this RFP. See RFP Section 6 for further award information.

4.10 Oral Presentation

4.10.1 Oral Presentations

During the evaluation process, Offerors may be required to make individual oral presentations to State representatives. Submission of a proposal does not guarantee an Offeror the opportunity to be invited to participate in oral presentations or discussions. An Offeror's presentation must include the key staff that would be assigned to this project if awarded the Contract.

4.10.2 Site Visits

The Evaluation Committee may make site visit(s) to the Offeror's place of business or other location where Offeror is providing services to a third party.

4.10.3 Scheduling

The Procurement Officer will notify Offerors of the time, place, procedure, scope, and format for any oral presentations, discussions, demonstrations and/or site visit(s) that may be required. These events may be scheduled concurrently or separately at the MLGCA's discretion. An Offeror's failure to promptly comply and cooperate with these requirements could result in its proposal being rejected and eliminated from further consideration.

4.10.4 Representations

Offerors must confirm in writing any substantive oral clarification of, or change in, their Proposals made in the course of discussions, oral presentations, demonstrations and site visits. Any such written clarifications or changes then become part of the Offeror's Proposal and are binding if the Contract is awarded.

4.11 Duration of Proposal

Proposals submitted in response to this RFP are irrevocable for 180 days following the closing date for submission of Proposals or best and final offers (see Section 6.5.2.5) if requested. This period may be extended at the Procurement Officer's request only with the Offeror's written agreement.

4.12 Revisions to the RFP

4.12.1 If it becomes necessary to revise this RFP before the due date for Proposals, the MLGCA shall endeavor to provide amendments to all prospective Offerors that were sent this RFP or are otherwise known by the Procurement Officer to have obtained this RFP. In addition, amendments to the RFP will be posted on the MLGCA's website (mdlottery.com) and through eMM. It remains the responsibility of all prospective Offerors to check all applicable websites for any amendments issued prior to the submission of Proposals.

Amendments made after the due date for Proposals will be sent only to those Offerors that submitted timely Proposals and that remain under award consideration as of the issuance date of the amendment.

- 4.12.2 Acknowledgment of the receipt of all amendments to this RFP issued before the Proposal due date shall be included in the Transmittal Letter accompanying the Offeror's Technical Proposal. Acknowledgement of the receipt of amendments to the RFP issued after the Proposal due date shall be in the manner specified in the amendment notice. Failure to acknowledge receipt of an amendment does not relieve the Offeror from complying with the terms, additions, deletions, or corrections set forth in the amendment.

4.13 Cancellations

- 4.13.1 The State reserves the right to cancel this RFP, accept or reject any and all Proposals, in whole or in part, received in response to this RFP, waive or permit the cure of minor irregularities, and conduct discussions with all qualified or potentially qualified Offerors in any manner necessary to serve the best interests of the State. The State also reserves the right, in its sole discretion, to award a Contract based upon the written Proposals received without discussions or negotiations.
- 4.13.2 In the event a government entity proposes and receives the recommendation for award for the Contract resulting from this RFP, the procurement may be cancelled and the award processed as a Memorandum of Understanding in accordance with COMAR 21.01.03.01.A(4).

4.14 Incurred Expenses

The State will not be responsible for any costs incurred by any Offeror in preparing and submitting a Proposal, in making an oral presentation, providing a demonstration, or performing any other activities related to submitting a Proposal in response to this RFP.

4.15 Protest/Disputes

Any protest or dispute related, respectively, to this RFP or the resulting Contract shall be subject to the provisions of COMAR 21.10 (Administrative and Civil Remedies).

4.16 Offeror Responsibilities

- 4.16.1 The selected Offeror shall be responsible for all products and services required by this RFP. All subcontractors must be identified and a complete description of their role relative to the Proposal must be included in the Offeror's Proposal. If applicable, subcontractors utilized in meeting the established MBE or VSBE participation goal(s) for this solicitation shall be identified as provided in the appropriate Attachment(s) to this RFP (see Section 4.26 "Minority Business Enterprise Goals" and Section 4.27 "Veteran-Owned Small Business Enterprise Goal").
- 4.16.2 If an Offeror that seeks to perform or provide the services required by this RFP is the subsidiary of another entity, all information submitted by the Offeror, including but not limited to references, financial reports, or experience and documentation (e.g. insurance policies, bonds, letters of credit) used to meet minimum qualifications, if any, shall pertain exclusively to the Offeror, unless the parent organization will guarantee the performance of the subsidiary. If applicable, the Offeror shall submit with its Proposal an explicit statement, signed by an authorized representative of the parent organization, stating that the parent organization will guarantee the performance of the subsidiary.

4.16.3 A parental guarantee of the performance of the Offeror under this Section will not automatically result in crediting the Offeror with the experience and/or qualifications of the parent under any evaluation criteria pertaining to the Offeror's experience and qualifications. Instead, the Offeror will be evaluated on the extent to which the State determines that the experience and qualification of the parent are transferred to and shared with the Offeror, the parent is directly involved in the performance of the Contract, and the value of the parent's participation as determined by the State.

4.17 Mandatory Contractual Terms

By submitting a Proposal in response to this RFP, an Offeror, if selected for award, shall be deemed to have accepted the terms and conditions of this RFP and the Contract, attached herein as **Attachment M**. Any exceptions to this RFP or the Contract shall be clearly identified in the Executive Summary of the Technical Proposal. **A Proposal that takes exception to these terms may be rejected (see RFP Section 5.4.2.4).**

4.18 Proposal Affidavit

A Proposal submitted by an Offeror must be accompanied by a completed Proposal Affidavit. A copy of this Affidavit is included as **Attachment C** of this RFP.

4.19 Contract Affidavit

All Offerors are advised that if a Contract is awarded as a result of this RFP, the successful Offeror will be required to complete a Contract Affidavit, a copy which is included as **Attachment N** of this RFP. This Affidavit must be provided within five (5) Business Days of notification of proposed Contract award. The Contractor must also submit a Contract Affidavit with any Contract renewal, including the exercise of any options or modifications that may extend the Contract term. For purposes of completing Section "B" of this Affidavit (Certification of Registration or Qualification with the State Department of Assessments and Taxation), a business entity that is organized outside of the State of Maryland is considered a "foreign" business.

4.20 Compliance with Laws/Arrearages

4.20.1 By submitting a Proposal in response to this RFP, the Offeror, if selected for award, agrees that it will comply with all federal, State, and local laws applicable to its activities and obligations under the Contract.

4.20.2 By submitting a response to this RFP, each Offeror represents that it is not in arrears in the payment of any obligations due and owing the State, including the payment of taxes and employee benefits, and shall not become so in arrears during the term of the Contract if selected for Contract award.

4.21 Verification of Registration and Tax Payment

4.21.1 Before a business entity can do business in the State, it must be registered with the State Department of Assessments and Taxation (SDAT). SDAT is located at State Office Building, Room 803, 301 West Preston Street, Baltimore, Maryland 21201. For registration information, visit <https://www.egov.maryland.gov/businessexpress>.

4.21.2 It is strongly recommended that any potential Offeror complete registration prior to the due date for receipt of Proposals. An Offeror's failure to complete registration with SDAT may disqualify an otherwise successful Offeror from final consideration and recommendation for Contract award.

4.22 False Statements

Offerors are advised that Md. Code Ann., State Finance and Procurement Article, § 11-205.1 provides as follows:

- (a) In connection with a procurement contract a person may not willfully:
 - (1) falsify, conceal, or suppress a material fact by any scheme or device;
 - (2) make a false or fraudulent statement or representation of a material fact; or
 - (3) use a false writing or document that contains a false or fraudulent statement or entry of a material fact.
- (b) A person may not aid or conspire with another person to commit an act under subsection (a) of this section.
- (c) A person who violates any provision of this section is guilty of a felony and on conviction is subject to a fine not exceeding \$20,000 or imprisonment not exceeding 5 years or both.

4.23 Payments by Electronic Funds Transfer

By submitting a response to this RFP, the Offeror agrees to accept payments by electronic funds transfer (EFT) unless the State Comptroller's Office grants an exemption. Payment by EFT is mandatory for contracts exceeding \$200,000. The selected Offeror shall register using the COT/GAD X-10 Vendor Electronic Funds (EFT) Registration Request Form. Any request for exemption must be submitted to the State Comptroller's Office for approval at the address specified on the COT/GAD X-10 form, must include the business identification information as stated on the form, and must include the reason for the exemption. The COT/GAD X-10 form may be downloaded from the Comptroller's website at:

http://comptroller.marylandtaxes.com/Government_Services/State_Accounting_Information/Static_Files/APM/X-1020130407.pdf.

4.24 Prompt Payment Policy

This procurement and the Contract(s) to be awarded pursuant to this RFP are subject to the Prompt Payment Policy Directive issued by the Governor's Office of Minority Affairs (GOMA) and dated August 1, 2008. Promulgated pursuant to Md. Code Ann., State Finance and Procurement Article, §§ 11-201, 13-205(a), and Title 14, Subtitle 3, and COMAR 21.01.01.03 and 21.11.03.01, the Directive seeks to ensure the prompt payment of all subcontractors on non-construction procurement contracts. The Contractor shall comply with the prompt payment requirements outlined in the Contract "Prompt Payment" clause (see **Attachment M**). Additional information is available on GOMA's website at: <http://goma.maryland.gov/Documents/Legislation/PromptPaymentFAQs.pdf>.

4.25 Electronic Procurements Authorized

4.25.1 Under COMAR 21.03.05, unless otherwise prohibited by law, the MLGCA may conduct procurement transactions by electronic means, including the solicitation, proposing, award, execution, and administration

of a contract, as provided in Md. Code Ann., Maryland Uniform Electronic Transactions Act, Commercial Law Article, Title 21.

4.25.2 Participation in the RFP process on a procurement contract for which electronic means has been authorized shall constitute consent by the Offeror to conduct by electronic means all elements of the procurement of that Contract which are specifically authorized under the RFP or Contract.

4.25.3 “Electronic means” refers to exchanges or communications using electronic, digital, magnetic, wireless, optical, electromagnetic, or other means of electronically conducting transactions. Electronic means includes facsimile, e-mail, internet-based communications, electronic funds transfer, specific electronic bidding platforms (e.g., <https://emaryland.buyspeed.com/bsol/>), and electronic data interchange.

4.25.4 In addition to specific electronic transactions specifically authorized in other sections of this RFP (e.g., RFP § 4.23 “Payments by Electronic Funds Transfer”) and subject to the exclusions noted in section 4.25.5 of this subsection, the following transactions are authorized to be conducted by electronic means on the terms described:

4.25.4.1 The Procurement Officer may conduct the procurement using eMM, e-mail, or facsimile to issue:

- (a) The RFP;
- (b) Any amendments;
- (c) Pre-Proposal conference documents;
- (d) Questions and responses;
- (e) Communications regarding the RFP or Proposal to any Offeror or potential Offeror;
- (f) Notices of award selection or non-selection; and
- (g) The Procurement Officer’s decision on any Proposal protest or Contract claim.

4.25.4.2 An Offeror or potential Offeror may use e-mail or facsimile to:

- (a) Ask questions regarding the RFP;
- (b) Reply to any material received from the Procurement Officer by electronic means that includes a Procurement Officer’s request or direction to reply by e-mail or facsimile, but only on the terms specifically approved and directed by the Procurement Officer; and
- (c) Submit a "No Proposal Response" to the RFP.

4.25.4.3 The Procurement Officer, the Contract Monitor, and the Contractor may conduct day-to-day Contract administration, except as outlined in Section E of this subsection utilizing e-mail, facsimile, or other electronic means if authorized by the Procurement Officer or Contract Monitor.

4.25.5 The following transactions related to this procurement and any Contract awarded pursuant to it are *not authorized* to be conducted by electronic means:

- (a) Submission of initial Proposals;
- (b) Filing of Proposal Protests;
- (c) Filing of Contract Claims;
- (d) Submission of documents determined by the Department to require original signatures (e.g., Contract execution, Contract modifications, etc.); or
- (e) Any transaction, submission, or communication where the Procurement Officer has specifically directed that a response from the Contractor or Offeror be provided in writing or hard copy.

4.25.6 Any facsimile or e-mail transmission is only authorized to the facsimile numbers or e-mail addresses for the identified person as provided in the RFP, Contract, or direction from the Procurement Officer or Contract Monitor.

4.26 Minority Business Enterprise Goals

4.26.1 Establishment of Goal and Subgoals. An overall MBE subcontractor participation goal of **25.0%** of the total contract dollar value, including all option years, if any, has been established for this procurement.

There are no MBE subcontractor participation subgoals for this procurement.

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

4.26.2 Attachments D-1 to D-5 – The following Minority Business Enterprise participation instructions, and forms are provided to assist Offerors:

Attachment D-1A	MBE Utilization and Fair Solicitation Affidavit & MBE Participation Schedule (must be submitted with Proposal)
Attachment D-1B	Waiver Guidance
Attachment D-1C	Good Faith Efforts Documentation to Support Waiver Request
Attachment D-2	Outreach Efforts Compliance Statement
Attachment D-3A	MBE Subcontractor Project Participation Certification
Attachment D-3B	MBE Prime Project Participation Certification
Attachment D-4A	Prime Contractor Paid/Unpaid MBE Invoice Report
Attachment D-4B	MBE Prime Contractor Report
Attachment D-5	Subcontractor/Contractor Unpaid MBE Invoice Report

4.26.3 An Offeror shall include with its Proposal a completed MBE Utilization and Fair Solicitation Affidavit (**Attachment D-1A**) whereby:

- (a) The Offeror acknowledges the certified MBE participation goal and commits to make a good faith effort to achieve the goal and any applicable subgoals, or requests a waiver, and affirms that MBE subcontractors were treated fairly in the solicitation process; and
- (b) The Offeror responds to the expected degree of MBE participation, as stated in the solicitation, by identifying the specific commitment of certified MBEs at the time of Proposal submission. The Offeror shall specify the percentage of total contract value associated with each MBE subcontractor identified on the MBE participation schedule, including any work performed by the MBE Prime (including a Prime participating as a joint venture) to be counted towards meeting the MBE participation goals.
- (c) An Offeror requesting a waiver should review Attachment D-1B (Waiver Guidance) and D-1C (Good Faith Efforts Documentation to Support Waiver Request) prior to submitting its request.
- (d) ***If an Offeror fails to submit a completed Attachment D-1A with the Proposal as required, the Procurement Officer shall determine that the Proposal is not reasonably susceptible of being selected for award.***

4.26.4 Offerors are responsible for verifying that each MBE (including any MBE Prime and/or MBE Prime participating in a joint venture) selected to meet the goal and any subgoals and subsequently identified in **Attachment D-1A** is appropriately certified and has the correct NAICS codes allowing it to perform the committed work.

- 4.26.5** Within ten (10) Business Days from notification that it is the recommended awardee or from the date of the actual award, whichever is earlier, the Offeror must provide the following documentation to the Procurement Officer.
- (a) Outreach Efforts Compliance Statement (**Attachment D-2**);
 - (b) MBE Subcontractor/Prime Project Participation Certification (**Attachment D-3A/3B**); and
 - (c) Any other documentation required by the Procurement Officer to ascertain Offeror responsibility in connection with the certified MBE subcontractor participation goal or any applicable subgoals.
 - (d) Further, if the recommended awardee believes a waiver (in whole or in part) of the overall MBE goal or of any applicable subgoal is necessary, the recommended awardee must submit a fully-documented waiver request that complies with COMAR 21.11.03.11.
 - (e) *If the recommended awardee fails to return each completed document within the required time, the Procurement Officer may determine that the recommended awardee is not responsible and, therefore, not eligible for Contract award. If the Contract has already been awarded, the award is voidable.*
- 4.26.6** A current directory of certified MBEs is available through the Maryland State Department of Transportation (MDOT), Office of Minority Business Enterprise, 7201 Corporate Center Drive, Hanover, Maryland 21076. The phone numbers are (410) 865-1269, 1-800-544-6056, or TTY (410) 865-1342. The directory is also available on the MDOT website at <http://mbe.mdot.maryland.gov/directory/>. The most current and up-to-date information on MBEs is available via this website. **Only MDOT-certified MBEs may be used to meet the MBE subcontracting goals.**
- 4.26.7** The Contractor, once awarded a Contract, will be responsible for submitting or requiring its subcontractor(s) to submit the following forms to provide the State with ongoing monitoring of MBE participation:
- (a) **Attachment D-4A** (Prime Contractor Paid/Unpaid MBE Invoice Report);
 - (b) **Attachment D-4B** (MBE Prime Contractor Report, *if applicable*); and
 - (c) **Attachment D-5** (MBE Subcontractor Unpaid MBE Invoice Report).
- 4.26.8** An Offeror that requested a waiver of the goal or any of the applicable subgoals will be responsible for submitting the Good Faith Efforts Documentation to Support Waiver Request (**Attachment D-1C**) and all documentation within ten (10) Business Days from notification that it is the recommended awardee or from the date of the actual award, whichever is earlier, as required in COMAR 21.11.03.11.
- 4.26.9** All documents, including the MBE Utilization and Fair Solicitation Affidavit & MBE Participation Schedule (**Attachment D-1A**), completed and submitted by the Offeror in connection with its certified MBE participation commitment shall be considered a part of the resulting Contract and are hereby expressly incorporated into the Contract by reference thereto. All of the referenced documents will be considered a part of the Proposal for order of precedence purposes (see Contract – **Attachment M**, Section 2.1).
- 4.26.10** The Offeror is advised that liquidated damages will apply in the event the Contractor fails to comply in good faith with the requirements of the MBE program and pertinent Contract provisions. (See Contract – **Attachment M**, “Liquidated Damages” clause).
- 4.26.11** As set forth in COMAR 21.11.03.12-1(D), when a certified MBE firm participates on a Contract as a Prime Contractor (including a joint-venture where the MBE firm is a partner), a procurement agency may count the distinct, clearly defined portion of the work of the contract that the certified MBE firm performs with its own work force towards fulfilling up to fifty-percent (50%) of the MBE participation goal (overall) and up to one hundred percent (100%) of not more than one of the MBE participation sub-goals, if any, established for the contract.

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

As set forth in COMAR 21.11.03.12-1, once the Contract work begins, the work performed by a certified MBE firm, including an MBE Prime, can only be counted towards the MBE participation goal(s) if the MBE firm is performing a commercially useful function on the Contract.

4.26.12 With respect to Contract administration, the Contractor shall:

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

4.27 Veteran-Owned Small Business Enterprise Goal

4.27.1 Notice to Offerors. Questions or concerns regarding the Veteran-Owned Small Business Enterprise (VSBE) participation goal of this solicitation must be raised before the due date for submission of Proposals.

4.27.2 Purpose. The Contractor shall structure its procedures for the performance of the work required in this Contract to attempt to achieve the VSBE participation goal stated in this solicitation. VSBE performance must be in accordance with this section and **Attachment E**, as authorized by COMAR 21.11.13. The Contractor agrees to exercise all good faith efforts to carry out the requirements set forth in this section and **Attachment E**.

Veteran-Owned Small Business Enterprises must be verified by the Office of Small and Disadvantaged Business Utilization (OSDBU) of the United States Department of Veterans Affairs. The listing of verified VSBEs may be found at <http://www.va.gov/osdbu>.

4.27.3 **VSBE Goal.** A VSBE participation goal of **1.0%** of the total Contract dollar amount has been established for this procurement. By submitting a response to this RFP, the Offeror agrees that this percentage of the total dollar amount of the Contract will be performed by verified veteran-owned small business enterprises.

4.27.4 **RFP and Contract Formation.**

4.27.4.1 In accordance with COMAR 21.11.13.05 C (1), this RFP requires Offerors to:

- (a) Identify specific work categories within the scope of the procurement appropriate for subcontracting;
- (b) Solicit VSBEs before proposals are due, describing the identified work categories and providing instructions on how to bid on the subcontracts;
- (c) Attempt to make personal contact with the VSBEs solicited and to document these attempts;
- (d) Assist VSBEs to fulfill, or to seek waiver of, bonding requirements; and
- (e) Attempt to attend preproposal or other meetings the procurement agency schedules to publicize contracting opportunities to VSBEs.

4.27.4.2 An Offeror must include with its Proposal a completed VSBE Utilization Affidavit and Prime/Subcontractor Participation Schedule (**Attachment E-1**) whereby the Offeror:

- (1) Acknowledges it: a) intends to meet the VSBE participation goal; or b) requests a full or partial waiver of the VSBE participation goal. If the Offeror commits to the full VSBE goal or requests a partial waiver, it shall commit to making a good faith effort to achieve the stated goal; and
- (2) Responds to the expected degree of VSBE participation as stated in the RFP, by identifying the specific commitment of VSBEs at the time of Proposal submission. The Offeror shall specify the percentage of contract value associated with each VSBE prime/subcontractor identified on the VSBE Participation Schedule.

4.27.4.3 As set forth in COMAR 21.11.13.05.B(2), when a verified VSBE firm participates on a Contract as a Prime Contractor, a procurement agency may count the distinct, clearly defined portion of the work of the contract that the VSBE Prime Contractor performs with its own work force towards meeting up to one hundred percent (100%) of the VSBE goal.

4.27.4.4 In order to receive credit for self-performance, a VSBE Prime must list its firm in the VSBE Prime/Subcontractor Participation Schedule (**Attachment E-1**) and include information regarding the work it will self-perform. For any remaining portion of the VSBE goal that is not to be performed by the VSBE Prime, the VSBE Prime must also identify verified VSBE subcontractors used to meet the remainder of the goal.

4.27.4.5 Within ten (10) Business Days from notification that it is the apparent awardee, the awardee must provide the following documentation to the Procurement Officer.

- (1) VSBE Project Participation Statement (**Attachment E-2**);
- (2) If the apparent awardee believes a full or partial waiver of the overall VSBE goal is necessary, it must submit a fully-documented waiver request that complies with COMAR 21.11.13.07; and
- (3) Any other documentation required by the Procurement Officer to ascertain Offeror responsibility in connection with the VSBE participation goal.

4.27.4.6 *If the apparent awardee fails to return each completed document within the required time, the Procurement Officer may determine that the apparent awardee is not responsible and therefore not eligible for Contract award.*

4.27.5 **Contract Administration Requirements.** The Contractor, once awarded the Contract shall:

- (1) Submit monthly to the MLGCA a report listing any unpaid invoices, over 45 days old, received from any VSBE subcontractor, the amount of each invoice, and the reason payment has not been made. (**Attachment E-3**).
- (2) Include in its agreements with its VSBE subcontractors a requirement that those subcontractors submit monthly to the MLGCA a report that identifies the prime contract and lists all payments received from Contractor in the preceding 30 days, as well as any outstanding invoices, and the amount of those invoices. (**Attachment E-4**).
- (3) Maintain such records as are necessary to confirm compliance with its VSBE participation obligations. These records must indicate the identity of VSBE and non-VSBE subcontractors employed on the contract, the type of work performed by each, and actual dollar value of work performed. The subcontract agreement documenting the work performed by all VSBE participants must be retained by the Contractor and furnished to the Procurement Officer on request.
- (4) Consent to provide such documentation as reasonably requested and right-of-entry at reasonable times for purposes of the State's representatives verifying compliance with the VSBE participation obligations. The Contractor must retain all records concerning VSBE participation and make them available for State inspection for three years after final completion of the Contract.
- (5) At the option of the procurement agency, upon completion of the Contract and before final payment and/or release of retainage, submit a final report in affidavit form and under penalty of perjury, of all payments made to, or withheld from VSBE subcontractors.

4.28 Living Wage Requirements

- 4.28.1 Maryland law requires that Contractors meeting certain conditions pay a living wage to covered employees on State service contracts over \$100,000. Maryland Code, State Finance and Procurement, § 18-101 *et al.* The Commissioner of Labor and Industry at the Department of Labor, Licensing and Regulation requires that a Contractor subject to the Living Wage law submit payroll records for covered employees and a signed statement indicating that it paid a living wage to covered employees; or receive a waiver from Living Wage reporting requirements. *See* COMAR 21.11.10.05.
- 4.28.2 If subject to the Living Wage law, Contractor agrees that it will abide by all Living Wage law requirements, including but not limited to reporting requirements in COMAR 21.11.10.05. Contractor understands that failure of Contractor to provide such documents is a material breach of the terms and conditions and may result in Contract termination, disqualification by the State from participating in State contracts, and other sanctions. See the "Living Wage" clause in the Contract (**Attachment M**).
- 4.28.3 Additional information regarding the State's living wage requirement is contained in **Attachment F**. Offerors must complete and submit the Maryland Living Wage Requirements Affidavit of Agreement (**Attachment F-1**) with their Proposals. If an Offeror fails to complete and submit the required documentation, the State may determine the Offeror to be not responsible under State law.
- 4.28.4 Contractors and subcontractors subject to the Living Wage Law shall pay each covered employee at least the minimum amount set by law for the applicable Tier area. The specific living wage rate is determined by whether a majority of services take place in a Tier 1 Area or Tier 2 Area of the State. The Tier 1 Area includes Montgomery, Prince George's, Howard, Anne Arundel and Baltimore Counties, and Baltimore City. The Tier 2 Area includes any county in the State not included in the Tier 1 Area. In the event that the employees who perform the services are not located in the State, the head of the unit responsible for a State Contract pursuant to §18-102(d) of the State Finance and Procurement Article shall assign the tier based upon where the recipients of the services are located.

4.28.5 The Contract resulting from this solicitation will be determined to be a Tier 1 Contract or a Tier 2 Contract depending on the location(s) from which the Contractor provides 50% or more of the services. The Offeror must identify in its Proposal the location(s) from which services will be provided, including the location(s) from which 50% or more of the Contract services will be provided.

- (1) If the Contractor provides 50% or more of the services from a location(s) in a Tier 1 jurisdiction(s) the Contract will be a Tier 1 Contract.
- (2) If the Contractor provides 50% or more of the services from a location(s) in a Tier 2 jurisdiction(s), the Contract will be a Tier 2 Contract.
- (3) If the Contractor provides more than 50% of the services from an out-of-State location, the State agency determines the wage tier based on where the majority of the service recipients are located. In this circumstance, this Contract will be determined to be a Tier 1 Contract.

4.28.6 Information pertaining to reporting obligations may be found by going to the Maryland Department of Labor, Licensing and Regulation (DLLR) website: <http://www.dllr.state.md.us/labor/prev/livingwage.shtml>.

NOTE: Whereas the Living Wage may change annually, the Contract price may not be changed because of a Living Wage change.

4.29 Federal Funding Acknowledgement

This Contract does not contain Federal funds.

4.30 Conflict of Interest Affidavit and Disclosure

Offerors shall complete and sign the Conflict of Interest Affidavit and Disclosure (**Attachment H**) and submit it with their Proposals. All Offerors are advised that if a Contract is awarded as a result of this RFP, the Contractor's personnel who perform or control work under this Contract and each of the participating subcontractor personnel who perform or control work under this Contract shall be required to complete agreements substantially similar to **Attachment H**, Conflict of Interest Affidavit and Disclosure. For policies and procedures applying specifically to Conflict of Interests, the Contract is governed by COMAR 21.05.08.08.

4.31 Non-Disclosure Agreement

All Offerors are advised that this RFP and any resultant Contract(s) are subject to the terms of the Non-Disclosure Agreement (NDA) contained in this RFP as **Attachment I**. This Agreement must be provided within five (5) Business Days of notification of proposed Contract award. However, to expedite processing, it is suggested that this document be completed and submitted with the Proposal.

4.32 HIPAA - Business Associate Agreement

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

4.33 Nonvisual Access

This RFP does not contain Information Technology (IT) provisions requiring Nonvisual Access.

4.34 Mercury and Products That Contain Mercury

This RFP does not include the procurement of products known to likely include mercury as a component.

4.35 Location of the Performance of Services Disclosure

The Offeror is required to complete the Location of the Performance of Services Disclosure. A copy of this Disclosure is included as **Attachment L**. The Disclosure must be provided with the Proposal.

4.36 Department of Human Resources (DHR) Hiring Agreement

This RFP does not require a DHR Hiring Agreement.

4.37 Small Business Reserve (SBR) Procurement

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

4.38 Ownership of Written Material

All opened proposals become the property of the MLGCA upon receipt and will not be returned to the Offerors. Selection or rejection of the proposal will not affect this right. Unopened financial proposals will be returned to the Offeror.

4.39 Proposal Disclosure Prohibition

- 4.39.1 Upon issuance of this RFP, neither the MLGCA or Commission, nor their representatives shall discuss the contents of this RFP with potential Offerors or their representatives, other than in conjunction with the Pre-Proposal Conference, the Question and Answer process, oral presentations/site visits or discussions (See RFP Sections 4.1, 4.3 and 4.10).
- 4.39.2 Until a Contract resulting from this RFP is awarded, no employee, agent, or representative of any Offeror may make available or discuss its proposal with any officer of the State, any Commission member, or any employee, agent or representative of the MLGCA, unless specifically authorized to do so in this RFP or in writing by the Procurement Officer for the purposes of clarification, evaluation, and/or negotiation.
- 4.39.3 Prior to Contract execution, Offerors shall not represent themselves to MLGCA staff, Retailers or the public as having the endorsement of the MLGCA or Commission or as a supplier of any products or services to the MLGCA or Commission.

4.40 Information Not Contained in RFP

Proposals shall be based solely on the material contained in this RFP and any amendments thereto. Offerors are to disregard any newspaper advertisements, news articles, and oral representations when preparing their proposals.

4.41 Trademark Notice

4.41.1 The MLGCA employs several trademarks or registered trademarks. The list that follows is intended to be illustrative, but not necessarily exhaustive. Offerors are hereby provided notice that certain marks listed below may not be identified elsewhere in this RFP as holding intellectual property rights.

<u>Name</u>	<u>Mark</u>	<u>Owner</u>
1. Cash4Life®	®	Multi-State Lottery Association
2. Lottery in Motion™	™	Scientific Games International, Inc.
3. Mega Millions®	®	Illinois Department of the Lottery
3. Megaplier®	®	Texas Lottery Commission
4. MONOPOLY Millionaire™	™	Hasbro, Inc. – filed; probably ® soon
5. MONOPOLY Millionaires' Club™	™	Hasbro, Inc. – filed; probably ® soon
6. OnePlace Enterprise™	™	Hudson Alley Software
7. Powerball®	®	Multi-State Lottery Association
8. Power Play®	®	Multi-State Lottery Association
9. Properties Plus®	®	Scientific Games International, Inc.
10. Racetrax®	®	Tabcorp International Pty Ltd
11. Racetrax Bonus™	™	Not filed for registration

4.41.2 In addition, the MLGCA owns the rights to the following:

1. Keno Bonus®	®
2. Multi-Match®	®
3. Keno To Go™	™
4. PHARAOH'S GOLD®	®
5. Packaged Keno To Go®	®
6. World Championship Poker®	®
7. Super Slots®	®

4.42 Surety Bond Assistance Program

Assistance in obtaining bid, performance and payment bonds may be available to qualifying small businesses through the Maryland Small Business Development Financing Authority (MSBDFA). MSBDFA can directly issue bid, performance or payment bonds up to \$750,000. MSBDFA may also guarantee up to 90% of a surety's losses as a result of a Contractor's breach of Contract; MSBDFA exposure on any bond guaranteed may not, however, exceed \$900,000. Bonds issued directly by the program will remain in effect for the duration of the Contract, and those surety bonds that are guaranteed by the program will remain in effect for the duration of the surety's exposure under the Contract. To be eligible for bonding assistance, a business must first be denied bonding by at least one surety on both the standard and specialty markets within 90 days of submitting a bonding application to MSBDFA. The applicant must employ fewer than 500 full-time employees or have gross sales of less than \$50 million annually, have its principal place of business in Maryland or be a Maryland resident, must not subcontract more than 75 percent of the work, and the business or its principals must have a reputation of good moral character and financial responsibility. Finally, it must be demonstrated that the bonding or guarantee will have a measurable economic impact, through job creation and expansion of the state's tax base. Applicants are required to work through their

respective bonding agents in applying for assistance under the program. Questions regarding the bonding assistance program should be referred to:

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

4.43 Proposal Bond

- 4.43.1 Each Offeror must submit with its proposal a Proposal Bond or other suitable security in the amount of Fifty Thousand Dollars (\$50,000.00), guaranteeing the availability of the products/services at the offered price for 180 days after the Proposals Due Date and Time .
- 4.43.2 The bond shall be in the form provided in Attachment Q.
- 4.43.3 An Offeror may request a release of the bond after the date of contract award in return for a release signed by the Contractor and accepted by the MLGCA.
- 4.43.4 Acceptable security shall be as described below, identified within and excerpted from COMAR 21.06.07:

Acceptable security for proposal, performance, and payment bonds is limited to:

- A. A bond in a form satisfactory to the State underwritten by a surety company authorized to do business in this State;
 - B. A bank certified check, bank cashier's check, bank treasurer's check, cash, or trust account;
 - C. Pledge of securities backed by the full faith and credit of the United States government or bonds issued by the State;
 - D. An irrevocable letter of credit in a form satisfactory to the Attorney General and issued by a financial institution approved by the State Treasurer;
- 4.43.5 The cost of this bond, or other suitable security, is to be included in the total prices proposed and is not to be proposed and will not be recoverable as a separate cost item.

4.44 Litigation/Protest Bond

- 4.44.1 Each Offeror must submit with its proposal a Litigation/Protest Bond in the amount of Fifty Thousand Dollars (\$50,000.00). The purpose of the Litigation/Protest Bond is to discourage frivolous lawsuits and protests by permitting the MLGCA to recover, in addition to its attorney's fees, damages that result from delay in implementing a Contract. A claim upon the bond may be made by the MLGCA if:

- A. The Offeror brings any legal action or protest against the MLGCA, the State, the Commission, or any individual member thereof, or any employee of the State, over the award of a Contract resulting from this RFP;
 - B. The MLGCA or such other party is the prevailing party at the conclusion of the action or protest; and,
 - C. The tribunal before which the action was brought, or any other authorized tribunal, determines that the action or any portion thereof was frivolous, was brought in bad faith, or was not based upon reasonable grounds.
- 4.44.2 The Bond shall be in the form of a policy or certificate underwritten by a surety company authorized to do business in the State and shall be subject to approval by the MLGCA, or other acceptable security for bond as described in COMAR 21.06.07 as summarized in 4.42. Offerors may submit Litigation/Protest Bond in a form as found in Attachment P.
- 4.44.3 The Bond shall remain in effect for one (1) year from the Proposals Due Date and Time and, in the event the Offeror is involved in litigation or a protest related to this RFP, shall be extended until the date for any filing or appeal has passed.
- 4.44.4 Offerors, including the successful Offeror, may request a release of the Bond after the date of Contract execution in return for a Release and Covenant Not To Sue in a form acceptable to the MLGCA, signed by the Offeror, notarized and accepted by the MLGCA.

THE REMAINDER OF THIS PAGE IS INTENTIONALLY LEFT BLANK.

SECTION 5 – PROPOSAL FORMAT

5.1 Two Part Submission

Offerors shall submit Proposals in separate volumes:

- Volume I – TECHNICAL PROPOSAL
- Volume II – FINANCIAL PROPOSAL

5.2 Proposals

5.2.1 Volume I – Technical Proposal, and Volume II – Financial Proposal shall be sealed separately from one another. It is preferred, but not required, that the name, email address, and telephone number of a contact person for the Offeror be included on the outside of the packaging for each volume. Each Volume shall contain an unbound original, so identified, and six (6) copies. Unless the resulting package will be too unwieldy, the MLGCA’s preference is for the two (2) sealed Volumes to be submitted together in a single package including a label bearing:

- (1) RFP title and number,
- (2) Name and address of the Offeror, and
- (3) Closing date and time for receipt of Proposals

to the Procurement Officer (see RFP Key Information Summary Sheet) prior to the date and time for receipt of Proposals (see RFP Section 4.4 “Proposals Due (Closing) Date and Time”).

5.2.2 An electronic version (on Compact Disk/CD, Digital Versatile Disc/DVD, or Universal Serial Bus/USB Flash/Thumb Drive) of Volume I - Technical Proposal in Microsoft Word format must be enclosed with the original Volume I - Technical Proposal submission. An electronic version (on CD, DVD, or USB Flash Drive) of Volume II - Financial Proposal in Microsoft Word or Microsoft Excel format must be enclosed with the original Volume II - Financial Proposal submission. Each CD/DVD/USB Flash Drive must be labeled on the outside with the RFP title and number, name of the Offeror, and volume number. Each CD/DVD/USB Flash Drive must be packaged with the original copy of the appropriate Proposal (Technical or Financial). In the event of any discrepancy between the hard copy and electronic versions of an Offeror’s Proposal, the State shall determine the controlling version in accordance with the State’s interests.

5.2.3 A second electronic version of Volume I and Volume II in searchable Adobe .pdf format shall be submitted on CD, DVD, or USB Flash Drive for Public Information Act (PIA) requests. This copy shall be redacted so that confidential and/or proprietary information has been removed (see RFP Section 4.8 “Public Information Act Notice”).

5.2.4 Beginning with Tab B (see RFP Section 5.4.2.3), all pages of both Proposal volumes shall be consecutively-numbered from beginning (Page 1) to end (Page “x”). The Title Page, Table of Contents, and any Claim of Confidentiality (Tabs A and A-1; see RFP Sections 5.4.2.1 and 5.4.2.2), should be numbered using romanettes (ex. i, ii, iii, iv, v, etc.).

5.2.5 Proposals and any modifications to Proposals will be shown only to State employees, members of the Evaluation Committee, and other persons deemed by the MLGCA to have a legitimate interest in them.

5.3 Delivery

Offerors may either mail or hand-deliver Proposals.

- 5.3.1 For U.S. Postal Service deliveries, any Proposal that has been received at the appropriate mailroom, or typical place of mail receipt, for the MLGCA by the time and date listed in the RFP will be deemed to be timely. If an Offeror chooses to use the U.S. Postal Service for delivery, the DMLGCA recommends that it use Express Mail, Priority Mail, or Certified Mail only as these are the only forms for which both the date and time of receipt can be verified by the MLGCA. It could take several days for an item sent by first class mail to make its way by normal internal mail to the procuring unit and an Offeror using first class mail will not be able to prove a timely delivery at the mailroom.
- 5.3.2 Hand-delivery includes delivery by commercial carrier acting as agent for the Offeror. For any type of direct (non-mail) delivery, an Offeror is advised to secure a dated, signed, and time-stamped (or otherwise indicated) receipt of delivery.
- 5.3.3 After receipt, a Register of Proposals will be prepared that identifies each Offeror. The Register of Proposals will be open to inspection only after the Procurement Officer makes a determination recommending the award of the Contract.

5.4 Volume I – Technical Proposal

Note: No pricing information is to be included in the Technical Proposal (Volume 1). Pricing information is to be included only in the Financial Proposal (Volume II).

- 5.4.1 **Format of Technical Proposal.** Inside a sealed package described in Section 5.2 “Proposals,” the unbound original, six (6) copies, and the electronic version shall be provided. The RFP sections are numbered for ease of reference. Section 5.4.2 sets forth the order of information to be provided in the Technical Proposal, e.g., Section 5.4.2.1 “Title and Table of Contents,” Section 5.4.2.2 “Claim of Confidentiality,” Section 5.4.2.3 “Transmittal Letter,” Section 5.4.2.4 “Executive Summary,” etc. In addition to the instructions below, responses in the Offeror’s Technical Proposal should reference the organization and numbering of Sections in the RFP (ex. “Section 2.2.1 Response . . . ; “Section 2.2.2 Response . . .,” etc.). This Proposal organization will allow State officials and the Evaluation Committee (see RFP Section 6.1) to “map” Offeror responses directly to RFP requirements by Section number and will aid in the evaluation process.
- 5.4.2 **The Technical Proposal** shall include the following documents and information in the order specified as follows. Each section of the Technical Proposal shall be separated by a TAB as detailed below:
 - 5.4.2.1 **Title Page and Table of Contents (Submit under TAB A).** The Technical Proposal should begin with a Title Page bearing the name and address of the Offeror and the name and number of this RFP. A Table of Contents shall follow the Title Page for the Technical Proposal, organized by section, subsection, and page number.
 - 5.4.2.2 **Claim of Confidentiality (If applicable, submit under TAB A-1).** Any information which is claimed to be confidential is to be noted by reference and included after the Title Page and before the Table of Contents, and if applicable, also in the Offeror’s Financial Proposal. An explanation for each claim of confidentiality shall be included (see Section 4.8 “Public Information Act Notice”). The entire Proposal should not be given a blanket confidentiality designation. Any confidentiality designation must apply to specific sections, pages, or portions of pages of the Proposal.

5.4.2.3 **Transmittal Letter (Submit under TAB B).** A Transmittal Letter shall accompany the Technical Proposal. Its purpose is to transmit the Proposal and acknowledge the receipt of any amendments. The Transmittal Letter should be brief and signed by an individual who is authorized to commit the Offeror to the services and requirements as stated in this RFP. The Transmittal Letter should include the following:

- (1) Name and address of the Offeror;
- (2) Name, title, e-mail address, and telephone number of primary contact for the Offeror;
- (3) RFP Title and RFP Number that the Proposal is in response to;
- (4) Signature, typed name, and title of an individual authorized to commit the Offeror to its Proposal;
- (5) Federal Employer Identification Number (FEIN) of the Offeror, or if a single individual, that individual's Social Security Number (SSN);
- (6) Offeror's eMM number;
- (7) Offeror's MBE certification number (if applicable);
- (8) Acceptance of all State RFP and Contract terms and conditions (see Section 4.17); if any exceptions are taken, they are to be noted in the Executive Summary (see Section 5.4.2.4); and
- (9) Acknowledgement of all amendments to this RFP.

5.4.2.4 **Executive Summary (Submit under TAB C).**

5.4.2.4.1 The Offeror shall condense and highlight the contents of the Technical Proposal in a separate section titled "Executive Summary." In addition, the Summary shall indicate whether the Offeror is the subsidiary of another entity, and if so, whether all information submitted by the Offeror pertains exclusively to the Offeror. If not, the subsidiary Offeror shall include a guarantee of performance from its parent organization as part of its Executive Summary.

5.4.2.4.2 The Summary shall also identify any exceptions the Offeror has taken to the requirements of this RFP, the Contract (Attachment M), or any other attachments. Exceptions to terms and conditions may result in having the Proposal deemed unacceptable or classified as not reasonably susceptible of being selected for award.

5.4.2.4.3 If the Offeror has taken no exceptions to the requirements of this RFP, the Contract (Attachment M), or any other attachments, the Executive Summary shall so state.

5.4.2.5 **Minimum Qualifications Documentation (If applicable, Submit under TAB D).** The Offeror shall submit any Minimum Qualifications documentation that may be required, as set forth in RFP Section 1, "Minimum Qualifications."

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

TASK I – Consists of all requirements set forth in Section 2.3.2, and the responses outlined in Sections 5.4.2.6.1 through 5.4.2.6.9 below:

5.4.2.6.1 **General Requirements**

5.4.2.6.1.1 The Offeror shall address each Scope of Work requirement (RFP Section 2) in its Technical Proposal and describe how its proposed services, including the services of any proposed subcontractor(s), will meet or exceed the requirement(s). If the State is seeking Offeror agreement to any requirement(s), the Offeror shall state its agreement or disagreement. Any paragraph in the Technical Proposal that responds to a Scope of

Work requirement shall include an explanation of how the work will be done. Any exception to a requirement, term, or condition may result in having the Proposal classified as not reasonably susceptible of being selected for award or the Offeror deemed not responsible.

5.4.2.6.1.2 The Offeror shall give a definitive **section-by-section** description of the proposed plan to meet the requirements of the RFP, i.e., a Work Plan. The Work Plan shall include the specific methodology, techniques, and number of staff, if applicable, to be used by the Offeror in providing the required services as outlined in RFP Section 2, Scope of Work. The description shall include an outline of the overall management concepts employed by the Offeror and a project management plan, including project control mechanisms and overall timelines. Project deadlines considered contract deliverables must be recognized in the Work Plan.

5.4.2.6.1.3 The Offeror shall identify the location(s) from which it proposes to provide the services, including, if applicable, any current facilities that it operates, and any required construction to satisfy the State's requirements as outlined in this RFP.

5.4.2.6.1.4 The Offeror shall provide a draft Problem Escalation Procedure (PEP) that includes, at a minimum, titles of individuals to be contacted by the MLGCA's Contract Monitor should problems arise under the Contract and explains how problems with work under the Contract will be escalated in order to resolve any issues in a timely manner. Final procedures shall be submitted as indicated in RFP Section 3.3.

5.4.2.6.2 **Airtime for Televised Drawings**

The Offeror shall complete Attachment T and Attachment U with the time it proposes to televise each of the MLGCA Mandatory Drawings, as well as any Optional drawings if Offeror is proposing that any Optional Drawings be televised. Also to be included in Attachment T and Attachment U are the Audience Delivery figures for the Baltimore DMA and for each County, respectively, during the proposed Drawing times. Offerors shall propose a time within the time ranges specified in Section 2.3.2.1 – Airtime for Drawings and Attachments T and U for each of the following Drawings:

- a. Mandatory Drawings
 - i. Pick 3 and Pick 4 Evening Drawings
 - ii. Mega Millions
 - iii. Powerball
- b. Optional Drawings
 - i. Pick 3 and Pick 4 Midday
 - ii. Bonus Match 5
 - iii. Multi Match

- c. The time selected for each Drawing shall become a fixed position throughout the Contract unless otherwise approved by the MLGCA.
- d. The MLGCA shall have the right to change the length and the time of any Drawing with appropriate advanced notice to the Contractor. (See Section 2.3.2.6 – Length of Drawings)
- e. The MLGCA shall have the right to cancel or add a televised Drawing with appropriate advanced notice to the Contractor. (See Section 2.3.2.9 – Changes in Number of Games Marketed by the MLGCA)

- f. As stated in Section 2.3.2.1, the MLGCA will televise all Mandatory Drawings and will decide at the time of Contract award which, if any, of the Optional Drawings it will initially televise. Although the MLGCA may not televise some or all of the Optional Drawings, they will still be conducted by the Contractor in its Facility.
- g. The Contractor shall announce and/or provide to viewers a recap of the winning numbers for all of the MLGCA's draw game Drawings shortly after the actual game Drawing and at various other times throughout the day.

5.4.2.6.3 Audience Delivery

To evaluate the Drawing times proposed by the Offeror, the Offeror shall provide the following ratings and reach information:

- a. Based on LPM, Live+SD, the Offeror shall provide the 12-month average Adult 25-54 ratings for January 2016 through December 2016, as well as the projected Adult 25-54 ratings for each proposed Drawing time. Offerors shall complete Attachment T - Proposed Airtime for Televised Drawings and Audience Delivery (Baltimore DMA) with this information.
- b. If the Offeror proposes to deliver reach outside the Baltimore DMA, either on cable, over-the-air or other any means; if possible the Offeror shall provide the Adults 25-54 total reach in thousands for each county within Maryland on Attachment U- Proposed Airtime for Televised Drawings and Audience Delivery (By County).

5.4.2.6.4 Promotional Activity

5.4.2.6.4.1 The Offeror should provide a detailed promotional plan and schedule to address the following areas:

(a) Promotion of Drawings

The Offeror should describe how it will promote the partnership, educating MLGCA players and station viewers that the Drawings are broadcast on the Contractor's station and the times the Drawings can be viewed.

(b) Promotion of the Overall MLGCA, including other games and promotions.

In addition to promoting when and where viewers can watch the televised Drawings, the Offeror should propose ways it would support MLGCA games, products, promotions, winners, jackpots, etc.

5.4.2.6.4.2 The MLGCA is receptive to ideas and encourages Offerors to be creative and innovative in designing promotional concepts that could enhance the MLGCA brand, games and entertainment value; as well as promotions that have the potential to generate additional revenue for the MLGCA.

5.4.2.6.4.3 Offeror should develop a promotional plan incorporating how it will promote these two categories, detailing the promotional offerings it will provide the MLGCA for the purposes mentioned above. These promotional offerings may include, but are not limited to, broadcast or cable television commercials, radio commercials, outdoor advertising and billboards, print media and materials for display in Retailers, mobile, social or internet based announcements, promotional items, on-air interviews or presentations and other promotional activities. Include any design suggestions or examples in your proposal submission. The Offeror is not required to propose promotional offerings corresponding to each and every category, nor is the Offeror limited to the categories described above.

5.4.2.6.4.4 The Offeror should provide any information that will aid in the MLGCA's evaluation of the Promotional Plan; such information could include Adult 25-54 audience delivery in terms of LPM Live+SD ratings or A25-54 impressions, geography, frequency of message, type of message and media, length of or size of promotional unit, estimated value of the promotional plan, and more.

5.4.2.6.4.5 The MLGCA shall have final approval of all promotional offerings and items, including the appearance, copy, music, pictures, graphics, etc. of all items contained in the promotional offerings.

5.4.2.6.5 Uploading Drawing Videos to MLGCA's YouTube Channel or Other Media

Offeror shall describe in its proposal how it will upload and present videos of all Mandatory and Optional Drawings to the MLGCA's website, YouTube channel or comparable media channel to provide access to those who are interested in viewing. With a large percentage of traffic visiting MLGCA's digital assets via mobile, please include optimizing presentation of the Drawings on mobile devices.

5.4.2.6.6 Presentation of Drawings and Creative Concepts

5.4.2.6.6.1 Viewer appeal of the televised Drawings is important to the MLGCA and it desires that the Drawings be presented as much for entertainment as for information in order to develop a closer relationship with the audience. The MLGCA is seeking a contractor that will share its goal of creating a contemporary broadcast franchise that maintains and develops regular viewership among the MLGCA's players while encouraging and attracting non-players.

5.4.2.6.6.2 To that end, the MLGCA encourages proposals that will enhance the Drawing presentation to consumers. The Offeror must describe in detail:

- a. How the Drawings will be produced and presented;
- b. The set design, including any virtual elements or components, graphic effects, music/sound, camera treatment and other important characteristics of the Drawings, with an emphasis on contemporary creative ideas and enhanced production values;
- c. The professional expertise and technical resources the Offeror will allocate to the execution of the Drawings;
- d. On-camera host (s) the Offeror recommends using to host, narrate or deliver the Drawings and/ or the ways the Offeror proposes that host (s) be selected
- e. Sample of proposed wardrobe/styling for Drawing show hosts;
- f. Any proposed differences in the production of televised Drawings versus non-televised Drawings;
- g. Any potential sponsorship opportunities or advertising proposed to be used in conjunction with the Drawings.

5.4.2.6.7 Facility

The Offeror must describe its physical broadcast and production facility, including its location and how it is equipped with all necessary technical capabilities to provide consistent, professional, high-caliber quality production and telecasting of the Drawings. The Offeror must describe how its broadcast facility will provide a secure environment for storage of the MLGCA's Drawing machines and equipment. If Offeror does not currently have the required Facility elements (i.e. secure storage vault), it must describe in its proposal the plans to construct or acquire the necessary specifications.

5.4.2.6.8 Drawing Machines/Ball Sets

Offeror shall identify and describe the Drawing machines, Ball sets and any other associated equipment proposed. A professional diagram or photograph of each proposed Drawing machine and Ball set must be submitted with the Proposal.

5.4.2.6.9 Business Recovery Plan

The Offeror must describe its Business Recovery Plan and emergency procedures to be used in the event that its broadcast facility becomes unavailable or unable to conduct and/or broadcast the Drawings, to include an alternate backup facility.

5.4.2.6.10 TASK II (Additional) - Virtual Set Design and Construction

The MLGCA may want to move to a more comprehensive virtual set that allows for increased flexibility and creativity in portraying the host and Drawing machines in a variety of "virtual" settings. If an Offeror can provide a virtual set, but doesn't presently have in operation, Offeror should describe the development and implementation of this type of set where MLGCA Drawings would be held and provide a one-time amount to provide this set in Attachment B-2 for Additional Task II.

5.4.2.6.11 TASK III (Additional) - Special Programming

The MLGCA is interested in having the Contractor produce and provide airtime for a thirty minute (approximately) long format program that promotes the Lottery on an annual basis. Offeror should plan to provide all production services, including but not limited to script development, talent costs, set or location expenses, art direction, editing and finishing for air, etc. MLGCA and Contractor will mutually decide about the disposition of any commercial inventory that may or not be available within the program after a NTP is given to Contractor by the MLGCA. Potential topics include, but are not limited to, an interesting, informative presentation of how MLGCA proceeds benefit the good causes of the State or a behind the scenes, insiders view of MLGCA operations.

Offeror should provide a brief overview of how programming would be produced, shot and edited (including a few key style frames) to provide the MLGCA with an indication of the level of creatively and production value Offeror would commit to project. Options for airtime should also be included. Provide a one-time amount to provide this programming in Attachment B-2 for Additional Task III.

5.4.2.6.12 TASK IV (Additional) - Remote Drawing

The MLGCA may determine that additional remote or out of studio Drawings, over and above the four (4) that are included in the Services Required-Task I amount, are required to build awareness for the MLGCA throughout the State. These remote Drawings shall have production values that are similar in quality and creativity to what is required for the in-studio Drawings. Offeror should provide a description of its remote Drawing presentation and any other information that would help

the MLGCA understand how these would be produced. An amount per additional remote Drawing should be provided in Attachment B-2 for Additional Task IV.

5.4.2.7 Experience and Qualifications of Proposed Staff (Submit under TAB F). The Offeror shall identify the types of staff, their number and qualifications proposed to be utilized under the Contract. Staff members needed to produce the live Drawings may include, but not be limited to, a director, producer, on-camera host or hostess, assistant producer, camera operators (if required), technical director, audio systems operator, and floor director.

The Offeror shall describe in detail how the proposed staff's experience and qualifications relate to their specific responsibilities, including any staff of proposed subcontractor(s), as detailed in the Work Plan. The Offeror shall include individual resumes for the Key Personnel, including Key Personnel for any proposed subcontractor(s), who are to be assigned to the project if the Offeror is awarded the Contract. Each resume should include the amount of experience the individual has had relative to the Scope of Work set forth in this solicitation. Letters of intended commitment to work on the project, including letters from any proposed subcontractor(s), shall be included in this section.

The Offeror shall provide an Organizational Chart outlining personnel and their related duties. The Offeror shall include job titles and the percentage of time each individual will spend on his/her assigned tasks. Offerors using job titles other than those commonly used by industry standards must provide a crosswalk reference document.

5.4.2.8 Offeror Qualifications and Capabilities (Submit under TAB G). The Offeror shall include information on past experience with similar projects and/or services. The Offeror shall describe how its organization can meet the requirements of this RFP and shall also include the following information:

- (1) The number of years the Offeror has provided the similar services;
- (2) The number of clients/customers and geographic locations that the Offeror currently serves;
- (3) The names and titles of headquarters or regional management personnel who may be involved with supervising the services to be performed under this Contract;
- (4) The Offeror's process for resolving billing errors; and
- (5) An organizational chart that identifies the complete structure of the Offeror, including any parent company, headquarters, regional offices, and subsidiaries of the Offeror.

5.4.2.9 References (Submit under TAB H). At least three (3) references are requested from customers who are capable of documenting the Offeror's ability to provide the services specified in this RFP. References used to meet any Minimum Qualifications (see RFP Section 1) may be used to meet this request. Each reference shall be from a client for whom the Offeror has provided services within the past five (5) years and shall include the following information:

- (1) Name of client organization;
- (2) Name, title, telephone number, and e-mail address, if available, of point of contact for client organization; and
- (3) Value, type, duration, and description of services provided.

The MLGCA reserves the right to request additional references or utilize references not provided by an Offeror.

5.4.2.10 List of Current or Prior State Contracts (Submit under TAB I). Provide a list of all contracts with any entity of the State of Maryland for which the Offeror is currently performing services or for

which services have been completed within the last five (5) years. For each identified contract, the Offeror is to provide:

- (1) The State contracting entity;
- (2) A brief description of the services/goods provided;
- (3) The dollar value of the contract;
- (4) The term of the contract;
- (5) The State employee contact person (name, title, telephone number, and, if possible, e-mail address); and
- (6) Whether the contract was terminated before the end of the term specified in the original contract, including whether any available renewal option was not exercised.

Information obtained regarding the Offeror's level of performance on State contracts will be used by the Procurement Officer to determine the responsibility of the Offeror and considered as part of the experience and past performance evaluation criteria of the RFP.

5.4.2.11 Financial Capability (Submit under TAB J). An Offeror must include in its Proposal a commonly-accepted method to prove its fiscal integrity. If available, the Offeror shall include Financial Statements, preferably a Profit and Loss (P&L) statement and a Balance Sheet, for the last two (2) years (independently audited preferred).

In addition, the Offeror may supplement its response to this Section by including one or more of the following with its response:

- (1) Dun & Bradstreet Rating;
- (2) Standard and Poor's Rating;
- (3) Lines of credit;
- (4) Evidence of a successful financial track record; and
- (5) Evidence of adequate working capital.

5.4.2.12 Certificate of Insurance (Submit under TAB K). The Offeror shall provide a copy of its current certificate of insurance showing the types and limits of insurance in effect as of the Proposal submission date. The current insurance types and limits do not have to be the same as described in Section 3.1. See Section 3.1 for the required insurance certificate submission for the recommended Offeror.

5.4.2.13 Subcontractors (Submit under TAB L). The Offeror shall provide a complete list of all subcontractors that will work on the Contract if the Offeror receives an award, including those utilized in meeting the MBE and/or VSBE subcontracting goal, if applicable. This list shall include a full description of the duties each subcontractor will perform and why/how each subcontractor was deemed the most qualified for this project.

5.4.2.14 Legal Action Summary (Submit under TAB M). This summary shall include:

- (1) A statement as to whether there are any outstanding legal actions or potential claims against the Offeror and a brief description of any action;
- (2) A brief description of any settled or closed legal actions or claims against the Offeror over the past five (5) years;
- (3) A description of any judgments against the Offeror within the past five (5) years, including the case name, court case docket number, and what the final ruling or determination was from the court; and

- (4) In instances where litigation is on-going and the Offeror has been directed not to disclose information by the court, the name of the judge and location of the court.

5.4.2.15 Economic Benefit Factors (Submit under TAB N).

5.4.2.15.1 The Offeror shall submit with its Proposal a narrative describing benefits that will accrue to the Maryland economy as a direct or indirect result of its performance of this contract. Proposals will be evaluated to assess the benefit to Maryland's economy specifically offered. The economic benefit offered should be consistent with the Offeror's Total Proposal Price from Attachment B, the Financial Proposal Form. See COMAR 21.05.03.03A(3).

5.4.2.15.2 Proposals that identify specific benefits as being contractually enforceable commitments will be rated more favorably than Proposals that do not identify specific benefits as contractual commitments, all other factors being equal.

5.4.2.15.3 Offerors shall identify any performance guarantees that will be enforceable by the State if the full level of promised benefit is not achieved during the Contract term.

5.4.2.15.4 As applicable, for the full duration of the Contract, including any renewal period, or until the commitment is satisfied, the Contractor shall provide to the Procurement Officer or other designated agency personnel reports of the actual attainment of each benefit listed in response to this section. These benefit attainment reports shall be provided quarterly, unless elsewhere in these specifications a different reporting frequency is stated.

5.4.2.15.5 In responding to this section, the following do not generally constitute economic benefits to be derived from this Contract:

- (1) Generic statements that the State will benefit from the Offeror's superior performance under the Contract;
- (2) Descriptions of the number of Offeror employees located in Maryland other than those that will be performing work under this Contract; and
- (3) Tax revenues from Maryland-based employees or locations, other than those that will be performing, or used to perform, work under this Contract.

5.4.2.15.6 Discussion of Maryland-based employees or locations may be appropriate if the Offeror makes some projection or guarantee of increased or retained presence based upon being awarded this Contract.

5.4.2.15.7 Examples of economic benefits to be derived from a contract may include any of the following. For each factor identified below, identify the specific benefit and contractual commitments and provide a breakdown of expenditures in that category:

- (1) The Contract dollars to be recycled into Maryland's economy in support of the Contract, through the use of Maryland subcontractors, suppliers and joint venture partners. Do not include actual fees or rates paid to subcontractors or information from your Financial Proposal;
- (2) The number and types of jobs for Maryland residents resulting from the Contract. Indicate job classifications, number of employees in each classification and aggregate payroll to which the Offeror has committed, including contractual commitments at both prime and, if applicable, subcontract levels. If no new positions or subcontracts are anticipated as a result of this Contract, so state explicitly;

- (3) Tax revenues to be generated for Maryland and its political subdivisions as a result of the Contract. Indicate tax category (sales taxes, payroll taxes, inventory taxes and estimated personal income taxes for new employees). Provide a forecast of the total tax revenues resulting from the Contract;
- (4) Subcontract dollars committed to Maryland small businesses and MBEs; and
- (5) Other benefits to the Maryland economy which the Offeror promises will result from awarding the Contract to the Offeror, including contractual commitments. Describe the benefit, its value to the Maryland economy, and how it will result from, or because of the Contract award. Offerors may commit to benefits that are not directly attributable to the Contract, but for which the Contract award may serve as a catalyst or impetus.

5.4.3 Additional Required Technical Submissions (Submit under TAB O).

5.4.3.1 The following documents shall be completed, signed, and included in the Technical Proposal, under TAB O that follows the material submitted in response to Section 5.4.2.

- a. Completed Proposal Affidavit (**Attachment C**).
- b. Completed Maryland Living Wage Requirements Affidavit of Agreement (**Attachment F-1**).

5.4.3.2 ***If Required**, the following documents shall be completed, signed, and included in the Technical Proposal, under TAB O that follows the material submitted in response to Section 5.4.2. *See appropriate RFP Section to determine whether the particular document is required for this procurement:

- (1) A Signed Statement from the Offeror’s Parent Organization Guaranteeing Performance of the Offeror. **See Section 4.16;**
- (2) Completed MDOT Certified MBE Utilization and Fair Solicitation Affidavit (**Attachment D-1A**). **See Section 4.26;**
- (3) Completed Federal Funds Attachment (**Attachment G**). **See Section 4.29;**
- (4) Completed Conflict of Interest Affidavit and Disclosure (**Attachment H**). **See Section 4.30;**
- (5) Completed Mercury Affidavit (**Attachment K**). **See Section 4.34;**
- (6) Completed Veteran-Owned Small Business Enterprise (VSBE) Utilization Affidavit and Prime/Subcontractor Participation Schedule. (**Attachment E-1**). **See Section 4.27;**
- (7) Completed Location of the Performance of Services Disclosure (**Attachment L**). **See Section 4.35;**
- (8) Litigation/Protest Bond (**Attachment P**). **See Section 4.44;**
- (9) Proposal Bond (**Attachment Q**). **See Section 4.43;**
- (10) Completed Proposed Airtime for Televised Drawings and Audience Delivery (Baltimore DMA) (**Attachment T**)
- (11) Completed Proposed Airtime for Televised Drawings and Audience Delivery (By County) (**Attachment U**); and
- (12) Completed Authorization for Release of Information (**Attachment V**).

5.5 Volume II – Financial Proposal

Under separate sealed cover from the Technical Proposal and clearly identified in the format identified in Section 5.2 “Proposals,” the Offeror shall submit an original unbound copy, six (6) copies, and an electronic version in Microsoft Word or Microsoft Excel of the Financial Proposal. The Financial Proposal shall contain all price information in the format specified in **Attachment B**. The Offeror shall complete the Financial Proposal Form only as provided in the Financial Proposal Instructions and the Financial Proposal Form itself.

SECTION 6 – EVALUATION AND SELECTION PROCESS

6.1 Evaluation Committee

Evaluation of Proposals will be performed in accordance with COMAR 21.05.03 by a committee established for that purpose and based on the Evaluation Criteria set forth below. The Evaluation Committee will be appointed by the Director and may include members of the Maryland Lottery and Gaming Control Commission (“Commission”). The Evaluation Committee will review Proposals, participate in Offeror oral presentations and discussions, and provide input to the Procurement Officer. The MLGCA reserves the right to utilize the services of individuals outside of the established Evaluation Committee for advice and assistance, as deemed appropriate.

6.2 Technical Proposal Evaluation Criteria

The Evaluation Criteria to be used to evaluate each Technical Proposal are listed below in descending order of importance. Any subcriteria within each Criterion have equal weight, except for Criterion 6.2.1 wherein the subcriteria are listed in descending order of importance.

6.2.1 Offeror’s Technical Response to RFP Requirements and Work Plan (See RFP § 5.4.2.6). The State prefers an Offeror’s response to work requirements in the RFP that illustrates a comprehensive understanding of work requirements and mastery of the subject matter, including an explanation of how the work will be done. Proposals which include limited responses to work requirements such as “concur” or “will comply” will receive a lower ranking than those Proposals that demonstrate an understanding of the work requirements and include plans to meet or exceed them.

1. Airtime for Drawings and Proposed Audience Delivery (Sections 5.4.2.6.2 and 5.4.2.6.3)
2. Creative Concepts for Presentation of Drawings and Host(s) (Sections 5.4.2.6.5 and 5.4.2.6.6)
3. Promotional Activity (Section 5.4.2.6.4)
4. Broadcast and Production Facility and its suitability for conducting, producing and broadcasting MLGCA Drawings; and, Drawing Machines (Sections 5.4.2.6.7 and 5.4.2.6.8)
5. Business Recovery Plan (Section 5.4.2.6.9)

6.2.2 Experience and Qualifications of Proposed Staff (See RFP § 5.4.2.7)

6.2.3 Offeror Qualifications and Capabilities, including proposed Subcontractors (See RFP § 5.4.2.8 – 5.4.2.14)

6.2.4 Economic Benefit to State of Maryland (See RFP § 5.4.2.15)

6.3 Financial Proposal Evaluation Criteria

All Qualified Offerors will be ranked from the lowest (most advantageous) to the highest (least advantageous) price based on the Total Proposal Price within the stated guidelines set forth in this RFP and as submitted on **Attachment B** - Financial Proposal Form.

6.4 Reciprocal Preference

Although Maryland law does not generally authorize procuring units to favor resident Offerors in awarding procurement contracts, many other states do grant their resident businesses preferences over Maryland contractors. Therefore, COMAR 21.05.01.04 permits procuring units to apply a reciprocal preference in favor of a Maryland resident business under the following conditions:

- The Maryland resident business is a responsible Offeror;
- The most advantageous offer is from a responsible Offeror whose principal office or principal operations through which it would provide the services required under this RFP is in another state;
- The other state gives a preference to its resident businesses through law, policy, or practice; and
- The Maryland resident preference does not conflict with a federal law or grant affecting the procurement Contract.

The preference given shall be identical to the preference that the other state, through law, policy, or practice gives to its resident businesses.

6.5 Selection Procedures

6.5.1 **General.** The Contract will be awarded in accordance with the Competitive Sealed Proposals (CSP) method found at COMAR 21.05.03. The Competitive Sealed Proposals method allows for the conducting of discussions and the revision of Proposals during these discussions. Therefore, the State may conduct discussions with all Offerors that have submitted Proposals that are determined to be reasonably susceptible of being selected for contract award or potentially so. However, the State reserves the right to make an award without holding discussions.

In either case (i.e., with or without discussions), the State may determine an Offeror to be not responsible and/or an Offeror's Proposal to be not reasonably susceptible of being selected for award at any time after the initial closing date for receipt of Proposals and prior to Contract award. If the State finds an Offeror to be not responsible and/or an Offeror's Technical Proposal to be not reasonably susceptible of being selected for award, that Offeror's Financial Proposal will subsequently be returned if the Financial Proposal is unopened at the time of the determination.

6.5.2 Selection Process Sequence

6.5.2.1 A determination is made that the MDOT Certified MBE Utilization and Fair Solicitation Affidavit (**Attachment D-1A**) is included and properly completed, if there is an MBE goal. In addition, a determination is made that the VSBE Utilization Affidavit and Subcontractor Participation Schedule (**Attachment E-1**) is included and is properly completed, if there is a VSBE goal. Finally, a determination is made that all Minimum Qualifications, if any (See RFP Section 1), have been satisfied.

6.5.2.2 Technical Proposals are evaluated for technical merit and ranked. During this review, oral presentations and discussions may be held. The purpose of such discussions will be to assure a full understanding of the State's requirements and Offeror's ability to perform the services, as well as facilitate arrival at a Contract that is most advantageous to the State. Offerors will be contacted by the State as soon as any discussions are scheduled.

6.5.2.3 Offerors must confirm in writing any substantive oral clarifications of, or changes in, their Technical Proposals made in the course of discussions. Any such written clarifications or changes then become part of the Offeror's Technical Proposal. Technical Proposals are given a final review and ranked.

6.5.2.4 The Financial Proposal of each Qualified Offeror (a responsible Offeror determined to have submitted an acceptable Proposal) will be evaluated and ranked separately from the Technical evaluation. After a review of the Financial Proposals of Qualified Offerors, the Evaluation Committee or Procurement Officer may again conduct discussions to further evaluate the Offeror's entire Proposal.

6.5.2.5 When in the best interest of the State, the Procurement Officer may permit Qualified Offerors to revise their initial Proposals and submit, in writing, Best and Final Offers (BAFOs). The State may make an award without issuing a request for a BAFO.

6.5.3 **Award Determination.** Upon completion of the Technical Proposal and Financial Proposal evaluations and rankings, each Offeror will receive an overall ranking. The Procurement Officer will recommend award of the Contract to the responsible Offeror that submitted the Proposal determined to be the most advantageous to the State. In making this most advantageous Proposal determination, *technical factors will receive higher weight than financial factors.*

6.6 Documents Required upon Notice of Recommendation for Contract Award

Upon receipt of a Notification of Recommendation for Contract Award, the following documents shall be completed, signed if applicable with original signatures, and submitted by the recommended awardee within five (5) Business Days, unless noted otherwise. Submit two (2) copies of each of the following documents:

- (1) Contract (**Attachment M**),
- (2) Contract Affidavit (**Attachment N**),
- (3) MBE **Attachments D-2 and D-3A/B**, within ten (10) Business Days, if applicable; *see **Section 4.26**,
- (4) MBE Waiver Justification within ten (10) Business Days (see **MBE Waiver Guidance and forms in Attachments D-1B and D-1C**), if a waiver has been requested (if applicable; *see **Section 4.26**),
- (5) VSBE **Attachment E-2**, if applicable *see **Section 4.27**,
- (6) Non-Disclosure Agreement (**Attachment I**), if applicable; *see **Section 4.31**,
- (7) HIPAA Business Associate Agreement (**Attachment J**), if applicable; *see **Section 4.32**,
- (8) DHR Hiring Agreement, **Attachment O**, if applicable *see **Section 4.36**,
- (9) Copy of a current Certificate of Insurance with the prescribed limits set forth in Section 3.1 “Insurance Requirements,” listing the State as an additional insured, if applicable; *see **Section 3.1**, and
- (10) Performance Bond (**Attachment R**), see **Section 3.11**.

THE REMAINDER OF THIS PAGE IS INTENTIONALLY LEFT BLANK.

RFP ATTACHMENTS

ATTACHMENT A – Pre-Proposal Conference Response Form

It is requested that this form be completed and submitted as described in RFP Section 4.1 by those potential Offerors that plan on attending the Pre-Proposal Conference.

ATTACHMENT B – Financial Proposal Instructions and Form

The Financial Proposal Form must be completed and submitted in the Financial Proposal package.

ATTACHMENT C –Proposal Affidavit

This Attachment must be completed and submitted with the Technical Proposal.

ATTACHMENTS D – Minority Business Enterprise Forms

If required (see RFP Section 4.26), these Attachments include the MBE subcontracting goal statement and instructions, and MBE Attachments D-1 through D-5. Attachment D-1 must be properly completed and submitted with the Offeror's Technical Proposal or the Proposal will be deemed not reasonably susceptible of being selected for award and rejected. Within ten (10) Business Days of receiving notification of recommendation for Contract award, the Offeror must submit Attachments D-2 and D-3A/B.

ATTACHMENTS E – Veteran-Owned Small Business Enterprise Forms

If required (see RFP Section 4.27), these Attachments include the VSBE Attachments E-1 through E-4. Attachment E-1 must be completed and submitted with the Technical Proposal. Attachment M-2 is required to be submitted within ten (10) Business Days of receiving notification of recommendation for award.

ATTACHMENT F – Maryland Living Wage Requirements for Service Contracts and Affidavit of Agreement

Attachment F-1 Living Wage Affidavit of Agreement must be completed and submitted with the Technical Proposal.

ATTACHMENT G – Federal Funds Attachment (Not Applicable)

ATTACHMENT H – Conflict of Interest Affidavit and Disclosure

If required (see RFP Section 4.30), this Attachment must be completed and submitted with the Technical Proposal.

ATTACHMENT I – Non-Disclosure Agreement

If required (see RFP Section 4.31), this Attachment must be completed and submitted within five (5) Business Days of receiving notification of recommendation for award. However, to expedite processing, it is suggested that this document be completed and submitted with the Technical Proposal.

ATTACHMENT J – HIPAA Business Associate Agreement (Not Applicable)

ATTACHMENT K – Mercury Affidavit (Not Applicable)

ATTACHMENT L – Location of the Performance of Services Disclosure

If required (see RFP Section 4.35), this Attachment must be completed and submitted with the Technical Proposal.

ATTACHMENT M – Contract

This is the sample contract used by the Department. It is provided with the RFP for informational purposes and is not required to be submitted at Proposal submission time. Upon notification of recommendation for award, a completed contract will be sent to the recommended awardee for signature. The recommended awardee must return to the Procurement Officer three (3) executed copies of the Contract within five (5) Business Days after receipt. Upon Contract award, a fully-executed copy will be sent to the Contractor.

ATTACHMENT N – Contract Affidavit

This Attachment must be completed and submitted by the recommended awardee to the Procurement Officer within five (5) Business Days of receiving notification of recommendation for award.

ATTACHMENT O – DHR (Department of Human Resources) Hiring Agreement (Not Applicable)

ATTACHMENT P – Litigation/Protest Bond

ATTACHMENT Q – Proposal Bond

ATTACHMENT R – Performance Bond

ATTACHMENT S – Draw Games Drawing Procedures

ATTACHMENT T – Proposed Airtime for Televised Drawings and Audience Delivery (Baltimore DMA)

ATTACHMENT U – Proposed Airtime for Televised Drawings and Audience Delivery (By County)

ATTACHMENT V - Authorization for Release of Information

ATTACHMENT W – Current Drawings Schedule

ATTACHMENT X –Drawing Machine Specifications

ATTACHMENT A – PRE-PROPOSAL CONFERENCE RESPONSE FORM

RFP Number 2017-02
TELEVISED DRAWINGS OF LOTTERY DRAW GAMES AND RELATED SERVICES

A Pre-Proposal Conference will be held at the date, time, and location indicated in the RFP Key Information Summary Sheet (near the beginning of the RFP, after the Title Page and Notice to Vendors).

Please return this form at least five (5) Business Days prior to the Pre-Proposal Conference date, advising whether or not you plan to attend. The completed form should be returned via e-mail or fax to the Procurement Officer. The Procurement Officer’s contact information is provided in the RFP Key Information Summary Sheet.

Please indicate:

_____ Yes, the following representatives will be in attendance:

- 1.
- 2.
- 3.

_____ No, we will not be in attendance.

Please specify whether any reasonable accommodations are requested (see RFP § 4.1 “Pre-Proposal Conference”):

Signature

Title

Name of Firm (please print)

B-1: FINANCIAL PROPOSAL INSTRUCTIONS

B-1-1 GENERAL REQUIREMENTS

In order to assist Offerors in the preparation of their Financial Proposal and to comply with the requirements of this RFP, Financial Proposal Instructions and a Financial Proposal Form have been prepared. Offerors shall submit their Financial Proposal on the Financial Proposal Form in accordance with the instructions on the Financial Proposal Form and as specified herein. Do not alter the Financial Proposal Form or the Proposal may be determined to be not reasonably susceptible of being selected for award. The Financial Proposal Form is to be signed and dated, where requested, by an individual who is authorized to bind the Offeror to the prices entered on the Financial Proposal Form.

The Offeror must provide complete price information for all services required. Offers to provide only partial services are not acceptable and shall be rejected

The Financial Proposal Form is used to calculate the Offeror's TOTAL PROPOSAL PRICE, which will be the "Basis For Award" and used for price evaluation, comparison and selection for recommendation for award. Follow these instructions carefully when completing your Financial Proposal Form:

- A) All Unit and Extended Prices must be clearly entered in dollars and cents, e.g., \$24.15. Make your decimal points clear and distinct.
- B) All Unit Prices must be the actual price per unit the State will pay for the specific item or service identified in this RFP and may not be contingent on any other factor or condition in any manner.
- C) All calculations shall be rounded to the nearest cent, i.e., .344 shall be .34 and .345 shall be .35.
- D) Any goods or services required through this RFP and proposed by the vendor at **No Cost to the State** must be clearly entered in the Unit Price, if appropriate, and Extended Price with **\$0.00**.
- E) Every blank in every Financial Proposal Form shall be filled in. Any changes or corrections made to the Financial Proposal Form by the Offeror prior to submission shall be initialed and dated.
- F) Except as instructed on the Financial Proposal Form, nothing shall be entered on or attached to the Financial Proposal Form that alters or proposes conditions or contingencies on the prices. Alterations and/or conditions may render the Proposal not reasonably susceptible of being selected for award.
- G) It is imperative that the prices included on the Financial Proposal Form have been entered correctly and calculated accurately by the Offeror and that the respective total prices agree with the entries on the Financial Proposal Form. Any incorrect entries or inaccurate calculations by the Offeror will be treated as provided in COMAR 21.05.03.03, and may cause the Proposal to be rejected.
- H) If option years are included, Offerors must submit pricing for each option year. Any option to renew will be exercised at the sole discretion of the State and comply with all terms and conditions in force at the time the option is exercised. If exercised, the option period shall be for a period identified in the RFP at the prices entered in the Financial Proposal Form.
- I) All Financial Proposal prices entered below are to be fully loaded prices that include all costs/expenses associated with the provision of services as required by the RFP. The Financial Proposal price shall include, but is not limited to, all: labor, profit/overhead, general operating, administrative, and all other expenses and costs necessary to perform the work set forth in the solicitation. No other amounts will be paid to the Contractor. If labor rates are requested, those amounts shall be fully-loaded rates; no overtime amounts will be paid.

- J) Unless indicated elsewhere in the RFP, sample amounts used for calculations on the Financial Proposal Form are typically estimates for evaluation purposes only. Unless stated otherwise in the RFP, the MLGCA does not guarantee a minimum or maximum number of units or usage in the performance of this Contract.
- K) Failure to adhere to any of these instructions may result in the Proposal being determined not reasonably susceptible of being selected for award.

B-1-2 CONTRACT PRICES

- A) The Offeror shall state its proposed price to provide all services, equipment, and personnel required by this RFP to *produce and televise* the MLGCA's Mandatory Drawings (Section 2.3.2.1.1) and to *produce* the MLGCA's Optional Drawings (Section 2.3.2.1.2). As specified in Section 2.3.2.1.1 Mandatory Drawings are Pick 3 & Pick 4 - Evening, Mega Millions and Powerball and as specified in Section 2.3.2.1.2 Optional Drawings are Pick 3 and Pick 4 Midday, Bonus Match 5 and Multi Match. The price to produce and televise all of the Mandatory Drawings and to produce all Optional Drawings shall be expressed as a FIRM-FIXED PRICE as stated on Attachment B-2 - Financial Proposal Form.
- B) The Offeror shall state its proposed price to televise each of the MLGCA's Optional Drawings which are specified in Section 2.3.2.1.2 as Pick 3 & Pick 4 - Midday, Bonus Match 5 and Multi Match. The price to televise each of the Optional Drawings shall be expressed as a FIRM-FIXED PRICE on Attachment B-2 - Financial Proposal Form. The MLGCA will decide at the time of Contract award which, if any, of the Optional Drawings it will televise. However, the MLGCA shall have the right to change which Optional Drawings are televised during the term of the Contract.
1. If the MLGCA decides to televise an Optional Drawing at the start of the Contract but later decides to stop televising the selected Drawing(s), the amount provided on Attachment B-2-Financial Proposal Form shall be prorated.
 2. If the MLGCA decides not to televise an Optional Drawing at the start of the Contract but later decides to televise the Drawing(s), assuming the proposed airtime is still available, the amount provided on Attachment B-2 - Financial Proposal Form shall be prorated. If the proposed air time is no longer available, the MLGCA may negotiate the amount to televise the Drawing at an alternative time.
- D) The Offeror shall state its proposed price to provide Additional Task II described in Section 2.3.3.1 –Virtual Set Design and Construction (Additional). The price shall be expressed as a FIRM-FIXED PRICE for Task II as stated on the Attachment B-2 - Financial Proposal Form.
- E) The Offeror shall state its proposed price to provide Additional Task III described in Section 2.3.3.2–Special Programming (Additional). The price shall be expressed as a FIRM-FIXED UNIT PRICE THIRTY MINUTE SHOW for Task III as stated on Attachment B-2 - Financial Proposal Form.
- F) The Offeror shall state its proposed price to provide Additional Task IV described in Section 2.3.3.3–Remote Drawings (Additional). The price shall be expressed as a FIRM-FIXED UNIT PRICE PER REMOTE DRAWING for Task IV as stated on Attachment B-2 - Financial Proposal Form.

B-2: FINANCIAL PROPOSAL FORM

TELEVISED DRAWINGS OF LOTTERY DRAW GAMES (#2017-01)

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

SERVICES REQUIRED (TASK I)

The Offeror shall state its price to provide all services, equipment, and personnel required by this RFP. Included in this price is the amount to produce all Drawings; televise, record and retain copies of all Mandatory Drawings as specified in Section 2.3.2.1.1 as Pick 3 and Pick 4 Evening, Mega Millions and Powerball; provide a Drawing host(s), live stream services for all Drawings; upload all Drawings to YouTube or comparable online media; provide promotional activity; provide Drawing machines, Ball sets and associated equipment and maintenance. The only items not included in this price are the amounts to televise the Optional Drawings and any or all of the Additional Tasks. The price shall be expressed as a FIRM-FIXED PRICE per month.

Services Required – Monthly Amount	Months	Contract Term	Total 3 Year Contract Amount
\$ _____	X 12 months	X 3 years	\$ _____ (A)

TELEVISION OPTIONAL DRAWINGS

A. The Offeror shall state the individual price to televise each of the Optional Drawings which are specified in Section 2.3.2.1.2 as Pick 3 and Pick 4 Midday, Bonus Match 5 and Multi Match. The price shall be expressed as a FIRM-FIXED PRICE per month.

B. At the time the contract is awarded, the MLGCA will decide which, if any, of the Optional Drawings it will televise, which may be changed by the MLGCA during the Contract term. If the MLGCA decides to televise one or more of the Optional Drawings the amount, as provided below, to televise the selected Drawing(s) will be paid to the Contractor.

Drawing	Monthly Amount to Televise the Drawing	Months	Contract Term	Total 3 Year Contract Amount
Pick 3 & Pick 4 Midday	\$ _____	X 12 months	X 3 years	\$ _____ (B)
Bonus Match 5	\$ _____	X 12 months	X 3 years	\$ _____ (C)
Multi-Match	\$ _____	X 12 months	X 3 years	\$ _____ (D)

TOTAL PROPOSAL PRICE (3 Years) = A + B + C + D = \$ _____
(BASIS OF AWARD)

ADDITIONAL TASKS

The Offeror must state its price to provide each of the Additional Tasks listed below. Prices for the Additional Tasks will not be evaluated or considered in the basis of award.

Additional Task II – The price shall be expressed as a FIRM-FIXED PRICE one-time cost for the Virtual Set Design and Construction as stated below.

Task II - VIRTUAL SET DESIGN AND CONSTRUCTION (Section 2.3.3.1)	\$ _____ (One Time Amount)
--	--------------------------------------

Additional Task III - The price shall be expressed as a FIRM-FIXED UNIT PRICE per as stated below.

Task III- SPECIAL PROGRAMMING (Section 2.3.3.2)	\$ _____ (Amount Per Thirty Minute Show)
--	--

Additional Task IV - The price shall be expressed as a FIRM-FIXED UNIT PRICE per Remote Drawing as stated below.(For Remote Drawings in excess of the four per year required in Section 2.3.2.12)

Task IV – REMOTE DRAWINGS (ADDITIONAL) (Section 2.3.3.3)	\$ _____ (Amount Per Remote Drawing)
---	--

All Prices proposed shall be firm fixed prices for the entire term of the Contract, to include the Renewal Option periods, if exercised, and any other extensions.

Submitted By:
Authorized Signature: _____ Date: _____
Printed Name and Title: _____
Offeror Name : _____
Offeror Address: _____
Location(s) from which services will be performed (City/State): _____
FEIN: _____ eMM # _____
Contact Information of Above Authorized Signatory: Telephone: (____) ____-- _____
Fax: (____) ____-- _____
E-mail: _____

ATTACHMENT C – PROPOSAL AFFIDAVIT

A. AUTHORITY

I hereby affirm that I, _____ (name of affiant) am the _____ (title) and duly authorized representative of _____ (name of business entity) and that I possess the legal authority to make this affidavit on behalf of the business for which I am acting.

B. CERTIFICATION REGARDING COMMERCIAL NONDISCRIMINATION

The undersigned Offeror hereby certifies and agrees that the following information is correct: In preparing its Proposal on this project, the Offeror has considered all Proposals submitted from qualified, potential subcontractors and suppliers, and has not engaged in “discrimination” as defined in § 19-103 of the State Finance and Procurement Article of the Annotated Code of Maryland. “Discrimination” means any disadvantage, difference, distinction, or preference in the solicitation, selection, hiring, or commercial treatment of a vendor, subcontractor, or commercial customer on the basis of race, color, religion, ancestry, or national origin, sex, age, marital status, sexual orientation, sexual identity, or on the basis of disability or any otherwise unlawful use of characteristics regarding the vendor’s, supplier’s, or commercial customer’s employees or owners. “Discrimination” also includes retaliating against any person or other entity for reporting any incident of “discrimination”. Without limiting any other provision of the solicitation on this project, it is understood that, if the certification is false, such false certification constitutes grounds for the State to reject the Proposal submitted by the Offeror on this project, and terminate any contract awarded based on the Proposal. As part of its Proposal, the Offeror herewith submits a list of all instances within the past four (4) years where there has been a final adjudicated determination in a legal or administrative proceeding in the State of Maryland that the Offeror discriminated against subcontractors, vendors, suppliers, or commercial customers, and a description of the status or resolution of that determination, including any remedial action taken. Offeror agrees to comply in all respects with the State’s Commercial Nondiscrimination Policy as described under Title 19 of the State Finance and Procurement Article of the Annotated Code of Maryland.

B-1. CERTIFICATION REGARDING MINORITY BUSINESS ENTERPRISES

The undersigned Offeror hereby certifies and agrees that it has fully complied with the State Minority Business Enterprise Law, State Finance and Procurement Article, § 14-308(a)(2), Annotated Code of Maryland, which provides that, except as otherwise provided by law, a contractor may not identify a certified minority business enterprise in a Proposal and:

- (1) Fail to request, receive, or otherwise obtain authorization from the certified minority business enterprise to identify the certified minority Proposal;
- (2) Fail to notify the certified minority business enterprise before execution of the contract of its inclusion in the Proposal;
- (3) Fail to use the certified minority business enterprise in the performance of the contract; or
- (4) Pay the certified minority business enterprise solely for the use of its name in the Proposal.

Without limiting any other provision of the solicitation on this project, it is understood that if the certification is false, such false certification constitutes grounds for the State to reject the Proposal submitted by the Offeror on this project, and terminate any contract awarded based on the Proposal.

B-2. CERTIFICATION REGARDING VETERAN-OWNED SMALL BUSINESS ENTERPRISES

The undersigned Offeror hereby certifies and agrees that it has fully complied with the State veteran-owned small business enterprise law, State Finance and Procurement Article, § 14-605, Annotated Code of Maryland, which provides that a person may not:

- (1) Knowingly and with intent to defraud, fraudulently obtain, attempt to obtain, or aid another person in fraudulently obtaining or attempting to obtain public money, procurement contracts, or funds expended under a procurement contract to which the person is not entitled under this title;

- (2) Knowingly and with intent to defraud, fraudulently represent participation of a veteran-owned small business enterprise in order to obtain or retain a Proposal preference or a procurement contract;
- (3) Willfully and knowingly make or subscribe to any statement, declaration, or other document that is fraudulent or false as to any material matter, whether or not that falsity or fraud is committed with the knowledge or consent of the person authorized or required to present the declaration, statement, or document;
- (4) Willfully and knowingly aid, assist in, procure, counsel, or advise the preparation or presentation of a declaration, statement, or other document that is fraudulent or false as to any material matter, regardless of whether that falsity or fraud is committed with the knowledge or consent of the person authorized or required to present the declaration, statement, or document;
- (5) Willfully and knowingly fail to file any declaration or notice with the unit that is required by COMAR 21.11.13; or
- (6) Establish, knowingly aid in the establishment of, or exercise control over a business found to have violated a provision of § B-2(1)-(5) of this regulation.

C. AFFIRMATION REGARDING BRIBERY CONVICTIONS

I FURTHER AFFIRM THAT:

Neither I, nor to the best of my knowledge, information, and belief, the above business (as is defined in Section 16-101(b) of the State Finance and Procurement Article of the Annotated Code of Maryland), or any of its officers, directors, partners, controlling stockholders, or any of its employees directly involved in the business's contracting activities including obtaining or performing contracts with public bodies has been convicted of, or has had probation before judgment imposed pursuant to Criminal Procedure Article, § 6-220, Annotated Code of Maryland, or has pleaded nolo contendere to a charge of, bribery, attempted bribery, or conspiracy to bribe in violation of Maryland law, or of the law of any other state or federal law, except as follows (indicate the reasons why the affirmation cannot be given and list any conviction, plea, or imposition of probation before judgment with the date, court, official or administrative body, the sentence or disposition, the name(s) of person(s) involved, and their current positions and responsibilities with the business):

D. AFFIRMATION REGARDING OTHER CONVICTIONS

I FURTHER AFFIRM THAT:

Neither I, nor to the best of my knowledge, information, and belief, the above business, or any of its officers, directors, partners, controlling stockholders, or any of its employees directly involved in the business's contracting activities including obtaining or performing contracts with public bodies, has:

- (1) Been convicted under state or federal statute of:
 - (a) A criminal offense incident to obtaining, attempting to obtain, or performing a public or private contract; or
 - (b) Fraud, embezzlement, theft, forgery, falsification or destruction of records or receiving stolen property;
- (2) Been convicted of any criminal violation of a state or federal antitrust statute;
- (3) Been convicted under the provisions of Title 18 of the United States Code for violation of the Racketeer Influenced and Corrupt Organization Act, 18 U.S.C. § 1961 et seq., or the Mail Fraud Act, 18 U.S.C. § 1341 et seq., for acts in connection with the submission of Proposals for a public or private contract;
- (4) Been convicted of a violation of the State Minority Business Enterprise Law, § 14-308 of the State Finance and Procurement Article of the Annotated Code of Maryland;

- (5) Been convicted of a violation of § 11-205.1 of the State Finance and Procurement Article of the Annotated Code of Maryland;
- (6) Been convicted of conspiracy to commit any act or omission that would constitute grounds for conviction or liability under any law or statute described in subsections (1)—(5) above;
- (7) Been found civilly liable under a state or federal antitrust statute for acts or omissions in connection with the submission of Proposals for a public or private contract;
- (8) Been found in a final adjudicated decision to have violated the Commercial Nondiscrimination Policy under Title 19 of the State Finance and Procurement Article of the Annotated Code of Maryland with regard to a public or private contract;
- (9) Been convicted of a violation of one or more of the following provisions of the Internal Revenue Code:
- (a) §7201, Attempt to Evade or Defeat Tax;
 - (b) §7203, Willful Failure to File Return, Supply Information, or Pay Tax,
 - (c) §7205, Fraudulent Withholding Exemption Certificate or Failure to Supply Information,
 - (d) §7206, Fraud and False Statements, or
 - (e) §7207, Fraudulent Returns, Statements, or Other Documents;
- (10) Been convicted of a violation of 18 U.S.C. §286, Conspiracy to Defraud the Government with Respect to Claims, 18 U.S.C. §287, False, Fictitious, or Fraudulent Claims, or 18 U.S.C. §371, Conspiracy to Defraud the United States;
- (11) Been convicted of a violation of the Tax-General Article, Title 13, Subtitle 7 or Subtitle 10, Annotated Code of Maryland;
- (12) Been found to have willfully or knowingly violated State Prevailing Wage Laws as provided in the State Finance and Procurement Article, Title 17, Subtitle 2, Annotated Code of Maryland, if:
- (a) A court:
 - (i) Made the finding; and
 - (ii) Decision became final; or
 - (b) The finding was:
 - (i) Made in a contested case under the Maryland Administrative Procedure Act; and
 - (ii) Not overturned on judicial review;
- (13) Been found to have willfully or knowingly violated State Living Wage Laws as provided in the State Finance and Procurement Article, Title 18, Annotated Code of Maryland, if:
- (a) A court:
 - (i) Made the finding; and
 - (ii) Decision became final; or
 - (b) The finding was:
 - (i) Made in a contested case under the Maryland Administrative Procedure Act; and
 - (ii) Not overturned on judicial review;
- (14) Been found to have willfully or knowingly violated the Labor and Employment Article, Title 3, Subtitles 3, 4, or 5, or Title 5, Annotated Code of Maryland, if:
- (a) A court:
 - (i) Made the finding; and
 - (ii) Decision became final; or
 - (b) The finding was:

- (i) Made in a contested case under the Maryland Administrative Procedure Act; and
- (ii) Not overturned on judicial review; or

(15) Admitted in writing or under oath, during the course of an official investigation or other proceedings, acts or omissions that would constitute grounds for conviction or liability under any law or statute described in §§ B and C and subsections D(1)—(14) above, except as follows (indicate reasons why the affirmations cannot be given, and list any conviction, plea, or imposition of probation before judgment with the date, court, official or administrative body, the sentence or disposition, the name(s) of the person(s) involved and their current positions and responsibilities with the business, and the status of any debarment):

E. AFFIRMATION REGARDING DEBARMENT

I FURTHER AFFIRM THAT:

Neither I, nor to the best of my knowledge, information, and belief, the above business, or any of its officers, directors, partners, controlling stockholders, or any of its employees directly involved in the business’s contracting activities, including obtaining or performing contracts with public bodies, has ever been suspended or debarred (including being issued a limited denial of participation) by any public entity, except as follows (list each debarment or suspension providing the dates of the suspension or debarment, the name of the public entity and the status of the proceedings, the name(s) of the person(s) involved and their current positions and responsibilities with the business, the grounds of the debarment or suspension, and the details of each person’s involvement in any activity that formed the grounds of the debarment or suspension).

F. AFFIRMATION REGARDING DEBARMENT OF RELATED ENTITIES

I FURTHER AFFIRM THAT:

(1) The business was not established and does not operate in a manner designed to evade the application of or defeat the purpose of debarment pursuant to Sections 16-101, et seq., of the State Finance and Procurement Article of the Annotated Code of Maryland; and

(2) The business is not a successor, assignee, subsidiary, or affiliate of a suspended or debarred business, except as follows (you must indicate the reasons why the affirmations cannot be given without qualification):

G. SUBCONTRACT AFFIRMATION

I FURTHER AFFIRM THAT:

Neither I, nor to the best of my knowledge, information, and belief, the above business, has knowingly entered into a contract with a public body under which a person debarred or suspended under Title 16 of the State Finance and Procurement Article of the Annotated Code of Maryland will provide, directly or indirectly, supplies, services, architectural services, construction related services, leases of real property, or construction.

H. AFFIRMATION REGARDING COLLUSION

I FURTHER AFFIRM THAT:

Neither I, nor to the best of my knowledge, information, and belief, the above business has:

- (1) Agreed, conspired, connived, or colluded to produce a deceptive show of competition in the compilation of the accompanying Proposal that is being submitted; or
- (2) In any manner, directly or indirectly, entered into any agreement of any kind to fix the Proposal price of the Offeror or of any competitor, or otherwise taken any action in restraint of free competitive bidding in connection with the contract for which the accompanying Proposal is submitted.

I. CERTIFICATION OF TAX PAYMENT

I FURTHER AFFIRM THAT:

Except as validly contested, the business has paid, or has arranged for payment of, all taxes due the State of Maryland and has filed all required returns and reports with the Comptroller of the Treasury, State Department of Assessments and Taxation, and Department of Labor, Licensing, and Regulation, as applicable, and will have paid all withholding taxes due the State of Maryland prior to final settlement.

J. CONTINGENT FEES

I FURTHER AFFIRM THAT:

The business has not employed or retained any person, partnership, corporation, or other entity, other than a bona fide employee, bona fide agent, bona fide salesperson, or commercial selling agency working for the business, to solicit or secure the Contract, and that the business has not paid or agreed to pay any person, partnership, corporation, or other entity, other than a bona fide employee, bona fide agent, bona fide salesperson, or commercial selling agency, any fee or any other consideration contingent on the making of the Contract.

K. CERTIFICATION REGARDING INVESTMENTS IN IRAN

(1) The undersigned certifies that, in accordance with State Finance and Procurement Article, §17-705, Annotated Code of Maryland:

- (a) It is not identified on the list created by the Board of Public Works as a person engaging in investment activities in Iran as described in State Finance and Procurement Article, §17-702, Annotated Code of Maryland; and
- (b) It is not engaging in investment activities in Iran as described in State Finance and Procurement Article, §17-702, Annotated Code of Maryland.

2. The undersigned is unable to make the above certification regarding its investment activities in Iran due to the following activities: _____

L. CONFLICT MINERALS ORIGINATED IN THE DEMOCRATIC REPUBLIC OF CONGO (FOR SUPPLIES AND SERVICES CONTRACTS)

I FURTHER AFFIRM THAT:

The business has complied with the provisions of State Finance and Procurement Article, §14-413, Annotated Code of Maryland governing proper disclosure of certain information regarding conflict minerals originating in the Democratic Republic of Congo or its neighboring countries as required by federal law.

M. I FURTHER AFFIRM THAT:

Any claims of environmental attributes made relating to a product or service included in the Proposal are consistent with the Federal Trade Commission’s Guides for the Use of Environmental Marketing Claims as provided in 16 C.F.R. §260, that apply to claims about the environmental attributes of a product, package, or service in connection with the marketing, offering for sale, or sale of such item or service.

N. ACKNOWLEDGEMENT

I ACKNOWLEDGE THAT this Affidavit is to be furnished to the Procurement Officer and may be distributed to units of: (1) the State of Maryland; (2) counties or other subdivisions of the State of Maryland; (3) other states; and (4) the federal government. I further acknowledge that this Affidavit is subject to applicable laws of the United States and the State of Maryland, both criminal and civil, and that nothing in this Affidavit or any contract resulting from the submission of this Proposal shall be construed to supersede, amend, modify or waive, on behalf of the State of Maryland, or any unit of the State of Maryland having jurisdiction, the exercise of any statutory right or remedy conferred by the Constitution and the laws of Maryland with respect to any misrepresentation made or any violation of the obligations, terms and covenants undertaken by the above business with respect to (1) this Affidavit, (2) the contract, and (3) other Affidavits comprising part of the contract.

I DO SOLEMNLY DECLARE AND AFFIRM UNDER THE PENALTIES OF PERJURY THAT THE CONTENTS OF THIS AFFIDAVIT ARE TRUE AND CORRECT TO THE BEST OF MY KNOWLEDGE, INFORMATION, AND BELIEF.

Date: _____

By: _____ (print name of Authorized Representative and Affiant)

_____ (signature of Authorized Representative and Affiant)

SUBMIT THIS AFFIDAVIT WITH PROPOSAL

ATTACHMENTS D – MINORITY BUSINESS ENTERPRISE FORMS

MBE ATTACHMENT D-1A MBE UTILIZATION AND FAIR SOLICITATION AFFIDAVIT & MBE PARTICIPATION SCHEDULE - INSTRUCTIONS

PLEASE READ BEFORE COMPLETING THIS DOCUMENT

This form includes Instructions and the MBE Utilization and Fair Solicitation Affidavit & MBE Participation Schedule which must be submitted with the Proposal. If the Offeror fails to accurately complete and submit this Affidavit and Schedule with the Proposal as required, the Procurement Officer shall determine that the Proposal is not reasonably susceptible of being selected for award.

1. Contractor shall structure its procedures for the performance of the work required in this Contract to attempt to achieve the minority business enterprise (MBE) subcontractor participation goal stated in the Request for Proposals. Contractor agrees to exercise good faith efforts to carry out the requirements set forth in these Instructions, as authorized by the Code of Maryland Regulations (COMAR) 21.11.03.
2. MBE Goals and Subgoals: Please review the solicitation for information regarding the Contract's MBE overall participation goals and subgoals. After satisfying the requirements for any established subgoals, the Contractor is encouraged to use a diverse group of subcontractors and suppliers from any/all of the various MBE classifications to meet the remainder of the overall MBE participation goal.
3. MBE means a minority business enterprise that is certified by the Maryland Department of Transportation ("MDOT"). Only MBEs certified by MDOT may be counted for purposes of achieving the MBE participation goals. In order to be counted for purposes of achieving the MBE participation goals, the MBE firm, including an MBE Prime, must be MDOT-certified for the services, materials or supplies that it is committed to perform on the MBE Participation Schedule.
4. Please refer to the MDOT MBE Directory at www.mdot.state.md.us to determine if a firm is certified with the appropriate North American Industry Classification System ("NAICS") Code **and** the product/services description (specific product that a firm is certified to provide or specific areas of work that a firm is certified to perform). For more general information about NAICS, please visit www.naics.com. Only those specific products and/or services for which a firm is certified in the MDOT Directory can be used for purposes of achieving the MBE participation goals. **WARNING:** If the firm's NAICS Code is in **graduated status**, such services/products **may not be counted** for purposes of achieving the MBE participation goals. A NAICS Code is in the graduated status if the term "Graduated" follows the Code in the MDOT MBE Directory.
5. **Guidelines Regarding MBE Prime Self-Performance:** Please note that when a certified MBE firm participates as a Prime contractor on a Contract, a procurement agency may count the distinct, clearly defined portion of the work of the Contract that the certified MBE firm performs with its own workforce toward fulfilling up to, but no more than, fifty-percent (50%) of the MBE participation goal (overall), including up to one hundred percent (100%) of not more than one of the MBE participation subgoals, if any, established for the Contract.
 - ✓ In order to receive credit for self-performance, an MBE Prime must be certified in the appropriate NAICS code to do the work and must list its firm in the MBE Participation Schedule, including the certification category under which the MBE Prime is self-performing and include information regarding the work it will self-perform.
 - ✓ For the remaining portion of the overall goal and the remaining subgoals, the MBE Prime must also identify on the MBE Participation Schedule the other certified MBE subcontractors used to meet those goals or request a waiver.

- ✓ These guidelines apply to the work performed by the MBE Prime that can be counted for purposes of meeting the MBE participation goals. These requirements do not affect the MBE Prime’s ability to self-perform a greater portion of the work in excess of what is counted for purposes of meeting the MBE participation goals.
 - ✓ Please note that the requirements to meet the MBE participation overall goal and subgoals are distinct and separate. If the Contract has subgoals, regardless of MBE Prime’s ability to self-perform up to 50% of the overall goal (including up to 100% of any subgoal), the MBE Prime must either commit to other MBEs for each of any remaining subgoals or request a waiver. As set forth in **Attachment D1-B Waiver Guidance**, the MBE Prime’s ability to self-perform certain portions of the work of the Contract will not be deemed a substitute for the good faith efforts to meet any remaining subgoal or the balance of the overall goal.
 - ✓ In certain instances where the percentages allocated to MBE participation subgoals add up to more than 50% of the overall goal, the portion of self-performed work that an MBE Prime may count toward the overall goal may be limited to less than 50%. Please refer to GOMA’s website (www.goma.maryland.gov) for the MBE Prime Regulations Q&A for illustrative examples.
6. Subject to items 1 through 5 above, when a certified MBE performs as a participant in a joint venture, a procurement agency may count a portion of the total dollar value of the Contract equal to the distinct, clearly-defined portion of the work of the Contract that the certified MBE performs with its own workforce towards fulfilling the Contract goal, and not more than one of the Contract subgoals, if any.
 7. As set forth in COMAR 21.11.03.12-1, once the Contract work begins, the work performed by a certified MBE firm, including an MBE prime, can only be counted towards the MBE participation goal(s) if the MBE firm is performing a commercially useful function on the Contract. Please refer to COMAR 21.11.03.12-1 for more information regarding these requirements.
 8. If you have any questions as to whether a firm is certified to perform the specific services or provide specific products, please contact MDOT’s Office of Minority Business Enterprise at 1-800-544-6056 or via email to mbe@mdot.state.md.us sufficiently prior to the submission due date.
 9. Worksheet: The percentage of MBE participation, calculated using the percentage amounts for all of the MBE firms listed on the Participation Schedule MUST at least equal the MBE participation goal **and** subgoals (if applicable) set forth in the solicitation. If a Offeror is unable to achieve the MBE participation goal and/or any subgoals (if applicable), the Offeror must request a waiver in Item 1 of the MBE Utilization and Fair Solicitation Affidavit (**Attachment D-1A**) or the Proposal will be determined to be not susceptible of being selected for award. You may wish to use the Subgoal summary below to assist in calculating the percentages and confirm that you have met the applicable MBE participation goal and subgoals, if any.

SUBGOALS (IF APPLICABLE)

TOTAL AFRICAN AMERICAN MBE PARTICIPATION:	<u>N/A</u>	%
TOTAL ASIAN AMERICAN MBE PARTICIPATION:	<u>N/A</u>	%
TOTAL HISPANIC AMERICAN MBE PARTICIPATION:	<u>N/A</u>	%
TOTAL WOMEN-OWNED MBE PARTICIPATION:	<u>N/A</u>	%

OVERALL GOAL

TOTAL MBE PARTICIPATION (INCLUDE ALL CATEGORIES):	<u>25.0</u>	%
--	-------------	---

MBE ATTACHMENT D-1A
MBE UTILIZATION AND FAIR SOLICITATION AFFIDAVIT
& MBE PARTICIPATION SCHEDULE

This MBE Utilization and Fair Solicitation Affidavit and MBE Participation Schedule must be completed in its entirety and included with the Proposal. If the Offeror fails to accurately complete and submit this Affidavit and Schedule with the Proposal as required, the Procurement Officer shall determine that the Proposal is not reasonably susceptible of being selected for award.

In connection with the Proposal submitted in response to RFP No. 2017-02, I affirm the following:

1. MBE Participation (PLEASE CHECK ONLY ONE)

I acknowledge and intend to meet IN FULL both the overall certified Minority Business Enterprise (MBE) participation goal of **25.0%** percent and all of the following subgoals:

(N/A) percent for African American-owned MBE firms

(N/A) percent for Hispanic American-owned MBE firms

(N/A) percent for Asian American-owned MBE firms

(N/A) percent for Women-owned MBE firms

Therefore, I am not seeking a waiver pursuant to COMAR 21.11.03.11. I acknowledge that by checking the above box and agreeing to meet the stated goal and subgoal(s), if any, I must complete the MBE Participation Schedule (Item 4 below) in order to be considered for award.

OR

I conclude that I am unable to achieve the MBE participation goal and/or subgoals. I hereby request a waiver, in whole or in part, of the overall goal and/or subgoals. I acknowledge that by checking this box and requesting a partial waiver of the stated goal and/or one or more of the stated subgoal(s) if any, I must complete the MBE Participation Schedule (Item 4 below) for the portion of the goal and/or subgoal(s) if any, for which I am not seeking a waiver, in order to be considered for award.

2. Additional MBE Documentation

I understand that if I am notified that I am the apparent awardee or as requested by the Procurement Officer, I must submit the following documentation within 10 Business Days of receiving notice of the potential award or from the date of conditional award (per COMAR 21.11.03.10), whichever is earlier:

(b) Good Faith Efforts Documentation to Support Waiver Request (**Attachment D-1C**)

(c) Outreach Efforts Compliance Statement (**Attachment D-2**);

(d) MBE Subcontractor/MBE Prime Project Participation Statement (**Attachments D-3A/B**);

(e) Any other documentation, including additional waiver documentation if applicable, required by the Procurement Officer in connection with the certified MBE participation goal and subgoals, if any.

I understand that if I fail to return each completed document within the required time, the Procurement Officer may determine that my proposal is not susceptible of being selected for contract award. If the Contract has already been awarded, the award is voidable.

3. Information Provided to MBE firms

In the solicitation of subcontract quotations or offers, MBE firms were provided not less than the same information and amount of time to respond as were non-MBE firms.

4. MBE Participation Schedule

Set forth below are the (i) certified MBEs I intend to use, (ii) percentage of the total Contract amount allocated to each MBE for this project and (iii) items of work each MBE will provide under the Contract. I have confirmed with the MDOT database that the MBE firms identified below (including any self-performing MBE prime firms) are performing work activities for which they are MDOT-certified.

Prime Contractor	Project Description	PROJECT/CONTRACT NUMBER

LIST INFORMATION FOR EACH CERTIFIED MBE FIRM YOU AGREE TO USE TO ACHIEVE THE MBE PARTICIPATION GOAL AND SUBGOALS, IF ANY. MBE PRIMES: PLEASE COMPLETE BOTH SECTIONS A AND B BELOW.

SECTION A: For MBE Prime Contractors ONLY (including MBE Primes in a Joint Venture)

<p>MBE Prime Firm Name: _____</p> <p>MBE Certification Number: _____</p> <p>(If dually certified, check only one box.)</p> <p><input type="checkbox"/> African American-Owned <input type="checkbox"/> Hispanic American-Owned <input type="checkbox"/> Asian American-Owned <input type="checkbox"/> Women-Owned <input type="checkbox"/> Other MBE Classification</p>	<p>Percentage of total Contract Value to be performed with own forces and counted towards the MBE overall participation goal (up to 50% of the overall goal): _____%</p> <p>Percentage of total Contract Value to be performed with own forces and counted towards the subgoal, if any, for my MBE classification (up to 100% of not more than one subgoal): _____%</p> <p>Description of the Work to be performed with MBE prime’s own workforce: _____ _____</p>
---	---

SECTION B: For all Contractors (including MBE Primes and MBE Primes in a Joint Venture)

<p>MBE Firm Name: _____</p> <p>MBE Certification Number: _____</p> <p>(If dually certified, check only one box.)</p> <p><input type="checkbox"/> African American-Owned <input type="checkbox"/> Hispanic American-Owned <input type="checkbox"/> Asian American-Owned <input type="checkbox"/> Women-Owned <input type="checkbox"/> Other MBE Classification</p>	<p>Percentage of Total Contract to be provided by this MBE: _____%</p> <p>Description of the Work to be Performed: _____ _____ _____ _____</p>
---	--

<p>MBE Firm Name: _____</p> <p>MBE Certification Number: _____</p> <p>(If dually certified, check only one box.)</p> <p><input type="checkbox"/> African American-Owned <input type="checkbox"/> Hispanic American-Owned</p> <p><input type="checkbox"/> Asian American-Owned <input type="checkbox"/> Women-Owned</p> <p><input type="checkbox"/> Other MBE Classification</p>	<p>Percentage of Total Contract to be provided by this MBE: _____%</p> <p>Description of the Work to be Performed:</p> <p>_____</p> <p>_____</p> <p>_____</p> <p>_____</p>
<p>MBE Firm Name: _____</p> <p>MBE Certification Number: _____</p> <p>(If dually certified, check only one box.)</p> <p><input type="checkbox"/> African American-Owned <input type="checkbox"/> Hispanic American-Owned</p> <p><input type="checkbox"/> Asian American-Owned <input type="checkbox"/> Women-Owned</p> <p><input type="checkbox"/> Other MBE Classification</p>	<p>Percentage of Total Contract to be provided by this MBE: _____%</p> <p>Description of the Work to be Performed:</p> <p>_____</p> <p>_____</p> <p>_____</p> <p>_____</p>
<p>MBE Firm Name: _____</p> <p>MBE Certification Number: _____</p> <p>(If dually certified, check only one box.)</p> <p><input type="checkbox"/> African American-Owned <input type="checkbox"/> Hispanic American-Owned</p> <p><input type="checkbox"/> Asian American-Owned <input type="checkbox"/> Women-Owned</p> <p><input type="checkbox"/> Other MBE Classification</p>	<p>Percentage of Total Contract to be provided by this MBE: _____%</p> <p>Description of the Work to be Performed:</p> <p>_____</p> <p>_____</p> <p>_____</p> <p>_____</p>
<p>MBE Firm Name: _____</p> <p>MBE Certification Number: _____</p> <p>(If dually certified, check only one box.)</p> <p><input type="checkbox"/> African American-Owned <input type="checkbox"/> Hispanic American-Owned</p> <p><input type="checkbox"/> Asian American-Owned <input type="checkbox"/> Women-Owned</p> <p><input type="checkbox"/> Other MBE Classification</p>	<p>Percentage of Total Contract to be provided by this MBE: _____%</p> <p>Description of the Work to be Performed:</p> <p>_____</p> <p>_____</p> <p>_____</p> <p>_____</p>

(Continue on separate page if needed)

I solemnly affirm under the penalties of perjury that: (i) I have reviewed the instructions for the MBE Utilization & Fair Solicitation Affidavit and MBE Schedule, and (ii) the information contained in the MBE Utilization & Fair Solicitation Affidavit and MBE Schedule is true to the best of my knowledge, information and belief.

Offeror Name
(PLEASE PRINT OR TYPE)

Signature of Authorized Representative

Address

Printed Name and Title

City, State and Zip Code

Date

SUBMIT THIS AFFIDAVIT WITH PROPOSAL

MBE ATTACHMENT D-1B **WAIVER GUIDANCE**

GUIDANCE FOR DOCUMENTING GOOD FAITH EFFORTS TO MEET MBE PARTICIPATION GOALS

In order to show that it has made good faith efforts to meet the Minority Business Enterprise (MBE) participation goal (including any MBE subgoals) on a contract, the Offeror must either (1) meet the MBE Goal(s) and document its commitments for participation of MBE Firms, or (2) when it does not meet the MBE Goal(s), document its Good Faith Efforts to meet the goal(s).

I. Definitions

MBE Goal(s) – “MBE Goal(s)” refers to the MBE participation goal and MBE participation subgoal(s).

Good Faith Efforts – The “Good Faith Efforts” requirement means that when requesting a waiver, the Offeror must demonstrate that it took all necessary and reasonable steps to achieve the MBE Goal(s), which, by their scope, intensity, and appropriateness to the objective, could reasonably be expected to obtain sufficient MBE participation, even if those steps were not fully successful. Whether a Offeror that requests a waiver made adequate good faith efforts will be determined by considering the quality, quantity, and intensity of the different kinds of efforts that the Offeror has made. The efforts employed by the Offeror should be those that one could reasonably expect a Offeror to take if the Offeror were actively and aggressively trying to obtain MBE participation sufficient to meet the MBE contract goal and subgoals. Mere *pro forma* efforts are not good faith efforts to meet the MBE contract requirements. The determination concerning the sufficiency of the Offeror’s good faith efforts is a judgment call; meeting quantitative formulas is not required.

Identified Firms – “Identified Firms” means a list of the MBEs identified by the procuring agency during the goal setting process and listed in the procurement as available to perform the Identified Items of Work. It also may include additional MBEs identified by the Offeror as available to perform the Identified Items of Work, such as MBEs certified or granted an expansion of services after the procurement was issued. If the procurement does not include a list of Identified Firms, this term refers to all of the MBE Firms (if State-funded) the Offeror identified as available to perform the Identified Items of Work and should include all appropriately certified firms that are reasonably identifiable.

Identified Items of Work – “Identified Items of Work” means the Proposal items identified by the procuring agency during the goal setting process and listed in the procurement as possible items of work for performance by MBE Firms. It also may include additional portions of items of work the Offeror identified for performance by MBE Firms to increase the likelihood that the MBE Goal(s) will be achieved. If the procurement does not include a list of Identified Items of Work, this term refers to all of the items of work the Offeror identified as possible items of work for performance by MBE Firms and should include all reasonably identifiable work opportunities.

MBE Firms – “MBE Firms” refers to firms certified by the Maryland Department of Transportation (“MDOT”) under COMAR 21.11.03. Only MDOT-certified MBE Firms can participate in the State’s MBE Program.

II. Types of Actions Agency will Consider

The Offeror is responsible for making relevant portions of the work available to MBE subcontractors and suppliers and select those portions of the work or material needs consistent with the available MBE subcontractors and suppliers, so as to facilitate MBE participation. The following is a list of types of actions the procuring agency will consider as part of the Offeror's Good Faith Efforts when the Offeror fails to meet the MBE Goal(s). This list is not intended to be a mandatory checklist, nor is it intended to be exclusive or exhaustive. Other factors or types of efforts may be relevant in appropriate cases.

A. Identify Proposal Items as Work for MBE Firms

1. Identified Items of Work in Procurements
 - (a) Certain procurements will include a list of Proposal items identified during the goal setting process as possible work for performance by MBE Firms. If the procurement provides a list of Identified Items of Work, the Offeror shall make all reasonable efforts to solicit quotes from MBE Firms to perform that work.
 - (b) Offerors may, and are encouraged to, select additional items of work to be performed by MBE Firms to increase the likelihood that the MBE Goal(s) will be achieved.
2. Identified Items of Work by Offerors
 - (a) When the procurement does not include a list of Identified Items of Work or for additional Identified Items of Work, Offerors should reasonably identify sufficient items of work to be performed by MBE Firms.
 - (b) Where appropriate, Offerors should break out contract work items into economically feasible units to facilitate MBE participation, rather than perform these work items with their own forces. The ability or desire of a Prime contractor to perform the work of a contract with its own organization does not relieve the Offeror of the responsibility to make Good Faith Efforts.

B. Identify MBE Firms to Solicit

1. MBE Firms Identified in Procurements
 - (a) Certain procurements will include a list of the MBE Firms identified during the goal setting process as available to perform the items of work. If the procurement provides a list of Identified MBE Firms, the Offeror shall make all reasonable efforts to solicit those MBE firms.
 - (b) Offerors may, and are encouraged to, search the MBE Directory to identify additional MBEs who may be available to perform the items of work, such as MBEs certified or granted an expansion of services after the solicitation was issued.
2. MBE Firms Identified by Offerors
 - (a) When the procurement does not include a list of Identified MBE Firms, Offerors should reasonably identify the MBE Firms that are available to perform the Identified Items of Work.
 - (b) Any MBE Firms identified as available by the Offeror should be certified to perform the Identified Items of Work.

C. Solicit MBEs

1. Solicit all Identified Firms for all Identified Items of Work by providing written notice. The Offeror should:
 - (a) provide the written solicitation at least 10 days prior to Proposal opening to allow sufficient time for the MBE Firms to respond;
 - (b) send the written solicitation by first-class mail, facsimile, or email using contact information in the MBE Directory, unless the Offeror has a valid basis for using different contact information; and
 - (c) provide adequate information about the plans, specifications, anticipated time schedule for portions of the work to be performed by the MBE, and other requirements of the contract to assist MBE Firms in responding. (This information may be provided by including hard copies in the written solicitation or by electronic means as described in C.3 below.)

2. “All” Identified Firms includes the MBEs listed in the procurement and any MBE Firms you identify as potentially available to perform the Identified Items of Work, but it does not include MBE Firms who are no longer certified to perform the work as of the date the Offeror provides written solicitations.
3. “Electronic Means” includes, for example, information provided *via* a website or file transfer protocol (FTP) site containing the plans, specifications, and other requirements of the contract. If an interested MBE cannot access the information provided by electronic means, the Offeror must make the information available in a manner that is accessible to the interested MBE.
4. Follow up on initial written solicitations by contacting MBEs to determine if they are interested. The follow up contact may be made:
 - (a) by telephone using the contact information in the MBE Directory, unless the Offeror has a valid basis for using different contact information; or
 - (b) in writing *via* a method that differs from the method used for the initial written solicitation.
5. In addition to the written solicitation set forth in C.1 and the follow up required in C.4, use all other reasonable and available means to solicit the interest of MBE Firms certified to perform the work of the contract. Examples of other means include:
 - (a) attending any pre-proposal meetings at which MBE Firms could be informed of contracting and subcontracting opportunities; and
 - (b) if recommended by the procurement, advertising with or effectively using the services of at least two minority focused entities or media, including trade associations, minority/women community organizations, minority/women contractors’ groups, and local, state, and federal minority/women business assistance offices listed on the MDOT Office of Minority Business Enterprise website.

D. Negotiate With Interested MBE Firms

Offerors must negotiate in good faith with interested MBE Firms.

1. Evidence of negotiation includes, without limitation, the following:
 - (a) the names, addresses, and telephone numbers of MBE Firms that were considered;
 - (b) a description of the information provided regarding the plans and specifications for the work selected for subcontracting and the means used to provide that information; and
 - (c) evidence as to why additional agreements could not be reached for MBE Firms to perform the work.
2. An Offeror using good business judgment would consider a number of factors in negotiating with subcontractors, including MBE subcontractors, and would take a firm's price and capabilities as well as contract goals into consideration.
3. The fact that there may be some additional costs involved in finding and using MBE Firms is not in itself sufficient reason for a Offeror’s failure to meet the contract MBE goal(s), as long as such costs are reasonable. Factors to take into consideration when determining whether an MBE Firm’s quote is excessive or unreasonable include, without limitation, the following:
 - (a) dollar difference between the MBE subcontractor’s quote and the average of the other subcontractors’ quotes received by the Offeror;
 - (b) percentage difference between the MBE subcontractor’s quote and the average of the other subcontractors’ quotes received by the Offeror;
 - (c) percentage that the MBE subcontractor’s quote represents of the overall contract amount;
 - (d) number of MBE firms that the Offeror solicited for that portion of the work;
 - (e) whether the work described in the MBE and Non-MBE subcontractor quotes (or portions thereof) submitted for review is the same or comparable; and
 - (f) number of quotes received by the Offeror for that portion of the work.

4. The above factors are not intended to be mandatory, exclusive, or exhaustive, and other evidence of an excessive or unreasonable price may be relevant.
5. The Offeror may not use its price for self-performing work as a basis for rejecting an MBE Firm's quote as excessive or unreasonable.
6. The "average of the other subcontractors' quotes received" by the Offeror refers to the average of the quotes received from all subcontractors. Offeror should attempt to receive quotes from at least three subcontractors, including one quote from an MBE and one quote from a Non-MBE.
7. An Offeror shall not reject an MBE Firm as unqualified without sound reasons based on a thorough investigation of the firm's capabilities. For each certified MBE that is rejected as unqualified or that placed a subcontract quotation or offer that the Offeror concludes is not acceptable, the Offeror must provide a written detailed statement listing the reasons for this conclusion. The Offeror also must document the steps taken to verify the capabilities of the MBE and Non-MBE Firms quoting similar work.
 - (a) The factors to take into consideration when assessing the capabilities of an MBE Firm, include, but are not limited to the following: financial capability, physical capacity to perform, available personnel and equipment, existing workload, experience performing the type of work, conduct and performance in previous contracts, and ability to meet reasonable contract requirements.
 - (b) The MBE Firm's standing within its industry, membership in specific groups, organizations, or associations and political or social affiliations (for example union vs. non-union employee status) are not legitimate causes for the rejection or non-solicitation of bids in the efforts to meet the project goal.

E. Assisting Interested MBE Firms

When appropriate under the circumstances, the decision-maker will consider whether the Offeror made reasonable efforts to assist interested MBR Firms in obtaining:

1. The bonding, lines of credit, or insurance required by the procuring agency or the Offeror; and
2. Necessary equipment, supplies, materials, or related assistance or services.

III. Other Considerations

In making a determination of Good Faith Efforts the decision-maker may consider engineering estimates, catalogue prices, general market availability and availability of certified MBE Firms in the area in which the work is to be performed, other bids or offers and subcontract bids or offers substantiating significant variances between certified MBE and Non-MBE costs of participation, and their impact on the overall cost of the contract to the State and any other relevant factors.

The decision-maker may take into account whether an Offeror decided to self-perform subcontract work with its own forces, especially where the self-performed work is Identified Items of Work in the procurement. The decision-maker also may take into account the performance of other Offerors in meeting the contract. For example, when the apparent successful Offeror fails to meet the contract goal, but others meet it, this reasonably raises the question of whether, with additional reasonable efforts, the apparent successful Offeror could have met the goal. If the apparent successful Offeror fails to meet the goal, but meets or exceeds the average MBE participation obtained by other Offerors, this, when viewed in conjunction with other factors, could be evidence of the apparent successful Offeror having made Good Faith Efforts.

IV. Documenting Good Faith Efforts

At a minimum, an Offeror seeking a waiver of the MBE Goal(s) or a portion thereof must provide written documentation of its Good Faith Efforts, in accordance with COMAR 21.11.03.11, within 10 business days after receiving notice that it is the apparent awardee. The written documentation shall include the following:

A. Items of Work (Complete Good Faith Efforts Documentation Attachment D-1C, Part 1)

A detailed statement of the efforts made to select portions of the work proposed to be performed by certified MBE Firms in order to increase the likelihood of achieving the stated MBE Goal(s).

B. Outreach/Solicitation/Negotiation

1. The record of the Offeror's compliance with the outreach efforts prescribed by COMAR 21.11.03.09C(2)(a). **(Complete Outreach Efforts Compliance Statement – Attachment D-2).**
2. A detailed statement of the efforts made to contact and negotiate with MBE Firms including:
 - (a) the names, addresses, and telephone numbers of the MBE Firms who were contacted, with the dates and manner of contacts (letter, fax, email, telephone, etc.) **(Complete Good Faith Efforts Attachment D-1C-Part 2, and submit letters, fax cover sheets, emails, etc. documenting solicitations);** and
 - (b) a description of the information provided to MBE Firms regarding the plans, specifications, and anticipated time schedule for portions of the work to be performed and the means used to provide that information.

C. Rejected MBE Firms (Complete Good Faith Efforts Attachment D-1C, Part 3)

1. For each MBE Firm that the Offeror concludes is not acceptable or qualified, a detailed statement of the reasons for the Offeror's conclusion, including the steps taken to verify the capabilities of the MBE and Non-MBE Firms quoting similar work.
2. For each certified MBE Firm that the Offeror concludes has provided an excessive or unreasonable price, a detailed statement of the reasons for the Offeror's conclusion, including the quotes received from all MBE and Non-MBE firms bidding on the same or comparable work. **(Include copies of all quotes received.)**
3. A list of MBE Firms contacted but found to be unavailable. This list should be accompanied by an MBE Unavailability Certificate (see **D-1B - Exhibit A** to this Part 1) signed by the MBE contractor or a statement from the Offeror that the MBE contractor refused to sign the MBE Unavailability Certificate.

D. Other Documentation

1. Submit any other documentation requested by the Procurement Officer to ascertain the Offeror's Good Faith Efforts.
2. Submit any other documentation the Offeror believes will help the Procurement Officer ascertain its Good Faith Efforts.

MBE ATTACHMENT D-1B - Exhibit A
MBE Subcontractor Unavailability Certificate

1. It is hereby certified that the firm of _____
 _____ (Name of Minority firm)
 located at _____
 _____ (Number) _____ (Street)

 _____ (City) _____ (State) _____ (Zip)

was offered an opportunity to bid on Solicitation No. _____
 in _____ County by _____
 _____ (Name of Prime Contractor's Firm)

2. _____ (Minority Firm), is either unavailable for the
 work/service or unable to prepare a bid for this project for the following reason(s):

_____	_____	_____
Signature of Minority Firm's MBE Representative	Title	Date

_____	_____
MDOT CERTIFICATION #	TELEPHONE #

3. To be completed by the prime contractor if Section 2 of this form is not completed by the minority firm.

To the best of my knowledge and belief, said Certified Minority Business Enterprise is either unavailable for the work/service for this project, is unable to prepare a bid, or did not respond to a request for a price proposal and has not completed the above portion of this submittal.

_____	_____	_____
Signature of Prime Contractor	Title	Date

MBE ATTACHMENT D-1C
GOOD FAITH EFFORTS DOCUMENTATION TO SUPPORT WAIVER REQUEST

PAGE __ OF __

Prime Contractor	Project Description	SOLICITATION NUMBER

PARTS 1, 2, AND 3 MUST BE INCLUDED WITH THIS CERTIFICATE ALONG WITH ALL DOCUMENTS SUPPORTING YOUR WAIVER REQUEST.

I affirm that I have reviewed **Attachment D-1B**, Waiver Guidance. I further affirm under penalties of perjury that the contents of Parts 1, 2, and 3 of this **Attachment D-1C** Good Faith Efforts Documentation Form are true to the best of my knowledge, information, and belief.

Company Name

Signature of Representative

Address

Printed Name and Title

City, State and Zip Code

Date

**GOOD FAITH EFFORTS DOCUMENTATION
TO SUPPORT WAIVER REQUEST**

**PART 1 – IDENTIFIED ITEMS OF WORK OFFEROR MADE AVAILABLE TO MBE
FIRMS**

PAGE __ OF __

Prime Contractor	Project Description	SOLICITATION NUMBER

Identify those items of work that the Offeror made available to MBE Firms. This includes, where appropriate, those items the Offeror identified and determined to subdivide into economically feasible units to facilitate the MBE participation. For each item listed, show the anticipated percentage of the total contract amount. It is the Offeror’s responsibility to demonstrate that sufficient work to meet the goal was made available to MBE Firms, and the total percentage of the items of work identified for MBE participation equals or exceeds the percentage MBE goal set for the procurement. Note: If the procurement includes a list of Proposal items identified during the goal setting process as possible items of work for performance by MBE Firms, the Offeror should make all of those items of work available to MBE Firms or explain why that item was not made available. If the Offeror selects additional items of work to make available to MBE Firms, those additional items should also be included below.

Identified Items of Work	Was this work listed in the procurement?	Does Offeror normally self-perform this work?	Was this work made available to MBE Firms? If no, explain why?
	<input type="checkbox"/> Yes <input type="checkbox"/> No	<input type="checkbox"/> Yes <input type="checkbox"/> No	<input type="checkbox"/> Yes <input type="checkbox"/> No
	<input type="checkbox"/> Yes <input type="checkbox"/> No	<input type="checkbox"/> Yes <input type="checkbox"/> No	<input type="checkbox"/> Yes <input type="checkbox"/> No
	<input type="checkbox"/> Yes <input type="checkbox"/> No	<input type="checkbox"/> Yes <input type="checkbox"/> No	<input type="checkbox"/> Yes <input type="checkbox"/> No
	<input type="checkbox"/> Yes <input type="checkbox"/> No	<input type="checkbox"/> Yes <input type="checkbox"/> No	<input type="checkbox"/> Yes <input type="checkbox"/> No
	<input type="checkbox"/> Yes <input type="checkbox"/> No	<input type="checkbox"/> Yes <input type="checkbox"/> No	<input type="checkbox"/> Yes <input type="checkbox"/> No
	<input type="checkbox"/> Yes <input type="checkbox"/> No	<input type="checkbox"/> Yes <input type="checkbox"/> No	<input type="checkbox"/> Yes <input type="checkbox"/> No
	<input type="checkbox"/> Yes <input type="checkbox"/> No	<input type="checkbox"/> Yes <input type="checkbox"/> No	<input type="checkbox"/> Yes <input type="checkbox"/> No
	<input type="checkbox"/> Yes <input type="checkbox"/> No	<input type="checkbox"/> Yes <input type="checkbox"/> No	<input type="checkbox"/> Yes <input type="checkbox"/> No

Please check if Additional Sheets are attached.

**GOOD FAITH EFFORTS DOCUMENTATION
TO SUPPORT WAIVER REQUEST**

PART 2 – IDENTIFIED MBE FIRMS AND RECORD OF SOLICITATIONS

PAGE __ OF __

Prime Contractor	Project Description	SOLICITATION NUMBER

Identify the MBE Firms solicited to provide quotes for the Identified Items of Work made available for MBE participation. Include the name of the MBE Firm solicited, items of work for which quotes were solicited, date and manner of initial and follow-up solicitations, whether the MBE provided a quote, and whether the MBE is being used to meet the MBE participation goal. MBE Firms used to meet the participation goal must be included on the MBE Participation Schedule. Note: If the procurement includes a list of the MBE Firms identified during the goal setting process as potentially available to perform the items of work, the Offeror should solicit all of those MBE Firms or explain why a specific MBE was not solicited. If the Offeror identifies additional MBE Firms who may be available to perform Identified Items of Work, those additional MBE Firms should also be included below. Copies of all written solicitations and documentation of follow-up calls to MBE Firms must be attached to this form. This list should be accompanied by a Minority Contractor Unavailability Certificate signed by the MBE contractor or a statement from the Offeror that the MBE contractor refused to sign the Minority Contractor Unavailability Certificate (see **Attachment D-1B – Exhibit A**). If the Offeror used a Non-MBE or is self-performing the identified items of work, Part 3 must be completed.

Name of Identified MBE Firm & MBE Classification	Describe Item of Work Solicited	Initial Solicitation Date & Method	Follow-up Solicitation Date & Method	Details for Follow-up Calls	Quote Rec'd	Quote Used	Reason Quote Rejected
Firm Name: <hr/> MBE Classification (Check only if requesting waiver of MBE subgoal.) <input type="checkbox"/> African American-Owned <input type="checkbox"/> Hispanic American-Owned <input type="checkbox"/> Asian American-Owned <input type="checkbox"/> Women-Owned <input type="checkbox"/> Other MBE Classification		Date: <input type="checkbox"/> Mail <input type="checkbox"/> Facsimile <input type="checkbox"/> Email	Date: <input type="checkbox"/> Phone <input type="checkbox"/> Mail <input type="checkbox"/> Facsimile <input type="checkbox"/> Email	Time of Call: Spoke With: <input type="checkbox"/> Left Message	<input type="checkbox"/> Yes <input type="checkbox"/> No	<input type="checkbox"/> Yes <input type="checkbox"/> No	<input type="checkbox"/> Used Other MBE <input type="checkbox"/> Used Non-MBE <input type="checkbox"/> Self-performing
Firm Name: <hr/> MBE Classification (Check only if requesting waiver of MBE subgoal.) <input type="checkbox"/> African American-Owned <input type="checkbox"/> Hispanic American-Owned <input type="checkbox"/> Asian American-Owned <input type="checkbox"/> Women-Owned <input type="checkbox"/> Other MBE Classification		Date: <input type="checkbox"/> Mail <input type="checkbox"/> Facsimile <input type="checkbox"/> Email	Date: <input type="checkbox"/> Phone <input type="checkbox"/> Mail <input type="checkbox"/> Facsimile <input type="checkbox"/> Email	Time of Call: Spoke With: <input type="checkbox"/> Left Message	<input type="checkbox"/> Yes <input type="checkbox"/> No	<input type="checkbox"/> Yes <input type="checkbox"/> No	<input type="checkbox"/> Used Other MBE <input type="checkbox"/> Used Non-MBE <input type="checkbox"/> Self-performing

Please check if Additional Sheets are attached.

**GOOD FAITH EFFORTS DOCUMENTATION
TO SUPPORT WAIVER REQUEST**

PART 3 – ADDITIONAL INFORMATION REGARDING REJECTED MBE QUOTES

PAGE __ OF __

Prime Contractor	Project Description	SOLICITATION NUMBER

This form must be completed if Part 2 indicates that an MBE quote was rejected because the Offeror is using a Non-MBE or is self-performing the Identified Items of Work. Provide the Identified Items Work, indicate whether the work will be self-performed or performed by a Non-MBE, and if applicable, state the name of the Non-MBE. Also include the names of all MBE and Non-MBE Firms that provided a quote and the amount of each quote.

Describe Identified Items of Work Not Being Performed by MBE (Include spec/section number from Proposal)	Self-performing or Using Non-MBE (Provide name)	Amount of Non-MBE Quote	Name of Other Firms who Provided Quotes & Whether MBE or Non-MBE	Amount Quoted	Indicate Reason Why MBE Quote Rejected & Briefly Explain
	<input type="checkbox"/> Self-performing <input type="checkbox"/> Using Non-MBE _____	\$ _____ -	_____ <input type="checkbox"/> MBE <input type="checkbox"/> Non-MBE	\$ _____ -	<input type="checkbox"/> Price <input type="checkbox"/> Capabilities <input type="checkbox"/> Other
	<input type="checkbox"/> Self-performing <input type="checkbox"/> Using Non-MBE _____	\$ _____ -	_____ <input type="checkbox"/> MBE <input type="checkbox"/> Non- MBE	\$ _____ -	<input type="checkbox"/> Price <input type="checkbox"/> Capabilities <input type="checkbox"/> Other
	<input type="checkbox"/> Self-performing <input type="checkbox"/> Using Non-MBE _____	\$ _____ -	_____ <input type="checkbox"/> MBE <input type="checkbox"/> Non- MBE	\$ _____ -	<input type="checkbox"/> Price <input type="checkbox"/> Capabilities <input type="checkbox"/> Other
	<input type="checkbox"/> Self-performing <input type="checkbox"/> Using Non- MBE _____	\$ _____ -	_____ <input type="checkbox"/> MBE <input type="checkbox"/> Non- MBE	\$ _____ -	<input type="checkbox"/> Price <input type="checkbox"/> Capabilities <input type="checkbox"/> Other
	<input type="checkbox"/> Self-performing <input type="checkbox"/> Using Non- MBE _____	\$ _____ -	_____ <input type="checkbox"/> MBE <input type="checkbox"/> Non- MBE	\$ _____ -	<input type="checkbox"/> Price <input type="checkbox"/> Capabilities <input type="checkbox"/> Other
	<input type="checkbox"/> Self-performing <input type="checkbox"/> Using Non- MBE _____	\$ _____ -	_____ <input type="checkbox"/> MBE <input type="checkbox"/> Non- MBE	\$ _____ -	<input type="checkbox"/> Price <input type="checkbox"/> Capabilities <input type="checkbox"/> Other

Please check if Additional Sheets are attached.

MBE ATTACHMENT D-2
OUTREACH EFFORTS COMPLIANCE STATEMENT

Complete and submit this form within 10 Business Days of notification of apparent award or actual award, whichever is earlier.

In conjunction with the Proposal submitted in response to Solicitation No. _____, I state the following:

1. Offeror identified subcontracting opportunities in these specific work categories:

2. Attached to this form are copies of written solicitations (with bidding/proposal instructions) used to solicit certified MBE firms for these subcontract opportunities.

3. Offeror made the following attempts to personally contact the solicited MDOT-certified MBE firms:

4. **Please Check One:**

- This project does not involve bonding requirements.
- Offeror assisted MDOT-certified MBE firms to fulfill or seek waiver of bonding requirements. (DESCRIBE EFFORTS): _____

5. **Please Check One:**

- Offeror did attend the pre-proposal conference.
- No pre-Proposal meeting/conference was held.
- Offeror did not attend the pre-Proposal conference.

Company Name

Signature of Representative

Address

Printed Name and Title

City, State and Zip Code

Date

MBE ATTACHMENT D-3A
MBE SUBCONTRACTOR PROJECT PARTICIPATION CERTIFICATION

PLEASE COMPLETE AND SUBMIT ONE FORM FOR EACH CERTIFIED MBE FIRM LISTED ON THE MBE PARTICIPATION SCHEDULE (ATTACHMENT D-1A) WITHIN 10 BUSINESS DAYS OF NOTIFICATION OF APPARENT AWARD. IF THE OFFEROR FAILS TO RETURN THIS AFFIDAVIT WITHIN THE REQUIRED TIME, THE PROCUREMENT OFFICER MAY DETERMINE THAT THE PROPOSAL IS NOT SUSCEPTIBLE OF BEING SELECTED FOR CONTRACT AWARD.

Provided that _____ (Prime Contractor's Name) is awarded the State Contract in conjunction with Solicitation No. _____, such Prime Contractor intends to enter into a subcontract with _____ (Subcontractor's Name) committing to participation by the MBE firm _____ (MBE Name) with MDOT Certification Number _____ which will receive at least \$_____ which equals to ___% of the Total Contract Amount for performing the following products/services for the Contract:

NAICS CODE	WORK ITEM, SPECIFICATION NUMBER, LINE ITEMS OR WORK CATEGORIES (IF APPLICABLE)	DESCRIPTION OF SPECIFIC PRODUCTS AND/OR SERVICES

Each of the Contractor and Subcontractor acknowledges that, for purposes of determining the accuracy of the information provided herein, the Procurement Officer may request additional information, including, without limitation, copies of the subcontract agreements and quotes. Each of the Contractor and Subcontractor solemnly affirms under the penalties of perjury that: (i) the information provided in this MBE Subcontractor Project Participation Affidavit is true to the best of its knowledge, information and belief, and (ii) it has fully complied with the State Minority Business Enterprise Law, State Finance and Procurement Article §14-308(a)(2), Annotated Code of Maryland which provides that, except as otherwise provided by law, a contractor may not identify a certified minority business enterprise in a Proposal and:

- (1) fail to request, receive, or otherwise obtain authorization from the certified minority business enterprise to identify the certified Minority Business Enterprise in its Proposal;
- (2) fail to notify the certified Minority Business Enterprise before execution of the Contract of its inclusion of the Proposal;
- (3) fail to use the certified Minority Business Enterprise in the performance of the Contract; or
- (4) pay the certified Minority Business Enterprise solely for the use of its name in the Proposal.

<p>PRIME CONTRACTOR Signature of Representative: _____ Printed Name and Title: _____ Firm's Name: _____ Federal Identification Number: _____ Address: _____ Telephone: _____ Date: _____</p>	<p>SUBCONTRACTOR Signature of Representative: _____ Printed Name and Title: _____ Firm's Name: _____ Federal Identification Number: _____ Address: _____ Telephone: _____ Date: _____</p>
--	---

MBE ATTACHMENT D-3B
MBE PRIME - PROJECT PARTICIPATION CERTIFICATION

PLEASE COMPLETE AND SUBMIT THIS FORM TO ATTEST EACH SPECIFIC ITEM OF WORK THAT YOUR MBE FIRM HAS LISTED ON THE MBE PARTICIPATION SCHEDULE (ATTACHMENT D-1A) FOR PURPOSES OF MEETING THE MBE PARTICIPATION GOALS. THIS FORM MUST BE SUBMITTED WITHIN 10 BUSINESS DAYS OF NOTIFICATION OF APPARENT AWARD. IF THE OFFEROR FAILS TO RETURN THIS AFFIDAVIT WITHIN THE REQUIRED TIME, THE PROCUREMENT OFFICER MAY DETERMINE THAT THE THE PROPOSAL IS NOT SUSCEPTIBLE OF BEING SELECTED FOR CONTRACT AWARD.

Provided that _____ (Prime Contractor's Name) with Certification Number _____ is awarded the State contract in conjunction with Solicitation No. _____, such MBE Prime Contractor intends to perform with its own forces at least \$_____ which equals to ___% of the Total Contract Amount for performing the following products/services for the Contract:

NAICS CODE	WORK ITEM, SPECIFICATION NUMBER, LINE ITEMS OR WORK CATEGORIES (IF APPLICABLE). FOR CONSTRUCTION PROJECTS, GENERAL CONDITIONS MUST BE LISTED SEPARATELY.	DESCRIPTION OF SPECIFIC PRODUCTS AND/OR SERVICES	VALUE OF THE WORK

<p>MBE PRIME CONTRACTOR</p> <p>Signature of Representative: _____</p> <p>Printed Name and Title: _____</p> <p>Firm's Name: _____</p> <p>Federal Identification Number: _____</p> <p>Address: _____</p> <p>_____</p> <p>Telephone: _____</p> <p>Date: _____</p>

MBE ATTACHMENT D-4A
Minority Business Enterprise Participation
MBE Prime Contractor Paid/Unpaid Invoice Report

Report #: _____ Reporting Period (Month/Year): _____ Prime Contractor: Report is due to the MBE Liaison by the 10th of the month following the month the services were provided. Note: Please number reports in sequence	Contract #: _____ Contracting Unit: _____ Contract Amount: _____ MBE Subcontract Amt: _____ Project Begin Date: _____ Project End Date: _____ Services Provided: _____
--	--

Prime Contractor:		Contact Person:																																					
Address:																																							
City:		State:	ZIP:																																				
Phone:	Fax:	E-mail:																																					
MBE Subcontractor Name:		Contact Person:																																					
Phone:	Fax:																																						
Subcontractor Services Provided:																																							
List all payments made to MBE subcontractor named above during this reporting period: <table style="width: 100%; border-collapse: collapse;"> <thead> <tr> <th style="width: 5%;"></th> <th style="width: 40%; text-align: center;"><u>Invoice#</u></th> <th style="width: 40%; text-align: center;"><u>Amount</u></th> </tr> </thead> <tbody> <tr><td>1.</td><td></td><td></td></tr> <tr><td>2.</td><td></td><td></td></tr> <tr><td>3.</td><td></td><td></td></tr> <tr><td>4.</td><td></td><td></td></tr> <tr> <td colspan="2">Total Dollars Paid: \$</td> <td>_____</td> </tr> </tbody> </table>			<u>Invoice#</u>	<u>Amount</u>	1.			2.			3.			4.			Total Dollars Paid: \$		_____	List dates and amounts of any outstanding invoices: <table style="width: 100%; border-collapse: collapse;"> <thead> <tr> <th style="width: 5%;"></th> <th style="width: 40%; text-align: center;"><u>Invoice #</u></th> <th style="width: 40%; text-align: center;"><u>Amount</u></th> </tr> </thead> <tbody> <tr><td>1.</td><td></td><td></td></tr> <tr><td>2.</td><td></td><td></td></tr> <tr><td>3.</td><td></td><td></td></tr> <tr><td>4.</td><td></td><td></td></tr> <tr> <td colspan="2">Total Dollars Unpaid: \$</td> <td>_____</td> </tr> </tbody> </table>			<u>Invoice #</u>	<u>Amount</u>	1.			2.			3.			4.			Total Dollars Unpaid: \$		_____
	<u>Invoice#</u>	<u>Amount</u>																																					
1.																																							
2.																																							
3.																																							
4.																																							
Total Dollars Paid: \$		_____																																					
	<u>Invoice #</u>	<u>Amount</u>																																					
1.																																							
2.																																							
3.																																							
4.																																							
Total Dollars Unpaid: \$		_____																																					

- If more than one MBE subcontractor is used for this contract, you must use separate D-4A forms for each subcontractor.
- Information regarding payments that the MBE prime will use for purposes of meeting the MBE participation goals must be reported separately in Attachment D-4B
- **Return one copy (hard or electronic) of this form to the following addresses (electronic copy with signature and date is preferred):**

Contract Monitor: _____
Contracting Unit and Address: _____

Signature: _____ **Date:** _____
 (Required)

MBE ATTACHMENT D-4B
Minority Business Enterprise Participation
MBE Prime Contractor Report

MBE Prime Contractor: Certification Number: Report #: _____ Reporting Period (Month/Year): _____ MBE Prime Contractor: Report is due to the MBE Liaison by the ___ of the month following the month the services were provided. Note: Please number reports in sequence	Contract #: _____ Contracting Unit: _____ Contract Amount: _____ Total Value of the Work to the Self-Performed for purposes of Meeting the MBE participation goal/subgoals: _____ Project Begin Date: _____ Project End Date: _____
--	--

Contact Person:		
Address:		
City:	State:	ZIP:
Phone:	Fax:	E-mail:

Invoice Number	Value of the Work	NAICS Code	Description of the Work

Return one copy (hard or electronic) of this form to the following addresses (electronic copy with signature and date is preferred):

Contract Monitor: _____ Contracting Unit and Address: _____ _____ _____ _____

Signature: _____ **Date:** _____
 (Required)

MBE ATTACHMENT D-5
Minority Business Enterprise Participation
MBE Subcontractor Paid/Unpaid Invoice Report

Report #: _____ Reporting Period (Month/Year): _____ Report is due by the ___ of the month following the month the services were performed.	Contract #: _____ Contracting Unit: _____ MBE Subcontract Amount: _____ Project Begin Date: _____ Project End Date: _____ Services Provided: _____
--	---

MBE Subcontractor Name:																															
MDOT Certification #:																															
Contact Person:		E-mail:																													
Address:																															
City:	State:	ZIP:																													
Phone:	Fax:																														
Subcontractor Services Provided:																															
List all payments received from Prime Contractor during reporting period indicated above. <table style="width: 100%; border-collapse: collapse;"> <thead> <tr> <th style="width: 5%;"></th> <th style="width: 40%; text-align: center;"><u>Invoice Amt</u></th> <th style="width: 55%; text-align: center;"><u>Date</u></th> </tr> </thead> <tbody> <tr><td>1.</td><td></td><td></td></tr> <tr><td>2.</td><td></td><td></td></tr> <tr><td>3.</td><td></td><td></td></tr> <tr> <td colspan="3">Total Dollars Paid: \$ _____</td> </tr> </tbody> </table>		<u>Invoice Amt</u>	<u>Date</u>	1.			2.			3.			Total Dollars Paid: \$ _____			List dates and amounts of any unpaid invoices over 30 days old. <table style="width: 100%; border-collapse: collapse;"> <thead> <tr> <th style="width: 5%;"></th> <th style="width: 40%; text-align: center;"><u>Invoice Amt</u></th> <th style="width: 55%; text-align: center;"><u>Date</u></th> </tr> </thead> <tbody> <tr><td>1.</td><td></td><td></td></tr> <tr><td>2.</td><td></td><td></td></tr> <tr><td>3.</td><td></td><td></td></tr> <tr> <td colspan="3">Total Dollars Unpaid: \$ _____</td> </tr> </tbody> </table>		<u>Invoice Amt</u>	<u>Date</u>	1.			2.			3.			Total Dollars Unpaid: \$ _____		
	<u>Invoice Amt</u>	<u>Date</u>																													
1.																															
2.																															
3.																															
Total Dollars Paid: \$ _____																															
	<u>Invoice Amt</u>	<u>Date</u>																													
1.																															
2.																															
3.																															
Total Dollars Unpaid: \$ _____																															
Prime Contractor:		Contact Person:																													

Return one copy (hard or electronic) of this form to the following addresses (electronic copy with signature and date is preferred):

Contract Monitor: _____ Contracting Unit and Address: _____ _____ _____ _____

Signature: _____ **Date:** _____
 (Required)

ATTACHMENT E-1
VSBE Utilization Affidavit and Prime/Subcontractor Participation Schedule

(submit with Proposal)

This document **MUST BE** included with the Proposal. If the Offeror fails to complete and submit this form with the Proposal, the procurement officer may determine that the Proposal is not reasonably susceptible of being selected for award.

In conjunction with the Proposal submitted in response to RFP No. **2017-02**, I affirm the following:

1. I acknowledge and intend to meet the overall verified VSBE participation goal of **1.0 %**. Therefore, I will not be seeking a waiver.

OR

- I conclude that I am unable to achieve the VSBE participation goal. I hereby request a waiver, in whole or in part, of the overall goal. Within 10 business days of receiving notice that our firm is the apparent awardee, I will submit all required waiver documentation in accordance with COMAR 21.11.13.07. If this request is for a partial waiver, I have identified the portion of the VSBE goal that I intend to meet.
2. I understand that if I am notified that I am the apparent awardee, I must submit the following additional documentation within 10 days of receiving notice of the apparent award or from the date of conditional award (per COMAR 21.11.13.06), whichever is earlier.
 - (a) Subcontractor Project Participation Statement (**Attachment E-2**); and
 - (b) Any other documentation, including waiver documentation, if applicable, required by the Procurement Officer to ascertain Offeror responsibility in connection with the VSBE participation goal.

I understand that if I fail to return each completed document within the required time, the Procurement Officer may determine that I am not responsible and therefore not eligible for contract award. If the contract has already been awarded, the award is voidable.

3. In the solicitation of subcontract quotations or offers, VSBE subcontractors were provided not less than the same information and amount of time to respond as were non-VSBE subcontractors.
4. Set forth below are the (i) verified VSBEs I intend to use and (ii) the percentage of the total contract amount allocated to each VSBE for this project. I hereby affirm that the VSBE firms are only providing those products and services for which they are verified.

ATTACHMENT E-1A
VSBE Prime/Subcontractor Participation Schedule

Prime Contractor (Firm Name, Address, Phone):	Project Description:
Project Number: - _____	

List Information For Each Verified VSBE Prime Contractor or Subcontractor On This Project

Name of Veteran-Owned Firm: Percentage of Total Contract:	DUNS Number:
	Description of work to be performed:
Name of Veteran-Owned Firm: Percentage of Total Contract:	DUNS Number:
	Description of work to be performed:
Name of Veteran-Owned Firm: Percentage of Total Contract:	DUNS Number:
	Description of work to be performed:
Name of Veteran-Owned Firm: Percentage of Total Contract:	DUNS Number:
	Description of work to be performed:

Continue on a separate page, if needed.

SUMMARY

TOTAL VSBE Participation: _____%

I solemnly affirm under the penalties of perjury that the contents of this Affidavit are true to the best of my knowledge, information, and belief.

 Offeror Name
 (PLEASE PRINT OR TYPE)

 Signature of Affiant

Name: _____
 Title: _____
 Date: _____

VSBE ATTACHMENT E-1B - Exhibit A
VSBE Subcontractor Unavailability Certificate

1. It is hereby certified that the firm of _____
 _____ (Name of Veteran-owned firm)
 located at _____
 _____ (Number) _____ (Street)

 _____ (City) _____ (State) _____ (Zip)

was offered an opportunity to bid on Solicitation No. _____
 in _____ County by _____
 _____ (Name of Prime Contractor's Firm)

2. _____ (Veteran-owned Firm), is either unavailable for the
 work/service or unable to prepare a bid for this project for the following reason(s):

Signature of Minority Firm's VSBE Representative **Title** **Date**

 USDVA # TELEPHONE #

4. To be completed by the prime contractor if Section 2 of this form is not completed by the minority firm.

To the best of my knowledge and belief, said Veteran-Owned Small Business Enterprise is either unavailable for the work/service for this project, is unable to prepare a bid, or did not respond to a request for a price proposal and has not completed the above portion of this submittal.

 Signature of Prime Contractor Title Date

ATTACHMENT E-2
VSBE Subcontractor Participation Statement

Please complete and submit one form for each verified VSBE listed on Attachment E-1 within 10 Business days of notification of apparent award

_____ (prime contractor) has entered into a contract with
 _____ (subcontractor) to provide services in connection with the Solicitation described below.

Prime Contractor (Firm Name, Address, Phone):	Project Description:
Project Number: _____	Total Contract Amount: \$
Name of Veteran-Owned Firm:	DUNS Number:
Address:	FEIN:
Work to Be Performed:	
Percentage of Total Contract:	Total Subcontract Amount: \$

The undersigned Prime Contractor and Subcontractor hereby certify and agree that they have fully complied with the State Veteran-Owned Small Business Enterprise Law, State Finance and Procurement Article, Title 14, Subtitle 6, Annotated Code of Maryland.

PRIME CONTRACTOR SIGNATURE

By: _____
 Name, Title
 Date _____

SUBCONTRACTOR SIGNATURE

By: _____
 Name, Title
 Date _____

This form is to be completed monthly by the prime contractor.

ATTACHMENT E-3
Veterans Small Business Enterprise (VSBE) Participation
VSBE Prime Contractor Paid/Unpaid Invoice Report

Report #: _____ Reporting Period (Month/Year): _____ Report is due to the Contract Monitor by the 10th of the month following the month the services were provided. Note: Please number reports in sequence	Contract #: _____ Contracting Unit: _____ Contract Amount: _____ VSBE Subcontract Amt: _____ Project Begin Date: _____ Project End Date: _____ Services Provided: _____
---	---

Prime Contractor:		Contact Person:																																					
Address:																																							
City:		State:	ZIP:																																				
Phone:	Fax:	E-mail:																																					
VSBE Prime Contractor Services Provided (if applicable):																																							
Subcontractor Name:		Contact Person:																																					
Phone:	Fax:																																						
VSBE Subcontractor Services Provided (if applicable):																																							
List all payments made to VSBE subcontractor named above during this reporting period: <table style="width:100%; border-collapse: collapse;"> <thead> <tr> <th style="width:5%;"></th> <th style="width:30%; text-align: center;"><u>Invoice#</u></th> <th style="width:30%; text-align: center;"><u>Amount</u></th> </tr> </thead> <tbody> <tr><td>1.</td><td></td><td></td></tr> <tr><td>2.</td><td></td><td></td></tr> <tr><td>3.</td><td></td><td></td></tr> <tr><td>4.</td><td></td><td></td></tr> <tr> <td colspan="2">Total Dollars Paid: \$</td> <td>_____</td> </tr> </tbody> </table>			<u>Invoice#</u>	<u>Amount</u>	1.			2.			3.			4.			Total Dollars Paid: \$		_____	List dates and amounts of any outstanding invoices: <table style="width:100%; border-collapse: collapse;"> <thead> <tr> <th style="width:5%;"></th> <th style="width:30%; text-align: center;"><u>Invoice #</u></th> <th style="width:30%; text-align: center;"><u>Amount</u></th> </tr> </thead> <tbody> <tr><td>1.</td><td></td><td></td></tr> <tr><td>2.</td><td></td><td></td></tr> <tr><td>3.</td><td></td><td></td></tr> <tr><td>4.</td><td></td><td></td></tr> <tr> <td colspan="2">Total Dollars Unpaid: \$</td> <td>_____</td> </tr> </tbody> </table>			<u>Invoice #</u>	<u>Amount</u>	1.			2.			3.			4.			Total Dollars Unpaid: \$		_____
	<u>Invoice#</u>	<u>Amount</u>																																					
1.																																							
2.																																							
3.																																							
4.																																							
Total Dollars Paid: \$		_____																																					
	<u>Invoice #</u>	<u>Amount</u>																																					
1.																																							
2.																																							
3.																																							
4.																																							
Total Dollars Unpaid: \$		_____																																					

If more than one VSBE subcontractor is used for this contract, you must use separate M-3 forms for each subcontractor.
Return one copy (hard or electronic) of this form to the following addresses (electronic copy with signature and date is preferred):

Contract Monitor: _____ Contracting Unit and Address: _____ _____ _____ _____

Signature: _____ **Date:** _____
 (Required)

This form must be completed monthly
by all VSBE subcontractors.

ATTACHMENT E-4
Veterans Small Business Enterprise Participation
VSBE Subcontractor Paid/Unpaid Invoice Report

Report #: _____ Reporting Period (Month/Year): _____ Report is due by the 10th of the month following the month the services were performed.	Contract # _____ Contracting Unit: _____ VSBE Subcontract Amount: _____ Project Begin Date: _____ Project End Date: _____ Services Provided: _____
--	---

VSBE Subcontractor Name: _____																																
Department of Veterans Affairs Certification #: _____																																
Contact Person: _____	E-mail: _____																															
Address: _____																																
City: _____	State: _____	ZIP: _____																														
Phone: _____	Fax: _____																															
VSBE Subcontractor Services Provided:																																
List all payments received from Prime Contractor during reporting period indicated above. <table style="width: 100%; border-collapse: collapse;"> <thead> <tr> <th style="width: 5%;"></th> <th style="width: 40%; text-align: center;"><u>Invoice Amt</u></th> <th style="width: 15%; text-align: center;"><u>Date</u></th> </tr> </thead> <tbody> <tr><td>1.</td><td></td><td></td></tr> <tr><td>2.</td><td></td><td></td></tr> <tr><td>3.</td><td></td><td></td></tr> <tr> <td colspan="2">Total Dollars Paid: \$ _____</td> <td></td> </tr> </tbody> </table>			<u>Invoice Amt</u>	<u>Date</u>	1.			2.			3.			Total Dollars Paid: \$ _____			List dates and amounts of any unpaid invoices over 30 days old. <table style="width: 100%; border-collapse: collapse;"> <thead> <tr> <th style="width: 5%;"></th> <th style="width: 40%; text-align: center;"><u>Invoice Amt</u></th> <th style="width: 15%; text-align: center;"><u>Date</u></th> </tr> </thead> <tbody> <tr><td>1.</td><td></td><td></td></tr> <tr><td>2.</td><td></td><td></td></tr> <tr><td>3.</td><td></td><td></td></tr> <tr> <td colspan="2">Total Dollars Unpaid: \$ _____</td> <td></td> </tr> </tbody> </table>		<u>Invoice Amt</u>	<u>Date</u>	1.			2.			3.			Total Dollars Unpaid: \$ _____		
	<u>Invoice Amt</u>	<u>Date</u>																														
1.																																
2.																																
3.																																
Total Dollars Paid: \$ _____																																
	<u>Invoice Amt</u>	<u>Date</u>																														
1.																																
2.																																
3.																																
Total Dollars Unpaid: \$ _____																																
Prime Contractor: _____	Contact Person: _____																															

Return one copy of this form to the following address (electronic copy with signature & date is preferred):

Contract Monitor: _____ Contracting Unit and Address: _____ _____ _____ _____

Signature: _____ **Date:** _____
(Required)

Living Wage Requirements for Service Contracts

- A. This contract is subject to the Living Wage requirements under Md. Code Ann., State Finance and Procurement Article, Title 18, and the regulations proposed by the Commissioner of Labor and Industry (Commissioner). The Living Wage generally applies to a Contractor or Subcontractor who performs work on a State contract for services that is valued at \$100,000 or more. An employee is subject to the Living Wage if he/she is at least 18 years old or will turn 18 during the duration of the contract; works at least 13 consecutive weeks on the State Contract and spends at least one-half of the employee's time during any work week on the State Contract.
- B. The Living Wage Law does not apply to:
- (1) A Contractor who:
 - (a) Has a State contract for services valued at less than \$100,000, or
 - (b) Employs 10 or fewer employees and has a State contract for services valued at less than \$500,000.
 - (2) A Subcontractor who:
 - (a) Performs work on a State contract for services valued at less than \$100,000,
 - (b) Employs 10 or fewer employees and performs work on a State contract for services valued at less than \$500,000, or
 - (c) Performs work for a Contractor not covered by the Living Wage Law as defined in B(1)(b) above, or B(3) or C below.
 - (3) Service contracts for the following:
 - (a) Services with a Public Service Company;
 - (b) Services with a nonprofit organization;
 - (c) Services with an officer or other entity that is in the Executive Branch of the State government and is authorized by law to enter into a procurement ("Unit"); or
 - (d) Services between a Unit and a County or Baltimore City.
- C. If the Unit responsible for the State contract for services determines that application of the Living Wage would conflict with any applicable federal program, the Living Wage does not apply to the contract or program.
- D. A Contractor must not split or subdivide a State contract for services, pay an employee through a third party, or treat an employee as an independent Contractor or assign work to employees to avoid the imposition of any of the requirements of Md. Code Ann., State Finance and Procurement Article, Title 18.
- E. Each Contractor/Subcontractor, subject to the Living Wage Law, shall post in a prominent and easily accessible place at the work site(s) of covered employees a notice of the Living Wage Rates, employee rights under the law, and the name, address, and telephone number of the Commissioner.

- F. The Commissioner shall adjust the wage rates by the annual average increase or decrease, if any, in the Consumer Price Index for all urban consumers for the Washington/Baltimore metropolitan area, or any successor index, for the previous calendar year, not later than 90 days after the start of each fiscal year. The Commissioner shall publish any adjustments to the wage rates on the Division of Labor and Industry's website. An employer subject to the Living Wage Law must comply with the rate requirements during the initial term of the contract and all subsequent renewal periods, including any increases in the wage rate, required by the Commissioner, automatically upon the effective date of the revised wage rate.
- G. A Contractor/Subcontractor who reduces the wages paid to an employee based on the employer's share of the health insurance premium, as provided in Md. Code Ann., State Finance and Procurement Article, §18-103(c), shall not lower an employee's wage rate below the minimum wage as set in Md. Code Ann., Labor and Employment Article, §3-413. A Contractor/Subcontractor who reduces the wages paid to an employee based on the employer's share of health insurance premium shall comply with any record reporting requirements established by the Commissioner.
- H. A Contractor/Subcontractor may reduce the wage rates paid under Md. Code Ann., State Finance and Procurement Article, §18-103(a), by no more than 50 cents of the hourly cost of the employer's contribution to an employee's deferred compensation plan. A Contractor/Subcontractor who reduces the wages paid to an employee based on the employer's contribution to an employee's deferred compensation plan shall not lower the employee's wage rate below the minimum wage as set in Md. Code Ann., Labor and Employment Article, §3-413.
- I. Under Md. Code Ann., State Finance and Procurement Article, Title 18, if the Commissioner determines that the Contractor/Subcontractor violated a provision of this title or regulations of the Commissioner, the Contractor/Subcontractor shall pay restitution to each affected employee, and the State may assess liquidated damages of \$20 per day for each employee paid less than the Living Wage.
- J. Information pertaining to reporting obligations may be found by going to the Division of Labor and Industry website <http://www.dllr.state.md.us/labor/prev/livingwage.shtml>.

Maryland Living Wage Requirements Affidavit of Agreement

(submit with Proposal)

Contract No. _____

Name of Contractor _____

Address _____

City _____ State _____ Zip Code _____

If the Contract Is Exempt from the Living Wage Law

The Undersigned, being an authorized representative of the above named Contractor, hereby affirms that the Contract is exempt from Maryland’s Living Wage Law for the following reasons (check all that apply):

- Offeror is a nonprofit organization
- Offeror is a public service company
- Offeror employs 10 or fewer employees and the proposed contract value is less than \$500,000
- Offeror employs more than 10 employees and the proposed contract value is less than \$100,000

If the Contract Is a Living Wage Contract

A. The Undersigned, being an authorized representative of the above-named Contractor, hereby affirms its commitment to comply with Title 18, State Finance and Procurement Article, Annotated Code of Maryland and, if required, submit all payroll reports to the Commissioner of Labor and Industry with regard to the above stated contract. The Offeror agrees to pay covered employees who are subject to living wage at least the living wage rate in effect at the time service is provided for hours spent on State contract activities, and ensure that its Subcontractors who are not exempt also pay the required living wage rate to their covered employees who are subject to the living wage for hours spent on a State contract for services. The Contractor agrees to comply with, and ensure its Subcontractors comply with, the rate requirements during the initial term of the contract and all subsequent renewal periods, including any increases in the wage rate established by the Commissioner of Labor and Industry, automatically upon the effective date of the revised wage rate.

B. _____ (initial here if applicable) The Offeror affirms it has no covered employees for the following reasons: (check all that apply):

- The employee(s) proposed to work on the contract will spend less than one-half of the employee’s time during any work week on the contract

- The employee(s) proposed to work on the contract is 17 years of age or younger during the duration of the contract; or
- The employee(s) proposed to work on the contract will work less than 13 consecutive weeks on the State contract.

The Commissioner of Labor and Industry reserves the right to request payroll records and other data that the Commissioner deems sufficient to confirm these affirmations at any time.

Name of Authorized Representative: _____

Signature of Authorized Representative Date

Title

Witness Name (Typed or Printed)

Witness Signature Date

SUBMIT THIS AFFIDAVIT WITH PROPOSAL

ATTACHMENT G- FEDERAL FUNDS ATTACHMENT

This RFP does not include a Federal Funds Attachment.

ATTACHMENT H – CONFLICT OF INTEREST AFFIDAVIT AND DISCLOSURE

Reference COMAR 21.05.08.08

A. “Conflict of interest” means that because of other activities or relationships with other persons, a person is unable or potentially unable to render impartial assistance or advice to the State, or the person’s objectivity in performing the contract work is or might be otherwise impaired, or a person has an unfair competitive advantage.

B. “Person” has the meaning stated in COMAR 21.01.02.01B(64) and includes a Offeror, Contractor, consultant, or subcontractor or sub-consultant at any tier, and also includes an employee or agent of any of them if the employee or agent has or will have the authority to control or supervise all or a portion of the work for which a Proposal is made.

C. The Offeror warrants that, except as disclosed in §D, below, there are no relevant facts or circumstances now giving rise or which could, in the future, give rise to a conflict of interest.

D. The following facts or circumstances give rise or could in the future give rise to a conflict of interest (explain in detail — attach additional sheets if necessary):

E. The Offeror agrees that if an actual or potential conflict of interest arises after the date of this affidavit, the Offeror shall immediately make a full disclosure in writing to the Procurement Officer of all relevant facts and circumstances. This disclosure shall include a description of actions which the Offeror has taken and proposes to take to avoid, mitigate, or neutralize the actual or potential conflict of interest. If the contract has been awarded and performance of the contract has begun, the Contractor shall continue performance until notified by the Procurement Officer of any contrary action to be taken.

I DO SOLEMNLY DECLARE AND AFFIRM UNDER THE PENALTIES OF PERJURY THAT THE CONTENTS OF THIS AFFIDAVIT ARE TRUE AND CORRECT TO THE BEST OF MY KNOWLEDGE, INFORMATION, AND BELIEF.

Date: _____ By: _____
(Authorized Representative and Affiant)

SUBMIT THIS AFFIDAVIT WITH PROPOSAL

ATTACHMENT I – NON-DISCLOSURE AGREEMENT

THIS NON-DISCLOSURE AGREEMENT (“Agreement”) is made by and between the State of Maryland (the “State”), acting by and through MLGCA (the “Department”), and _____ (the “Contractor”).

RECITALS

WHEREAS, the Contractor has been awarded a contract (the “Contract”) following the RFP for Televised Drawings of Lottery Draw Games and Related Services RFP # 2017-02; and

WHEREAS, in order for the Contractor to perform the work required under the Contract, it will be necessary for the State at times to provide the Contractor and the Contractor’s employees, agents, and subcontractors (collectively “Contractor’s Personnel”) with access to certain information the State deems confidential (the “Confidential Information”).

NOW, THEREFORE, in consideration of being given access to the Confidential Information in connection with the solicitation and the Contract, and for other good and valuable consideration, the receipt and sufficiency of which the parties acknowledge, the parties do hereby agree as follows:

1. Regardless of the form, format, or media on or in which the Confidential Information is provided and regardless of whether any such Confidential Information is marked as such, “Confidential Information” means (1) any and all information provided by or made available by the State to the Contractor in connection with the Contract and (2) any and all Personally Identifiable Information (PII) (including but not limited to personal information as defined in Md. Ann. Code, General Provisions §4-101(h)) and Protected Health Information (PHI) that is provided by a person or entity to the Contractor in connection with this Contract. Confidential Information includes, by way of example only, information that the Contractor views, takes notes from, copies (if the State agrees in writing to permit copying), possesses or is otherwise provided access to and use of by the State in relation to the Contract.
2. The Contractor shall not, without the State’s prior written consent, copy, disclose, publish, release, transfer, disseminate, use, or allow access for any purpose or in any form, any Confidential Information except for the sole and exclusive purpose of performing under the Contract. The Contractor shall limit access to the Confidential Information to the Contractor’s Personnel who have a demonstrable need to know such Confidential Information in order to perform under the Contract and who have agreed in writing to be bound by the disclosure and use limitations pertaining to the Confidential Information. The names of the Contractor’s Personnel are attached hereto and made a part hereof as ATTACHMENT I-1. The Contractor shall update ATTACHMENT I-1 by adding additional names (whether Contractor’s personnel or a subcontractor’s personnel) as needed, from time to time.
3. If the Contractor intends to disseminate any portion of the Confidential Information to non-employee agents who are assisting in the Contractor’s performance of the Contract or will otherwise have a role in performing any aspect of the Contract, the Contractor shall first obtain the written consent of the State to any such dissemination. The State may grant, deny, or condition any such consent, as it may deem appropriate in its sole and absolute subjective discretion.
4. The Contractor hereby agrees to hold the Confidential Information in trust and in strictest confidence, adopt or establish operating procedures and physical security measures, and take all other measures necessary to protect the Confidential Information from inadvertent release or disclosure to unauthorized third parties and to prevent all or any portion of the Confidential Information from falling into the public domain or into the possession of persons not bound to maintain the confidentiality of the Confidential Information.
5. The Contractor shall promptly advise the State in writing if it learns of any unauthorized use, misappropriation, or disclosure of the Confidential Information by any of the Contractor’s Personnel or the Contractor’s former Personnel. Contractor shall, at its own expense, cooperate with the State in seeking injunctive or other equitable relief against any such person(s).

6. The Contractor shall, at its own expense, return to the Department all copies of the Confidential Information in its care, custody, control or possession upon request of the Department or on termination of the Contract. The Contractor shall complete and submit ATTACHMENT J-2 when returning the Confidential Information to the Department. At such time, the Contractor shall also permanently delete any Confidential Information stored electronically by the Contractor.
7. A breach of this Agreement by the Contractor or the Contractor's Personnel shall constitute a breach of the Contract between the Contractor and the State.
8. Contractor acknowledges that any failure by the Contractor or the Contractor's Personnel to abide by the terms and conditions of use of the Confidential Information may cause irreparable harm to the State and that monetary damages may be inadequate to compensate the State for such breach. Accordingly, the Contractor agrees that the State may obtain an injunction to prevent the disclosure, copying or improper use of the Confidential Information. The Contractor consents to personal jurisdiction in the Maryland State Courts. The State's rights and remedies hereunder are cumulative and the State expressly reserves any and all rights, remedies, claims and actions that it may have now or in the future to protect the Confidential Information and seek damages from the Contractor and the Contractor's Personnel for a failure to comply with the requirements of this Agreement. In the event the State suffers any losses, damages, liabilities, expenses, or costs (including, by way of example only, attorneys' fees and disbursements) that are attributable, in whole or in part to any failure by the Contractor or any of the Contractor's Personnel to comply with the requirements of this Agreement, the Contractor shall hold harmless and indemnify the State from and against any such losses, damages, liabilities, expenses, and costs.
9. Contractor and each of the Contractor's Personnel who receive or have access to any Confidential Information shall execute a copy of an agreement substantially similar to this Agreement, in no event less restrictive than as set forth in this Agreement, and the Contractor shall provide originals of such executed Agreements to the State.
10. The parties further agree that:
 - a. This Agreement shall be governed by the laws of the State of Maryland;
 - b. The rights and obligations of the Contractor under this Agreement may not be assigned or delegated, by operation of law or otherwise, without the prior written consent of the State;
 - c. The State makes no representations or warranties as to the accuracy or completeness of any Confidential Information;
 - d. The invalidity or unenforceability of any provision of this Agreement shall not affect the validity or enforceability of any other provision of this Agreement;
 - e. Signatures exchanged by facsimile are effective for all purposes hereunder to the same extent as original signatures;
 - f. The Recitals are not merely prefatory but are an integral part hereof; and
 - g. The effective date of this Agreement shall be the same as the effective date of the Contract entered into by the parties.

IN WITNESS WHEREOF, the parties have, by their duly authorized representatives, executed this Agreement as of the day and year first above written.

Contractor: _____	MLGCA
By: _____ (SEAL)	By: _____
Printed Name: _____	Printed Name: _____
Title: _____	Title: _____
Date: _____	Date: _____

NON-DISCLOSURE AGREEMENT - ATTACHMENT I-1

LIST OF CONTRACTOR'S EMPLOYEES AND AGENTS WHO WILL BE GIVEN ACCESS TO THE CONFIDENTIAL INFORMATION

Printed Name and Address of Individual/Agent	Employee (E) or Agent (A)	Signature	Date
_____	_____	_____	_____
_____	_____	_____	_____
_____	_____	_____	_____
_____	_____	_____	_____
_____	_____	_____	_____
_____	_____	_____	_____
_____	_____	_____	_____
_____	_____	_____	_____
_____	_____	_____	_____
_____	_____	_____	_____
_____	_____	_____	_____
_____	_____	_____	_____
_____	_____	_____	_____
_____	_____	_____	_____
_____	_____	_____	_____
_____	_____	_____	_____
_____	_____	_____	_____
_____	_____	_____	_____
_____	_____	_____	_____
_____	_____	_____	_____
_____	_____	_____	_____

NON-DISCLOSURE AGREEMENT – ATTACHMENT I-2

CERTIFICATION TO ACCOMPANY RETURN OR DELETION OF CONFIDENTIAL INFORMATION

I AFFIRM THAT:

To the best of my knowledge, information, and belief, and upon due inquiry, I hereby certify that: (i) all Confidential Information which is the subject matter of that certain Non-Disclosure Agreement by and between the State of Maryland and _____ (“Contractor”) dated _____, 20____ (“Agreement”) is attached hereto and is hereby returned to the State in accordance with the terms and conditions of the Agreement; and (ii) I am legally authorized to bind the Contractor to this affirmation. Any and all Confidential Information that was stored electronically by me has been permanently deleted from all of my systems or electronic storage devices where such Confidential Information may have been stored.

I DO SOLEMNLY DECLARE AND AFFIRM UNDER THE PENALTIES OF PERJURY THAT THE CONTENTS OF THIS AFFIDAVIT ARE TRUE AND CORRECT TO THE BEST OF MY KNOWLEDGE, INFORMATION, AND BELIEF, HAVING MADE DUE INQUIRY.

DATE: _____

NAME OF CONTRACTOR: _____

BY: _____
(Signature)

TITLE: _____
(Authorized Representative and Affiant)

ATTACHMENT J – HIPAA BUSINESS ASSOCIATE AGREEMENT

This RFP does not require a HIPAA Business Associate Agreement.

ATTACHMENT K – MERCURY AFFIDAVIT

This RFP does not include the procurement of products known to likely include mercury as a component.

ATTACHMENT L – LOCATION OF THE PERFORMANCE OF SERVICES DISCLOSURE

(submit with Proposal)

Pursuant to Md. Ann. Code, State Finance and Procurement Article, § 12-111, and in conjunction with the Proposal submitted in response to RFP No. 2017-02, the following disclosures are hereby made:

1. At the time of Proposal submission, the Offeror and/or its proposed subcontractors:

___ have plans

___ have **no** plans

to perform any services required under the resulting Contract outside of the United States.

2. If services required under the contract are anticipated to be performed outside the United States by either the Offeror or its proposed subcontractors, the Offeror shall answer the following (attach additional pages if necessary):

a. Location(s) services will be performed:

b. Reasons why it is necessary or advantageous to perform services outside the United States:

The undersigned, being an authorized representative of the Offeror, hereby affirms that the contents of this disclosure are true to the best of my knowledge, information, and belief.

Date: _____

Offeror Name: _____

By: _____

Name: _____

Title: _____

Please be advised that the MLGCA may contract for services provided outside of the United States if: the services are not available in the United States; the price of services in the United States exceeds by an unreasonable amount the price of services provided outside the United States; or the quality of services in the United States is substantially less than the quality of comparably priced services provided outside the United States.

ATTACHMENT M – CONTRACT

TELEVISED DRAWINGS OF LOTTERY DRAW GAMES AND RELATED SERVICES RFP No: 2017-02

THIS CONTRACT (the “Contract”) is made this (“Xth”) day of (month), (year) by and between (Contractor’s name) and the STATE OF MARYLAND, acting through the Maryland State Lottery and Gaming Control Agency (MLGCA).

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

1. Definitions

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

- 1.1 “COMAR” means Code of Maryland Regulations.
- 1.2 “Contract” means this agreement between (Contractor’s name) and the State of Maryland, acting through the Maryland State Lottery and Gaming Control Agency (MLGCA).
- 1.3 “Contract Monitor” means the following MLGCA employees identified as the Contract Monitor:

Carole B. Gentry (for Drawing and Administrative issues)
Maryland State Lottery and Gaming Control Agency
Montgomery Park Business Center
1800 Washington Boulevard, Suite 330
Baltimore, MD 21230
Telephone: 410-230-8725; Fax: 410-230-8825
E-mail Address: carole.gentry@maryland.gov

Jill Baer (for Marketing and Advertising issues)
Maryland State Lottery and Gaming Control Agency
Montgomery Park Business Center
1800 Washington Boulevard, Suite 330
Baltimore, MD 21230
Telephone: 410-230-8792; Fax: 410-230-8795
E-mail Address: jill.baer@maryland.gov

- 1.4 “Contractor” means (Contractor’s name) whose principal business address is (Contractor’s primary address) and whose principal office in Maryland is (Contractor’s local address).
- 1.5 “Department” means the Maryland State Lottery and Gaming Control Agency (MLGCA).
- 1.6 “Financial Proposal” means the Contractor’s Financial Proposal dated (Financial Proposal date).
- 1.7 “Procurement Officer” means the following Department employee identified as the Procurement Officer:

Robert W. Howells
Maryland State Lottery and Gaming Control Agency

Montgomery Park Business Center
1800 Washington Boulevard, Suite 330
Baltimore, MD 21230
Telephone: 410-230-8789; Fax: 410-230-8727
E-mail Address: robert.howells@maryland.gov

1.8 “RFP” means the Request for Proposals for Televised Drawings of Lottery Draw Games and Related Services RFP # 2017-02, and any amendments thereto issued in writing by the State.

1.9 “State” means the State of Maryland.

1.10 “Technical Proposal” means the Contractor’s Technical Proposal dated **(Technical Proposal date)**.

2. Scope of Contract

2.1 The Contractor shall provide deliverables, programs, goods, and services specific to the Contract for Televised Drawings of Lottery Draw Games and Related Services awarded in accordance with Exhibits A-C listed in this section and incorporated as part of this Contract. If there is any conflict between this Contract and the Exhibits, the terms of the Contract shall govern. If there is any conflict among the Exhibits, the following order of precedence shall determine the prevailing provision:

Exhibit A – The RFP

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

Exhibit C – The Proposal (Technical and Financial)

2.2 The Procurement Officer may, at any time, by written order, make changes in the work within the general scope of the Contract or the RFP. No other order, statement, or conduct of the Procurement Officer or any other person shall be treated as a change or entitle the Contractor to an equitable adjustment under this section. Except as otherwise provided in this Contract, if any change under this section causes an increase or decrease in the Contractor’s cost of, or the time required for, the performance of any part of the work, whether or not changed by the order, an equitable adjustment in the Contract price shall be made and the Contract modified in writing accordingly. The Contractor must assert in writing its right to an adjustment under this section within thirty (30) days of receipt of written change order and shall include a written statement setting forth the nature and cost of such claim. No claim by the Contractor shall be allowed if asserted after final payment under this Contract. Failure to agree to an adjustment under this section shall be a dispute under the Disputes clause. Nothing in this section shall excuse the Contractor from proceeding with the Contract as changed.

2.3 While the Procurement Officer may, at any time, by written change order, make unilateral changes in the work within the general scope of the Contract as provided in Section 2.2 above, the Contract may be modified by mutual agreement of the parties, provided: (a) the modification is made in writing; (b) all parties sign the modification; and (c) all approvals by the required agencies as described in COMAR Title 21, are obtained.

3. Period of Performance.

3.1 The term of this Contract begins on the date the Contract is signed by the MLGCA following any required approvals of the Contract, including approval by the Board of Public Works, if such approval is required. The Contractor shall provide services under this Contract as of the Go-Live date contained in the written Notice to Proceed. From this Go-Live date, the Contract shall be for a period of approximately three (3) years beginning **December 15, 2017** and ending on **December 14, 2020**.

- 3.2 The State, at its sole option, has the unilateral right to extend the term of the Contract for two (2) additional one (1) year renewal terms at the prices quoted in the Financial Proposal for Option Year.
- 3.3 Audit, confidentiality, document retention, and indemnification obligations under this Contract shall survive expiration or termination of the Contract.

4. Consideration and Payment

- 4.1 In consideration of the satisfactory performance of the work set forth in this Contract, the MLGCA will pay the Contractor in accordance with the terms of this Contract and at the prices quoted in Attachment B - Financial Proposal. Beginning on December 15, 2017, or upon the commencement of the Contract, whichever is later, the Contractor will begin to accrue earnings and the MLGCA agrees to pay the amounts set forth in this Section 4.
- 4.2 Pursuant to the Contractor's Financial Proposal Form dated xxxx, 2017 – Attachment B to the RFP, which is attached hereto as Exhibit B to the Contract, the MLGCA shall purchase in net terms the production of and the airtime to televise all Mandatory Drawings, the airtime to televise all Optional Drawings the MLGCA elects to televise and the production of all Optional Drawings the MLGCA elects not to televise in an amount not to exceed (**\$ amount to be inserted upon Contract award**) Dollars. The purchase of the production of and the airtime to televise selected Drawings by the MLGCA shall be determined and administered in accordance with Section 4.3 below.
- 4.3 The Contractor shall submit monthly billing invoices to the MLGCA for verification of accuracy, processing and payment. Contractor's monthly invoices should provide proof that the Drawings aired as scheduled. Disputed invoice amounts will be documented and deducted from the appropriate monthly invoice. Resolution of all disputed amounts should occur within 45 days of the invoice date.
- 4.4 Payments to the Contractor shall be made no later than thirty (30) days after the MLGCA's receipt of a proper invoice for services provided by the Contractor, acceptance by the MLGCA of services provided by the Contractor, and pursuant to the conditions outlined in Section 4 of this Contract. Each invoice for services rendered must include the Contractor's Federal Tax Identification or Social Security Number for a Contractor who is an individual which is (**Contractor's FEIN or SSN**). Charges for late payment of invoices other than as prescribed at Md. Code Ann., State Finance and Procurement Article, §15-104 are prohibited. Invoices shall be submitted to the Contract Monitor. Electronic funds transfer shall be used by the State to pay Contractor pursuant to this Contract and any other State payments due Contractor unless the State Comptroller's Office grants Contractor an exemption. The MLGCA may withhold and/or reduce payment for unsatisfactory performance, as well as for set-off, counterclaim, liquidated damages, or any other legally permitted deduction.
- 4.5 The total amount of this Contract for the initial three (3) year term excluding any future modifications shall not exceed (**\$ amount to be inserted upon contract award**) Dollars. In the event that the MLGCA exercises its unilateral option to extend the Contract in its sole discretion, the amount of this Contract for each of the two (2) one (1) year Renewal Option periods, excluding any future modifications shall not exceed (**\$ amount to be inserted upon contract award**). If the MLGCA exercises the option to extend, such option shall be at the same prices, terms and conditions. The "not to exceed" amounts are not guaranteed amounts, but only the maximum amount authorized to be expended under this Contract without further written and properly authorized modification. If the charges are likely to become greater than the not to exceed amounts, the MLGCA will request approval from the Maryland Department of Budget and Management, the Maryland Board of Public Works, and other necessary State officials. Approval from these entities is not guaranteed.
- 4.6 **Price Adjustment:** The Contractor understands and agrees that audience delivery, viewership and ratings are important to the MLGCA and the Contractor warrants that the LPM, Live+SD A25-54 ratings that are proposed by the Contractor and accepted by the MLGCA shall at minimum be sustained by the Contractor and remain constant throughout the term of the Contract and any extensions. At the end of each 12-month period, the

MLGCA shall require that the Contractor provide a recap of the ratings for the previous 12-month period; the MLGCA will also use its media service agency to conduct an independent evaluation of the ratings. In the event that the LPM, Live+SD A25-54 ratings have decreased significantly from what was accepted at the award of the Contract, the MLGCA shall have the right to reduce the payment to the Contractor for the upcoming 12-month period, upon written notice to the Contractor, in an amount proportional to the ratings decline, but not to exceed fifteen percent (15%). In the event that the Live +25 SD A 25-54 ratings increase over the previous 12-month period, the payment to the Contractor may be increased proportionately to the increase in ratings for the upcoming 12-month period, but not to exceed the amounts originally stated on Attachment B – Financial Proposal Form or fifteen percent (15%) in any one adjustment period.

- 4.7 In addition to any other available remedies, if, in the opinion of the Procurement Officer, the Contractor fails to perform in a satisfactory and timely manner, the Procurement Officer may refuse or limit approval of any invoice for payment, and may cause payments to the Contractor to be reduced or withheld until such time as the Contractor meets performance standards as established by the Procurement Officer.
- 4.8 Payment of an invoice by the MLGCA is not evidence that services were rendered as required under this Contract.
- 4.9 Contractor’s eMaryland Marketplace vendor ID number is (Contractor’s eMM number).
- 4.10 The MLGCA and Commission shall have no responsibility for the payment of any federal, state or local taxes which become payable by the Contractor or its subcontractors as a result of this Contract. The State is generally exempt from Federal excise taxes, Maryland sales and use taxes, District of Columbia sales taxes and transportation taxes. Exemption certificates will be completed upon request. Where a Contractor is required to furnish and install material in the construction or improvement of real property in performance of a contract, the Contractor shall pay the Maryland sales tax and the exemption does not apply.

5. Rights to Records

- 5.1 The Contractor agrees that all documents and materials including, but not limited to, software, reports, drawings, studies, specifications, estimates, tests, maps, photographs, designs, graphics, mechanical, artwork, computations, and data prepared by the Contractor for purposes of this Contract shall be the sole property of the State and shall be available to the State at any time. The State shall have the right to use the same without restriction and without compensation to the Contractor other than that specifically provided by this Contract.
- 5.2 The Contractor agrees that at all times during the term of this Contract and thereafter, works created as a deliverable under this Contract, and services performed under this Contract shall be “works made for hire” as that term is interpreted under U.S. copyright law. To the extent that any products created as a deliverable under this Contract are not works made for hire for the State, the Contractor hereby relinquishes, transfers, and assigns to the State all of its rights, title, and interest (including all intellectual property rights) to all such products created under this Contract, and will cooperate reasonably with the State in effectuating and registering any necessary assignments.
- 5.3 The Contractor shall report to the Contract Monitor, promptly and in written detail, each notice or claim of copyright infringement received by the Contractor with respect to all data delivered under this Contract.
- 5.4 The Contractor shall not affix any restrictive markings upon any data, documentation, or other materials provided to the State hereunder and if such markings are affixed, the State shall have the right at any time to modify, remove, obliterate, or ignore such warnings.
- 5.5 Upon termination of the Contract, the Contractor, at its own expense, shall deliver any equipment, software or other property provided by the State to the place designated by the Procurement Officer.

6. Exclusive Use

- 6.1 The State shall have the exclusive right to use, duplicate, and disclose any data, information, documents, records, or results, in whole or in part, in any manner for any purpose whatsoever, that may be created or generated by the Contractor in connection with this Contract. If any material, including software, is capable of being copyrighted, the State shall be the copyright owner and Contractor may copyright material connected with this project only with the express written approval of the State.
- 6.2 Except as may otherwise be set forth in this Contract, Contractor shall not use, sell, sub-lease, assign, give, or otherwise transfer to any third party any other information or material provided to Contractor by the Department or developed by Contractor relating to the Contract, except that Contractor may provide said information to any of its officers, employees and subcontractors who Contractor requires to have said information for fulfillment of Contractor's obligations hereunder. Each officer, employee and/or subcontractor to whom any of the Department's confidential information is to be disclosed shall be advised by Contractor of and bound by confidentiality and intellectual property terms substantively equivalent to those of this Contract.

7. Patents, Copyrights, and Intellectual Property

- 7.1 If the Contractor furnishes any design, device, material, process, or other item, which is covered by a patent, trademark or service mark, or copyright or which is proprietary to, or a trade secret of, another, the Contractor shall obtain the necessary permission or license to permit the State to use such item or items.
- 7.2 The Contractor will defend or settle, at its own expense, any claim or suit against the State alleging that any such item furnished by the Contractor infringes any patent, trademark, service mark, copyright, or trade secret. If a third party claims that a product infringes that party's patent, trademark, service mark, trade secret, or copyright, the Contractor will defend the State against that claim at Contractor's expense and will pay all damages, costs, and attorneys' fees that a court finally awards, provided the State: (a) promptly notifies the Contractor in writing of the claim; and (b) allows Contractor to control and cooperates with Contractor in, the defense and any related settlement negotiations. The obligations of this paragraph are in addition to those stated in Section 7.3 below.
- 7.3 If any products furnished by the Contractor become, or in the Contractor's opinion are likely to become, the subject of a claim of infringement, the Contractor will, at its option and expense: (a) procure for the State the right to continue using the applicable item; (b) replace the product with a non-infringing product substantially complying with the item's specifications; or (c) modify the item so that it becomes non-infringing and performs in a substantially similar manner to the original item.

8. Confidential or Proprietary Information and Documentation

- 8.1 Subject to the Maryland Public Information Act and any other applicable laws including, without limitation, HIPAA, the HI-TECH Act, and the Maryland Medical Records Act and the implementation of regulations promulgated pursuant thereto, all confidential or proprietary information and documentation relating to either party (including without limitation, any information or data stored within the Contractor's computer systems) shall be held in absolute confidence by the other party. Each party shall, however, be permitted to disclose relevant confidential information to its officers, agents, and employees to the extent that such disclosure is necessary for the performance of their duties under this Contract, provided that the data may be collected, used, disclosed, stored, and disseminated only as provided by and consistent with the law. The provisions of this section shall not apply to information that: (a) is lawfully in the public domain; (b) has been independently developed by the other party without violation of this Contract; (c) was already in the possession of such party; (d) was supplied to such party by a third party lawfully in possession thereof and legally permitted to further disclose the information; or (e) which such party is required to disclose by law.

8.2 This Section 8 shall survive expiration or termination of this Contract.

9. Loss of Data

In the event of loss of any State data or records where such loss is due to the intentional act or omission or negligence of the Contractor or any of its subcontractors or agents, the Contractor shall be responsible for recreating such lost data in the manner and on the schedule set by the Contract Monitor. The Contractor shall ensure that all data is backed up and recoverable by the Contractor. Contractor shall use its best efforts to assure that at no time shall any actions undertaken by the Contractor under this Contract (or any failures to act when Contractor has a duty to act) damage or create any vulnerabilities in data bases, systems, platforms, and/or applications with which the Contractor is working hereunder.

10. Indemnification

10.1 The Contractor shall hold harmless and indemnify the State from and against any and all losses, damages, claims, suits, actions, liabilities, and/or expenses, including, without limitation, attorneys' fees and disbursements of any character that arise from, are in connection with or are attributable to the performance or nonperformance of the Contractor or its subcontractors under this Contract.

10.2 This indemnification clause shall not be construed to mean that the Contractor shall indemnify the State against liability for any losses, damages, claims, suits, actions, liabilities, and/or expenses that are attributable to the sole negligence of the State or the State's employees.

10.3 The State of Maryland has no obligation to provide legal counsel or defense to the Contractor or its subcontractors in the event that a suit, claim, or action of any character is brought by any person not party to this Contract against the Contractor or its subcontractors as a result of or relating to the Contractor's performance under this Contract.

10.4 The State has no obligation for the payment of any judgments or the settlement of any claims against the Contractor or its subcontractors as a result of or relating to the Contractor's performance under this Contract.

10.5 The Contractor shall immediately notify the Procurement Officer of any claim or lawsuit made or filed against the Contractor or its subcontractors regarding any matter resulting from, or relating to, the Contractor's obligations under the Contract, and will cooperate, assist, and consult with the State in the defense or investigation of any claim, lawsuit, or action made or filed against the State as a result of, or relating to, the Contractor's performance under this Contract.

10.6 This Section 10 shall survive termination of this Contract.

11. Non-Hiring of Employees

No official or employee of the State, as defined under Md. Code Ann., General Provisions Article, § 5-101, whose duties as such official or employee include matters relating to or affecting the subject matter of this Contract, shall, during the pendency and term of this Contract and while serving as an official or employee of the State, become or be an employee of the Contractor or any entity that is a subcontractor on this Contract.

12. Disputes

This Contract shall be subject to the provisions of Md. Code Ann., State Finance and Procurement Article, Title 15, Subtitle 2, and COMAR 21.10 (Administrative and Civil Remedies). Pending resolution of a claim, the Contractor shall proceed diligently with the performance of the Contract in accordance with the Procurement Officer's decision. Unless a lesser period is provided by applicable statute, regulation, or the

Contract, the Contractor must file a written notice of claim with the Procurement Officer within thirty (30) days after the basis for the claim is known or should have been known, whichever is earlier. Contemporaneously with or within thirty (30) days of the filing of a notice of claim, but no later than the date of final payment under the Contract, the Contractor must submit to the Procurement Officer its written claim containing the information specified in COMAR 21.10.04.02.

13. Maryland Law

- 13.1 This Contract shall be construed, interpreted, and enforced according to the laws of the State of Maryland.
- 13.2 The Maryland Uniform Computer Information Transactions Act (Commercial Law Article, Title 22 of the Annotated Code of Maryland), does not apply to this Contract or any purchase order or Notice to Proceed issued under this Contract, or any software, or any software license required hereunder.
- 13.3 Any and all references to the Maryland Code, Annotated contained in this Contract shall be construed to refer to such Code sections as are from time to time amended.

14. Nondiscrimination in Employment

The Contractor agrees: (a) not to discriminate in any manner against an employee or applicant for employment because of race, color, religion, creed, age, sex, sexual orientation, gender identification, marital status, national origin, ancestry, genetic information, or any otherwise unlawful use of characteristics, or disability of a qualified individual with a disability unrelated in nature and extent so as to reasonably preclude the performance of the employment, or the individual's refusal to submit to a genetic test or make available the results of a genetic test; (b) to include a provision similar to that contained in subsection (a), above, in any underlying subcontract except a subcontract for standard commercial supplies or raw materials; and (c) to post and to cause subcontractors to post in conspicuous places available to employees and applicants for employment, notices setting forth the substance of this clause.

15. Contingent Fee Prohibition

The Contractor warrants that it has not employed or retained any person, partnership, corporation, or other entity, other than a bona fide employee, bona fide agent, bona fide salesperson, or commercial selling agency working for the business, to solicit or secure the Contract, and that the business has not paid or agreed to pay any person, partnership, corporation, or other entity, other than a bona fide employee, bona fide agent, bona fide salesperson, or commercial selling agency, any fee or any other consideration contingent on the making of this Contract.

16. Non-Availability of Funding

If the General Assembly fails to appropriate funds or if funds are not otherwise made available for continued performance for any fiscal period of this Contract succeeding the first fiscal period, this Contract shall be canceled automatically as of the beginning of the fiscal year for which funds were not appropriated or otherwise made available; provided, however, that this will not affect either the State's or the Contractor's rights under any termination clause in this Contract. The effect of termination of the Contract hereunder will be to discharge both the Contractor and the State from future performance of the Contract, but not from their rights and obligations existing at the time of termination. The Contractor shall be reimbursed for the reasonable value of any nonrecurring costs incurred but not amortized in the price of the Contract. The State shall notify the Contractor as soon as it has knowledge that funds may not be available for the continuation of this Contract for each succeeding fiscal period beyond the first.

17. Termination for Default

If the Contractor fails to fulfill its obligations under this Contract properly and on time, or otherwise violates any provision of the Contract, the State may terminate the Contract by written notice to the Contractor. The notice shall specify the acts or omissions relied upon as cause for termination. All finished or unfinished work provided by the Contractor shall, at the State's option, become the State's property. The State shall pay the Contractor fair and equitable compensation for satisfactory performance prior to receipt of notice of termination, less the amount of damages caused by the Contractor's breach. If the damages are more than the compensation payable to the Contractor, the Contractor will remain liable after termination and the State can affirmatively collect damages. Termination hereunder, including the termination of the rights and obligations of the parties, shall be governed by the provisions of COMAR 21.07.01.11B.

18. Termination for Convenience

The performance of work under this Contract may be terminated by the State in accordance with this clause in whole, or from time to time in part, whenever the State shall determine that such termination is in the best interest of the State. The State will pay all reasonable costs associated with this Contract that the Contractor has incurred up to the date of termination, and all reasonable costs associated with termination of the Contract; provided, however, the Contractor shall not be reimbursed for any anticipatory profits that have not been earned up to the date of termination. Termination hereunder, including the determination of the rights and obligations of the parties, shall be governed by the provisions of COMAR 21.07.01.12A(2).

19. Delays and Extensions of Time

19.1 The Contractor agrees to prosecute the work continuously and diligently and no charges or claims for damages shall be made by it for any delays, interruptions, interferences, or hindrances from any cause whatsoever during the progress of any portion of the work specified in this Contract.

19.2 Time extensions will be granted only for excusable delays that arise from unforeseeable causes beyond the control and without the fault or negligence of the Contractor, including but not restricted to, acts of God, acts of the public enemy, acts of the State in either its sovereign or contractual capacity, acts of another Contractor in the performance of a contract with the State, fires, floods, epidemics, quarantine restrictions, strikes, freight embargoes, or delays of subcontractors or suppliers arising from unforeseeable causes beyond the control and without the fault or negligence of either the Contractor or the subcontractors or suppliers.

20. Suspension of Work

The State unilaterally may order the Contractor in writing to suspend, delay, or interrupt all or any part of its performance for such period of time as the Procurement Officer may determine to be appropriate for the convenience of the State.

21. Pre-Existing Regulations

In accordance with the provisions of Md. Code Ann., State Finance and Procurement Article, § 11-206, the regulations set forth in Title 21 of the Code of Maryland Regulations (COMAR 21) in effect on the date of execution of this Contract are applicable to this Contract.

22. Financial Disclosure

The Contractor shall comply with the provisions of Md. Code Ann., State Finance and Procurement Article, § 13-221, which requires that every person that enters into contracts, leases, or other agreements with the State or its agencies during a calendar year under which the business is to receive in the aggregate, \$100,000 or

more, shall within thirty (30) days of the time when the aggregate value of these contracts, leases or other agreements reaches \$100,000, file with the Secretary of the State certain specified information to include disclosure of beneficial ownership of the business.

23. Political Contribution Disclosure

The Contractor shall comply with Md. Code Ann., Election Law Article, Title 14, which requires that every person that enters into a contract for a procurement with the State, a county, or a municipal corporation, or other political subdivision of the State, during a calendar year in which the person receives a contract with a governmental entity in the amount of \$200,000 or more, shall, file with the State Board of Elections statements disclosing: (a) any contributions made during the reporting period to a candidate for elective office in any primary or general election; and (b) the name of each candidate to whom one or more contributions in a cumulative amount of \$500 or more were made during the reporting period. The statement shall be filed with the State Board of Elections: (a) before execution of a contract by the State, a county, a municipal corporation, or other political subdivision of the State, and shall cover the 24 months prior to when a contract was awarded; and (b) if the contribution is made after the execution of a contract, then twice a year, throughout the contract term, on or before: (i) May 31, to cover the six (6) month period ending April 30; and (ii) November 30, to cover the six (6) month period ending October 31. Additional information is available on the State Board of Elections website: http://www.elections.state.md.us/campaign_finance/index.html.

24. Documents Retention and Inspection Clause

The Contractor and subcontractors shall retain and maintain all records and documents relating to this Contract for a period of five (5) years after final payment by the State hereunder or any applicable statute of limitations or federal retention requirements (such as HIPAA), whichever is longer, and shall make them available for inspection and audit by authorized representatives of the State, including the Procurement Officer or designee, at all reasonable times. All records related in any way to the Contract are to be retained for the entire time provided under this section. In the event of any audit, the Contractor shall provide assistance to the State, without additional compensation, to identify, investigate, and reconcile any audit discrepancies and/or variances. This Section 24 shall survive expiration or termination of the Contract.

25. Right to Audit

- 25.1 The State reserves the right, at its sole discretion and at any time, to perform an audit of the Contractor's and/or subcontractor's performance under this Contract. An audit is defined as a planned and documented independent activity performed by qualified personnel including but not limited to State and federal auditors, to determine by investigation, examination, or evaluation of objective evidence from data, statements, records, operations and performance practices (financial or otherwise) the Contractor's compliance with the Contract, including but not limited to adequacy and compliance with established procedures and internal controls over the Contract services being performed for the State.
- 25.2 Upon three (3) Business Days' notice, the Contractor and/or any subcontractors shall provide the State reasonable access to their respective records to verify conformance to the terms of the Contract. The Department may conduct these audits with any or all of its own internal resources or by securing the services of a third party accounting or audit firm, solely at the Department's election. The Department may copy, at its own expense, any record related to the services performed and provided under this Contract.
- 25.3 The right to audit shall include any of the Contractor's subcontractors including but not limited to any lower tier subcontractor(s) that provide essential support to the Contract services. The Contractor and/or subcontractor(s) shall ensure the Department has the right to audit such subcontractor(s).

25.4 The Contractor and/or subcontractors shall cooperate with Department and Department's designated accountant or auditor and shall provide the necessary assistance for the Department or Department's designated accountant or auditor to conduct the audit.

25.5 This Section shall survive expiration or termination of the Contract.

26. Compliance with Laws

The Contractor hereby represents and warrants that:

26.1 It is qualified to do business in the State and that it will take such action as, from time to time hereafter, may be necessary to remain so qualified;

26.2 It is not in arrears with respect to the payment of any monies due and owing the State, or any department or unit thereof, including but not limited to the payment of taxes and employee benefits, and that it shall not become so in arrears during the term of this Contract;

26.3 It shall comply with all federal, State and local laws, regulations, and ordinances applicable to its activities and obligations under this Contract; and

26.4 It shall obtain, at its expense, all licenses, permits, insurance, and governmental approvals, if any, necessary to the performance of its obligations under this Contract.

27. Cost and Price Certification

27.1 By submitting cost or price information, the Contractor certifies to the best of its knowledge that the information submitted is accurate, complete, and current as of the date of its Proposal.

27.2 The price under this Contract and any change order or modification hereunder, including profit or fee, shall be adjusted to exclude any significant price increases occurring because the Contractor furnished cost or price information which, as of the date of its Proposal, was inaccurate, incomplete, or not current.

28. Subcontracting; Assignment

The Contractor may not subcontract any portion of the services provided under this Contract without obtaining the prior written approval of the Procurement Officer, nor may the Contractor assign this Contract or any of its rights or obligations hereunder, without the prior written approval of the Procurement Officer; provided, however, that a Contractor may assign monies receivable under a contract after due notice to the State. Any subcontracts shall include such language as may be required in various clauses contained within this Contract, exhibits, and attachments. The Contract shall not be assigned until all approvals, documents, and affidavits are completed and properly registered. The State shall not be responsible for fulfillment of the Contractor's obligations to its subcontractors.

29. Liability

For breach of this Contract, negligence, misrepresentation, or any other contract or tort claim, the Contractor shall be liable as follows:

29.1 For infringement of patents, copyrights, trademarks, service marks, and/or trade secrets, as provided in Section 7 of this Contract;

- 29.2 Without limitation for damages for bodily injury (including death) and damage to real property and tangible personal property; and
- 29.3 For all other claims, damages, losses, costs, expenses, suits, or actions in any way related to this Contract, regardless of the form the Contractor's liability for third party claims arising under Section 10 of this Contract shall be unlimited if the State is not immune from liability for claims arising under Section 10.

30. Commercial Nondiscrimination

- 30.1 As a condition of entering into this Contract, the Contractor represents and warrants that it will comply with the State's Commercial Nondiscrimination Policy, as described at Md. Code Ann., State Finance and Procurement Article, Title 19. As part of such compliance, the Contractor may not discriminate on the basis of race, color, religion, ancestry or national origin, sex, age, marital status, sexual orientation, sexual identity, genetic information or an individual's refusal to submit to a genetic test or make available the results of a genetic test or on the basis of disability or other unlawful forms of discrimination in the solicitation, selection, hiring, or commercial treatment of subcontractors, vendors, suppliers, or commercial customers, nor shall the Contractor retaliate against any person for reporting instances of such discrimination. The Contractor shall provide equal opportunity for subcontractors, vendors, and suppliers to participate in all of its public sector and private sector subcontracting and supply opportunities, provided that this clause does not prohibit or limit lawful efforts to remedy the effects of marketplace discrimination that have occurred or are occurring in the marketplace. The Contractor understands that a material violation of this clause shall be considered a material breach of this Contract and may result in termination of this Contract, disqualification of the Contractor from participating in State contracts, or other sanctions. This clause is not enforceable by or for the benefit of, and creates no obligation to, any third party.
- 30.2 The Contractor shall include the above Commercial Nondiscrimination clause, or similar clause approved by the Department, in all subcontracts.
- 30.3 As a condition of entering into this Contract, upon the request of the Commission on Civil Rights, and only after the filing of a complaint against the Contractor under Md. Code Ann., State Finance and Procurement Article, Title 19, as amended from time to time, the Contractor agrees to provide within sixty (60) days after the request a complete list of the names of all subcontractors, vendors, and suppliers that Contractor has used in the past four (4) years on any of its contracts that were undertaken within the State of Maryland, including the total dollar amount paid by Contractor on each subcontract or supply contract. Contractor further agrees to cooperate in any investigation conducted by the State pursuant to the State's Commercial Nondiscrimination Policy as set forth at Md. Code Ann., State Finance and Procurement Article, Title 19, and provide any documents relevant to any investigation that are requested by the State. Contractor understands that violation of this clause is a material breach of this Contract and may result in contract termination, disqualification by the State from participating in State contracts, and other sanctions.

31. Prompt Pay Requirements

- 31.1 If the Contractor withholds payment of an undisputed amount to its subcontractor, the Department, at its option and in its sole discretion, may take one or more of the following actions:
- a. Not process further payments to the contractor until payment to the subcontractor is verified;
 - b. Suspend all or some of the contract work without affecting the completion date(s) for the contract work;
 - c. Pay or cause payment of the undisputed amount to the subcontractor from monies otherwise due or that may become due;
 - d. Place a payment for an undisputed amount in an interest-bearing escrow account; or
 - e. Take other or further actions as appropriate to resolve the withheld payment.

- 31.2 An “undisputed amount” means an amount owed by the Contractor to a subcontractor for which there is no good faith dispute. Such “undisputed amounts” include, without limitation:
- a. Retainage which had been withheld and is, by the terms of the agreement between the Contractor and subcontractor, due to be distributed to the subcontractor; and
 - b. An amount withheld because of issues arising out of an agreement or occurrence unrelated to the agreement under which the amount is withheld.
- 31.3 An act, failure to act, or decision of a Procurement Officer or a representative of the Department, concerning a withheld payment between the Contractor and a subcontractor under this provision, may not:
- a. Affect the rights of the contracting parties under any other provision of law;
 - b. Be used as evidence on the merits of a dispute between the Department and the contractor in any other proceeding; or
 - c. Result in liability against or prejudice the rights of the Department.
- 31.4 The remedies enumerated above are in addition to those provided under COMAR 21.11.03.13 with respect to subcontractors that have contracted pursuant to the Minority Business Enterprise (MBE) program.
- 31.5 To ensure compliance with certified MBE subcontract participation goals, the Department may, consistent with COMAR 21.11.03.13, take the following measures:
- a. Verify that the certified MBEs listed in the MBE participation schedule actually are performing work and receiving compensation as set forth in the MBE participation schedule. This verification may include, as appropriate:
 - i. Inspecting any relevant records of the Contractor;
 - ii. Inspecting the jobsite; and
 - iii. Interviewing subcontractors and workers.
- Verification shall include a review of the:
- i. The Contractor’s monthly report listing unpaid invoices over thirty (30) days old from certified MBE subcontractors and the reason for nonpayment; and
 - ii. The monthly report of each certified MBE subcontractor, which lists payments received from the Contractor in the preceding thirty (30) days and invoices for which the subcontractor has not been paid.
- b. If the Department determines that the Contractor is not in compliance with certified MBE participation goals, then the Department will notify the Contractor in writing of its findings, and will require the Contractor to take appropriate corrective action. Corrective action may include, but is not limited to, requiring the Contractor to compensate the MBE for work performed as set forth in the MBE participation schedule.
 - c. If the Department determines that the Contractor is in material noncompliance with MBE contract provisions and refuses or fails to take the corrective action that the Department requires, then the Department may:
 - i. Terminate the contract;
 - ii. Refer the matter to the Office of the Attorney General for appropriate action; or
 - iii. Initiate any other specific remedy identified by the contract, including the contractual remedies required by any applicable laws, regulations, and directives regarding the payment of undisputed amounts.

- d. Upon completion of the Contract, but before final payment or release of retainage or both, the Contractor shall submit a final report, in affidavit form under the penalty of perjury, of all payments made to, or withheld from, MBE subcontractors.

32. Living Wage

If a Contractor subject to the Living Wage law fails to submit all records required under COMAR 21.11.10.05 to the Commissioner of Labor and Industry at the Department of Labor, Licensing and Regulation, the agency may withhold payment of any invoice or retainage. The agency may require certification from the Commissioner on a quarterly basis that such records were properly submitted.

33. Use of Estimated Quantities

Unless specifically indicated otherwise in the State’s solicitation or other controlling documents related to the Scope of Work, any sample amounts provided are estimates only and the Department does not guarantee a minimum or maximum number of units or usage in the performance of this Contract.

34. Contract Monitor and Procurement Officer

The work to be accomplished under this Contract shall be performed under the direction of the Contract Monitor. All matters relating to the interpretation of this Contract shall be referred to the Procurement Officer for determination.

35. Notices

All notices hereunder shall be in writing and either delivered personally or sent by certified or registered mail, postage prepaid, as follows:

If to the State: Robert W. Howells
Procurement Officer
Maryland State Lottery and Gaming Control Agency
Montgomery Park Business Center
1800 Washington Boulevard, Suite 330
Baltimore, MD 21230
Telephone: 410-230-8789; Fax: 410-230-8727
E-mail Address: robert.howells@maryland.gov

If to the Contractor: _____

36. Liquidated Damages

- 36.1 The Contract requires the Contractor to make good faith efforts to comply with the Minority Business Enterprise (“MBE”) Program and Contract provisions. The State and the Contractor acknowledge and agree that the State will incur economic damages and losses, including, but not limited to, loss of goodwill, detrimental impact on economic development, and diversion of internal staff resources, if the Contractor does not make good faith efforts to comply with the requirements of the MBE Program and pertinent MBE Contract provisions. The parties further acknowledge and agree that the damages the State might reasonably

be anticipated to accrue as a result of such lack of compliance are difficult or impossible to ascertain with precision and liquidated damages represent a fair, reasonable, and appropriate estimation of damages.

Upon a determination by the State that the Contractor failed to make good faith efforts to comply with one or more of the specified MBE Program requirements or pertinent MBE Contract provisions and without the State being required to present any evidence of the amount or character of actual damages sustained, the Contractor agrees to pay liquidated damages to the State at the rates set forth below. Such liquidated damages are intended to represent estimated actual damages and are not intended as a penalty. The Contractor expressly agrees that the State may withhold payment on any invoices as an offset against liquidated damages owed. The Contractor further agrees that for each specified violation, the agreed-upon liquidated damages are reasonably proximate to the loss the State is anticipated to incur as a result of each violation.

- 36.1.1 Failure to submit each monthly payment report in full compliance with COMAR 21.11.03.13B(3): \$25.00 per day until the monthly report is submitted as required.
 - 36.1.2 Failure to include in its agreements with MBE subcontractors a provision requiring submission of payment reports in full compliance with COMAR 21.11.03.13B(4): \$100.00 per MBE subcontractor.
 - 36.1.3 Failure to comply with COMAR 21.11.03.12 in terminating, canceling, or changing the scope of work/value of a contract with an MBE subcontractor and/or amendment of the MBE participation schedule: the difference between the dollar value of the MBE participation commitment on the MBE participation schedule for that specific MBE firm and the dollar value of the work performed by that MBE firm for the Contract.
 - 36.1.4 Failure to meet the Contractor's total MBE participation goal and subgoal commitments: the difference between the dollar value of the total MBE participation commitment on the MBE participation schedule and the MBE participation actually achieved.
 - 36.1.5 Failure to promptly pay all undisputed amounts to a subcontractor in full compliance with the prompt payment provisions of the Contract: \$50.00 per day until the undisputed amount due to the subcontractor is paid.
- 36.2 Notwithstanding the assessment or availability of liquidated damages, the State reserves the right to terminate the Contract and exercise any and all other rights or remedies which may be available under the Contract or otherwise may be available at law or in equity.

37. Parent Company Guarantee

(Corporate name of Contractor's Parent Company) hereby guarantees absolutely the full, prompt, and complete performance by (Contractor) of all the terms, conditions and obligations contained in this Contract, as it may be amended from time to time, including any and all exhibits that are now or may become incorporated hereunto, and other obligations of every nature and kind that now or may in the future arise out of or in connection with this Contract, including any and all financial commitments, obligations, and liabilities. (Corporate name of Contractor's Parent Company) may not transfer this absolute guaranty to any other person or entity without the prior express written approval of the State, which approval the State may grant, withhold, or qualify in its sole and absolute subjective discretion. (Corporate name of Contractor's Parent Company) further agrees that if the State brings any claim, action, lawsuit or proceeding against (Contractor), (Corporate name of Contractor's Parent Company) may be named as a party, in its capacity as Absolute Guarantor.

38. Change In Financial Condition/Bankruptcy

If the Contractor experiences a substantial change in its financial condition during the term of the Contract or any extension thereof, the Contractor shall notify the Procurement Officer in writing of the change at the time the change occurs or is identified. Failure to notify the Procurement Officer of such a substantial adverse change in financial condition may be sufficient grounds for terminating the Contract.

Upon the filing of any bankruptcy proceeding by or against the Contractor, whether voluntary or involuntary, or upon the appointment of a receiver, trustee, or assignee for the benefit of creditors, the Contractor shall notify the Procurement Officer in writing immediately.

39. Dissemination of Information/News and Press Releases

The Contractor shall not release any information related to the services or performance of the services under this Contract nor publish any final reports or documents without the prior written approval of the MLGCA. The Contractor shall indemnify the State, MLGCA and Commission, their officials, agents, and employees, from any liability that may be incurred by reason of dissemination, publication, distribution or circulation, of any information, or materials pertaining to this Contract by the Contractor, its agents, or employees.

The MLGCA is the only entity authorized to issue news releases relating to this Contract and performance thereunder. The Contractor shall not issue any news or press releases or any commercial advertising pertaining to this Contract or to the MLGCA or Commission without the prior written approval of the Procurement Officer.

40. Lottery Ticket Purchase and Prize Payment Restrictions

In accordance with Section 9-123 of the Maryland State Government Article, Annotated Code, no officer or employee of the MLGCA, their spouse, child, brother, sister, or parent residing in the household of such officer or employee shall purchase a Maryland Lottery ticket or be paid a prize in any Maryland Lottery game. During the term of this Contract, this restriction shall also apply to officers and employees of the Contractor or of any subcontractor whose use is subject to MLGCA approval who are directly involved in the Drawings, and their spouse, child, brother, sister, or parent residing in the household of such officer or employee. The Contractor shall ensure that this requirement is made known to each officer and employee of the Contractor and any subcontractor whose use is subject to MLGCA approval. The Director shall have the sole discretion to determine the applicability of this restriction to any specific individual.

41. Relationship of the Parties (Independent Contractor)

During the course of this Contract, the Contractor may enter into agreements with third-parties in order for Contractor to fulfill its contractual obligations and responsibilities under this Contract. Contractor understands and agrees that the relationship between the MLGCA (State) and the Contractor is that of client and Independent Contractor, and is not, and shall not be deemed to be, any other relationship, including but not limited to, that of joint venture, partners, joint employers or principal and agent. No agent, employee, or servant of the Contractor or any of its subcontractors shall be or shall be deemed to be an employee, agent, or servant of the State for any reason. The Contractor shall be solely and entirely responsible for its acts and the acts of its agents, employees, servants and subcontractors during the performance of this Contract.

From any amount due the Contractor, there will be no deductions for federal income tax or FICA payments, nor for State income tax, nor for any other purposes that are associated with any employer-employee relationship, unless required by law. Payment of federal income tax, FICA, and State income tax is the responsibility of the Contractor. The Contractor is responsible for complying with all federal and state laws as to taxes and Social Security payments to be withheld from wages paid to its employees and other contractors.

41.1 No Liability by MLGCA to Third-Party Vendors or Subcontractors

The MLGCA, Commission and State, have no liability for payment or performance to any third party which enters into an agreement with the Contractor for work related to this Contract. The Contractor does not have the power or authority to sign an agreement in the MLGCA's name or on behalf of the MLGCA, to bind or attempt to bind the MLGCA, Commission or the State, or any employee or official thereof, to any agreement with a third-party vendor, for payment of any monies or other obligations related to, or arising out of that third-party agreement, or to obligate the MLGCA to any liability if the Contractor fails to pay any subcontractor or other third-party vendor. All agreements into which the Contractor enters with subcontractors and other third-party vendors for work to be performed under this Contract shall be in the Contractor's name only and shall not name the MLGCA as a party to the agreement.

41.2 Contractor Acknowledgement, Indemnification and Duty to Notify

Contractor acknowledges, fully understands and agrees that the MLGCA, Commission or State is not a party to, and is not liable for payment or performance, any third-party agreement that the Contractor may enter into arising out of work related to this Contract. Contractor agrees to remove, redact, or strike any language from agreements it signs with subcontractors and third-party vendors, noting a responsibility or liability by the MLGCA, Commission or State with respect to the payment of any monies or other obligations. Contractor agrees to fully indemnify and hold harmless the MLGCA, Commission and State from any and all liability of any nature arising out of its third-party relationships, and agrees to provide written notice for each agreement it completes with a third-party vendor, notifying such entities of the Independent Contractor relationship.

42. Contractor Cooperation/Good Faith

The Contractor shall cooperate with any subsequent contractor or any other contractor designated by the MLGCA to accomplish its objectives. All parties agree to cooperate fully in good faith and to assist each other to the extent reasonable and practicable to accomplish the objectives set forth in this Contract.

43. News/Press Releases

The MLGCA is the only entity authorized to issue news releases relating to this Contract and performance thereunder. The Contractor shall not issue any news or press releases or any commercial advertising pertaining to this Contract or to the MLGCA or Commission without the prior written approval of the Procurement Officer.

44. Adverse Interest

The Contractor agrees that it presently has no interest and shall not acquire any interest, direct or indirect, which would conflict in any manner or degree with the performance of its services hereunder. The Contractor further agrees that in the performance of this Contract it will not knowingly employ, directly or indirectly, any person having such an interest.

45. Non-Exclusive Rights

The Contract shall be non-exclusive and nothing in this Contract shall preclude the MLGCA from procuring similar services from another vendor. The MLGCA reserves the right to secure directly the services of third parties to perform any services secured under this Contract. The Offeror will not be entitled to payment of any fee or otherwise for any services performed by these third parties.

46. Compliance with Americans With Disabilities Act (ADA)

Contractor shall comply with the Americans with Disabilities Act (ADA), 42 USC §§ 12101 *et seq.* and applicable regulations. To the extent required by the ADA, Contractor's facilities, services, and programs shall be accessible to persons with disabilities. Contractor shall bear sole responsibility for assuring that its activities under this Contract

conform to the ADA. Contractor shall indemnify the State in any action brought pursuant to the ADA for all damages, attorney fees, litigation expenses, and costs, if such action or proceeding arises from the acts of Contractor, or of Contractor's employees, agents, or subcontractors.

47. Miscellaneous

47.1 Any provision of this Contract which contemplates performance or observance subsequent to any termination or expiration of this Contract shall survive termination or expiration of this Contract and continue in full force and effect.

47.2 If any term contained in this Contract is held or finally determined to be invalid, illegal, or unenforceable in any respect, in whole or in part, such term shall be severed from this Contract, and the remaining terms contained herein shall continue in full force and effect, and shall in no way be affected, prejudiced, or disturbed thereby.

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

CONTRACTOR

STATE OF MARYLAND
MARYLAND STATE LOTTERY AND
GAMING CONTROL AGENCY

By:

By: Gordon Medenica, Director

Date

PARENT COMPANY (GUARANTOR) (if applicable)

By:

By:

Date

Date

Approved for form and legal sufficiency
this ____ day of _____, 2017

Romaine N. Williams, Assistant Attorney
General

APPROVED BY BPW: _____
(Date)

(BPW Item #)

ATTACHMENT N – CONTRACT AFFIDAVIT

A. AUTHORITY

I hereby affirm that I, _____ (name of affiant) am the _____ (title) and duly authorized representative of _____ (name of business entity) and that I possess the legal authority to make this affidavit on behalf of the business for which I am acting.

B. CERTIFICATION OF REGISTRATION OR QUALIFICATION WITH THE STATE DEPARTMENT OF ASSESSMENTS AND TAXATION

I FURTHER AFFIRM THAT:

The business named above is a (check applicable box):

- (1) Corporation — domestic or foreign;
- (2) Limited Liability Company — domestic or foreign;
- (3) Partnership — domestic or foreign;
- (4) Statutory Trust — domestic or foreign;
- (5) Sole Proprietorship.

and is registered or qualified as required under Maryland Law. I further affirm that the above business is in good standing both in Maryland and (IF APPLICABLE) in the jurisdiction where it is presently organized, and has filed all of its annual reports, together with filing fees, with the Maryland State Department of Assessments and Taxation. The name and address of its resident agent (IF APPLICABLE) filed with the State Department of Assessments and Taxation is:

Name and Department ID

Number: _____ Address: _____

and that if it does business under a trade name, it has filed a certificate with the State Department of Assessments and Taxation that correctly identifies that true name and address of the principal or owner as:

Name and Department ID

Number: _____ Address: _____

C. FINANCIAL DISCLOSURE AFFIRMATION

I FURTHER AFFIRM THAT:

I am aware of, and the above business will comply with, the provisions of State Finance and Procurement Article, §13-221, Annotated Code of Maryland, which require that every business that enters into contracts, leases, or other agreements with the State of Maryland or its agencies during a calendar year under which the business is to receive in the aggregate \$100,000 or more shall, within 30 days of the time when the aggregate value of the contracts, leases, or other agreements reaches \$100,000, file with the Secretary of State of Maryland certain specified information to include disclosure of beneficial ownership of the business.

D. POLITICAL CONTRIBUTION DISCLOSURE AFFIRMATION

I FURTHER AFFIRM THAT:

I am aware of, and the above business will comply with, Election Law Article, Title 14, Annotated Code of Maryland, which requires that every person that enters into a contract for a procurement with the State, a county, or a municipal corporation, or other political subdivision of the State, during a calendar year in which the person receives a contract with a governmental entity in the amount of \$200,000 or more, shall file with the State Board of Elections statements disclosing: (a) any contributions made during the reporting period to a candidate for elective office in any primary or general election; and (b) the name of each candidate to whom one or more contributions in a cumulative amount of \$500 or more were made during the reporting period. The statement shall be filed with the State Board of Elections: (a) before execution of a contract by the State, a county, a municipal corporation, or other political subdivision of the State, and shall cover the 24 months prior to when a contract was awarded; and (b) if the contribution is made after the execution of a contract, then twice a year, throughout the contract term, on or before: (i) May 31, to cover the six (6) month period ending April 30; and (ii) November 30, to cover the six (6) month period ending October 31.

E. DRUG AND ALCOHOL FREE WORKPLACE

(Applicable to all contracts unless the contract is for a law enforcement agency and the agency head or the agency head's designee has determined that application of COMAR 21.11.08 and this certification would be inappropriate in connection with the law enforcement agency's undercover operations.)

I CERTIFY THAT:

(1) Terms defined in COMAR 21.11.08 shall have the same meanings when used in this certification.

(2) By submission of its Proposal, the business, if other than an individual, certifies and agrees that, with respect to its employees to be employed under a contract resulting from this solicitation, the business shall:

(a) Maintain a workplace free of drug and alcohol abuse during the term of the contract;

(b) Publish a statement notifying its employees that the unlawful manufacture, distribution, dispensing, possession, or use of drugs, and the abuse of drugs or alcohol is prohibited in the business' workplace and specifying the actions that will be taken against employees for violation of these prohibitions;

(c) Prohibit its employees from working under the influence of drugs or alcohol;

(d) Not hire or assign to work on the contract anyone who the business knows, or in the exercise of due diligence should know, currently abuses drugs or alcohol and is not actively engaged in a bona fide drug or alcohol abuse assistance or rehabilitation program;

(e) Promptly inform the appropriate law enforcement agency of every drug-related crime that occurs in its workplace if the business has observed the violation or otherwise has reliable information that a violation has occurred;

(f) Establish drug and alcohol abuse awareness programs to inform its employees about:

- (i) The dangers of drug and alcohol abuse in the workplace;
- (ii) The business's policy of maintaining a drug and alcohol free workplace;
- (iii) Any available drug and alcohol counseling, rehabilitation, and employee assistance programs; and
- (iv) The penalties that may be imposed upon employees who abuse drugs and alcohol in the workplace;

(g) Provide all employees engaged in the performance of the contract with a copy of the statement required by §E(2)(b), above;

(h) Notify its employees in the statement required by §E(2)(b), above, that as a condition of continued employment on the contract, the employee shall:

- (i) Abide by the terms of the statement; and

(ii) Notify the employer of any criminal drug or alcohol abuse conviction for an offense occurring in the workplace not later than 5 days after a conviction;

(i) Notify the procurement officer within 10 days after receiving notice under §E(2)(h)(ii), above, or otherwise receiving actual notice of a conviction;

(j) Within 30 days after receiving notice under §E(2)(h)(ii), above, or otherwise receiving actual notice of a conviction, impose either of the following sanctions or remedial measures on any employee who is convicted of a drug or alcohol abuse offense occurring in the workplace:

- (i) Take appropriate personnel action against an employee, up to and including termination; or
- (ii) Require an employee to satisfactorily participate in a bona fide drug or alcohol abuse assistance or rehabilitation program; and

(k) Make a good faith effort to maintain a drug and alcohol free workplace through implementation of §E(2)(a)—(j), above.

(3) If the business is an individual, the individual shall certify and agree as set forth in §E(4), below, that the individual shall not engage in the unlawful manufacture, distribution, dispensing, possession, or use of drugs or the abuse of drugs or alcohol in the performance of the contract.

(4) I acknowledge and agree that:

(a) The award of the contract is conditional upon compliance with COMAR 21.11.08 and this certification;

(b) The violation of the provisions of COMAR 21.11.08 or this certification shall be cause to suspend payments under, or terminate the contract for default under COMAR 21.07.01.11 or 21.07.03.15, as applicable; and

(c) The violation of the provisions of COMAR 21.11.08 or this certification in connection with the contract may, in the exercise of the discretion of the Board of Public Works, result in suspension and debarment of the business under COMAR 21.08.03.

F. CERTAIN AFFIRMATIONS VALID: I FURTHER AFFIRM THAT:

To the best of my knowledge, information, and belief, each of the affirmations, certifications, or acknowledgements contained in that certain Proposal Affidavit dated _____, 201____, and executed by me for the purpose of obtaining the contract to which this Exhibit is attached remains true and correct in all respects as if made as of the date of this Contract Affidavit and as if fully set forth herein.

I DO SOLEMNLY DECLARE AND AFFIRM UNDER THE PENALTIES OF PERJURY THAT THE CONTENTS OF THIS AFFIDAVIT ARE TRUE AND CORRECT TO THE BEST OF MY KNOWLEDGE, INFORMATION, AND BELIEF.

Date: _____

By: _____ (printed name of Authorized Representative and Affiant)

_____ (signature of Authorized Representative and Affiant)

ATTACHMENT O – DHR HIRING AGREEMENT

This RFP does not require a DHR Hiring Agreement.

ATTACHMENT P – LITIGATION/PROTEST BOND

BOND NO. _____

KNOW ALL MEN BY THESE PRESENTS THAT _____ having its principal office at _____ as Principal and _____ authorized to transact business in the State of Maryland, as Surety and held and firmly bound to the State of Maryland, as obligee in the sum of Fifty Thousand and 00/100 Dollars (\$50,000). As a condition of the Maryland State Lottery Agency’s Request for Proposals #2017-02, this bond must be supplied with the Proposal with provision that a claim may be made upon this bond in accordance with Section 4.44 of the Maryland State Lottery and Gaming Control Agency’s Request for Proposals #2017-02 for “Televised Drawings of Lottery Draw Games and Related Services”.

PRINCIPAL AND SURETY bind themselves, their heirs, assigns, executors and administrator, jointly and severally, conditioned that this obligation shall remain in full force and effect for a period of one (1) year from the proposal submission date. Provided, however, the Surety shall not be liable for the sum greater than the penal sum of this bond.

IN WITNESS WHEREOF, the said Principal’s hand and seal have been set hereunto and the said Surety has caused these presents to be signed by its Attorney to become effective on this, the _____ day of _____, 2017.

WITNESS: _____

BY: _____

TITLE: _____

SURETY: _____

WITNESS: _____

BY: _____

TITLE: _____

ATTACHMENT Q – PROPOSAL BOND

Page 1 of 2

Bond No. _____

KNOW ALL MEN BY THESE PRESENTS, that we, _____

(Offeror)

as Principal, hereinafter called the Principal, and

(Bonding Company)

a corporation duly organized under the laws of the state of _____, as Surety, hereinafter called the Surety, are held and firmly bond unto the State of Maryland, hereinafter called "State" for the sum of Fifty Thousand and 00/100 Dollars (\$ 50,000), for the payment of which sum, the said Principal and the said Surety bind ourselves, our heirs, executors, administrators, successors, and assigns, jointly and severally, firmly by these presents.

WHEREAS, the Principal has submitted a proposal for _____
Televised Drawings of Lottery Draw Games and Related Services #2017-012
(Identify project by number and brief description)

NOW, THEREFORE, if the Principal, upon acceptance by the State of its proposal identified above, within the period specified herein for acceptance for one hundred-eighty (180) days, shall execute such further contractual documents, if any, and give such bond(s) as may be required by the terms of the proposal as accepted within the time specified (ten (10) days if no period is specified) after receipt of the forms, or in the event of failure so to execute such further contractual documents and give such bonds, if the Principal shall pay the State for any cost of procuring the work which exceeds the amount of its proposal, then the above obligation shall be void and of no effect.

The Surety executing this instrument hereby agrees that its obligation shall not be impaired by any extension(s) of the time for acceptance of the proposal that the Principal may grant to the State, notice of which extension(s) to the Surety being hereby waived; provided that such waiver of notice shall apply only with respect to extensions aggregating not more than ninety (90) calendar days in addition to the period originally allowed for acceptance of the proposal.

THE REMAINDER OF THIS PAGE IS INTENTIONALLY LEFT BLANK.

In Presence of: **INDIVIDUAL PRINCIPAL**
Witness _____ as to _____ (SEAL)

In Presence of: **CO-PARTNERSHIP PRINCIPAL**
Witness _____ (SEAL)

(Name of Co-Partnership)
_____ as to BY: _____ (SEAL)
_____ as to _____ (SEAL)
_____ as to _____ (SEAL)

CORPORATE PRINCIPAL

Attest: _____
(Name of Corporation)

_____ BY: _____ AFFIX
Corporate Secretary President CORPORATE
SEAL

SURETY

Attest: _____
(Name of Surety)

_____ BY: _____ AFFIX
Secretary President CORPORATE
SEAL

Bonding Agent's Name _____
Agent's Address _____

Business Address of Surety _____

ATTACHMENT R – PERFORMANCE BOND

PAGE 1 OF 3

Principal

Business Address of Principal

Surety

a corporation of the State of _____
and authorized to do business in
the State of Maryland

Obligee: STATE OF MARYLAND

By and through the following
Administration: Lottery & Gaming Control

Two Hundred Thousand Dollars (\$200,000.00)

Penal Sum of Bond (express in words and figures)

_____, 20_____
Date Bond Executed

Contract Number: 2017-02

Description of Contract:

_____, 20_____
Date of Contract

Televised Drawings of Lottery Draw Games and Related Services (#2017-02)

KNOW ALL MEN BY THESE PRESENTS, That we, the Principal named above and Surety named above, are held and firmly bound unto the Obligee named above in the Penal Sum of this Performance Bond stated above, for the payment of which Penal Sum we bind ourselves, our heirs, executors, administrators, personal representatives, successors, and assigns, jointly and severally, firmly by these presents. However, where Surety is composed of corporations acting as co-sureties, we, the co-sureties, bind ourselves, our successors and assigns, in such Penal Sum jointly and severally as well as severally only for the purpose of allowing a joint action or actions against any or all of us, and for all other purposes each co-surety binds itself, jointly and severally with the Principal, for the payment of such sum as appears above its name below, but if no limit of liability is indicated, the limit of such liability shall be the full amount of the Penal Sum.

WHEREAS, Principal has entered into or will enter into a contract with the State of Maryland, by and through the Administration named above acting for the State of Maryland, which contract is described and dated as shown above, and incorporated herein by reference. The contract and all items incorporated into the contract, together with any and all changes, extensions of the time, alterations, modifications, or additions to the contract or to the work to be performed thereunder or to the Plans, Specifications, and Special Provisions, or any of them, or to any other items incorporated into the contract shall hereinafter be referred to as "the Contract."

WHEREAS, it is one of the conditions precedent to the final award of the Contract that these presents be executed.

NOW, THEREFORE, during the original term of said Contract, during any extensions thereto that may be granted by the Administration, and during the guarantee and warranty period, if any, required under the Contract, unless otherwise stated therein, this Performance Bond shall remain in full force and effect unless and until the following terms and conditions are met:

1. Principal shall well and truly perform the Contract; and
2. Principal and Surety shall comply with the terms and conditions contained in this Performance Bond.

Whenever Principal shall be declared by the Administration to be in default under the Contract, the Surety may, within 15 days after notice of default from the Administration, notify the Administration of its election to either promptly proceed to remedy the default or promptly to complete the contract in accordance with and subject to its terms and conditions. In the event the Surety does not elect to exercise either of the above stated options, then the Administration thereupon shall have the remaining contract work completed, Surety to remain liable hereunder for all expenses of completion up to but not exceeding the penal sum stated above.

The Surety hereby stipulates and agrees that no change, extension of time, alteration or addition to the terms of the Contract or to the work to be performed thereunder or the Specifications accompanying the same shall in any way affect its obligations on the Performance Bond, and it does hereby waive notice of any such change, extension of time, alteration or addition to the terms of the Contract or to the work or to the Specifications.

This Performance Bond shall be governed by and construed in accordance with the laws of the State of Maryland and any reference herein to Principal or Surety in the singular shall include all entities in the plural who or which are signatories under the Principal or Surety heading below.

IN WITNESS WHEREOF, Principal and Surety have set their hands and seals to this Performance Bond. If any individual is a signatory under the Principal heading below, then each such individual has signed below on his or her own behalf, has set forth below the name of the firm, if any, in whose name he or she is doing business, and has set forth below, then all members of each such partnership or joint venture have signed below, each member has set forth below the name of the partnership or joint venture, and each member has set forth below his or her title as general partner, limited partner, or member of joint venture, whichever is applicable. If any corporation is a signatory under the Principal or Surety heading below, then each such corporation has caused the following: the corporation's name to be set forth below, a duly authorized representative of the corporation to affix below the corporation's seal and to attach hereto a notarized corporate resolution or power of attorney authorizing such action, and each such duly authorized representative to sign below and to set forth below his or her title as a representative of the corporation. If any individual acts as a witness to any signature below, then each such individual has signed below and has set forth below his or her title as a witness. All of the above has been done as of the Date of Bond shown above.

In Presence of: **INDIVIDUAL PRINCIPAL**
Witness

_____ as to _____
(SEAL)

In Presence of: **CO-PARTNERSHIP PRINCIPAL**
Witness

_____ (SEAL)
(Name of Co-Partnership)

_____ as to BY : _____ (SEAL)

_____ as to _____ (SEAL)

_____ as to _____ (SEAL)

CORPORATE PRINCIPAL

Attest: _____
(Name of Corporation)

_____ BY: _____ AFFIX
Corporate Secretary President CORPORATE SEAL

SURETY

Attest: _____ BY: _____ AFFIX
Signature SEAL CORPORATE

Title: _____

(Business Address of Surety)

Bonding Agent's Name _____ - _____

Agent's Address _____

ATTACHMENT S – DRAW GAMES DRAWING PROCEDURES

The MLGCA's Draw Games Drawing Procedures (May 2017) is available at the office of the Procurement Officer. Please contact the Procurement Officer to obtain a copy.

Robert W. Howells

Maryland State Lottery and Gaming Control Agency

Montgomery Park Business Center

1800 Washington Boulevard, Suite 330

Baltimore, MD 21230

Telephone: (410) 230-8789

Fax: (410) 230-8727

E-mail Address: Robert.howells@maryland.gov

ATTACHMENT T

PROPOSED AIRTIME FOR TELEVISED DRAWINGS AND AUDIENCE DELIVERY (BALTIMORE DMA)

BALTIMORE DMA									
DRAWING	TELEVISED DRAWING DAYS	DRAWING LENGTH (seconds)	REQUIRED TIME WINDOW to AIR the DRAWING	OFFEROR'S PROPOSED TIME TO TELEVIEW THE DRAWING	12-MONTH AVG (Jan 16 - Dec 16), LPM Live+SD, A25-54 RTG	PROJECTED LPM Live+SD, A25-54 RTG	PROJECTED ANNUAL LPM Live+SD, A25-54 GRPs	PROJECTED ANNUAL ADULT 18+ GROSS IMPRESSIONS	PROJECTED GROSS DOLLAR VALUE
TELEVISED DRAWINGS: MANDATORY									
Pick 3 & Pick 4 Evening / 5 Card Cash Graphic Display	Daily	:60	7:45 pm - 8:30 pm						
Mega Millions	Tuesday & Friday	:60	10:59 pm - 11:30 pm						
Powerball	Wednesday & Saturday	:60	10:59 pm - 11:30 pm						
TELEVISED DRAWINGS: OPTIONAL									
Pick 3 & Pick 4 Midday	Daily	:60	12:28 pm - 1:30 pm						
Bonus Match 5	Daily	:30	7:58 pm - 11:30 pm						
Multi-Match / Cash4Life Graphic Display	Monday & Thursday	:60	11:05 pm - 11:35 pm						

ATTACHMENT U
PROPOSED AIRTIME FOR TELEVISED DRAWINGS AND AUDIENCE DELIVERY
(BY COUNTY)

Game/Drawing	MANDATORY			OPTIONAL		
	Pick 3 & Pick 4 Evening Drawing/ 5 Card Cash Graphic Display	Mega Millions	Powerball	Pick 3 & Pick 4 Midday	Bonus Match 5 Evening	Multi-Match/ Cash4Life Graphic Display
Drawing Length	:60	:60	:60	:60	:30	:60
Required Time Window to Air the Drawing	Daily, 7:45 pm - 8:30 pm	Tues & Fri, 10:59 pm - 11:30 pm	Wed & Sat, 10:59 pm - 11:30 pm	Daily, 12:28 pm - 1:30 pm	Daily, 7:58 pm - 11:30 pm	Mon & Thurs, 11:05 pm - 11:35 pm
Offeror's Proposed Drawing Time						
Maryland Counties	Projected Annual A25-54 Gross Imp	Projected Annual A25-54 Gross Imp	Projected Annual A25-54 Gross Imp	Projected Annual A25-54 Gross Imp	Projected Annual A25-54 Gross Imp	Projected Annual A25-54 Gross Imp
Alleghany County						
Anne Arundel County						
Batlimore City						
Baltimore County						
Calvert County						
Caroline County						
Carroll County						
Cecil County						
Charles County						
Dorchester County						
Frederick County						
Garrett County						
Harford County						
Howard County						
Kent County						
Montgomery County						
Prince George's County						
Queen Anne's County						
St. Mary's County						
Somerset County						
Talbot County						
Washington County						
Wicomico County						
Worcester County						
Total A25-54 Imp						
Total Est Gross Value						

For counties within the Baltimore and Washington, D.C. DMAs, the Offeror shall project the annual Adult 25-54 gross impressions based on a 12-month LPM Live+SD average for the time period of January 2016 - December 2016.

For counties within the Salisbury DMA, the Offeror shall project the annual Adult 25-54 gross impressions using a 12-month average (January 2016 - December 2016).

ATTACHMENT V – AUTHORIZATION FOR RELEASE OF INFORMATION

_____ *(Insert Name of Offeror)* has submitted a proposal in response to RFP #2017-02 issued by the Maryland State Lottery and Gaming Control Agency (“MLGCA”). As part of the MLGCA’s evaluation of the proposal, it will be contacting other entities that have had business relationships with Offeror.

This document, signed by an authorized representative of Offeror, demonstrates the desire of Offeror to:

1. Allow representatives of the MLGCA unfettered access to any and all monitoring reports, licensing or certification documents, and records of evaluations related to the experiences of Offeror in its prior or current contracts for lottery related services, as well as the experiences of any of its parent or subsidiary corporations or other entities with which it has been associated;
2. Allow the same access afforded by the previous section 1 above to apply to situations in which Offeror may have functioned as a subcontractor;
3. Grant representatives of the MLGCA unfettered access to discuss openly the performance of Offeror related to the experiences set out in sections 1 and 2 above; and
4. Expressly authorize that any and all of the information conveyed to representatives of the MLGCA be kept in confidence by the MLGCA without any expectation or requirement that the content of such information shall ever be released to Offeror or any other entity, except where otherwise required by law.

Name & Title:

(Name of Offeror) _____

Date: _____

ATTACHMENT W – CURRENT DRAWING SCHEDULE

Game	Drawing Days	Drawing Conducted	Time Drawing is Conducted	Current Broadcast or Display Time	Length of Drawing
Pick 3 & Pick 4 Midday	Daily	Live in Studio	12:28 PM	Mon-Fri 12:28 PM; Sat-Sun 12:28 PM	:60
Pick 3 & Pick 4 Evening	Daily	Live in Studio	7:57 PM	Mon-Sat 7:57 PM; Sun 8:22-8:30 PM	:60
Bonus Match 5	Daily	Live in Studio	7:58 PM	The results are scrolled immediately following the Pick 3 & Pick 4 Evening drawing.	Results are scrolled.
Multi-Match	Monday & Thursday	Live in Studio	11:22 PM	Mon & Thurs 11:22 PM	:60
Mega Millions	Tuesday & Friday	Satellite Feed	10:59 PM	Tues & Fri 11:22 PM	:60
Powerball	Wednesday & Saturday	Satellite Feed	10:59 PM	Wed & Sat 11:22 pm	:60
5 Card Cash	Daily	Live in Studio	7:45 PM	Drawing results are displayed during the evening drawing.	Results displayed on screen as an animated short graphic representation.
Cash4Life	Monday & Thursday	Livestreamed to Lottery's Website	9:00 PM	Drawing results are displayed during the Multi-Match drawing.	Results are displayed on-screen in a graphic.

ATTACHMENT X – DRAWING MACHINE SPECIFICATIONS

PICK 3 / PICK 4

Pick 3 / Pick 4 Drawing Machine Specifications

1. Two (2) Pick 3 machines and two (2) Pick 4 machines are required. These new and unused machines shall meet or surpass these listed specifications.
2. Each Pick 3 machine will contain three separate mixing chambers designed to successfully mix ten (10) balls and produce one drawn ball each. A transparent loading rack/tube is to be attached outside or inside the rear of each chamber. If outside, it will empty inside the chamber. Each rack/tube will hold ten (10) balls (table tennis-style ball, diameter: 1.5"/38mm). An easily accessed lever located at the rear of the machine will release the balls into the chambers. Each chamber will have a full-width rear door to permit easy access for maintenance and ball removal.
3. Each Pick 4 machine will contain four separate mixing chambers designed to successfully mix ten (10) balls and produce one drawn ball each. A transparent loading rack/tube is to be attached outside or inside the rear of each chamber. If outside, it will empty inside the chamber. Each rack/tube will hold ten (10) balls. An easily accessed lever located at the rear of the machine will release the balls into the chambers. Each chamber will have a full-width rear door to permit easy access for maintenance and ball removal.
4. Each of the four machines will feature a winning ball display platform centered between and attached above the mixing chambers atop the machine. This platform will be in close proximity to the chamber to allow for uninterrupted visual monitoring of each selected ball's path from chamber to platform. There will be a controlled access gate and lever between each chamber and the ball display platform. The gate will close automatically once the selected ball has reached the ball display platform. The lever will be used for manual selection. The ball display platform of the Pick 3 machines will allow for three balls to be displayed. The ball display platform of the Pick 4 machines will allow for four balls to be displayed. The selected balls will be displayed with a separation of approximately one inch (1").
5. Each machine's mixing chambers will be constructed of ½ inch to ¾ inch clear, non-reflective acrylic. The base cabinet for each machine, which will house a compressor and three (Pick 3) or four (Pick 4) centrifugal blower units will be insulated for sound proofing. The base cabinet will be constructed of ¾ inch cabinet grade plywood with a high pressure laminate applied to all surfaces. Each machine's base cabinet will feature a lockable access door at the rear of cabinet and, to guarantee the necessary mobility, lockable 3.5" swivel casters on its wheels to prevent rolling and swiveling.
6. Each machine, mixing chambers and base cabinet, will be between 50" and 58" in height. The machines will be between 60" and 70" in width, between 15" and 20" in depth and will weigh no more than 400lbs.
7. Each machine will provide an unobstructed view of the mixing and selection process, with balls visible at all times during operation. Each machine will be able to randomly select balls in both automatic, semi-automatic and manual mode.
8. Each machine will allow for ball selection in automatic mode utilizing a remote control unit separate from the machine (off-camera) connected by a cable not less than thirty feet (30') in length, in semi-automatic mode via a control panel on the machine itself and in manual mode via lever on each chamber. The automatic selection mode will allow for customization of the duration of the mix pre-draw and the interval between ball selection.
9. The machines will be equipped with an easily accessible activation switch for automatic, semi-automatic and manual ball selection.
10. The machines will be level. The design of all machines will assure the completely random selection of winning numbers. The machines will be tamper-proof.

11. The machines will meet U/L specifications, will operate on 110 volt, 15amp, 50/60Hz AC current and have the capability to operate via generator. Each machine will be accompanied by a 12-3SJE0 power cord with male/female L5-20 connectors (3 pole twist locks). The power cords will be not less than 20' in length.

Pick 3 / Pick 4 Ball Sets

1. Accompanying the four machines shall be twenty-four (24) ball sets that meet the specifications listed. The balls will be coated with a smooth satin clear finish and designed to prevent the deterioration of the numbers printed on the surface of the balls.
2. The balls will be standard table-tennis balls, yellow in color. Each ball will be imprinted a minimum of ten times in black. Each set will include ten such balls numbered zero (0) through nine (9), font size 7/8 inches including the underscore required for each six and nine ball.
3. The numbers on each ball will be arrayed in such a way as to make the number visible from all angles, visible without manual adjustment.
4. Each ball in a set will be labeled with a small (approximately 1/16") security code connecting it to its specific set. The security code will be black. The MLGCA will provide the security code.
5. Each ball will pass through a 1.515-inch hole at the axis and the equator without force. The ball will not pass through a 1.465 hole. Balls will be accompanied by documentation listing the weights.

BONUS MATCH 5

Bonus Match 5 Drawing Machine Specifications

1. One (1) Bonus Match 5 machine is required. This new and unused machine shall meet or surpass these listed specifications.
2. The Bonus Match 5 (BM5) machine will contain one mixing chamber designed to successfully mix forty (40) balls and produce six (6) drawn balls. A transparent loading rack/tube is to be attached outside or inside the rear of the chamber. If outside, it will empty inside the chamber. The rack/tube will hold forty (40) balls (table tennis-style ball, diameter: 1.5" / 38mm). An easily accessed lever located at the rear of the machine will release the balls into the chamber. The chamber will have a full-width rear door to permit easy access for maintenance and ball removal.
3. The machine will feature a winning ball display platform centered and attached above the mixing chamber atop the machine. This platform will be in close proximity to the chamber to allow for uninterrupted visual monitoring of each selected ball's path from chamber to platform. There will be a controlled access gate and lever between the chamber and the ball display platform. The gate will close automatically once the selected ball has reached the ball display platform. The lever will be used for manual selection. The ball display platform of the BM5 machine will allow for five (5) balls to be displayed separately but in close proximity to a sixth bonus ball. The ball display platform will allow for the first five selected balls to be displayed side-by-side with a separation of approximately one inch (1") or less from the bonus ball.
4. The BM5 machine's mixing chamber will be constructed of ½ inch to ¾ inch clear, non-reflective acrylic. The base cabinet for the machine, which will house a compressor and a centrifugal blower unit, will be insulated for sound proofing. The base cabinet will be constructed of ¾ inch cabinet grade plywood with a high pressure laminate applied to all surfaces. The machine's base cabinet will feature a lockable access door at the rear of cabinet and, to guarantee the necessary mobility, lockable 3.5" swivel casters on its wheels to prevent rolling and swiveling.
5. The BM5 machine, mixing chamber and base cabinet will be between 50" and 58" in height. The machine will be between 50" and 60" in width, between 20" and 30" in depth and will weigh no more than 300lbs.

6. The BM5 machine will provide an unobstructed view of the mixing and selection process, with balls visible at all times during operation. The machine will be able to randomly select balls in both automatic, semi-automatic and manual mode.
7. The BM5 machine will allow for ball selection in automatic mode utilizing a remote control unit separate from the machine (off-camera) connected by a cable not less than thirty feet (30') in length, in semi-automatic mode via a control panel on the machine itself and in manual mode via lever on the chamber. The automatic selection mode will allow for customization of the duration of the mix pre-draw and the interval between ball selection.
8. The machine will be equipped with an easily accessible activation switch for automatic, semi-automatic and manual ball selection.
9. The machine will be level. The design of the machine will assure the completely random selection of winning numbers. The machine will be tamper-proof.
10. The machine will meet U/L specifications, will operate on 110 volt, 15amp, 50/60Hz AC current and have the capability to operate via generator. The machine will be accompanied by a 12-3SJE0 power cord with male/female L5-20 connectors (3 pole twist locks). The power cord will be not less than 20' in length.
11. The design of the BM5 machine will assure the completely random selection of winning numbers. The machine will be tamper-proof.

Bonus Match 5 Ball Sets

1. Accompanying the BM5 machines shall be three (3) ball sets that meet the specifications listed. The balls will be coated with a smooth satin clear finish and designed to prevent the deterioration of the numbers printed on the surface of the balls.
2. The balls will be standard table-tennis balls, yellow in color. Each ball will be imprinted a minimum of ten times in black. Each set will include thirty-nine (39) such balls numbered one (1) through thirty-nine (39), font size 7/8 inches.
3. The numbers on each ball will be arrayed in such a way as to make the number visible from all angles, visible without manual adjustment.
4. Each ball in a set will be labeled with a small (approximately 1/16") security code connecting it to its specific set. The security code will be black. The MLGCA will provide the security code.
5. Each ball will pass through a 1.515-inch hole at the axis and the equator without force. The ball will not pass through a 1.465 hole. Balls will be accompanied by documentation illustrating the weights.

MULTI-MATCH/5-CARD CASH

Multi-Match/5 card Cash Drawing Machine Specifications

1. One (1) Multi-Match/5 Card Cash (MM/5CC) machine is required. This new and unused machine shall meet or surpass the listed specifications.
2. The MM/5CC machine will contain one mixing chamber designed to successfully mix sixty (60) balls and produce six (6) drawn balls. A transparent loading rack/tube is to be attached outside or inside the rear of the chamber. If outside, it will empty inside the chamber. The rack/tube will hold sixty (60) balls (table tennis-style ball, diameter: 1.5" / 38mm). An easily accessed lever located at the rear of the machine will release the balls into the chamber. The chamber will have a full-width rear door to permit easy access for maintenance and ball removal.
3. The machine will feature a winning ball display platform centered and attached above the mixing chamber atop the machine. This platform will be in close proximity to the chamber to allow for uninterrupted visual

monitoring of each selected ball's path from chamber to platform. There will be a controlled access gate and lever between the chamber and the ball display platform. The gate will close automatically once the selected ball has reached the ball display platform. The lever will be used for manual selection. The ball display platform of the MM/5CC machine will allow for six (6) balls to be displayed, side-by-side.

4. The MM/5CC machine's mixing chamber will be constructed of ½ inch to ¾ inch clear, non-reflective acrylic. The base cabinet for the machine, which will house a compressor and a centrifugal blower unit, will be insulated for sound proofing. The base cabinet will be constructed of ¾ inch cabinet grade plywood with a high pressure laminate applied to all surfaces. The machine's base cabinet will feature a lockable access door at the rear of cabinet and, to guarantee the necessary mobility, lockable 3.5" swivel casters on its wheels to prevent rolling and swiveling.
5. The MM/5CC machine, mixing chamber and base cabinet will be between 50" and 58" in height. The machine will be between 50" and 60" in width, between 20" and 30" in depth and will weigh no more than 300lbs.
6. The MM/5CC machine will provide an unobstructed view of the mixing and selection process, with balls visible at all times during operation. The machine will be able to randomly select balls in both automatic, semi-automatic and manual mode.
7. The MM/5CC machine will allow for ball selection in automatic mode utilizing a remote control unit separate from the machine (off-camera) connected by a cable not less than thirty feet (30') in length, in semi-automatic mode via a control panel on the machine itself and in manual mode via lever on the chamber. The automatic selection mode will allow for customization of the duration of the mix pre-draw and the interval between ball selection.
8. The machine will be equipped with an easily accessible activation switch for automatic, semi-automatic and manual ball selection.
9. The machine will be level. The design of the machine will assure the completely random selection of winning numbers. The machine will be tamper-proof.
10. The machine will meet U/L specifications, will operate on 110 volt, 15amp, 50/60Hz AC current and have the capability to operate via generator. The machine will be accompanied by a 12-3SJE0 power cord with male/female L5-20 connectors (3 pole twist locks). The power cord will be not less than 20' in length.
11. The design of the MM/5CC machine will assure the completely random selection of winning numbers. The machine will be tamper-proof.

Multi-Match / 5 Card Cash Ball Sets

1. Accompanying the MM/5CC machine shall be six (6) ball sets that meet the specifications listed. The balls will be coated with a smooth satin clear finish and designed to prevent the deterioration of the numbers printed on the surface of the balls.
2. The balls will be standard table-tennis balls, yellow in color. Each ball will be imprinted a minimum of ten times in black. Three of the six sets will each include forty-three (43) such balls numbered one (1) through forty-three (43), font size 7/8 inches. The remaining three sets will each include fifty-two (52) such balls labeled with playing card numbers/symbols (2 through 10, A for Ace, K for King, Q for queen, J for jack) and one of four suit symbols (hearts, spades, clubs, diamonds). Font size 7/8 inches.
3. The numbers/symbols on each ball will be arrayed in such a way as to make the number/symbol visible from all angles, visible without manual adjustment.
4. Each ball in a set will be labeled with a small (approximately 1/16") security code connecting it to its specific set. The security code will be black. The MLGCA will provide the security code.
5. Each ball will pass through a 1.515-inch hole at the axis and the equator without force. The ball will not pass through a 1.465 hole. Balls will be accompanied by documentation illustrating the weights.

The MLGCA is aware of the following manufacturers of Lottery Drawing Machines that may be capable of providing machines that meet the above specifications:

SmartPlay International, Inc.

1550 Bridgeboro Road
Edgewater Park NJ 08010

(P) [609-880-1860](tel:609-880-1860)

(F) [609-880-1865](tel:609-880-1865)

info@smartplay.com

Garron Lottery Products

5420 Pulaski Hwy.
Baltimore, MD 21205

(P) [410 485-6886](tel:410-485-6886)

(F) [410 485-9969](tel:410-485-9969)

garronlottery.com

APPENDIX 1

Abbreviations and Definitions

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

1. **ADA** - Americans With Disabilities Act, Public Law 101-336 of the 101st Congress, enacted July 26, 1990, including changes made by the ADA Amendments Act of 2008, and regulations promulgated pursuant to that statute.
2. **Airtime** – Airtime on Offeror’s station that has been designated by Offer for televising Lottery Drawings. For example, the Lottery’s Pick 3 and Pick 4 Drawings are now shown on the current contractor’s station at 7:58 pm, lasting for 60 seconds.
3. **Broadcast and Production Facility (Facility)** – Physical location where Contractor stages, records and edits programming for television viewership. In the case of the MLGCA, the Facility contains a separate studio space, studio set, required production equipment, and secured vault for storage of Drawing machines and associated equipment. The Facility also has appropriate camera equipment and the capability and federal licensing to initiate broadcast signals and transmit these signals either digitally or over the air to cable systems or television program providers. These two functions, television content production and broadcasting services, may be housed within the same physical location or in separate locations.
4. **Business Day(s)** – The official working days of the week to include Monday through Friday. Official working days exclude State Holidays (see definition of “Normal State Business Hours” below).
5. **COMAR** – Code of Maryland Regulations available on-line at www.dsd.state.md.us. Regulations governing the MLGCA are found in COMAR Title 36. Regulations governing the State procurement process are found in COMAR Title 21.
6. **Commission** - The Maryland State Lottery and Gaming Control Commission.
7. **Contract** – The Contract awarded to the successful Offeror pursuant to this RFP. The Contract will be in the form of **Attachment A**.
8. **Contract Commencement** - The date the Contract is signed by the MLGCA following any required approvals of the Contract, including approval by the Board of Public Works, if such approval is required. See Section 1.4.
9. **Contract Monitor (CM)** – The State representative for this Contract who is primarily responsible for Contract administration functions, including issuing written direction, invoice approval, monitoring this Contract to ensure compliance with the terms and conditions of the Contract, monitoring MBE and VSBE compliance, and achieving completion of the Contract on budget, on time, and within scope. The Contract Monitor may authorize in writing one or more State representatives to act on behalf of the Contract Monitor in the performance of the Contract Monitor’s responsibilities.
10. **Contractor** – The selected Offeror that is awarded a Contract by the State.
11. **Days** – Means calendar days unless otherwise specified.
12. **Director** – Director of the Maryland State Lottery and Gaming Control Agency.

13. **DMA** – Designated Market Area.
14. **Draw Game** -A MLGCA game (1) sold and redeemed through a computer network at Retailer locations; and (2) whose Tickets are generated by a Terminal and are a record of a transaction for a Draw Game.
15. **Drawing** - The live random selection event used for determining the winning numbers for MLGCA’s draw games to include but not limited to Pick 3, Pick 4, Bonus Match 5, Multi-Match, Mega Millions and Powerball.
 - **Evening Drawings** - Currently encompasses Pick 3, Pick 4, Bonus Match 5 and 5 Card Cash. Occur nightly between 7:30 pm (5 Card Cash) and 7:56 pm (Pick 4, Pick 4 and Bonus Match 5).
 - **Late Night Drawings** - Currently encompasses Multi Match, Mega Millions and Powerball. Mega Millions and Powerball Drawings occur four nights per week at approximately 11:00 pm and the broadcast is delayed until 11:22 pm. Multi Match Drawings occur twice each week at 11:22 pm and are broadcast live.
 - **Mandatory Drawings** - Drawings the MLGCA requires the Contractor to televise; presently identified as Pick 3 and Pick 4 - Evening, Mega Millions – Late Night and Powerball – Late Night.
 - **Midday Drawings** - Currently encompass Pick 3 and Pick 4. Occur daily at 12:28 pm.
 - **Optional Drawings** - Drawings that the MLGCA may require the Contractor to televise; presently identified as Pick 3 and Pick 4 - Midday, Bonus Match 5 - Evening and Multi Match - Late Night.
16. **Drawing Officials** - State employees hired, trained and supervised by the MLGCA’s Drawing Manager to conduct daily, bi-weekly and weekly MLGCA Drawings. Drawing Officials work behind the scenes to ensure the accurate execution of Drawings Procedures. Drawing Officials safeguard Drawing equipment stored at the Facility, test Drawings machines before and after each Drawing and disseminate the results of each Drawing to appropriate recipients.
17. **eMM** – eMaryland Marketplace (see RFP Section 1.8).
18. **FY** – State Fiscal Year, July 1 – June 30. For example, FY18 represents the period beginning July 1, 2017 through June 30, 2018.
19. **Go-Live Date** – The date, as specified in the Notice to Proceed, when the Contractor must begin providing all services required by this RFP. See Section 1.4.
20. **Key Personnel** – All personnel identified in the RFP as such, or personnel identified by the Offeror in its Proposal that are essential to the work being performed under the Contract. See RFP Sections 3.10 and 5.4.2.7.
21. **Local People Meter (LPM)** - An electronic metering device attached to a TV set to measure tuning status (set on/off, channel, time, and duration of tuning) as well as demographic data of viewers (who are watching). Household members and their guests push buttons to identify themselves. The People Meter is used by Nielsen Media Research for nationwide audience measurement in the U.S. and Canada.
22. **LPM Live+SD** - Households tuning into or persons viewing a program, per quarter-hour or time period to a specific station or cable channel, including DVR playback tuning/viewing in the same processing day.

23. **Local Time** – Time in the Eastern Time Zone as observed by the State. Unless otherwise specified, all stated times shall be Local Time, even if not expressly designated as such.
24. **Minority Business Enterprise (MBE)** – Any legal entity certified as defined at COMAR 21.01.02.01B(54) which is certified by the Maryland Department of Transportation under COMAR 21.11.03.
25. **MLGCA** – Maryland State Lottery and Gaming Control Agency.
26. **Normal State Business Hours** - Normal State business hours are 8:00 a.m. – 5:00 p.m. Monday through Friday except State Holidays, which can be found at: www.dbm.maryland.gov – keyword: State Holidays.
27. **Notice to Proceed (NTP)** – A written notice from the Procurement Officer that, subject to the conditions of the Contract, work under the Contract is to begin as of a specified date. The start date listed in the NTP is the Go-Live Date, and is the official start date of the Contract for the actual delivery of services as described in this RFP. After Contract Commencement, additional NTPs may be issued by either the Procurement Officer or the Contract Monitor regarding the start date for any service included within this RFP with a delayed or non-specified implementation date.
28. **Offeror** – An entity that submits a Proposal in response to this RFP.
29. **Procurement Officer** – Prior to the award of any Contract, the sole point of contact in the State for purposes of this RFP. After Contract award, the Procurement Officer has responsibilities as detailed in the Contract (Attachment M), and is the only State representative who can authorize changes to the Contract. The MLGCA may change the Procurement Officer at any time by written notice to the Contractor.
30. **Proposal** – As appropriate, either or both of an Offeror’s Technical or Financial Proposal.
31. **Request for Proposals (RFP)** – This Request for Proposals issued by the MLGCA, with the RFP Number and date of issuance indicated in the RFP Key Information Summary Sheet (near the beginning of the RFP, after the Title Page and Notice to Vendors), including any amendments.
32. **State** – The State of Maryland.
33. **Services Required-Monthly Amount** – Fixed amount to be billed to MLGCA on a monthly basis for all services required by the RFP.
34. **Total Proposal Price** - The Offeror’s total proposed price for services in response to this RFP, included in the Financial Proposal with Attachment B-2 – Financial Proposal Form, and used in the financial evaluation of Proposals (see RFP Section 5.3).
35. **Veteran-owned Small Business Enterprise (VSBE)** – A business that is verified by the Center for Verification and Evaluation (CVE) of the United States Department of Veterans Affairs as a veteran-owned small business. See Code of Maryland Regulations (COMAR) 21.11.13.
36. **Virtual Set** – A type of drawing production space, related equipment and technology that either partially or completely utilizes green screen technology to create background settings virtually. A partial virtual set would include a few monitors that can accommodate changeable graphic images. A complete virtual set would project variable images behind the host and drawing machines to make the drawing location appear different than the actual production studio space.