

**New York State Gaming Commission  
REQUEST FOR PROPOSALS**

**FOR**

**New York Lottery  
Video Lottery Games**

**C202017**

**February 5, 2021**

## Notice to Bidders

- The Permissible Contacts for this solicitation are Stacey Relation and Alysan Bowers, as noted in Section 1.8 of the Request for Proposals (“RFP”).
- Bidders are responsible for checking the New York State Gaming Commission’s (“Commission”) website for updated information relative to the procurement process and the RFP. The Commission will not be responsible for a Bidder’s failure to obtain updated information.
- By submission of a Proposal in response to this RFP, the Bidder agrees to the terms of the resulting Agreement in the form incorporated into the RFP as Appendix B, or as revised through the RFP process. The Commission does not intend to negotiate terms of the Agreement after receipt of Proposals or following award (Section 2.2).
- By submission of a Proposal in response to this solicitation, the Bidder agrees to comply with the insurance requirements defined in the RFP (Section 2.15).
- The participation goals for Minority and Women-Owned Business Enterprises and Service-Disabled Veteran-Owned Businesses under this RFP are 30 percent and 6 percent, respectively. (Sections 2.18 and 2.19).
- To assist Bidders in completion and submittal of the required documents, Attachment 3, Document Submittal Checklist, is incorporated into this RFP.
- Do not include any pricing in the Technical Proposal. Technical Proposals that contain pricing will be deemed non-responsive and removed from consideration.
- Bidders choosing not to submit a Proposal in response to this RFP are requested to submit the Non-Bid Response form, included in this RFP as Attachment 4, as the information is useful to the Commission in the planning and development of future RFPs and Bidders’ lists.

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## PART 1 – GENERAL INFORMATION<sup>1</sup>

The New York Gaming Commission (“Commission”) is the only entity authorized to clarify, modify, amend, alter, or withdraw the provisions of this Request for Proposals (“RFP”).

### 1.1 INTRODUCTION

- A. Generally. The Commission’s Division of Gaming, on behalf of the State of New York, is issuing this RFP to solicit vendors interested in providing video lottery terminals, games, and software that will connect to and work with the New York Lottery’s Video Lottery Central System (“Central System”).

The Commission intends to award licenses in three lots:

- Lot 1. Primary Suppliers, of which two licenses shall be awarded, will be authorized to each supply Video Lottery Terminals (“VLTs”) at a minimum of twenty-five (25) percent of each gaming floor and may be required to supply up to fifty (50) percent of each of the gaming floors, if necessary.
- Lot 2. Qualified Standard Device Suppliers, or “Qualified VLT Suppliers”, of which the number of licenses is unlimited, may collectively supply standard device VLTs to up to fifty (50) percent of each gaming floor, and no individual supplier may supply standard device VLTs in excess of ten (10) percent of each gaming floor. An individual Qualified VLT Supplier will not be guaranteed an allocation on any of the gaming floors. Qualified VLT Suppliers, upon licensing, shall be authorized to provide standard device VLTs to licensed Video Lottery Gaming Facilities at the discretion of each facility, subject to the restrictions included in this RFP.
- Lot 3. Qualified Electronic Table Games Suppliers (“Qualified ETG Suppliers”), of which the number of licenses is unlimited, may collectively supply Electronic Table Games (“ETGs”) up to one-hundred (100) percent of each gaming floor allocation of ETGs and no individual supplier may supply ETGs in excess of fifty (50) percent of each gaming floor allocation of ETGs. An individual

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<sup>1</sup> See Appendix R: Glossary of Terms for the definitions of capitalized terms used herein.

Qualified ETG Supplier will not be guaranteed an allocation on any of the gaming floors. A Qualified ETG Supplier, upon licensing, shall be authorized to provide ETGs to licensed Video Lottery Gaming Facilities at the discretion of each facility, subject to the restrictions included in this RFP.

Upon the award of a contract to a Successful Bidder under Lot 1, any bid for an award under Lots 2 or 3 made by such bidder will be removed from consideration and be considered withdrawn by the Successful Bidder as a condition of acceptance of the Lot 1 award.

Awards made under Lot 2 and Lot 3 of this RFP (collectively the "Qualified Suppliers") may be non-exclusive contracts. These lots will be offered with a periodic recruitment solicitation. After this initial recruitment period, additional bid submissions shall not be accepted by the Commission until a periodic recruitment period is advertised by the Commission. The Commission reserves the right to not advertise any additional periodic recruitment periods, to make modifications to the terms and conditions in future periodic recruitment periods, or to limit a future periodic recruitment period to only one (1) of the two (2) lots.

In this RFP, the Commission has defined a series of objectives, requirements, and a Proposal evaluation approach that will represent its best interests in conformance with New York State statutes and regulations and Commission policies. A submitted Proposal shall include all information and documentation requested throughout this RFP.

The contents of this RFP, any modifications thereto, and the Proposal (consisting of a Technical Proposal and Pricing Proposal) will become binding contractual obligations on both parties if a Contract ensues. Failure of a Successful Bidder to accept these obligations may result in cancellation of the award.

- B. Relationship Limitation. The Commission will only procure VLTs from licensed manufacturers that are independent from and not in a Strategic Alliance with or an integral part of the Commission's Central System provider.

A Strategic Alliance is defined as a mutually advantageous, joint business venture between two or more entities that (1) produces a commodity or service not otherwise available, and/or (2) results in the sharing of

expertise and resources. The Commission will not permit any Strategic Alliances between VLT providers and the Central System provider. A Strategic Alliance shall not include the performance of Field Services by the Central System provider on behalf of a Supplier if such provider chooses to offer such services to all Suppliers.

Bidders are required to certify at the time of bid, using **Appendix D: Non-Collusive Bidding Certification**, that they do not have any such alliance with the Central System provider. The signed and notarized certification must be included in the Technical Proposal.

## 1.2 BACKGROUND INFORMATION

Chapter 383 of the Laws of 2001, as amended by Chapter 85 of the Laws of 2002, provided the New York Lottery (“Lottery”) with the authority to license the operation of Video Lottery Gaming at certain facilities around New York State. Pursuant to an RFP issued by the Lottery, a central determinant finite pool Central System was procured and placed in operation for the opening of the first Video Lottery Gaming Facility at Saratoga Casino & Raceway on January 28, 2004.

The Commission was formally created on February 1, 2013, via Chapter 60 of the Laws of 2012, as part of the 2012/2013 Enacted State Budget. The measure merged the Division of the Lottery with the Racing and Wagering Board, forming a single state agency responsible for regulating all aspects of legal gaming and gambling activity in the state, including horse racing and pari-mutuel wagering, Class III Indian Gaming, the Lottery (including VLTs), commercial gaming and charitable gaming.

The Commission now administers the Video Lottery Gaming Program at eight (8) facilities within the State, with an additional facility authorized but not operating in Orange County. On an annual basis, these facilities currently process approximately \$38 billion in credits played on nearly 19,000 video gaming devices and achieve net win of approximately \$2 billion.

On April 23, 2019, the Commission issued a Request for Proposals for a Central System. An award of contract was offered to Everi Games, Inc. (“Everi”), and the contract between Everi and the Commission was finalized on November 15, 2019. The contract for the Central System provider expires on December 31, 2029. Respondents to this RFP will be required to provide games that connect to the Central System via authorized protocols. Upon submission of an



appropriately executed Everi Non-Disclosure Agreement each Bidder will be supplied with the authorized Everi protocol.

### 1.3 OBJECTIVE

The objective of this RFP is to ensure an adequate supply of VLTs are operational on each gaming floor, while also recognizing that vendors have aspects to their games which make them unique in the market and that they should be afforded an opportunity to participate in the Video Lottery Gaming program to maximize revenue to the State. Therefore, the Commission has bifurcated this RFP to provide a limited number of awards that provide guaranteed VLT allocations in exchange for the provision of a guaranteed level of supply and an unlimited opportunity for vendors to receive non-guaranteed allocations.

### 1.4 VIDEO LOTTERY GAMING

A. Video Lottery Gaming, Operationally. To play video lottery, a player shall insert paper currency, a redemption ticket or other New York Lottery approved representative of value into a VLT entitling the player to purchase one or more electronic instant lottery tickets. The player determines the amount to be played or the price of the electronic instant lottery ticket to be purchased. With respect to each offered series, the player makes a choice by touching the dedicated display, a panel of buttons designated for such purposes, or some other similar interface, selecting the game identifier they wish to play.

After the player selects the game identifier and price per ticket, in general the next situated electronic instant lottery ticket is electronically dispensed from the site controller computer to the VLT which then displays the outcome associated with that ticket. Upon completion of play at a VLT, the player may cause the printing of a redemption ticket that may be used for play at another VLT or presented for verification and payment at the validation terminal at the Video Lottery Gaming Facility.

B. Video Lottery Gaming System. At a functional level, the Commission requires its video lottery gaming system to support electronic instant lottery games and electronic table games. The video lottery gaming system is comprised of three components:

1. Central System. The Central System is a fault-tolerant or duplexed central determinate, finite pool system with supporting peripheral

equipment including, but not limited to, media storage, printers, controllers, management and data entry terminals; Video Lottery Gaming site controllers; application and system software required to operate the equipment and Central System; front-end communications processors and network connections for the Central System, as required; and terminals at each location to validate vouchers.

At a functional level, the Central System registers player wagering amounts, randomly draws results, stores, and distributes electronic instant lottery tickets to site controllers and performs certain accounting and security functions.

The Central System is located at the provider's primary data center, while site controllers are located in each Video Lottery Gaming Facility.

2. Video Lottery Terminals. VLTs consist of two (2) categories, standard devices and ETGs. VLTs, which connect to the Central System via site controllers, accept players' play amount and game selections, graphically display game menus, each game presentation and drawing results and issue redemption tickets. ETGs, which also must connect with the Central System via site controllers, may generate outcomes at each bank of games. Although player skill may influence the player's chance to win, outcomes must be determined to a material degree upon the element of chance.

ETGs are not authorized to be operated at Batavia Downs Gaming, Finger Lakes Gaming & Racetrack, Hamburg Gaming at the Fairgrounds, and Vernon Downs Casino & Hotel.

Games offered on the video lottery system are those in which players compete against each other by purchasing electronic instant lottery tickets from a finite depleting pool of electronic instant lottery tickets. No provision shall be made for the VLTs to execute any generation of random numbers.

3. Site Controllers. Site controllers are computers programmed to draw, store and dispense electronic instant lottery tickets in the sequence received from the Central System which link VLTs to the

Central System. More than one site controller computer shall be utilized to control VLTs at a Video Lottery Gaming Facility.

- C. Electronic Instant Games. An electronic instant lottery ticket series consists of all representative tickets from a particular finite instant game pool produced in a manner providing a tiered prize structure whose overall prize structure shall be no less than ninety (90) percent of the series' overall purchase value. When created, the finite series shall be electronically intermixed to ensure random order within each series. Each series which resides in the Central System may be divided into smaller ordered quantities and sent to various site controllers, which shall upon request forward an electronic instant lottery ticket to a VLT. Once an electronic instant lottery ticket is removed from the finite series of electronic instant lottery tickets, it cannot be re-selected or re-dispensed.

## 1.5 MINIMUM QUALIFICATIONS

Any Bidder submitting a Proposal in response to this RFP must meet the minimum qualifications listed below. Information demonstrating the qualifications defined below must be incorporated into a Bidder response to **RFP, Part 4 – Proposal Response**.

The Bidder shall meet all requirements to receive a license as a Video Lottery gaming vendor pursuant to all applicable statutes and regulations. A Successful Bidder cannot place product on a gaming floor unless licensed by the Commission.

1. The Bidder, at the time of its submission of a Proposal in response to this RFP, shall have at least two (2) years' experience within the gaming industry and have manufactured gaming terminals that are currently in operation on casino floors in five or more gaming jurisdictions with independent regulatory authorities.
2. A Bidder for a Primary Supplier (Lot 1) contract must be able to demonstrate a manufacturing capacity and game catalog sufficient to supply the required number of VLTs as outlined in RFP, **Part 3 – Scope of Work**.

## 1.6 SCHEDULE

The following dates are established for informational and planning purposes. The Commission reserves the right to adjust this schedule, in its sole discretion.

|  |                                 |
|--|---------------------------------|
| RFP Issued                               | February 5, 2021                |
| Bidders' First Questions Due             | February 17, 2021, by 3:00 p.m. |
| Commission Responses to First Questions  | February 19, 2021               |
| Bidders' Second Questions Due            | February 24, 2021, by 3:00 p.m. |
| Commission Responses to Second Questions | February 26, 2021               |
| Primary Bidders' Proposals Due           | March 19, 2021, by 3:00 p.m.    |
| Contract Start Date                      | July 1, 2021                    |

### 1.7 RFP APPENDICES, ATTACHMENTS AND EXHIBIT

The following documents are incorporated into this RFP:

|            |  |
|------------|--|
| Appendix A | Standard Clauses for NYS Contracts   |
| Appendix B | Contract Form (incorporates Appendix A)  |
| Appendix C | Bidder/Offeror Disclosure/Certification Form   |
| Appendix D | Non-Collusive Bidding Certification  |
| Appendix E | New York State Vendor Responsibility Questionnaire   |
| Appendix F | Substitute W-9 Form – Vendor Identification Number   |
| Appendix G | Electronic Payment (ePayment) Request  |
| Appendix H | Contractor Certifications – ST-220-CA and ST-220-TD  |
| Appendix I | Encouraging Use of New York State Businesses in Contract Performance                               |
| Appendix J | EEO and M/WBE Program  |
| Appendix K | Diversity Practices (K.1 – K.3)  |
| Appendix L | Participation Opportunities for New York State Certified Service-Disabled Veteran Owned Businesses |
| Appendix M | Vendor Assurance of No Conflict of Interest or Detrimental Effect                                  |

|              |   |
|--------------|---|
| Appendix N   | Statement on Sexual Harassment                    |
| Appendix O   | Anti-Discrimination EO 177 Certification          |
| Appendix P   | Insurer Qualifications and Insurance Requirements |
| Appendix Q   | Bond Requirements                                 |
| Appendix R   | Glossary of Terms                                 |
| Appendix S   | Video Lottery Gaming Application For Agent/Vendor |
| Attachment 1 | Bidder Acknowledgement of Addendum                |
| Attachment 2 | Pricing Proposal Form                             |
| Attachment 3 | Document Submittal Checklist                      |
| Attachment 4 | Non-Bid Response                                  |

## **1.8 BIDDER/CONTRACTOR DIFFERENTIATION**

Throughout this RFP the term "Bidder" is used to reference an entity during the preparation and submission of a Proposal and any requirements preceding the award of a final Contract. In describing post-contract award, the term "Successful Bidder" is used.

## **1.9 HEADINGS**

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

## **1.10 DESIGNATED CONTACTS**

Consistent with the public policy established by the New York State Procurement Lobbying Law, described below, the Contract Management Specialists designated below are the only points of contact regarding matters relating to this RFP, unless additional points of contact are designated by them.

**ALL BIDDERS RESPONDING TO THIS RFP AND ALL COMMUNICATIONS CONCERNING THIS PROCUREMENT MUST BE ADDRESSED IN WRITING TO EITHER OF THE CONTRACT MANAGEMENT SPECIALISTS NOTED BELOW:**

New York State Gaming Commission  
Contracts Office, 4th Floor  
One Broadway Center  
Schenectady, NY 12305

Stacey Relation, Contract Management Specialist III  
[Stacey.Relation@gaming.ny.gov](mailto:Stacey.Relation@gaming.ny.gov)

or

Alysan Bowers, Contract Management Specialist II  
[Alysan.Bowers@gaming.ny.gov](mailto:Alysan.Bowers@gaming.ny.gov)

### **1.11 PROCUREMENT LOBBYING RESTRICTIONS**

As required by the New York State Procurement Lobbying Law (New York State Finance Law sections 139-j and 139-k), this RFP includes and imposes certain restrictions on communications between the Commission and a Bidder during the procurement process. A Bidder is restricted from making contacts from the earliest solicitation of offers through final award and approval of the resulting Contract by the Commission and the Office of the State Comptroller (“restricted period”) to other than designated staff members unless the contact is permitted by the statutory exceptions set forth in New York State Finance Law Section 139-j (3)(a). Designated staff members are identified in Section 1.12 of this RFP.

Commission employees are permitted to communicate with Bidders concerning this RFP only under circumstances described in the New York State Procurement Lobbying Law. Any Bidder causing or attempting to cause a violation or circumvention of the Procurement Lobbying Law may be disqualified from further consideration for selection.

Commission employees are required to obtain certain information when contacted by a Bidder during the “restricted period” and to make a determination of the responsibility of the Bidder pursuant to Sections 139-j and 139-k. A violation can result in a determination of non-responsive or non-responsible, which can result in disqualification for a contract award. In the event of two (2) determinations within a four (4) year period, a Bidder will be debarred for a period of four (4) years from obtaining a governmental procurement contract award. Further information about these requirements can be found at: <http://www.ogs.ny.gov/acpl>.

The Commission reserves the right, in its sole discretion, to terminate the Contract in the event that the Commission determines that the certification filed

by the Bidder in accordance with New York State Finance Law 139-k was intentionally false or intentionally incomplete. Upon such determination, the Commission may exercise its termination right by providing written notification to the Bidder in accordance with the written notification terms of the Contract.

Each bidder shall complete and submit with their Proposal an **Appendix C: Bidder/Offeror Disclosure/Certification Form**.

## 1.12 QUESTIONS AND INQUIRIES

Questions from Bidders regarding this RFP must be submitted via electronic mail to [Stacey.Relation@gaming.ny.gov](mailto:Stacey.Relation@gaming.ny.gov) or [Alysan.Bowers@gaming.ny.gov](mailto:Alysan.Bowers@gaming.ny.gov), no later than the date and time specified in the schedule. Neither faxed nor telephoned questions are acceptable. If questions are provided via an attachment to electronic mail, the questions must be provided in Microsoft Word format.

**Bidders are cautioned that any question or inquiry regarding the RFP must be written in generic terms and must not contain pricing information. The inclusion of specific information about a Bidder's pricing in an inquiry may result in the Bidder's disqualification.**

Responses to all questions, and any changes to the RFP resulting from such questions, will be communicated via published addenda, which will be posted on the Commission's website.

An **Attachment 1: Bidder Acknowledgement of Addendum Form**, to be incorporated into this RFP, will be provided with each addendum. Bidders are required to include with their respective bids a signed Form for each addendum issued.

## 1.13 NON-COLLUSIVE BIDDING REQUIREMENT

In accordance with section 139-d of the New York State Finance Law, if the Contract is awarded based upon the submission of Proposals, the Bidder must warrant, under penalty of perjury, that its Proposal was arrived at independently and without collusion aimed at restricting competition. Each Bidder must further warrant that, at the time the Bidder submitted its bid, an authorized and responsible person executed and delivered to the Commission a Non-Collusive Bidding Certification on Bidder's behalf.

The **Appendix D: Non-Collusive Bidding Certification Form** must be completed and submitted with a bid.

## 1.14 NEW YORK STATE VENDOR RESPONSIBILITY QUESTIONNAIRE

Bidder agrees to fully and accurately complete **Appendix E: New York State Vendor Responsibility Questionnaire** (hereinafter the “**Questionnaire**”), which is also available online at: <https://www.osc.state.ny.us/vendrep/>.

Bidders are encouraged to complete the online form, as it will expedite Contract approval. If you do not have an online **Questionnaire** that is current and certified, you must complete the **Questionnaire**. The Bidder acknowledges that the State’s execution of the Contract will be contingent upon the Commission’s determination that the Bidder is responsible, and that the Commission will be relying upon the Bidder’s responses to the **Questionnaire** in making that determination. The Bidder agrees that if it is determined by the Commission that the Bidder’s responses to the Questionnaire were intentionally false or intentionally incomplete, on such determination, the Commission may terminate the Contract by providing ten (10) days written notification to the Bidder. In no case shall such termination of the Contract by the Commission be deemed a breach thereof, nor shall the Commission be liable for any damages for lost profits or otherwise, which may be sustained by the Bidder as a result of such termination.

Unless the **Questionnaire** has been filed on-line, a **Questionnaire** must be completed and submitted with a bid.

## 1.15 DESIGNATION OF PROPRIETARY INFORMATION

During the evaluation process, the content of each Proposal will be held in confidence and details of any Proposal will not be revealed (except as may be required under the New York State Freedom of Information Law (“FOIL”) or other State law). FOIL provides for an exemption from disclosure for trade secrets or information the disclosure of which would cause substantial injury to the competitive position of a commercial enterprise. This exception applies both during and after the evaluation process.

If you believe your Proposal contains any such trade secrets or other Confidential Information, you must submit a request with your Proposal to exempt such information from disclosure. Such request must: (a) identify the specific material in the Proposal you believe should be exempt from disclosure; (b) identify the location (section, page number) of such material; and (c) state the reasons why the information should be exempt from disclosure.



Requests for exemption of the entire contents of a Proposal from disclosure have generally not been found to be meritorious and are discouraged. Please limit any requests for exemption of information from disclosure to bona fide trade secrets or specific information, the disclosure of which would cause a substantial injury to the competitive position of your business.

Upon receipt of proprietary designations, the Commission's legal staff, as directed by the Designated Contacts, will review each designation and communicate with the Bidder in the determination of such designation. The designation shall not become final until accepted by the Commission via formal letter. Once the designation is final, the Bidder will be required to submit a redacted version of the Proposal consistent with the accepted designation. The redacted version will be the material that is released upon a FOIL request.

#### **1.16 CLARIFICATION PROCESS**

The Commission may request clarification from a Bidder for the purpose of resolving any ambiguity or questioning information presented in the Proposal. Clarifications are an opportunity to explain, but not to make changes to, a Proposal. Responses must be submitted to the Commission within the time stipulated at the time of the request. As applicable, clarifications will be treated as addenda to the Proposal.

#### **1.17 SITE VISITS AND DEMONSTRATIONS**

The Commission may, at its sole discretion, visit any site where a Bidder conducts, or has conducted, operations similar to the services required in this RFP, and may require demonstrations of such equipment as proposed by the Bidder. A Bidder shall cooperate in arranging and coordinating such site visits, but a Bidder shall not be permitted to pay for any travel, accommodations, or other costs.

Any site visits and/or demonstrations will be used to substantiate the information provided in the Technical Proposal.

#### **1.18 DISCLOSURE AND INVESTIGATIONS DURING PROPOSAL EVALUATION**

Subsequent to Proposal submission, the Commission may initiate investigations into the backgrounds of the Bidder and individuals or entities related to any officers, directors, members, principals, investors, owners, subcontractors, employees, or any other individuals or entities related to the Bidder, as the

Commission may deem appropriate, in the discretion of the Commission. Such background investigations may include fingerprint identification by the New York State Division of Criminal Justice Services and the Federal Bureau of Investigation, and such additional investigation as may be required.

The Commission may reject a Proposal based upon the results of these background checks. Each Bidder is advised that any Bidder who knowingly provides false or intentionally misleading information in connection with any investigation by the Commission may cause the Proposal of such Bidder to be rejected, or a Contract to be canceled by the Commission, in the sole discretion of the Commission.

If a Bidder or a subcontractor is a subsidiary of a parent entity, the Commission may, in its sole discretion, require the above disclosures from the parent entity.

### **1.19 DISCLOSURE OF LITIGATION AND OTHER INFORMATION**

Because the Commission has a strong interest in the Successful Bidder's continuing ability to provide secure, high quality products and services, the Commission requires that a Bidder list and summarize pending or litigation that the Bidder is aware will likely be initiated, administrative or regulatory proceedings or similar matters that could materially affect the Bidder. As part of its disclosure requirement, a Bidder must state whether the Bidder or any of the owners, officers, directors, or partners of such Bidder have ever been convicted of a felony. Failure to disclose any such matter may result in rejection of the Proposal or termination of a Contract. Such disclosures must be included with the Proposal.

This disclosure obligation is a continuing requirement. Any such matter commencing after submission of a Proposal, and with respect to the Successful Bidder after the approval of a Contract, must be disclosed to the Commission within 10 business days in a written statement to the Commission.

### **1.20 CONFLICTS OF INTEREST**

Throughout the procurement process, Bidders must identify and bring to the attention of the Commission, actual or apparent conflicts of interest as knowledge of such conflicts arise, as follows:

- A. Disclose any existing or contemplated relationship with any other person or entity, including relationships with any member, shareholders of five (5) percent or more, parents, subsidiaries, or affiliated businesses, which would constitute an actual or potential conflict of interest or appearance

of impropriety, relating to other clients/customers of the Bidder or former officers and employees of the Commission, in connection with your rendering services enumerated in this RFP. If a conflict does or might exist, please describe how your business would eliminate or prevent it. Indicate what procedures will be followed to detect, notify the Commission of, and resolve any such conflicts.

- B. The Bidder must disclose whether it, or any of its members, shareholders of five (5) percent or more, parents, subsidiaries, or affiliates have been the subject of any investigation or disciplinary action by the New York State Joint Commission on Public Ethics or its predecessor State entities (collectively, "JCOPE"), and if so, a brief description must be included indicating how any matter before JCOPE was resolved or whether it remains unresolved.

In addition, the Bidder must complete and return with its bid, an **Appendix M: Vendor Assurance of No Conflict of Interest or Detrimental Effect Form**.

This disclosure obligation is a continuing requirement. Any Bidder awarded a contract under this RFP will have an ongoing obligation to inform the Commission of any actual or apparent conflicts of interest.

## **1.21 NEW YORK STATE PUBLIC OFFICERS LAW**

Contractors, consultants, licensees, vendors, and subcontractors may hire former State Agency or Authority employees. However, as a general rule and in accordance with New York State Public Officers Law, former employees of the State Agency or Authority may neither appear nor practice before the State Agency or Authority, nor receive compensation for services rendered on a matter before the State Agency or Authority, for a period of two (2) years following their separation from State Agency or Authority service. In addition, former State Agency or Authority employees are subject to a "lifetime bar" from appearing before the State Agency or Authority or receiving compensation for services regarding any transaction in which they personally participated, or which was under their active consideration during their tenure with the State Agency or Authority.

## **1.22 ETHICS REQUIREMENTS**

A Successful Bidder and its Subcontractors shall not engage any person who is, or has been at any time, in the employ of the State to perform services in violation of the provisions of the New York State Public Officers Law, other laws applicable to the service of State employees, and the rules, regulations, opinions, guidelines or policies promulgated or issued by the New York State Joint

Commission on Public Ethics, or its predecessors (collectively, the "Ethics Requirements"). The Successful Bidder certifies that its employees and those of its Subcontractors who are former employees of the State and who are assigned to perform services under this Contract shall be assigned in accordance with all Ethics Requirements. During the Term, no person who is employed by the Successful Bidder or its Subcontractors and who is disqualified from providing services under this Contract pursuant to any Ethics Requirements may share in any net revenues of the Successful Bidder or its Subcontractors derived from this Contract. The Successful Bidder shall identify and provide the State with notice of those employees of the Successful Bidder and its Subcontractors who are former employees of the State that will be assigned to perform services under this Contract, and make sure that such employees comply with all applicable laws and prohibitions. The State may request that the Successful Bidder provide it with whatever information the State deems appropriate about each such person's engagement, work cooperatively with the State to solicit advice from the New York State Joint Commission on Public Ethics, and, if deemed appropriate by the State, instruct any such person to seek the opinion of the New York State Joint Commission on Public Ethics. The State shall have the right to withdraw or withhold approval of any Subcontractor if utilizing such Subcontractor for any work performed hereunder would be in conflict with any of the Ethics Requirements. The State shall have the right to terminate the Contract at any time if any work performed hereunder is in conflict with any of the Ethics Requirements.

### **1.23 CERTIFICATION OF COMPLIANCE WITH STATE FINANCE LAW § 139-1**

By submission of this Proposal each Bidder and each person signing on behalf of any Bidder certifies, and in the case of a joint Proposal each party thereto certifies as to its own organization, under penalty of perjury, that the Bidder has, and has implemented, a written policy addressing sexual harassment prevention in the workplace and provides annual sexual harassment prevention training to all of its employees. Such policy shall, at a minimum, meet the requirements of section two hundred one-g of the New York State Labor Law. Successful Bidder certification of compliance with New York State Finance Law § 139-1 is included with this RFP as **Appendix N: Statement on Sexual Harassment**.

### **1.24 EXECUTIVE ORDER NO. 177 CERTIFICATION**

The New York State Human Rights Law, Article 15 of the New York State Executive Law, prohibits discrimination and harassment based on age, race, creed, color, national origin, sex, pregnancy or pregnancy-related conditions, sexual orientation, gender identity, disability, marital status, familial status, domestic violence victim status, prior arrest or conviction record, military status or predisposing genetic characteristics.

The New York State Human Rights Law may also require reasonable accommodation for persons with disabilities and pregnancy-related conditions. A reasonable accommodation is an adjustment to a job or work environment that enables a person with a disability to perform the essential functions of a job in a reasonable manner. The New York State Human Rights Law may also require reasonable accommodation in employment on the basis of a sabbath observance or religious practices.

In accordance with Executive Order No. 177, the Bidder must certify that it does not have institutional policies or practices that fail to address the harassment and discrimination of individuals on the basis of their age, race, creed, color, national origin, sex, sexual orientation, gender identity, disability, marital status, military status, or other protected status under the New York State Human Rights Law. The certification is included with this RFP as **Appendix O: EO 177 Certification**.

Executive Order No. 177 and this certification do not affect institutional policies or practices that are protected by existing law, including, but not limited to the First Amendment of the U.S. Constitution, Article 1, Section 3 of the New York State Constitution, and section 296(11) of the New York State Human Rights Law.

## **1.25 CHANGE IN FINANCIAL CONDITION**

If a Bidder who has submitted a Proposal in response to this RFP experiences a substantial change in financial condition prior to the award of a Contract pursuant to this RFP, or if a Successful Bidder experiences a substantial change in financial condition during the term of the Contract with the Commission, the Bidder is required to notify in writing the Executive Director, or Commission designee, at the time the change occurs or is identified. Failure to notify the Executive Director, or Commission designee, of such a change may result in rejection of the Proposal or termination of the Contract, in the sole discretion of the Commission. This disclosure obligation is a continuing requirement.

## **1.26 CHANGE IN OWNERSHIP**

If a Bidder experiences a material change in ownership prior to the award of a Contract or during the term of a Contract with the Commission, the Bidder is required to notify in writing the Executive Director at the time the change occurs or is identified. "Change in Ownership" is defined as any merger, acquisition, assignment or change in parties who, in the aggregate, own greater than five (5) percent of the Bidder or the parent company of the Bidder. Failure to notify the Commission of such a change may result in the rejection of a Bidder's Proposal

or termination of the Contract. The Commission reserves the right, based on its assessment of a material change in ownership, to reject a Proposal or terminate a Contract. This disclosure obligation is a continuing requirement.

### **1.27 NEWS RELEASES**

A news release pertaining to this RFP or the services to which this RFP relates may not be made without prior written Commission approval, and then only in accordance with express written instructions from the Commission. No outcome of the award under this procurement may be released without prior approval by the Commission and then only to persons designated by the Commission.

### **1.28 ADVERTISING**

Each respondent agrees not to use the Commission's name, logos, images, nor any data or results arising from this procurement or Contract as part of any commercial advertising without prior written approval by the Commission, and then only in consultation and cooperation with the Commission.

### **1.29 STATE'S RESERVED AUTHORITY**

In addition to any authority set forth elsewhere in this RFP, the Commission reserves the authority to:

- A. Award a Contract for all, part or none of the services requested by this RFP;
- B. Waive any informality or technical defect if, in the judgment of the Commission the best interest of the Commission will be so served;
- C. Eliminate any non-material mandatory specification(s) that cannot be complied with by any of the prospective Bidders;
- D. Amend the RFP and direct Bidders to submit Proposal modifications accordingly;
- E. Change any of the scheduled dates stated herein;
- F. Reject any or all bids received in response to this RFP, and reissue a modified version of this RFP;
- G. Withdraw the RFP at any time, at the sole discretion of the Commission;
- H. Seek clarifications and revisions to bids;

- I. Use information obtained through site visits, interviews and investigation of a Bidder's qualifications, experience, ability or financial standing, and any material or information submitted by the Bidder in response to the request by the Commission for clarifying information in the course of evaluation and/or selection under this RFP;
- J. Disqualify any Bidder whose conduct and/or Proposal fails to conform to the requirements of this RFP;
- K. Negotiate with the Successful Bidder within the scope of the RFP in the best interests of the State;
- L. Request Best and Final Offers;
- M. Set aside the original Successful Bidder if the Commission determines that the Bidder is non-responsive or is non-responsible. The Commission may then award a Contract to the next highest responsive and responsible Bidder; and
- N. Stop the work covered by this RFP and the Contract at any time that it is deemed the Successful Bidder is unable or incapable of performing the work to the Commission's satisfaction. In the event of such, the Commission shall have the right to arrange for the completion of the work in such a manner as it may deem advisable and if the cost thereof exceeds the amount of the bid, the Successful Bidder and its surety shall be liable to the State of New York for any such cost thereof. In the event the Commission stops the work as provided herein, together with the reason thereof, the Successful Bidder shall have ten (10) working days to respond thereto before any such stop order shall become effective.

## **PART 2 - PROVISIONS**

### **2.1 GOVERNING LAW**

The Proposal submission process, the evaluation of Proposals, the award procedure, and any contract resulting from this RFP, shall be governed by the laws of the State of New York and shall be interpreted according to New York State law. All disputes of claims arising under this RFP or any contract resulting from this RFP, other than as specifically set forth in this RFP, shall be brought exclusively in the appropriate court of the State of New York. By submitting a Proposal, a Bidder waives access to any other court or forum that may have concurrent jurisdiction within or outside New York State to hear or resolve any such dispute or claim.

### **2.2 FORM OF CONTRACTUAL AGREEMENT**

Following notification of award, a Successful Bidder will be required to sign a contract with the Commission. The final contract will be in the form incorporated as **Appendix B: Contract Form** (the "Contract"), or as revised through the RFP amendment process. **Appendix A: Standard Clauses for NYS Contracts**, is part of all New York State contracts and is incorporated into the Contract. The Contract will become binding and effective after approval by the Commission and the New York State Office of the Attorney General and the New York State Office of the Comptroller.

Any exception to the Contract must be raised in a Bidder question submitted to the Commission pursuant to the schedule set forth as Section 1.6 and in accordance with the Question and Answer process set forth as Section 1.12. The Commission does not intend to negotiate any changes in the provisions of the Contract following the receipt of Proposals.

Every Bidder responding to this RFP must include in its Proposal a signed Contract. Signing the Contract form and submitting it as part of the Technical Proposal serves as acknowledgment and agreement to the terms of the Contract if deemed a Successful Bidder. Failure to comply with this submission requirement may deem the Bidder's Proposal non-responsive.

### **2.3 LICENSING**

Successful Bidders will be required to successfully complete a licensing process applicable to vendors of the Video Lottery Gaming Program prior to the placement of any product on the gaming floor of any Gaming Facility.



## **2.4 BACKGROUND INVESTIGATIONS**

The Commission will initiate, or cause to be initiated, investigations into the backgrounds of the Successful Bidder and any officers, principals, investors, creditors, owners, subcontractors, employees, or any other associates of the Successful Bidder(s) it deems appropriate. Such background investigations will include criminal history fingerprint identification using the New York State Division of Criminal Justice Services and the Federal Bureau of Investigation. The fee(s) for the background investigations shall be paid by the Successful Bidder. The Commission may reject a license application and revoke a contract award based upon the results of these investigations.

## **2.5 AUDIT REQUIREMENTS**

- A. The Successful Bidder shall be required to have a financial statement audit conducted annually by a certified public accounting firm. A certified copy of the Successful Bidder 's audited financial statements shall be provided to the Commission annually;
- B. In addition, a complete internal control audit shall also be conducted annually by an independent certified public accounting firm. This audit shall be conducted pursuant to Statement on Standards for Attestation Engagements No. 18 or any superseding standard, as issued by the American Institute of Certified Public Accountants. The Commission reserves the right to specify the type of report and the control objectives to be examined. The Commission also reserves the right to approve the accounting firm chosen to perform the internal control audit and reserves the right to designate the annual period to be covered by the report and the date by which the report is due;
- C. The Commission reserves the right to require the first such audit to be conducted within ninety (90) days of VLTs and/or games and software installation and final acceptance of the VLTs and/or games and software by the Commission at each Video Lottery Gaming facility operating VLTs;
- D. Both aforementioned audits shall be conducted at the expense of the Successful Bidder;
- E. The Commission, any independent certified public accounting firm designated the Commission, and the Office of the State Comptroller shall

have the right to review the work papers of these audits and obtain copies thereof, if considered necessary by the Commission; and

- F. The Commission and any Commission designated independent certified public accounting firm shall be given a copy of all reports including any management letters issued as a result of the specified audits.

## **2.6 RIGHT TO AUDIT SUCCESSFUL BIDDER'S NEW YORK OPERATION SYSTEM**

The Commission reserves the right to audit the Successful Bidder's records and operations as they relate to the services provided. Said audits may be conducted by the Commission's own auditors, an independent firm specified by the Commission, or auditors from the Office of the State Comptroller.

## **2.7 CONTRACT ELEMENTS**

The Contract resulting from this RFP will include the following parts:

- **Appendix A: Standard Clauses for NYS Contracts**
- Addenda to the Contract, if any
- Contract
- Clarifications and Addenda to the RFP, in any
- RFP, Appendices, Attachments, and Exhibits
- Clarifications to the Bidder's Proposal
- Bidder's Proposal

In the event of a conflict in any provisions of these documents, the order of precedence shall be as listed above from the highest to the lowest.

## **2.8 SEVERABILITY**

If a court of competent jurisdiction determines any portion of this RFP and/or the Contract to be invalid, such portion shall be severed, and the remaining portions of the RFP and/or the Contract shall remain in effect.

## **2.9 TERM OF CONTRACT**

The Contract shall be effective July 1, 2021 through December 31, 2029.

## **2.10 ALL-INCLUSIVE**

Appendix B is intended to be an all-inclusive Contract. Unless otherwise specified, "all-inclusive" shall mean that the bid price includes, but is not necessarily limited to: all labor, material, and supplies; all administrative, reporting, or other requirements; and all overhead costs and profit. It shall also include parking fees and any other ancillary fees and costs, including permits, licenses, insurance, etc. Details of services not explicitly stated in these specifications, but necessarily attendant, are deemed to be understood by the Successful Bidder and included herein.

## **2.11 COMPENSATION, INVOICING AND PAYMENT**

The Commission shall, each week, utilize Central System reports to calculate the amount of net win and the compensation due and owing to the Successful Bidder consistent with the schedule provided by the Contractor in its Pricing Proposal. For the purposes of the provisions of New York State Finance Law and Article 34 of the New York State Tax Law permitting the retention of a portion of sales revenues as compensation for services, the Successful Bidder shall be considered a "licensed lottery sales agent", a "licensed lottery retailer", or a "retailer".

For Primary Suppliers (Lot 1), the Commission shall compensate the Successful Bidder for the base price provided in the Pricing Proposal plus the cost of any additional options selected by a licensed Video Lottery Gaming Facility, at its discretion, provided that such licensed Video Lottery Facility must reimburse the Commission for any cost that results in the total compensation for all Primary and Qualified Suppliers exceeding the weighted average of the base compensation rate as a percentage of net machine income bid by the two Successful Primary Bidders where the weighting shall be the relative percentage of actual net win achieved on each Primary Suppliers machines to be calculated for each week of operation, referred to hereafter as "Average Base Compensation Rate".

The Bidder shall include available additional options within the catalog provided to the Commission along with the price of these options. Such price must be provided as the amount charged in addition to the base price provided on the Pricing Proposal. Options included within the catalog shall be available to all licensed Video Lottery Facilities, at their discretion, and upon the assumption of the financial responsibility for the excess cost of all selected options. A Successful Bidder has no guarantee that any such options will be selected by any licensed Video Lottery Facility, and the failure of licensed Video Lottery Facilities

to select such options shall not relieve the Successful Bidder from fulfilling their obligations at the rate included on the Pricing Proposal. Before delivery of any options selected by a licensed Video Lottery Gaming Facility, a Successful Bidder shall obtain written affirmation from the Video Lottery Gaming Facility accepting the financial responsibility to reimburse the Commission for all costs exceeding the Average Base Compensation Rate.

For Qualified Suppliers (Lots 2 and 3), the Commission shall compensate the Successful Bidder for the price provided in the Pricing Proposal. Should a licensed Video Lottery Gaming Facility, at its discretion, select a product from a Qualified Supplier for placement on its gaming floor, the licensed Video Lottery Gaming Facility must reimburse the Commission for any cost that results in the total compensation for all Primary and Qualified Suppliers exceeding the Average Base Compensation Rate. The Bidder shall include all prices within the catalog provided to the Commission which shall be considered the Bidder's Price Proposal. Before delivery of any product selected by a licensed Video Lottery Gaming Facility, the Successful Bidder shall obtain written affirmation from the Video Lottery Gaming Facility accepting the financial responsibility to reimburse the Commission for all costs exceeding the Average Base Compensation Rate.

## **2.12 VENDOR IDENTIFICATION NUMBER**

**Appendix F: Substitute Form W-9 – Vendor Identification Number** has been incorporated into this RFP. To do business with the New York State, each Bidder is required to obtain a New York State Vendor Identification Number for use in the Statewide Financial System. If the Bidder does not already have a Vendor Identification Number, Appendix F must be completed and submitted directly to the Commission upon notification of award. The purpose of Appendix F, which will capture the Successful Bidder's taxpayer identification number, business name, and business contact person, is to allow the State to establish a Vendor file in the Statewide Financial System.

**Note: IRS Form W-9 is not acceptable for this purpose.**

## **2.13 ELECTRONIC PAYMENT (ePAYMENT) PROGRAM**

If awarded a Contract, a Successful Bidder may enroll in the Electronic Payment program ("ePayment") through the Office of the State Comptroller. The ePayment program transfers payments directly into a Successful Bidder's bank account, much more quickly than payment by check. Upon execution of the Contract, a Successful Bidder will need to submit an Electronic Payment Request.

Additional information and procedures for enrollment into the ePayment program can be found at the Office of the State Comptroller [website](#).

For reference and convenience, a copy of the ePayment request form has been attached as **Appendix G: Electronic Payment (ePayment) Request**.

## **2.14 NEW YORK STATE TAX LAW SECTION 5-A**

A Successful Bidder awarded a Contract must comply with the requirements of New York State Tax Law § 5-a, which requires persons awarded contracts valued at more than one hundred thousand (100,000) dollars with State agencies, public authorities, or public benefit corporations, to certify that they, their affiliates, their subcontractors, and the affiliates of their subcontractors, have a valid certificate of authority to collect New York State and local sales and compensating use taxes. All Contractors, affiliate, subcontractor, or affiliate of a subcontractor must be certified as having a valid certificate of authority if such entity has made sales delivered within New York State of more than three hundred thousand 300,000 dollars during the relevant period. The Office of the State Comptroller or other responsible approver cannot approve the Contract unless a Successful Bidder is registered with the New York State Department of Taxation and Finance to collect sales and compensating use taxes.

Appendix H: **Contractor Certifications – ST-220-CA and ST-220-TD** contains forms necessary to comply with New York State Tax Law § 5-a. Form ST-220-TD must be filed directly with the New York State Department of Taxation and Finance, while Form ST-220-CA must be filed with the Commission. A Successful Bidder shall file each Form within seven (7) calendar days of award notification.

Bidders can visit the New York State Department of Taxation and Finance [website](#).

## **2.15 INSURER QUALIFICATIONS AND INSURANCE REQUIREMENTS**

In their Proposal, each Bidder must provide a statement agreeing that if awarded a Contract under this solicitation, they will comply with the insurer qualifications and insurance qualifications. These requirements are found at **Appendix P: Insurer Qualifications and Insurance Requirements**.

A Successful Bidder must comply with these requirements to remain responsible under the terms of the Contract.

## 2.16 BOND REQUIREMENTS

Bidders are required to obtain bonds, as specified in **Appendix Q: Bond Requirements**.

## 2.17 LIQUIDATED DAMAGES

For purposes of clarity, a reference to a VLT in this section shall also include ETGs.

- A. Successful Bidder Acknowledgments. A Successful Bidder shall acknowledge:
1. Failure to fulfill the obligations of the Contract will cause damage to the Commission;
  2. Establishing the precise value of such damage would be costly, and difficult, and the amount of actual loss may be, or is incapable or difficult of precise estimation;
  3. The liquidated damage amounts specified herein are good faith efforts to quantify the damages that could be reasonably anticipated at the time of making a Contract and are intended to bear a reasonable proportion to the probable loss sustained by a Successful Bidder's failure to fulfill obligations;
  4. The Commission may, therefore, in its discretion, deduct liquidated damages from the compensation otherwise due to the Successful Bidder in the amount of fifteen thousand (15,000) dollars unless otherwise stated herein. All assessments of the liquidated damages shall be within the discretion of the Commission and shall be in addition to, and not in lieu of, the right of the Commission to terminate a Contract or pursue other appropriate remedies, including the right to pursue in a court of competent jurisdiction a claim for actual damages arising from a Successful Bidder's failure to fulfill its obligations; and
  5. The Commission shall notify a Successful Bidder in writing of the assessment of liquidated damages for any default specified herein and such damages shall be paid within thirty (30) days of receipt of the assessment notice by deducting such damages from the

compensation otherwise due to a Successful Bidder. If payment is not made within such thirty (30) day period, the Commission may collect such damages by making a claim against the performance bond or by any other lawful method.

- B. Late Installation. The Commission will establish an installation date for the completed VLTs. After installation, the VLTs must be tested and approved by the Commission or its authorized representative prior to the VLTs becoming operational. If a Successful Bidder fails to meet the installation deadline, through his or her own actions, the Commission may assess liquidated damages in the amount of one hundred (100.00) dollars per VLT for each day of delay. The VLTs will be considered operational when they have been installed, tested, and accepted by the Commission and are ready to be activated by the Central System for customer play.
- C. Untimely Terminal Repair. A Successful Bidder shall ensure that all their VLTs are repaired or replaced and operational within the "maximum repair time." "Maximum repair time" shall be measured from the time the Successful Bidder receives a service call to the time a repair is considered complete and the technician who completed the repair informs the Central System provider that the VLTs are repaired and ready to be activated for play.

For the purposes of this provision, "maximum repair time" shall be defined as follows: two (2) hours for any one (1) VLT. If said VLT is not repaired within the "maximum repair time," liquidated damages may be assessed at the rate of fifty (50) dollars per hour, or a fraction thereof that the VLT remains unrepaired beyond the "maximum repair time".

- D. Lack of VLT Preventative Maintenance. A Successful Bidder is required to submit a preventative maintenance plan (see Section 3.7) ensuring the performance of effective preventative maintenance to their equipment. For each event of neglected preventative maintenance, liquidated damages of fifty (50) dollars per VLT, per day, may be assessed.
- E. Deficient VLT Field Maintenance. A Successful Bidder shall employ sufficient resources and inventory to meet the performance standards for VLT Field Service as specified in this RFP and within the Contract. Within thirty (30) calendar days after notification from the Commission that a performance standard for VLT Field Service is not being met, a Successful

Bidder shall employ such additional resources as are necessary to meet the standard.

If a Successful Bidder does not bring deficient VLT field service up to the standards specified within thirty (30) calendar days of notification, the Commission may impose a penalty in the amount of five hundred (500) dollars per day until performance is in compliance.

- F. Failure to Provide Enhancements. During the term of the Contract, the Commission and a Successful Bidder shall agree in writing to a schedule for developing, testing, and implementing or installing modifications or enhancements to any existing VLTs and/or to making additions of new games.

Once the Commission's request for a change has been issued to a Successful Bidder, a Successful Bidder has fifteen (15) working days to respond with a written proposal for delivery of the change. The Executive Director can make the binding determination of a delivery date for modifications and enhancements.

If a Successful Bidder fails to meet any date specified in such a schedule, the Commission may assess a penalty of five thousand (5,000) dollars per day for each day of delay regarding the modification, enhancement, or addition of a game.

Proposals must discuss how a Successful Bidder plans to administer changes in games and software version control and implement games and software enhancements throughout the life of the Contract (e.g., what process will be followed, lead-times needed to ensure thorough yet responsive updates, etc.).

- G. Unauthorized Modifications. The Successful Bidder shall not implement any modification to any software or hardware of a VLT without the prior written consent of the Commission, except in limited emergency situations where Commission oral authorization has been obtained. Unauthorized modifications will be considered a violation of a license to supply VLTs and may result in an initial penalty of one hundred thousand (100,000) dollars and additional penalty of fifteen thousand (15,000) dollars per day for each day between the issuance of a removal order and the actual removal of the unauthorized modification and restoration of the system to its



previous operating state. Egregious violations could result in the loss of any Commission-issued licenses.

## **2.18 SUCCESSFUL BIDDER REQUIREMENTS AND PROCEDURES FOR EQUAL EMPLOYMENT AND BUSINESS PARTICIPATION OPPORTUNITIES FOR MINORITY GROUP MEMBERS AND NEW YORK STATE CERTIFIED MINORITY/WOMEN-OWNED BUSINESSES**

In accordance with Article 15-A of the New York State Executive Law and in conformance with the regulations promulgated by the Minority and Women's Business Development Division of the New York State Department of Economic Development set forth at 5 NYCRR Parts 140-144, a Bidder agrees to be bound by provisions to promote equality of economic opportunity for minority group members and women, and the facilitation of minority- and women-owned business enterprise participation.

**Appendix J: EEO and M/WBE Program** contains the Equal Employment Opportunity and Minority/Women-Owned Business Enterprises requirements of this RFP.

The M/WBE goal established under this solicitation is thirty (30) percent.

## **2.19 NEW YORK STATE SERVICE-DISABLED VETERAN-OWNED BUSINESSES**

Article 17-B of the New York State Executive Law provides for more meaningful participation in public procurement by certified Service-Disabled Veteran-Owned Businesses ("SDVOB"), thereby further integrating such businesses into the New York State economy. The Commission recognizes the need to promote the employment of service-disabled veterans and ensure that certified service-disabled veteran-owned businesses have opportunities for maximum feasible participation in the performance of Commission contracts.

In recognition of the service and sacrifices made by service-disabled veterans and in recognition of their economic activity in doing business in New York State, Bidders are expected to consider SDVOBs in the fulfillment of the requirements of the Contract. Such participation may be as subcontractors or suppliers, as protégés, or in other partnering or supporting roles.

The Participation Opportunities for New York State Service-Disabled Veteran Owned Businesses form is included with this RFP as Appendix L.

The SDVOB goal established under this RFP is six (6) percent.

## **2.20 SUCCESSFUL BIDDER RESPONSIBILITIES AS PRIMARY CONTRACTOR**

A Successful Bidder will be required to assume responsibility for all contractual activities offered in the Proposal, whether they directly perform such activities. Further, the Commission will consider a Successful Bidder to be the sole point of contact regarding contractual matters, including payment of all charges resulting from the Contract.

A Successful Bidder may have subcontractors; however, a Successful Bidder must accept full responsibility for the performance and obligations of any such subcontractor. If any part of the work is to be subcontracted, responses to this RFP must include a list of subcontractors, as required by Part 4 of this RFP.

## **2.21 APPROVAL OF STAFFING**

The Commission reserves the right to review and, if perceived necessary, disapprove any employee of the Successful Bidder, who is assigned to the Contract, either at Contract inception or during the term or any extension thereof.

## **2.22 NEW YORK STATE SUBCONTRACTORS AND SUPPLIERS**

Bidders are strongly encouraged and expected to consider New York State businesses in the fulfillment of the requirements of the Contract. Such partnering may be as subcontractors, suppliers, protégés, or in other partnering or supporting roles.

Subcontractor and supplier requirements are set forth in **Appendix I: Encouraging Use of New York State Businesses in Contract Performance**.

## **2.23 SUBCONTRACT APPROVAL**

A Successful Bidder may subcontract a portion(s) of its services, as consistent with this Section, provided that the Successful Bidder retains ultimate responsibility for all services performed under the Contract.

- A. Initial Subcontracting. If a Successful Bidder will subcontract a portion(s) of its services, the subcontractor(s) shall be clearly identified and the nature and extent of their involvement in and/or proposed performance

under the Contract must be fully detailed in a Proposal. As part of this explanation, a subcontractor must submit to the Commission a completed **Vendor Assurance of No Conflict of Interest or Detrimental Effect Form**, as contained **Appendix M**.

- B. Later Subcontracting. A Successful Bidder may arrange for a portion(s) of its responsibilities under this Agreement to be subcontracted to qualified, responsible subcontractors, subject to the written approval of the Commission. Approval shall not be unreasonably withheld upon receipt of written request to subcontract.
- C. General Subcontracting Requirements. All subcontracts shall be in writing and shall contain provisions, which are functionally identical to, and consistent with, the provisions of the Contract including, but not limited to, the body of the Contract, **Appendix A: Standard Clauses for NYS Contracts**, and the RFP.

If at any time during performance under the Contract total compensation to a given subcontractor exceeds or is expected to exceed one hundred thousand (100,000) dollars, that subcontractor shall be required to submit and certify an **Appendix E: New York State Vendor Responsibility Questionnaire**.

Unless waived in writing by the Commission, all subcontracts between the Successful Bidder and subcontractors shall expressly name the State, through the Commission, as the sole intended third-party beneficiary of such subcontract.

A Successful Bidder shall give the Commission prompt notice in writing of the initiation of any legal action or suit which relates in any way to a subcontract with a subcontractor, or which may affect the performance of a Successful Bidder's duties under the Contract. Any subcontract shall not relieve a Successful Bidder in any way of any responsibility, duty and/or obligation of the Contract.

- D. Commission Review and Actions. The Commission reserves the right to review and approve or reject any subcontract, as well as any amendment to said subcontract(s). This right shall not make the Commission or the State a party to any subcontract, or create any right, claim, or interest in the subcontractor or proposed subcontractor.

The Commission may require a Successful Bidder to replace subcontractors who are determined to be unacceptable. Subcontractors are subject to background checks of personnel and principals and may also require Bidder licensing.

The Commission reserves the right, at any time during the term of the Contract, to verify that the written subcontract between a Successful Bidder and subcontractor(s) is in compliance with all the provisions of this section and any subcontract provisions contained in the Contract.

## **2.24 DELEGATION AND/OR ASSIGNMENT**

No delegation of any duties under the Contract to another entity shall be binding upon the State until the Commission has given written consent to such delegation; nor shall assignments of rights to monies due, or to become due, under the Contract be permitted to any entity other than a Successful Bidder, except by express written consent of the Commission.

## **2.25 SUCCESSFUL BIDDER CODE OF CONDUCT**

As a government-operated enterprise, the Commission is sensitive to all businesses with whom it contracts. It is essential that Successful Bidders avoid not only impropriety but also the appearance of impropriety. Therefore, Successful Bidders associated with the Commission shall:

- A. Offer goods and services only of the highest standards;
- B. Use their best efforts to prevent the themselves and their industry from becoming embroiled in unfavorable publicity;
- C. Make sales presentations in a responsible manner, and when it is necessary to point out the superiority of their goods or services over those of their competitors, to do so in such a manner as to avoid unfavorable publicity for the industry;
- D. Avoid promotional activities that could be interpreted as improper and result in embarrassment to the industry;
- E. Report security problems or potential security problems promptly to the Commission; and

- F. Not offer or give any gift, gratuity, favor, entertainment, loan, or any other thing of material monetary value to any Commission employee.

## **2.26 GAME PLAYING AND PRIZE PAYMENT RESTRICTIONS**

No officer or employee of a Successful Bidder or of any subcontractor nor anyone residing in the household of such officer or employee shall participate in the purchase of the video lottery games of the New York Lottery or be paid a prize in any video lottery game. A Successful Bidder shall ensure that this requirement, and any pertinent Commission rule or regulation regarding this subject-matter, is made known to each officer and employee of the Successful Bidder and of any subcontractor.

## **2.27 MANAGEMENT OF SOFTWARE DOCUMENTATION**

Before any VLT goes into production, a Successful Bidder shall deliver to an escrow account a complete listing of the software source programs, operations manuals, service manuals, and written procedures, with the program object code of all software. This includes all software executed on the equipment pertaining to the contracted VLTs, games and software to allow the Video Lottery Gaming Program to continue operations in the event a Successful Bidder becomes unable to perform.

## **2.28 LICENSED INTELLECTUAL PROPERTY**

To the extent that the Bidder or a Successful Bidder will or plans to utilize or rely upon the intellectual property rights of a third-party in fulfilling its obligations under the Contract, the Bidder or Successful Bidder shall provide the Commission with whatever assurance the Commission deems necessary that the use of such third-party intellectual property is permissible. In addition, in the event of a failure to perform or a breach of Contract, a Successful Bidder must ensure continued right of use of licensed intellectual property by the Commission. The Commission will not pay a fee for rights already held by a Bidder; however, if fees are incurred for the licensing of intellectual property owned by any third-party relevant to the fulfillment of the services under this RFP, any fees to be paid by the Commission for use of a third-party's intellectual property will be negotiated on a case-by-case basis. As part of its Proposal, a Bidder must provide a list of any third-party's intellectual property relevant to this procurement that a Bidder is currently licensed to use.

## 2.29 COMMISSION PHYSICAL SECURITY REQUIREMENTS

A Successful Bidder, including its employees, officers, agents, and subcontractors, shall be required to comply with all present and future security policies of the Commission. In addition, a Successful Bidder, its subcontractors, project managers, their employees, officers and agents, and any and all persons involved in projects and work assignments under this Contract will be required, prior to access to any Commission site, to be given a security clearance by the Commission. Anyone seeking access to a Commission site must provide their name, address, date of birth, company affiliation, and a company point of contact for employment verification, at least one (1) week prior to any site visit. Once preliminary access approval is granted by the Commission, all visitors to a site must provide two (2) forms of valid identification, including one photographic identification and one government issued identification, and written authorization that they are acting on behalf of a designated employer and/or Successful Bidder. Only after site authorization is confirmed, will access to the Commission site be approved.

### A. Physical Security During the Delivery of Contracted Services.

1. A Successful Bidder shall be solely responsible for the safety and security of the project sites, facilities, and components under the Contract, with the exception that a Successful Bidder is not responsible for overall building security at locations under the control and management of Commission, State, local or federal agencies. A Successful Bidder remains responsible, however, for security of project components or equipment within such buildings (e.g., secure equipment enclosures within the space provided by such agencies). A Successful Bidder shall be responsible for, and shall correct its failure or theft of, any components or portion of the project due to a Successful Bidder's inadequate physical and/or information security at its cost and expense.
2. The physical security and the information security of project data shall be provided at a level commensurate with that normally established for a similar system in today's heightened security environment. All components of site security shall be of suitable strength and design and shall reasonably withstand attempts to gain unauthorized access.

### B. Access by Personnel.

1. A Successful Bidder, its officers, agents, subcontractors, and their employees and independent contractors, shall be required to comply with all applicable Video Lottery gaming facility and information security policies and procedures of the Commission and the State in performing the scope of work under the Contract.
2. A Successful Bidder warrants that individuals performing work under the Contract are legally eligible to work in the United States and that such eligibility shall be maintained during the engagement while the individual is accessing any Commission site, information systems or data contained therein. In addition, prior to accessing any Commission site, project information systems or data contained therein, a Successful Bidder, and its officers, agents, subcontractors, and their collective employees and independent contractors performing work under this RFP, shall be required to:
  - a. Obtain clearance from the Commission, which may include, at the Commission's discretion, a criminal history and/or background investigation of individuals proposed to perform work under the Contract. Individuals assigned to the project by or through a Successful Bidder shall be required to submit identifying information to the Commission.
  - b. Obtain from the Commission and prominently display on their person, Commission-issued identification cards while physically present at any Commission site.
3. When an emergency or other circumstance occurs which renders immediate compliance with the foregoing requirements impractical, the Commission may, in its sole judgment, defer an individual's compliance with the foregoing requirements and grant temporary access. Such deferment shall not be construed as a waiver of the Commission's right to subsequently require security clearance as to any individual previously granted such temporary access; provided however, that even in such circumstances, the Commission shall approve such individual's access prior to such individual accessing a site, system, or data and the Commission may accompany such individual when on-site.

4. The Commission reserves the right, in its sole discretion, and without liability to a Successful Bidder's officers, agents, subcontractors, and their collective employees and independent contractors assigned to work under the Contract, to withhold approval of and refuse to permit access prior to such individual accessing a site, system, or data and the Commission may accompany such individual when on-site. The Commission reserves the right, in its sole discretion, and without liability to a Successful Bidder's officers, agents, subcontractors, and their collective employees and independent contractors assigned to work under the Contract, to withhold approval of and refuse to permit access to Commission facilities, electronic information systems or data contained therein, to any individual proposed by or through a Successful Bidder (i) who refuses to comply with the security procedures outlined in this section, or (ii) where the Commission determines that the individual(s) may present a risk to the Commission's security interests. The Commission shall not be liable for payments or damages of any kind if a Successful Bidder is delayed or unable to perform under the Contract resulting from the Commission's denial of access to any individual(s) pursuant to this section.

### **2.30 OWNERSHIP OF MATERIALS**

Ownership of all data, documentary material, and reports originated and prepared exclusively for the Commission pursuant to any Contract resulting from this RFP shall belong to the Commission. A Successful Bidder agrees that, except where noted, all materials, documents, products, reports, data, and other information, whether finished, unfinished, or draft developed, gathered, or compiled under the Contract by a Successful Bidder, are the sole exclusive property of the Commission and that they shall not be used or destroyed by a Successful Bidder or any other person without express written permission of the Commission.

### **2.31 NET NEUTRALITY PRINCIPLES**

Pursuant to New York State Executive Order 175, Internet Service Providers contracting with an Affected State Agency, as such term is defined by the Executive Order, must adhere to net neutrality principles and ensure that internet services provided to the Commission include net neutrality protections. Specifically, Internet Service Providers may not block lawful content,



applications, services, non-harmful devices, or applications that compete with other services provided by the Internet Service Providers. By submission of a Proposal, the Bidder agrees to comply with these provisions.

### **2.32 PRODUCTION ACCEPTANCE OF VLT, GAMES AND SOFTWARE TEST FOLLOWING AWARD**

A Successful Bidder awarded a Contract resulting from this RFP is required to have their games tested by a Commission-approved independent testing laboratory. A Successful Bidder must furnish working models of each type (i.e. upright or slant top) of VLTs at the request of the laboratory. A Successful Bidder must also provide associated equipment, two (2) copies of VLT illustrations, schematics, block diagrams, technical and operational manuals, program object and source codes, hexadecimal dumps, if any, and any other information requested by the independent gaming laboratory. A Successful Bidder shall be responsible for all costs of the testing, examination and analysis. Cost for transportation of VLTs to the laboratory will be borne directly by the Successful Bidder. The testing, examination, and analysis of VLTs may include entire dismantling of the device and some tests that may result in damage or destruction to one or more of the components. The Commission, its approved independent testing laboratory and either's agents shall have no liability for any such damage or destruction.

The VLTs, games, and software must be tested for each requirement in this RFP. Until all tests are deemed successful by the Commission, no VLT shall be placed in service on a gaming floor.

A list of approved independent testing laboratories may be found on the Commission's [website](#).

### **2.33 TECHNOLOGY PROVISIONS**

- A. Federal and State Requirements. A Successful Bidder shall comply with applicable federal and New York statutes and regulations in relation to data security. [State security policies and standards](#) shall also apply. In the case of conflict, the more stringent application shall take precedence.

A Successful Bidder agrees that it shall immediately report to the Commission the discovery of any unauthorized use or disclosure of any Commission information. The Commission may terminate the Contract if it determines that a Successful Bidder has violated a material term of this section. The terms of this section shall apply equally to a Successful Bidder, its agents and subcontractors, if any.

- B. Permitted License Transfers. Should the Commission's business operations be altered, expanded, or diminished, licenses granted hereunder may be transferred or combined for use at an alternative or consolidated site not originally specified in the license, including transfers between agencies, as applicable ("permitted license transfers"). The Commission may make such permitted license transfers, without the need to secure the approval of a Successful Bidder but must give thirty days' prior written notice to a Successful Bidder of such transfer. There shall be no additional license or other transfer fees due a Successful Bidder, provided that: (i) the maximum capacity of the consolidated system is equal to the combined individual license capacity of all licenses running at the consolidated or transferred Site (e.g., named users, seats, or Million Instructions Per Second (MIPS)); or (ii) if the maximum capacity of the consolidated system is greater than the individual license capacity being transferred, a logical or physical partition or other means of restricting access will be maintained within the computer system so as to restrict use and access to licensed capacity. In the event that the maximum capacity of the consolidated system is greater than the combined individual license capacity of all licenses running at the new site, and a logical or physical partition or other means of restricting use is not available, the fees due a Successful Bidder shall not exceed the fees otherwise payable for a single license for the upgrade capacity.
- C. Active Monitoring. A Successful Bidder hereby warrants and represents that the licensed product and all upgrades do not and will not contain any computer code that would disable or impair, in any way, the code's operation based on the elapsing of a period of time, exceeding an authorized number of copies, advancement to a particular date or other numeral, or other similar self-destruct mechanisms (sometimes referred to as "time bombs," "time locks," or "drop dead" devices) or that would permit the a Successful Bidder to access the licensed product to cause such disablement or impairment (sometimes referred to as a "trap door" device). A Successful Bidder agrees that in the event of a breach or alleged breach of this provision, the Commission shall not have an adequate remedy at law, including monetary damages, and shall consequently therefore be entitled to seek a temporary restraining order, injunction, or other form of equitable relief against the continuance of such breach, in addition to any and all remedies to which the Commission shall be entitled.
- D. Source Code Escrow for Licensed Product. If source code or source code escrow is offered by either a Successful Bidder or the manufacturer or developer of the licensed product to any other commercial customers, or if source code or source code escrow may be made available, a Successful

Bidder shall: (i) provide the Commission with the source code for the licensed product; (ii) place the source code in a third-party escrow arrangement with a designated escrow agent who shall be named and identified to the Commission, and who shall be directed to release the deposited source code in accordance with a standard escrow agreement acceptable to the Commission; or (iii) certify to the Commission that the licensed product manufacturer/developer has named the State, acting by and through the Commission, as a named beneficiary of an established escrow arrangement with its designated escrow agent, who shall be named and identified to the Commission and licensee, and who shall be directed to release the deposited source code in accordance with the terms of escrow. Source code, as well as any corrections or enhancements to such source code, shall be updated for each new release of the licensed product in the same manner as provided above, and such updating of escrow shall be certified to the Commission in writing. A Successful Bidder shall identify the escrow agent upon commencement of the Contract term and shall certify annually that the escrow remains in effect in compliance with the terms of this clause or certify, immediately upon a change of the escrow agreement.

- E. Ownership of and Title to Contract Deliverables. A Successful Bidder acknowledges that it is seeking to be commissioned by the Commission to perform the services detailed in this RFP, which may include the development of intellectual property by a Successful Bidder, its subcontractors, partners, employees, or agents for the Commission ("Custom Products"). Unless otherwise specified in writing in this RFP, if awarded the Contract, and upon the creation of such Custom Products, a Successful Bidder conveys, assigns, and transfers to the Commission the sole and exclusive rights, title, and interest in the Custom Products, whether preliminary, final, or otherwise, including all trademarks and copyrights. A Successful Bidder agrees to take all necessary and appropriate steps to ensure that the Custom Products are protected against unauthorized copying, reproduction, and marketing by or through a Successful Bidder, its agents, employees, or subcontractors. Nothing herein shall preclude a Successful Bidder from otherwise using the related or underlying general knowledge, skills, ideas, concepts, techniques, and experience developed in performing services under the Contract in the course of a Successful Bidder's business. The Commission may, by providing written notice thereof to a Successful Bidder, elect in the alternative to take a non-exclusive perpetual license to Custom Products in lieu of taking exclusive ownership and title to such Products. In such case, the Commission shall be granted a non-exclusive perpetual license to use, execute, reproduce, display, perform, adapt, and distribute Custom

Products as necessary to fully effect the general business purpose(s) as stated in the RFP and corresponding Contract.

- F. Ownership of and Title to Existing Software. Title and ownership to existing software delivered by a Successful Bidder under the Contract, which software is normally distributed commercially by a Successful Bidder or a third-party proprietary owner, whether or not embedded, delivered, or operating in conjunction with hardware or Custom Products, shall remain with a Successful Bidder or the third-party. Effective upon acceptance, such existing software shall be licensed to the Commission and must, at a minimum, grant the Commission a non-exclusive, perpetual license to use, execute, reproduce, display, perform, adapt (unless a Successful Bidder advises the Commission as part of its Proposal that adaptation will violate existing agreements or statutes and demonstrates such to the Commission's satisfaction), and distribute existing software to the Commission up to the license capacity stated in the Contract with all license rights necessary to fully effect the general business purposes stated in the RFP. With regard to third-party software, a Successful Bidder shall be responsible for obtaining these rights at its sole cost and expense.
- G. Offshore Restrictions. Confidential Information accessed by or provided to a Successful Bidder during the course of performing services for the Commission must not be stored or accessed outside of the continental United States.
- H. Access to Regulated Data. Access to and use of sensitive and Confidential Information is limited to use for authorized purposes only, by employees, agents, and subcontractors only. To the extent that a Successful Bidder, its employees, agents, or subcontractors have access to Commission data, including federal and state-regulated data pursuant to their responsibilities under the Contract, a Successful Bidder agrees that it will abide by, and will require in writing its employees, agents or subcontractors to similarly abide by any such requirements including the execution of any documents certifying their compliance with such requirements.
- I. General Security Provisions. A Successful Bidder, its employees, agents, and subcontractors shall comply fully with all Commission fingerprinting and background check requirements, which are communicated to a Successful Bidder by the Commission during the performance of the Contract.
- J. Data Ownership, Migration, Accessibility and Location, Transport, Protection and Transmission, Data Return and Destruction.

1. Data Ownership. All Commission data is owned exclusively by the Commission and shall remain the property of the Commission. A Successful Bidder is permitted to use data solely for the purposes set forth in the RFP and the Contract, and for no other purpose. At no time shall a Successful Bidder access, use, or disclose any Confidential Information for any other purpose. A Successful Bidder is strictly prohibited from releasing or using data or information for any purposes other than those purposes specifically authorized by the Commission. A Successful Bidder agrees that Commission data shall not be distributed, used, repurposed, transmitted, exchanged or shared across other applications, environments, or business units of the a Successful Bidder or otherwise passed to other Successful Bidders, agents, subcontractors or any other interested parties, except as expressly and specifically agreed to in writing by the Commission.
2. Data Migration. A Successful Bidder's services performed under this Contract shall ensure easy migration of the Commission's data by providing its solution in a manner designed to do so. This solution may include a Successful Bidder keeping Commission data separate from processes of the software itself and maintaining that information in a format that allows the Commission to easily transfer it to an alternative application platform. A Successful Bidder shall make its Application Programming Interfaces (APIs) available to the Commission.
3. Data Access and Location. A Successful Bidder must ensure that all Commission data related to this RFP and Contract is stored in a controlled access environment to ensure data security and integrity. All access to Commission data, physical or virtual, must be conducted within the central system and have adequate security systems in place to protect against the unauthorized access to the facilities and data stored therein. A Successful Bidder shall not send or permit to be sent to any location outside of the central system, any Commission data related to this RFP and Contract. A Successful Bidder shall provide the Commission a list of the physical locations where the data is stored at any given time and shall update that list if the physical location changes. Access into and within the facilities must be restricted through an access control system that requires positive identification as well as maintains a log of all accesses (e.g., date and time of the event, type of event, user identity, component of the information system, outcome of the event). A Successful Bidder shall have a formal procedure in place for

granting computer system access to the data and to track access. Access to Commission data for projects outside of those approved by the Commission is prohibited.

4. Physical Data Transport. A Successful Bidder shall use, if applicable, reputable means to physically transport encrypted Commission data. Deliveries must be made via courier (e.g., FedEx, United Parcel Service, United States Postal Service) with shipment tracking and receipt confirmation. These requirements apply to transports between the offices of a Successful Bidder, subcontractors, and the Commission.
5. Data Protection and Transmission. A Successful Bidder shall use appropriate means to preserve and protect Commission data. This requirement includes, but is not limited to, use of stable storage media, regular data backups and archiving, password protection of volumes, and data encryption. A Successful Bidder must, in accordance with applicable law and the instructions of the Commission, maintain such data for the time period required by applicable law, exercise due care for the protection of data, and maintain appropriate data integrity safeguards against the deletion or alteration of such data. In the event that any data is lost or destroyed because of any act or omission of a Successful Bidder or any non-compliance with the obligations of this Contract, a Successful Bidder shall, at its own expense, use its best efforts in accordance with industry standards to reconstruct such data as soon as feasible. In such event, a Successful Bidder shall reimburse the Commission for any costs incurred by the Commission in correcting, recreating, restoring or reprocessing such data or in providing assistance therewith.
6. Data Storage. A Successful Bidder agrees that any and all Commission data shall be stored, processed and maintained solely on designated target devices, and that no Commission data at any time will be processed on or transferred to any portable computing device or any portable storage medium, unless that device or storage medium is a necessary and approved component of the authorized business processes covered in the contract/agreement and or any addendum thereof, or a Successful Bidder's designated backup and recovery processes, and is encrypted in accordance with federal and state statutes, regulations and requirements. A Successful Bidder shall encrypt data at rest, on file storage, database storage, or on back-up media, and in transit; the solution shall provide the ability to encrypt data in motion and at rest; and a

Successful Bidder shall use secure means (HTTPS) for all electronic transmission or exchange of system, user, and application data with the Commission.

7. Data Return and Destruction. At the expiration or termination of the Contract, at the Commission's option, a Successful Bidder must provide the Commission with a copy of the Commission data, including metadata and attachments, in a mutually agreed upon, commercially standard format and give the Commission continued access to Commission data for no less than ninety (90) days beyond the expiration or termination of the Contract. Thereafter, except for data required to be maintained by law or the Contract, a Successful Bidder shall destroy Commission data from its systems and wipe all its data storage devices to eliminate any and all Commission data from a Successful Bidder's systems. The sanitization process must be in compliance with applicable industry standards and, where required, Criminal Justice Information Systems (CJIS) sanitization and disposal standards. If immediate purging of all data storage components is not possible, a Successful Bidder shall certify that any data remaining in any storage component will be safeguarded to prevent unauthorized disclosures. A Successful Bidder must then certify to the Commission, in writing, that it has complied with the provisions of this paragraph. The Commission may withhold payment to a Successful Bidder if Commission data is not released to the Commission in accordance with the preceding sections.

K. Information Security Breach and Notification Act.

1. A Successful Bidder shall comply with the provisions of the New York State Information Security Breach and Notification Act ("ISBNA") (New York General Business Law section 899-aa and New York State Technology Law section 208).
2. Unless otherwise provided by applicable law, in the event of a Breach of the Security of the System as such term is defined in ISBNA, a Successful Bidder shall take the following actions:
  - a. Notify the Commission's Information Security Officer (ISO) by telephone as soon as possible, but in no event more than two (2) hours from the time a Successful Bidder has knowledge of a Breach of the Security of the System;

- b. Provide notice to any affected parties to whom notice of the Data Breach is required, after consulting with and receiving authorization from the Commission as to the content of any such notice and identification of affected parties;
- c. Coordinate all communication regarding the Breach of the Security of the System with the Commission's ISO and a Successful Bidder;
- d. Cooperate with the Commission attempting: (a) to determine the scope and cause of the breach; and (b) to prevent the future recurrence of such security breaches; and
- e. Take corrective action in the timeframe required by the Commission. If a Successful Bidder is unable complete the corrective action within the required timeframe, in addition to any other remedies available, the Commission may contract with a third-party to provide the required services until corrective actions and services resume in a manner acceptable to the Commission, or until the Commission has completed a new procurement for a replacement service system. A Successful Bidder shall be responsible for the cost of these services during this period. Nothing herein shall in any way: (a) impair the authority of the New York State Office of the Attorney General to bring an action against a Successful Bidder to enforce the provisions of the ISBNA; or (b) limit a Successful Bidder's liability for any violations of the ISBNA or any other applicable statutes, rules or regulations.

I. Secure Development, Configuration and Lifecycle.

- 1. Security, generally. A Successful Bidder shall agree to maximize the security of any software development throughout the term of the Contract according to general industry standards. These provisions apply to the base system as well as any customizations to the product under the Contract. A Successful Bidder warrants, covenants and represents that it shall comply fully with the applicable federal and state requirements, as well as industry standards, during the term of the Contract including that a Successful Bidder shall use the highest applicable industry standards for sound and secure software development practices to resolve all security issues as quickly as possible. The "highest applicable industry standards" shall be defined as the degree of



care, skill, efficiency, and diligence that a prudent person possessing technical expertise in the subject area and acting in a like capacity would exercise in similar circumstances.

2. Security Review.

- a. Independent Review. Before releasing any major software upgrade to the Commission, a Successful Bidder shall have the software reviewed for vulnerabilities and security flaws by an independent third-party at a Successful Bidder's expense. The scope of this review shall include assessing the software for security flaws from the perspective of the deployed application / architecture. The scope does not include code review, but rather is focused on the deployed application instance. The Commission reserves the right to perform its own independent application security review, in cooperation with ITS, in addition to the Successful Bidder's review.
- b. Review Coverage. Security review shall cover all aspects of the software delivered, including third-party modules, units, integration points, components, and libraries. The review coverage shall include all aspects of the application layer that are externally facing, or part of the service infrastructure will be assessed.
- c. Vulnerability Scanning and Penetration Testing. A Successful Bidder agrees that, before any software is released to the Commission, a Successful Bidder shall perform application vulnerability scanning and penetration testing. A Successful Bidder shall provide to the Commission written documentation of the results of any scans and tests along with a mitigation plan. A Successful Bidder agrees that vulnerabilities identified by the vulnerability scanning and penetration testing shall be mitigated within a reasonable period of time to avoid any risk to the Commission.
- d. Scope of Review. At a minimum, the review shall cover the most common software vulnerabilities. The review shall include a combination of vulnerability scanning, penetration testing, and static analysis of the source code.
- e. Issues Discovered. Overall application security ratings with aggregate number of flaws found shall be reported to both

the Commission and a Successful Bidder. Potential vulnerabilities or flaws that are discovered will be documented with a best effort at outlining required remediation in each area.

3. Security Issue Management.

- a. Identification. A Successful Bidder shall track all security issues uncovered during the security review and the entire development life cycle. The risk associated with each security issue will be evaluated and documented. Security issues in the deployment of the application will be documented. These include vulnerabilities both in the software and architecture that is assessed.
- b. Investigation and Resolution of Security Issues. If security issues are discovered or reasonably suspected, a Successful Bidder shall perform an investigation to determine the nature of the issue. The issue shall be considered "novel" if it is not covered by the security requirements and is outside the reasonable scope of security testing. If novel, a Successful Bidder and Commission agree to scope the effort required to resolve the novel security issue(s), and to negotiate in good faith to achieve an agreement to perform the required work to address them. If not novel, a Successful Bidder shall use all commercially reasonable efforts consistent with sound software development practices, taking into account the severity of the risk, to resolve all security issues not considered novel as quickly as possible.
- c. Remediation. Security issues that are identified before software is released to the Commission shall be fixed by a Successful Bidder before releasing the software. Security issues discovered after release shall be handled per the terms of the Contract. Steps and/or guidance on how to remediate will be outlined in the report provided to the Commission.

4. Assurance. With execution of the Contract, a Successful Bidder shall provide to the Commission a copy of a Successful Bidder's secure coding best practices policy. Upon delivery of software to the Commission, a Successful Bidder shall certify to the Commission in writing that a Successful Bidder complied with the policy in the

performance of its obligations under the Contract as well as certify that all security activities have been performed, and all identified security issues have been documented and resolved. Any exceptions to the certification status shall be fully documented with the delivery.

M. Vulnerability Management.

1. All systems shall be subject to periodic penetration testing as defined by the Commission.
2. Requirements for scanning/testing for vulnerabilities and mitigation/remediation must be included in a Successful Bidder's third-party agreements.
3. The output of the scans/penetration tests will be reviewed in a timely manner by the Commission. Copies of the scan report/penetration test must be shared with the Commission's ISO/designated security representative for evaluation of risk.
4. Appropriate action, such as patching or updating the system, must be taken to address discovered vulnerabilities. For any discovered vulnerability, a plan of action and milestones must be created, and updated accordingly, to document the planned remedial actions to mitigate vulnerabilities.
5. Any vulnerability scanning/penetration testing must be conducted by individuals who are authorized by the Commission's ISO/designated security representative. The Commission's ISO must be notified in advance of any such tests. Any other attempts to perform such vulnerability scanning/penetration testing will be deemed an unauthorized access attempt.
6. Anyone authorized to perform vulnerability scanning/penetration testing must have a formal process defined, tested, and followed at all times to minimize the possibility of disruption.

### **2.34 PATENTED DEVICES, MATERIALS AND PROCESS**

A Successful Bidder shall only provide for the use of any patented design, material, or process to be used or furnished under this Contract by suitable legal agreement with the patentee or owner and shall file a copy of any necessary agreements with the Commission. A Successful Bidder shall save and hold harmless the State of New York, the Commission, Commission staff and agents

from any and all claims arising out of the use of such patented design, device, material, or process in connection with the work agreed to be performed under this Contract.

### **2.35 USE OF COPYRIGHTED OR TRADEMARKED MATERIALS**

A Successful Bidder shall have the obligation to ensure that use of materials does not infringe on copyright, trademark, or other intellectual property rights of third parties. This may require the Successful Bidder to obtain permission for use, including payment made for such, to third parties. In particular, a Successful Bidder shall be required to pay all franchise and/or licensing fees for use of games employing symbols or names involving intellectual property rights of third parties. A Successful Bidder shall save and hold harmless the State of New York, the Commission, the Commission's staff, and agents from all claims arising out of the use of such copyrighted or trademarked materials in connection with the work agreed to be performed under this Contract.

### **2.36 PROPOSED STAFFING**

A Bidder shall identify a staffing plan that is appropriate to meet the requirements of this RFP, with emphases placed how the Bidder intends to meet the requirements of the VLT maintenance requirements of Section 3.7. A Successful Bidder is permitted to contract with third-parties to provide technicians or to make arrangements with each Video Lottery Gaming Facility to utilize facility technicians to perform Field Services required to maintain VLTs. Staff may be subject to the VLT vendor employee licensing requirements, depending on job duties, including all staff performing Field Services.

## PART 3 – SCOPE OF WORK

### 3.0 INTRODUCTION

This section describes the terminal and service specifications for the VLTs, games, and software. As of the time of issuance of this RFP, the following number of terminals were in operation across the State:

| Facility Name                         | Positions |
|---------------------------------------|-----------|
| Batavia Downs Gaming                  | 854       |
| Empire City Casino at Yonkers Raceway | 5,222     |
| Finger Lakes Gaming & Raceway         | 1,175     |
| Hamburg Gaming at Buffalo Raceway     | 853       |
| Jake's 58 Hotel & Casino              | 996       |
| Monticello Casino Raceway*            | 1,076     |
| Resorts World New York City           | 6,137     |
| Saratoga Casino Hotel                 | 1,430     |
| Vernon Downs Casino & Hotel           | 512       |
|                                       | 18,255    |

\* Closed in April 2019. Per Chapter 39 of the Laws of 2019, the State authorized the re-establishment of this facility in Orange County.

Primary Bidders (Lot 1) must fully describe in detail how they will meet the requirements of each section and subsection of this Part. Qualified Bidders (Lot 2 and 3) must fully describe in detail how they will meet the requirements of each applicable section and subsection of this Part.

### 3.1 PRIMARY AND QUALIFIED SUPPLIERS

As mentioned in Part 1.1 (a), the Commission intends to award licenses to both Primary and Qualified Suppliers.

- A. Primary Suppliers (Lot 1), of which two licenses shall be awarded, will be authorized to each supply Video Lottery Terminals (VLTs) at a minimum of twenty-five (25) percent of each gaming floor and may be required to

supply up to fifty (50) percent of each of the gaming floors, if necessary. Terminal allocation will be rounded to the closest whole number.

Primary Suppliers shall be required to supply terminals to fulfill any shortage of terminals created by video lottery gaming facilities not selecting terminals from Qualified Suppliers, up to a maximum of fifty (50) percent of the overall number of required terminals. Any shortage shall be allocated equally between the two (2) Primary Suppliers.

Unless otherwise provided by statute, the minimum number of terminals to be located at each facility shall be determined through a calculation of utilization that estimates peak utilization does not exceed ninety (90) percent of terminals. Each Primary Supplier may propose a differing methodology for calculating peak utilization, provided, however, any differing methodology used by the Commission must be acceptable to both Primary Suppliers.

- B. Qualified VLT Suppliers (Lot 2), of which the number of licenses is unlimited, may collectively supply standard device VLTs to up to fifty (50) percent of each gaming floor. An individual Qualified VLT Supplier will not be guaranteed an allocation on any of the gaming floors. Qualified VLT Suppliers, upon licensing, shall be authorized to provide VLTs to licensed Video Lottery Gaming facilities at the discretion of each facility, subject to the restrictions included in this RFP.

No Qualified standard device supplier will be authorized to provide more than ten (10) percent of the overall terminals on any given gaming floor. Each Qualified supplier must guarantee that they will supply up to five (5) percent of each gaming floor, if their terminals are requested by a facility.

- C. Qualified ETG Suppliers (Lot 3), of which the number of licenses is unlimited, may collectively supply ETGs up to one hundred (100) percent of the non-Lot 1 gaming floor. An individual Qualified ETG Supplier will not be guaranteed an allocation on any of the gaming floors. ETG suppliers, upon licensing, shall be authorized to provide ETGs to licensed Video Lottery Gaming facilities at the discretion of each facility, subject to the restrictions included in this RFP.

No Qualified ETG Supplier will be authorized to provide more than fifty (50) percent of the overall non-Lot 1 terminals on any given gaming floor. Each Qualified ETG Supplier must guarantee that they will supply up to

two (2) percent of each gaming floor, if their ETG terminals are requested by a facility.

Failure by any Successful Bidder to provide VLTs at the minimum required guaranteed level to any Video Lottery Gaming facility may be deemed a violation of the terms of this procurement and may result in the termination of the Successful Bidder's contract and reallocation of any placed machines. If a Lot 1 Supplier is terminated, the Commission may award to the next highest scoring bidder for the Lot if within the period of time where bids remain active or conduct a limited re-bid for this supply.

### **3.2 FLOOR ALLOCATION**

- A. Primary Suppliers. A Primary supplier may, upon the request of a facility, agree to reduce their allocation below twenty-five (25) percent of a floor. Any such agreement shall not relieve the Primary supplier of any future obligation to supply the required number of terminals. Upon the request of a facility, a Primary supplier may also agree to supply VLTs in excess of twenty-five (25) percent minimum, even if terminals are available from Qualified Supplier.

Primary Suppliers are expected to cooperate with each video lottery gaming facility to determine the appropriate mix of VLTs that best accommodates the needs of each facility based on the unique market of each facility. However, no Primary supplier is guaranteed their allocation will include the provision of ETGs.

- B. Qualified VLT Suppliers. Qualified VLT Suppliers may be allowed, with the written permission of the Commission, to temporarily exceed the fifty (50) percent and ten (10) percent maximums, if a Primary Supplier fails to or is unable to provide its required number of machines. This allowance shall apply to a transition period, if requested by a Primary Supplier, to allow such Primary Supplier to manufacture and install terminals upon the start of the contract, subject to a schedule approved in writing by the Commission.
- C. Term of Placement. Each Bidder shall specify a minimum duration that a machine must remain in service on the gaming floor once placed into service. The Bidder shall also establish a fee schedule if such machine is removed from service prior to the minimum time required. The licensed Video Lottery Gaming Facility shall be solely responsible for this fee, if the

facility, at its discretion, removes the machine prior to the minimum time. Such fee shall not apply to any machine placed into service under prior contracts, removed due to mechanical or other failures, replaced with another machine from the same supplier as a required or suggested upgrade, or is removed by or service terminated by the supplier.

- D. Considerations. Video Lottery Gaming Facilities shall consider, among other factors, maximization of revenue from the gaming floor, development of a gaming mix most appropriate for such facility, patron demand in their selection of VLTs from Primary and Qualified Suppliers.

### **3.3 CENTRAL SYSTEM PROTOCOL**

All Primary and Qualified Suppliers' VLTs shall operate in an on-line communications mode with the Central System using the protocol described in Section 3.2.25.

### **3.4 PRODUCT MIX AND MARKETABILITY**

- A. Catalog. Bidders are required to prepare a catalog containing a detailed product mix anticipated to be available within six (6) months including player profile appeal for evaluation purposes only for each video lottery gaming agent facility. Such catalog is to be updated throughout the contract term as new products are developed. Primary supplier bidders shall submit a catalog with all products offered at the base price provided in the Pricing Proposal and may provide an appendix to the catalog including additional options available to the licensed Video Lottery facility, that such facility may select at its sole discretion and upon written acceptance of its financial responsibility to reimburse the Commission for all cost that result in the total compensation of all suppliers exceeding the Average Base Compensation Rate.

Qualified Suppliers shall submit a catalog with all products offered, and the pricing for such products, available for selection by a Video Lottery Gaming Facility at its sole discretion and upon written acceptance of the financial responsibility to reimburse the Commission for all cost that result in the total compensation of all suppliers exceeding the Average Base Compensation Rate. A Successful Bidder shall be bound to provide the products, or an equivalently comparable product (with the Commission's concurrence), at the price quoted within the catalog for the entire term of the contract, provided, however, a Successful Bidder may add additional



available products during the term as long as an equivalent to the original bid remains available throughout the term.

- B. Mix Purpose. Primary Supplier Bidders should have a variety of games reflecting different themes, different play styles, and different prize level potential. The games must comprise an exciting, appealing presentation involving an engaging interactive play experience. Games should also have different and suspenseful play methods designed to increase the entertainment value to the patron. Game mix should be carefully constructed in order to optimize VLT revenues at each venue. Prize structures should be considered in relationship to each other in order to marry the promotability of compelling top prizes with the winning reinforcement of lots of small prizes competitive with other gaming venues.
- C. Marketability. Primary Supplier Bidders should provide evidence of individual game marketability by submitting either net win data ranges from existing jurisdictions where these games are offered or other sales/marketing information that confirms market performance and player preference. Promotional concepts to extend the value of these games are welcome.
- D. Future Growth. Primary Suppliers Bidders should propose any capabilities for future growth and expandability with regard to proposed VLTs. Future growth and expandability should include, but not be limited to, software, hardware, security, marketing, promotions, etc.

### **3.5 VIDEO LOTTERY GAMES**

Primary and Qualified Suppliers shall be responsible for developing the finite pools for each of their games and providing such pools to the Central System contractor. All games provided by a Primary or Qualified Supplier must meet the following:

- A. Game Play Amount. Games offered shall be based on a price per play, ranging from a minimum of five (5) cents. A maximum ticket price may be set by rule.
- B. Play Information. Each VLT shall display the price per video lottery ticket and the amount awarded for each possible winning occurrence based

upon the price per ticket. Each game must provide a method for players to view payout tables.

- C. Game Changes. The Commission may require the introduction of new games, game variations, as well as adjustments to the pay tables. Primary and Qualified suppliers shall fully describe their ability to respond to this requirement, including the method and ease by which game changes would be made. Examples of a Primary supplier's game development and implementation process, from concept to availability for testing, shall be described.
  
- D. Progressive Games. Each VLT shall be able to support progressive games, whereby the jackpot may be influenced by the play at other terminals. VLTs shall be able to receive jackpot size and progressive game status inputs by means of communications from the Central System, which shall process and control all games. A Site Controller will send progressive jackpot amount updates to all linked progressive VLTs at a specified interval designated by the Commission. Individual VLTs must be able to be configured to scroll a text message on each update, whether the amount changed. VLTs shall use the updates to ensure that their meters are synchronized.
  - 1. Configuration. The Successful Bidder must configure their VLTs to conform to the rules of a particular jackpot (pay table, credit amount, participation percentage, and probability of progressive award must be identical for each game participating in a progressive pool). In addition, all VLTs participating in a progressive pool must draw game sets produced using the same game set generation rules.
  
  - 2. Description. While the Commission is not imposing an artificial limitation on the number of VLTs that participate in a single progressive jackpot pool (no limit to the number of simultaneous progressive pools in operation at a video lottery gaming agent facility) Primary suppliers should describe how progressive games interplay with non-progressive games.
  
- E. Payout Percentages. The minimum payout percentage on video lottery games in New York shall be no less than ninety (90) percent stated in Chapter 383 of the Laws of 2001, as amended.

### 3.6 VLT SPECIFICATIONS

VLTs of all Primary and Qualified Suppliers shall meet the following specifications:

- A. Size and Ergonomics. VLTs must evidence a size and design that will ensure player acceptance. Slant top terminals and upright style terminals shall include seats. Upright style terminals shall include base pedestals or cabinets as well as a seat.

Bidders shall provide a description of pedestals, cabinets, and seats, including but not limited to, pictures, sample of materials, etc. to choose from.

- B. User Input Devices. Bidders shall fully explain in detail how players will provide input to the VLT for such functions as selection of games, play amount, pay tables, etc.

- C. Physical Security. The physical security of VLTs is an important feature. The restriction of access to certain compartments shall be by locks, seals, or otherwise and must be described.

- D. Displays.

1. Rules. The rules of play for each game must be displayed on each VLT. Along with the rules of play, each VLT must display "This is a lottery game and the results are not dependent by elements of skill." The Commission reserves the right to require an edit of any rule of play considered to be incomplete, confusing, misleading or inconsistent with other game rules.

2. Play Information. Each VLT shall display the number of credits played for a game as well as the credits remaining and awarded for the occurrence of each possible winning combination of numbers or symbols. The VLT must also provide and display a maximum play amount limit on a single game for a single outcome.

- E. Self-Diagnostics. Each VLT shall be equipped with self-diagnostics and indicators or lights that enable a video lottery gaming agent to monitor its operating status. Each VLT shall also be able to use the self-diagnostics

and indicators to report back to the Central System all changes and security issues.

- F. Resistance to Outside Influences. A video lottery gaming terminal shall be able to pass any test required by an approved independent testing laboratory, and withstand, at a minimum, the following tests and resume play without requiring intervention:
1. Electro-Magnetic Interference. VLTs shall not create electronic noise that affects the integrity or fairness of neighboring VLTs or associated equipment;
  2. Electro-Static Interference. VLTs shall be protected against static discharges. Each VLT's conductive cabinet shall be grounded in such a way that static discharge energy shall not damage or inhibit the normal operation of the electronics or other components within the VLT;
  3. Radio Frequency Interference. A VLT shall not divert from normal operation by the application of Radio Frequency Interference at a frequency range from twenty-seven (27) to one thousand (1,000) megahertz with a field strength of three (3) volts per meter;
  4. Magnetic Interference. A VLT shall not be adversely affected by magnetic interference; and
  5. Liquid Spills. Liquid spills applied to the exterior of a VLT shall not affect the normal operation of the VLT, the integrity of the material or information stored inside the cabinet, or the safety of the players operating the equipment. If liquids are spilled into a bill acceptor, the acceptor shall reject all inputs and/or generate an error condition.
- G. Memory Protection. Should a VLT be interrupted due to loss of power, disconnection from the Central System, or any other type of occurrence, critical memory shall store all data that is vital to the continued operation of the VLT. The games and software and any other pertinent information shall not be destroyed, modified, or lost for a minimum period of seventy-two (72) hours from the occurrence of such failure.

- H. Memory Capacity and Expansion. The memory size of VLTs being proposed, examples of memory available for and consumed by various games, gaming options, and software shall be identified. If memory can be upgraded from the originally delivered amount, this too shall be identified.
- I. Central System Network Connectivity. The Central System network connectivity specification includes proprietary information and will only be provided upon the Bidders and Qualified suppliers retuning a signed non-disclosure agreement.
- J. Central System Activation. Game play, bill acceptors, and printers shall be totally inoperable until activated from the Central System. Diagnostic functions shall always be available. The Central System will not enable any VLT for gameplay unless it has been checksum verified against approved software. Such verification shall be made prior to the commencement of each gaming day.
- K. Safety. Electrical and mechanical parts and design principles, including seating, shall not subject a player to physical hazard or injury. Bidders shall submit proof that the proposed equipment has been inspected and approved (or that approval is pending) for customer safety. Bidders shall certify that all proposed equipment is in compliance with all applicable regulators (e.g., Federal Communications Commission, Occupational Safety and Health Administration, etc.)
- L. Loss of Power. A surge protector must be installed on the line that feeds electrical power to each VLT. The battery backup, or an equivalent, for the electronic meters shall be capable of maintaining accuracy of all accounting records and terminal status reports for a period of one hundred eighty (180) days after power is discontinued from the VLT. A backup device shall be kept within the VLT's locked logic board compartment. No mechanism shall allow the electronic meters to automatically clear without the written approval of the Commission.
- M. Power Switch. An on/off switch that controls the electrical current used in the operation of each VLT and any associated equipment shall be located in an accessible place within the interior of the VLT.
- N. Bill Acceptors. Each VLT shall contain a bill acceptor that accepts both redemption tickets generated by the Central System and printed by a VLT

and U.S. paper currency in the following dollar denominations: one (1), five (5), ten (10), twenty (20), fifty (50), and one hundred (100).

1. Capacity. Primary and Qualified Suppliers shall identify the total capacity for the bill stacker within each type of VLT proposed. Bill acceptors must be upgraded for the life of the Contract, at the expense of the Primary and Qualified Suppliers, to accommodate new or redesigned U.S. currency.
  2. Operational Capability. Each bill acceptor shall be capable of detecting the entry of legal tender or other Commission-approved cash equivalents, if applicable, and shall provide a method to enable the VLT software to interpret and act appropriately upon both a valid and invalid input. The bill input system shall be constructed in a manner that protects against vandalism, abuse, and/or fraudulent activity.
  3. Drop Box. Each bill acceptor shall have a secure stacker, or a container known as a drop box into which all accepted bills and redemption tickets shall be deposited. The secure stacker or drop box shall be attached to the VLT in such a manner so that it cannot be easily removed by physical force. The area in which the secure stacker or drop box is located shall be separate from, and accessible independently of, any other compartment of the VLT and shall be secured by two (2) separate locks, the keys to which shall be different from each other. The design, location, and operation of the secure stacker or drop box shall require the written approval of the Commission.
  4. Power Failures. If a power failure occurs during acceptance, the bill acceptor shall either properly credit the bill or return the bill to the player. Each bill acceptor shall perform a self-test at each power up. In the event of a self-test failure, the bill acceptor shall automatically disable itself until the error state has been cleared by an authorized video lottery gaming facility employee. Each bill acceptor shall communicate to the VLT using a bi-directional protocol.
- O. Magnetic Stripe Reader. Each VLT shall contain a magnetic stripe reader to accept a magnetic stripe card for the purposes of player tracking.

- P. Central System Provider Specifications. Central System provider specifications include proprietary information and will only be provided upon the potential Bidders retuning a signed non-disclosure agreement.
- Q. Bar Code Reader. Each VLT shall be capable of reading redemption tickets being utilized for additional play.
- R. Download. All VLTs shall be capable of downloading software from the Central System and shall support general industry accepted credit balance transfers outside of physical cash or ticket insertion or dispensing.
- S. Logic and Electronics Area. All electronic components that may have the potential to significantly influence the operation of the VLT, such as CPUs; electronics involved in the operation and calculation of game result determinations or involved in the calculation of game displays; components housing display program storage media; and all flash memory devices that affect the game play function of the VLT shall be secured in a separately locked and sealed area. Electronics and wiring specifications should be described and/or diagrams shall be provided including illustration of secured areas.
- T. Currency Compartment. Each currency compartment shall be locked and keyed separately from the main cabinet area and shall be secured as follows:
1. Access to the currency storage area shall be secured via separately keyed locks and shall be protected by sensors that indicate whenever a door is opened or closed, or a currency stacker is removed; and
  2. Access to the currency storage area(s) shall be through two (2) levels of locks (the relevant outer door plus one other door or lock) before the receptacle or currency can be removed.
- U. Printer Type. Bidders should identify the type of printer used and provide details as to the specifications, including type, size of paper used, parts subject to consumables, and the time required to physically print a redemption ticket once authorized by the Central System.
- V. Video Display. Each VLT's display monitor shall conform to the following specifications:

1. Touch screens shall be accurate and, once calibrated, shall maintain that accuracy for at least the manufacturer's recommended maintenance period;
2. A touch screen shall have the capability of being re-calibrated by authorized gaming employees, without having to access the VLT's cabinet interior other than by opening the main door; and
3. There shall be no hidden or undocumented buttons or touch points anywhere on the screen, except as provided for by the game rules dictating game play.

For other types of electronic displays, the display method chosen shall always accurately display the outcome to the player and, if a malfunction is detected by the video lottery gaming terminal, the terminal shall "tilt" until cleared by an authorized video lottery gaming employee.

- W. Tower Lights. Each VLT shall have a light located conspicuously on its uppermost surface that automatically illuminates whenever an external door has been opened; a player has won a prize in an amount exceeding the threshold amount for which a redemption ticket can be printed; an error condition has occurred; or the "Call Attendant" condition has been initiated by the player. This requirement may be substituted with an audible alarm and/or a common candle for terminals designed in such a manner as to preclude the positioning of a top mounted light, provided the alarm is designed to activate whenever the interior of the terminal is accessed. In addition to the mechanical light illumination, a VLT shall send an alert to the Central System when the "Call Attendant" condition has been intimated or a threshold amount has been won.
- X. Communications Protocol. Each VLT shall be capable of connecting to the Central System via Internet Protocol over Ethernet via minimally certified Category 5 Ethernet cables. Additionally, capabilities should be implemented for a VLT to automatically attempt to reconnect with the Central System in the event of a loss of communication or a disconnection from the Central System for any reason. A VLT shall be designed to continue to seek reconnection to the Central System every five minutes when a previously connected VLT is powered on.



- Y. Game Data Control and Diagnostics. The on-site diagnostics and accounting data shall be controlled by secure access. All games shall be able to display the most recent game history of the last four (4) transactions. Also, the functions to be monitored include, but are not limited to, the following:
1. When the terminal is ready to accept a transaction;
  2. An out-of-order condition;
  3. Power on; and
  4. Local diagnostic test.
- Z. Site Closing Commands. All VLT's shall prioritize site closing commands from the Central System to disable a VLT and force vouchers out or any other form of patron payment to facilitate adherence to any governing facility hours of operation.
- AA. Meter Standards.
1. Credit meters. Each credit meter shall reflect credits or cash value. Progressives may be added to a credit meter if either:
    - a. The credit meter is maintained in the currency amount; or
    - b. The progressive meter is incremented to whole credit amounts; or
    - c. The prize in the currency amount is converted to credits upon transfer to the player's credit meter in a manner that shall not mislead the player (i.e., make an unqualified statement "wins meter amount" and then rounds down on conversion) or cause accounting imbalances.
  2. Collect Meter. Each collect meter shall reflect the number of credits collected by a player. The number of credits collected shall be subtracted from the player's credit meter before it is added to the collect meter.

3. Accounting, Occurrence and Other Meters. Each VLT shall have electronic accounting meters which shall be accessible only by authorized video lottery gaming facility employees. Electronic meters shall be at least eight (8) digits in length. If the meter is being used in dollars and cents, at least eight (8) digits must be used for the dollar amount. The meter shall roll over to zero (0) upon the next occurrence, any time the meter is higher than eight (8) digits and after 99,999,999 has been reached. If the meter is larger than eight (8) digits, the meter shall roll over at 99,999,999 or at another value approved in writing by the Commission. Occurrence meters shall be at least three (3) digits in length and shall roll over to zero (0) upon the next occurrence, and any time the meter is higher than the maximum number of digits for that meter.
4. Other Meters. In addition to the required meters noted above, each individual game available for play shall have "Credits Bet" and "Credits Won" meters represented in either credits or currency amounts.
5. Meter Capabilities. All meters shall be present and capable of maintaining accuracy of all accounting records and terminal status reports for a period of at least one hundred eighty (180) days after power is discontinued from the VLT. No mechanism should allow the meters to automatically clear without the written approval of the Commission.

Electronic meters shall comply with the following:

- a. The "cash in" meter shall cumulatively count the total amounts wagered during game play;
- b. The "credit out" meter shall cumulatively count all amounts paid to the player at the end of a game;
- c. The "drop" meter shall maintain a cumulative count of cash equivalents inserted into the video lottery gaming terminal for play;
- d. The "games played" meter shall display the cumulative number of games played since the last RAM clear;

- e. A "cabinet door" meter shall display the number of times the front cabinet door has been opened since the last RAM clear;
  - f. The "drop door" meter shall display the number of times the drop door or the bill acceptor door has been opened since the last RAM clear;
  - g. The "canceled credit" meter shall reflect the cumulative amounts paid by an attendant that are in excess of the credit limit and residual credits that are collected, if applicable; and
  - h. The "progressive occurrence" meter shall count and reflect the number of times each progressive meter is activated.
- BB. Hardware Controls. Hardware controls may be proposed but shall be approved by the Commission for control of the physical video display, sound, and other purely cosmetic features. No hardware controls shall be installed that alter areas containing critical data and/or communications to the Central System concerning the operation of a game.
- CC. External Doors and Compartment Requirements. The interior of a VLT shall not be accessible when all doors are closed and locked. Doors shall be manufactured of materials suitable for allowing only authorized access to the interior of the cabinet. Doors and their associated hinges shall be capable of withstanding reasonable efforts to gain access to the interior of the VLT and shall leave evidence of tampering if an illegal entry is made. The opening between the cabinet and the door of a locked area shall be designed to resist the entry of objects. All external doors on each video lottery gaming terminal shall always be monitored by door access sensors which shall detect and report all external door openings to both the VLT by the way of an error message and to the Central System. The sensor system shall register a door as being open whenever the door is moved from its fully closed and locked position.
- DD. Alarms. Access to the internal space of each VLT shall be controlled by locked doors. Each VLT must have a security system that

temporarily disables all gaming functions when an internal door is open. The VLT must have a tamper resistant audible alarm, initiated upon the detection of tampering. Once an alarm is initiated, the VLT shall send a notification to the Central System identifying the nature of the alarm and cease all game play, printing, and bill acceptance.

Bidders shall identify the type(s) of alarms used and how they are resistant to tampering as well as the process by which the triggering of an audible alarm will occur.

- EE. Component Failure Shutdown. In the event an internal failure should occur on a particular VLT, provisions for disabling that VLT must be executed. Bidders shall identify the specification for internal disabling under these circumstances.
- FF. Open and Close Door Procedures. When a VLT's main door is opened, the device shall cease play, enter an error condition, display an appropriate error message, disable bill acceptance, and either sound an alarm or illuminate the tower light, or both. When a VLT's main door is closed, the device shall automatically return to its original state and display an appropriate error message, until the next game has ended.
- GG. VLT Identification Requirements. Each VLT shall have a permanent metal identification plate which shall be mounted in a manner that does not permit its removal without leaving evidence of tampering. Such identification plate shall be permanently affixed to a location on the exterior of the cabinet by the manufacturer in a location to be approved in writing by the Commission and shall list, at a minimum, the following information:
1. The manufacturer;
  2. A unique serial number of least nine alphanumeric characters;
  3. The video lottery gaming terminal model number; and
  4. The date of manufacture.

HH. Network Control and Security.

1. There shall be no capacity for remote access or control of any VLT from a remote device without Commission's written approval;
2. All communications to and from a VLT shall be encrypted for security coverage. Bidders must comply with the encryption scheme of the Central System. Each Bidder will be required to sign a non-disclosure agreement prior to receiving a copy of this proprietary information; and
3. VLTs shall not disrupt a communications line by creating line interference or otherwise remaining in transmit mode when no data is to be transmitted.

II. Game Data Security. The integrity of game data and data exchanged between the VLT, Site Controller, and Central System shall always be accurate. Bidders shall fully describe how they will fulfill this requirement.

JJ. Program Interruption and Resumption. After a program interruption (e.g., power down), the software shall be capable of recovering to the state it was in immediately prior to the interruption. Upon program resumption, the following procedures shall be performed as a minimum requirement:

1. No communication to an external device shall commence until the program resumption routine, including self-testing, is completed successfully;
2. Video lottery gaming terminal control programs shall test themselves for possible corruption due to failure of the program storage media; and
3. The integrity of all critical memory shall be checked.

KK. Power Surges. Each VLT shall not be adversely affected, other than through resets, by surges or dips of plus or minus twenty (20) percent of the power supply voltage. It shall be acceptable for the

equipment to reset provided no damage to the equipment, or loss or corruption of data is experienced.

LL. Error Connections. Each VLT shall be capable of detecting and displaying the following error conditions and illuminating the tower light and/or sounding an audible alarm. Error conditions shall be cleared either by a video lottery gaming facility employee authorized by the Commission or upon initiation of a new play sequence:

1. RAM error;
2. Low RAM battery (for batteries external to the RAM itself) or low power source;
3. Currency-in jam;
4. Program error or authentication mismatch;
5. Door open (including bill acceptor); and
6. Power Reset.

For games that use error codes, a description of VLT error codes and their meanings shall be affixed in a Commission-approved area of the VLT's interior. Games that do not use error codes shall display meaningful text as to the error conditions.

NN. Redemption Ticket Printer Standards.

1. Ticket and Ticket Data. If a VLT utilizes a printer to make payments, the printer shall print the following information on a ticket and provide the same data to the Central System for each redemption ticket printed:
  - a. Value of credits in local monetary units in numerical form;
  - b. Time of day the ticket was printed in twenty-four (24) hour format reflecting hours and minutes;

- c. Date, in any recognized format, indicating the day, month, and year;
  - d. VLT number;
  - e. Unique validation number, and/or barcode;
  - f. Name of the Video Lottery Gaming Facility; and
  - g. Identification of the Central System session.
2. Duplicate. The VLT shall retain a duplicate copy of any ticket printed and issued to a player.
  3. Validation. A Commission-approved system shall be used to validate the redemption ticket. Ticket information recorded by the Central System shall be retained for at least as long as the ticket is valid at that location, or as otherwise required by the Commission.
  4. Location and Design. A printer shall be located in a key-locked area of the VLT requiring the opening of the main door to access but separate from the logic area or the drop box area. Each printer shall be capable of detecting and acting on error conditions including, but not limited to, out of paper/paper low; printer jam/failure; and printer disconnected. A VLT shall be designed to retain information pertaining to the last thirty-five (35) games.

In recognition that technological advances may change the design and utilization of components of VLTs over the length the contract, the Commission may approve exceptions to these Specifications in circumstances where such exceptions would result in enhanced products while maintaining all statutory and regulatory requirements of the Video Lottery program. Under no circumstance shall a VLT be placed into service at a Video Lottery Gaming facility that deviates from the proscribed specifications without the prior approval of the Commission.

The Commission reserves the right to modify/update the specifications at any time.

### **3.7 VLT MAINTENANCE PROGRAM**

A Successful Bidder shall be responsible for performance of Field Service necessary in maintaining VLTs in the highest level of operability and appearance, including preventative maintenance to minimize equipment failures. All Suppliers shall fully describe the serviceability of their VLTs, including field repair of subassemblies. A Successful Bidder will be responsible to ensure that all VLTs are maintained in a state of readiness and shall take positive action when a malfunction is indicated to ensure that an affected VLT is returned to a state of readiness within two (2) hours. In all cases, the Commission reserves the right to determine as to whether a VLT is ready to be activated with the Central System and whether the Supplier responded within the time period specified (see Section 2.17).

When describing the proposed maintenance plan, a Bidder shall provide detail, including but not limited to, the parts return/service policy that will be provided, any applicable parts supply restrictions/turnaround time, etc., that can be reasonably anticipated, space needed at the Video Lottery Gaming Facility, statistical data with regard to serviceability, and a staffing plan for each Video Lottery Gaming Facility.

### **3.8 TRAINING OF VLT TECHNICIANS**

Each Primary and Qualified Supplier will be required to establish and maintain a certification program for the purpose of training and certifying technicians to service and repair its VLTs, including the installation or repair of component parts such as video monitors; bill acceptors; monitoring systems; and/or other components and parts that may alter the current or subsequent operation of a VLT.

Each applicant for a VLT vendor's license will be required to provide details of its certification program to the Commission; the criteria for certification; and information concerning the qualifications of the instructors. Each licensed Primary and Qualified Supplier will be required to ensure that its technicians have received sufficient and appropriate training in the service and repair of each of its approved VLT models before any VLT may be placed in operation. Upon request of the Commission, a certified technician, or a licensed supplier employing that technician, will be required to provide satisfactory proof to the Commission of the technician's certification and competence.



### **3.9 TRAINING OF COMMISSION AND VIDEO LOTTERY GAMING FACILITY STAFF**

Primary and Qualified Suppliers shall propose a training program that will provide the Video Lottery Gaming Facility staff on all aspects of their terminal.

## PART 4 – PROPOSAL RESPONSE

This Part 4 provides the requirements for development of the Applicant Information, Technical Proposal and Pricing Proposal, explains the Proposal Clarification Process, and outlines the Proposal Submission Process.

Any Proposal found to be incomplete or imposing conditions in response to the requirements under this RFP may be deemed non-responsive and removed from further consideration.

### 4.1 GENERAL INFORMATION

- A. Background. Each Bid Proposal shall consist of three (3) volumes: Volume 1 – Applicant Information; Volume 2 - Technical Proposal; and Volume 3 - Pricing Proposal. Collectively, the three volumes are referred to herein as the "Proposal". It is understood that each Volume may itself consist of multiple portions, e.g., Volume 2 – Technical Proposal may consist of 10 binders. Cumulatively, the ten binders will be cumulatively considered as Volume 2.

Each Volume shall be sealed separately from others and packaged in accordance with the specifications below.

- B. Proposal Clarification Process. The Commission may request clarification from a Bidder to resolve any ambiguity or questioning information presented in the Bidder's Proposal. Clarifications are an opportunity to explain, but not to enhance, a Proposal. Requests for clarification may occur throughout the Proposal submission review and/or the Proposal evaluation process. Clarification responses must be in writing and must address only the information requested. Responses must be submitted to the Commission within the time stipulated at the time of the request. As applicable, clarifications will be treated as addenda to the Bidder's Proposal.
- C. Packaging Materials to be Submitted.
1. Labeling. Each volume of the Proposals must be separately sealed and labeled identifying the volume within the package. The separately sealed volumes shall be packaged together with the following identifying information clearly indicated on the outside:

Sealed Proposal  
RFP Title [Lot 1, Lot 2 or Lot 3] and Contract Number  
Company or Organization Name

## Proposal Due Date and Time

If a delivery service is used which prohibits such markings on the envelope or package, the identifying information shall be placed on the outside of an interior envelope or package.

2. Address. The address for Proposals submitted by contract carrier, courier delivery, hand delivery, or by U. S. Postal Service is:

New York State Gaming Commission  
Contracts Office, 4th Floor  
Attention: Stacey Relation, Contract Management Specialist  
III  
One Broadway Center  
Schenectady, New York 12305

3. Delivery Method. If a Proposal is to be delivered by a method other than U.S. Postal Service, the Bidder must contact either a designated contact prior to delivery to assure timely acceptance. Faxed or e-mailed submissions will not be accepted.

D. Confirmation. The Commission will confirm time and date of Proposal receipt by electronic mail. If hand-delivered, the Commission will also provide a receipt indicating when the Proposal was accepted.

E. Joint and Multiple Proposals.

1. Joint Proposals. Two (2) or more firms may join to submit a Proposal in response to this RFP. If a joint Proposal is submitted, the Proposal must define the responsibilities that each firm is proposing to undertake. Of the firms submitting a joint Proposal, one must be designated as the primary Bidder. Any contract award issued resulting from such a submission will be made exclusively to the primary Bidder. A joint Proposal must designate a single authorized official from one (1) of the firms participating in such joint Proposal to serve as the sole point of contact between the Commission and the firms that are responding together.
2. Multiple Proposals from One Bidder. Bidders are permitted to submit Proposals for Lots 1 (Primary), 2 (Qualified VLT) or 3 (Qualified ETG), or any combination of Lots 1, 2 and 3. However, multiple Proposals from one Bidder for the same Lot are not permitted under this RFP. A Bidder shall submit only a single

Proposal per Lot, consisting of a Technical Proposal and a Pricing Proposal.

- F. Costs Associated with Preparation of Proposals. The Commission and State shall not be liable for any of the costs incurred by a Bidder in preparing or submitting a Proposal, and, therefore, the Commission or State will not assume any responsibility or liability for any costs incurred by a Bidder. The responsibilities and liabilities of the Commission and State shall be limited to those set forth in the Contract.
  
- G. Late Submission. A Bidder Proposal must be received by the Commission on or before the due date and time specified in the schedule set forth as Section 1.6. The Bidder is responsible for timely receipt of its Proposal and should plan for delivery accordingly. Failure of a Bidder to submit a Proposal by the specified time may result in rejection or disqualification of the Proposal. Proposals rejected or disqualified for lateness may be returned unopened to the Bidder.

#### 4.2 LOT 1 SUBMISSIONS

In addition to all other specified information detailed below, the Bidder shall complete a Video Lottery Gaming Vendor License application using **Appendix S: Video Lottery Gaming Application For Agent/Vendor.**

- 1. Information Volume.
  - a. Bidder Background Information. The Bidder must provide the following information:
    - (1) Name and address of business entity making the Proposal;
    - (2) Type of business entity (e.g., corporation, partnership, etc.);
    - (3) Place of incorporation, if applicable;
    - (4) Name and location of major offices, plants, and other facilities that relate to the Bidder's performance under the terms of this RFP;
    - (5) Name, address, and function of any and all subcontractors, associated companies, or consultants to be involved in any phase of this project;

- (6) Name, address, telephone number, and e-mail address of Bidder's representative to contact regarding all contractual matters concerning this Proposal;
- (7) Name, address, telephone number and e-mail address of Bidder's representative authorized to bind the organization to the terms and conditions of its Proposal;
- (8) Name, address, telephone number, and e-mail address of Bidder's representative to contact regarding arrangements for site visits or demonstrations, if required;
- (9) Bidder's Federal Employer Identification Number;
- (10) Bidder's organizational chart by staff title;
- (11) A summary of the Bidder's mission, culture and guiding philosophy;
- (12) A summary of the Bidder's hiring practices, including suitability standards;
- (13) A list of the Bidder's strengths in relation to the work defined in this RFP, including employee capacity to undertake and successfully carry out the proposed services;
- (14) A list of Bidder's accounts lost or resigned from over the past two (2) years and explanation of why such loss occurred;
- (15) Indicate any penalties or liquidated damages over ten thousand (10,000) dollars assessed against Bidder by gaming jurisdictions; and
- (16) To the extent not already provided in the Vendor Responsibility Questionnaire, a description of key corporate personnel, ownership control, and facilities available to satisfy the requirements of the RFP. This information will be used in conjunction with the Vendor Responsibility Questionnaire.

- b. Bidder Financial Viability. In order to determine the Bidder's financial ability to perform under the Contract, the Commission requires the following financial information:

- (1) Audited financial statements prepared by an independent certified public accountant (or equivalent for non-U.S. companies) for the Bidder for the last three (3) years [most recent and two (2) prior fiscal years].
  - (A) If the Bidder is a subsidiary of another corporation, the financial statements of the Bidder, as well as the consolidated financial statements of the parent company, shall be submitted. If the Bidder is a parent corporation, parent-only financial statements, if available, and statements for the operating division that will perform these services shall be submitted.
  - (A) If audited parent-only or Contractor/subsidiary statements are not available, the Commission will accept unaudited statements provided the Bidder's chief financial officer certifies that the statements are current, accurate, and complete.
- (2) If the Bidder is a subsidiary and will rely on the financial resources of the parent to perform this contract, the parent must certify, in writing, the availability of its resources to the Bidder.
- (3) The Bidder must provide a letter of commitment from a creditor, if borrowing will provide any or all of the capital necessary for the Bidder to perform any work for any contract resulting from this RFP.
- (4) The Commission reserves the right to require any additional information necessary to determine the financial integrity and responsibility of the Bidder.

c. Bidder Experience.

- (1) Threshold. A Bidder must demonstrate in its Proposal that its organization is of sufficient size and has the qualifications and experience required to perform the requested services defined in the RFP.
- (2) Qualifications and Experience. The Bidder should include sufficient detail to demonstrate the relevance of such qualifications and experience to the RFP and the Contract, by providing the following:

(A) A description of the five (5) most comparable accounts within different gaming jurisdictions that the Bidder has been involved in within the last two (2) years. The description should not exceed one (1) page per project. The description must include the following:

- i. The name of the gaming enterprise and a description of the property;
- ii. The number of machines or terminals provided by the bidder at the property;
- iii. The number of different titles provided by the bidder;
- iv. Approximate net win of the bidder's machines or terminals; and
- v. ETG games provided, if applicable.

(B) Please describe the experience of the Bidder's organization that would be considered relevant to the successful accomplishment of the scope of work required.

d. References. Each Bidder shall provide three (3) references relevant to any of the requested services. References must include company name, contact person (name, title, phone number, e-mail address, and mailing address) and include a general statement of the type of engagement performed for this reference.

- (1) If submitting a joint Proposal, the Bidder shall provide three (3) references for each company; and
- (2) If utilizing a subcontractor for any significant portion of the work, the Bidder shall provide two (2) references for each subcontractor.
- (3) The Commission reserves the right to contact provided references and to contact as additional references as necessary to obtain a complete understanding of the

Bidder's performance and experience. References may be used to substantiate the Technical Proposal.

e. Project Management and Staffing.

- (1) Identify all staff (name and title/position), including a full-time dedicated staff project director, and other personnel to be used under an ensuing Contract. The project director shall have overall responsibility for all work conducted pursuant to this RFP. Exceptions may be made only with the approval of the Commission. If staff is "To Be Determined," a Bidder must indicate the staff title, and the qualifications and attributes required for the position.
- (2) Provide résumés (not biographies) for all proposed staff indicating the relevant experience of each. Biographies do not provide sufficient information to allow for adequate evaluation of the individual's capabilities.
- (3) Indicate the role each staff member will have in the project and the anticipated percentage of time allocated for each in the proposed work effort.
- (4) Indicate the role, if any, that proposed staff has had in previous projects with the organization, particularly those presented in the Proposal under gaming experience.
- (5) If applicable, list all subcontractors to be utilized, including each subcontractor's name and address, contact person (name, title, phone number, e-mail address, and mailing address), and a complete description of work to be subcontracted to each. Descriptive information relative to the subcontractor's organization and capabilities must be included. If the Bidder intends to utilize subcontractors, but has yet to identify them, the Proposal must include a description of the credentials that will be sought of such subcontractor(s). If the Bidder does not intend to utilize subcontractors, the Bidder should indicate the same in the Technical Proposal.

f. Work Plan. A Proposal shall include a detailed Work Plan identifying all aspects of the project, including specific deliverable



dates, implementation process, and features. A work plan shall describe the approach to the project, including the:

- (1) Phase in schedule to achieve the required allocation, if all terminals will not be available upon the contract start date,
- (2) A terminal and title refresh schedule over the term of the contract;
- (3) Lead time required to fulfill a request to provide additional terminals when required.

- g. Diversity Practices. In addition to requirements specified in Section 2.18 of this RFP, each Bidder must provide, in writing, their Diversity Practices using the form provided in this RFP as Appendix K – Diversity Practices.

Pursuant to § 310(22) of Article 15-A of New York State Executive Law, “Diversity Practices” shall mean the Contractor’s practices and policies with respect to:

- (1) Utilizing certified minority- and women-owned business enterprises in contracts awarded by a state agency or other public corporation, as subcontractors and suppliers; and
- (2) Entering into partnerships, joint ventures, or other similar arrangements with certified minority- and women-owned business enterprises as defined in this article or other applicable statute or regulation governing an entity’s utilization of minority- or women-owned business enterprises.

2. Technical Volume. The Technical Proposal shall include descriptive and technical matter only. No pricing information shall be contained in the Technical Proposal.

- a. Content. There is no limit on the number of pages in the Technical Volume Proposal; however, Bidders should prepare their Proposals simply and economically, providing a straightforward and concise description of their abilities to satisfy the requirements of this RFP. Proposals containing a preponderance of boilerplate text are discouraged. Emphasis in each Proposal should be on completeness and clarity of content. A Bid is expected to provide the Commission with information, evidence, and demonstrations that will make

possible a contract award that best serves the stated interests of the Commission and the State of New York, including demonstration of the technical capabilities of meeting the requirements of this RFP and a work plan and product catalog capable of maximizing revenue to the State of New York and its partner Gaming Facilities. Bidders are given wide latitude in the degree of detail they offer or the extent to which they reveal plans, designs, systems, processes, and procedures.

- b. Failure to Address. The failure by a Bidder to provide the appropriate information or materials in response to each stated requirement or request for information may result in lower scores during the evaluation or determination of a non-responsive Proposal. Responses to complex RFP requirements that are stated in a form semantically equivalent to "Bidder agrees to comply" may be rejected for non-responsiveness at the discretion of the Commission.
- c. Organization. Contents of the Technical Proposal must follow the outline below and be divided with tabs to separate the response sections.

The Volume shall be organized as follows:

- (1) Transmittal Letter. The transmittal letter must be hand signed in ink and shall contain names, physical and electronic addresses, and telephone numbers of individuals authorized by the Bidder to address matters related to the Proposal. The transmittal letter shall contain a statement that the Proposal will remain valid at least one hundred and eighty (180) days from the due date of Proposals.
- (2) Attachment 1: Bidder Acknowledgement of Addendum
- (3) Attachment 3: Document Submittal Checklist
- (4) Appendix B: Signed Contract Form (Section 2.2).
- (5) Designation of Proprietary Information (Section 1.15).
- (6) Disclosure of Litigation and Other Information (Section 1.19).
- (7) Conflict of Interest Disclosure (Section 1.20).

- (8) Certifications and representations, as required by this RFP and listed in the Document Submittal Checklist.
  - (9) Response to specifications, in the order provided for in this Part 4, including technical documentation as appendices.
- d. Number of Copies. Hardcopy and electronic versions of the entire Technical Proposal must be submitted as noted below. All must be marked clearly to differentiate between Volumes.

Hardcopy: Two (2) originals and six (6) copies.

Electronic (non-redacted): Two (2) USB Memory Sticks, each containing a PDF file version.

Electronic (redacted): One (1) USB Memory Stick, containing a PDF file version.

The electronic version must include all Technical Proposal sections within a single file to facilitate searches for terms across the breadth of the Technical Proposal. The electronic version must mirror the full Technical Proposal.

If there are any differences between the hardcopy and electronic versions of the Technical Proposal, the hardcopy version will be deemed to be the Technical Proposal.

3. Pricing Volume.

- a. Use of Attached Form. As Volume 3 – Pricing Proposal, a Bidder shall complete the Attachment 2: Pricing Proposal Form. Alternate forms will be considered non-responsive.
- b. Catalog Attachment. Section 3.4, Product Mix and Marketability requires submission of a Catalog illustrating all products to be provided by a Bidder during the contract length. That document, required for the Volume 2 - Technical Proposal, shall not include any pricing information. Rather, for Volume 3 – Pricing Proposal, a Bidder shall provide the Catalog submitted for Section 3.4 and provide associated pricing on the Pricing Proposal Form. A Bidder may also include an appendix to the Volume 3 – Pricing Proposal Catalog that provides additional options available to licensed Video Lottery facilities, at their sole discretion and assumption of any

excess expense. Pricing within an appendix shall clearly illustrate the supplemental cost to the base pricing.

- c. Number of Copies. Hardcopy and electronic versions of Volume 3 – Pricing Proposal shall be submitted. All must be marked clearly to differentiate between Volumes. The electronic version must mirror the hard copy.

Two (2) hardcopy originals and one (1) hard copy  
One (1) USB Memory Stick copy containing a PDF file.

If there are any differences between the hardcopy and electronic versions of the Pricing Proposal, the hardcopy version will be deemed to be the Pricing Proposal.

#### 4.3 LOTS 2 AND 3 SUBMISSIONS

In addition to all other specified information detailed below, the Bidder shall complete a Video Lottery Gaming Vendor License application using **Appendix S: Video Lottery Gaming Application For Agent/Vendor**.

A. General Information.

1. Volume 1 – Applicant Information.

- a. Bidder Background Information. The Bidder must provide the following information:

- (1) Name and address of business entity making the Proposal;
- (2) Type of business entity (e.g., corporation, partnership, etc.);
- (3) Place of incorporation, if applicable;
- (4) Name and location of major offices, plants, and other facilities that relate to the Bidder's performance under the terms of this RFP;
- (5) Name, address, and function of any and all subcontractors, associated companies, or consultants to be involved in any phase of this project;

- (6) Name, address, telephone number, and e-mail address of Bidder's representative to contact regarding all contractual matters concerning this Proposal;
- (7) Name, address, telephone number and e-mail address of Bidder's representative authorized to bind the organization to the terms and conditions of its Proposal;
- (8) Name, address, telephone number, and e-mail address of Bidder's representative to contact regarding arrangements for site visits or demonstrations, if required;
- (9) Bidder's Federal Employer Identification Number;
- (10) Bidder's organizational chart by staff title;
- (11) A summary of the Bidder's mission, culture and guiding philosophy;
- (12) A summary of the Bidder's hiring practices, including suitability standards;
- (13) A list of the Bidder's strengths in relation to the work defined in this RFP, including employee capacity to undertake and successfully carry out the proposed services;
- (14) A list of Bidder's accounts lost or resigned from over the past two (2) years and explanation of why such loss occurred;
- (15) Indicate any penalties or liquidated damages over ten thousand (10,000) dollars assessed against Bidder by gaming jurisdictions; and
- (16) To the extent not already provided in the Vendor Responsibility Questionnaire, a description of key corporate personnel, ownership control, and facilities available to satisfy the requirements of the RFP. This information will be used in conjunction with the Vendor Responsibility Questionnaire.

- b. Bidder Financial Viability. No financial information beyond that requested as part of filing of a New York State Video Lottery Gaming Application. Financial viability will be assessed in that context.
  
- c. Bidder Experience.
  - (1) Threshold. Bidders must demonstrate in its proposal that has the subsequent experience to meet the minimum qualifications.
  
  - (2) Qualifications and Experience. The Bidder should include sufficient detail to demonstrate the relevance of such qualifications and experience to the RFP and the Contract, by providing the following:
    - (A) A description of the five (5) most comparable accounts within different gaming jurisdictions that the Bidder has been involved in within the last two (2) years. The description should not exceed one (1) page per project. The description must include the following:
      - i. The name of the gaming enterprise and a description of the property;
      - ii. The number of machines or terminals provided by the bidder at the property;
      - iii. The number of different titles provided by the bidder;
      - iv. Approximate net win of the bidder's machines or terminals; and
      - v. ETG games provided, if applicable.
  
- d. References. Each Bidder shall provide three (3) references relevant to any of the requested services. References must include company name, contact person (name, title, phone number, e-mail address, and mailing address) and include a general statement of the type of engagement performed for this reference.

- (1) If submitting a joint Proposal, the Bidder shall provide three (3) references for each company; and
  - (2) If utilizing a subcontractor for any significant portion of the work, the Bidder shall provide two (2) references for each subcontractor.
  - (3) The Commission reserves the right to contact provided references and to contact as additional references as necessary to obtain a complete understanding of the Bidder's performance and experience. References may be used to substantiate the Technical Proposal.
- e. Project Management and Staffing. A Bidder shall identify a staffing plan that meets the needs of the work proposed to be undertaken by the Bidder, with emphasis placed how the Bidder intends to meet the requirements of the Video Lottery maintenance requirements of Section 3.7. A Successful Bidder is permitted to contract with third-parties to provide technicians or to make arrangements with Video Lottery Gaming Facilities to utilize facility technicians to perform certain Field Services required to maintain terminals.
- f. Diversity Practices. In addition to requirements specified in Section 2.18 of this RFP, each Bidder must provide, in writing, their Diversity Practices using the form provided in this RFP as **Appendix K – Diversity Practices**.

Pursuant to § 310(22) of Article 15-A of New York State Executive Law, "Diversity Practices" shall mean the Contractor's practices and policies with respect to:

- (1) Utilizing certified minority- and women-owned business enterprises in contracts awarded by a state agency or other public corporation, as subcontractors and suppliers; and
- (2) Entering into partnerships, joint ventures, or other similar arrangements with certified minority- and women-owned business enterprises as defined in this article or other applicable statute or regulation governing an entity's utilization of minority- or women-owned business enterprises.

2. Technical Volume. The Technical Proposal shall include descriptive and technical matter only. No pricing information shall be contained in the Technical Proposal.
  - a. Content. There is no limit on the number of pages in the Technical Volume Proposal; however, Bidders should prepare their Proposals simply and economically, providing a straightforward and concise description of their abilities to satisfy the requirements of this RFP. Proposals containing a preponderance of boilerplate text are discouraged. Emphasis in each Proposal should be on completeness and clarity of content. A Bid is expected to provide the Commission with information, evidence, and demonstrations that will make possible a contract award that best serves the stated interests of the Commission and the State of New York. Bidders are given wide latitude in the degree of detail they offer or the extent to which they reveal plans, designs, systems, processes, and procedures.
  - b. Failure to Address. The failure by a Bidder to provide the appropriate information or materials in response to each stated requirement or request for information may result in lower scores during the evaluation or determination of a non-responsive Proposal. Responses to complex RFP requirements that are stated in a form semantically equivalent to "Bidder agrees to comply" may be rejected for non-responsiveness at the discretion of the Commission.
  - c. Organization. Contents of the Technical Proposal must follow the outline below and be divided with tabs to separate the response sections.

The Volume shall be organized as follows:

- (1) Transmittal Letter. The transmittal letter must be hand signed in ink and shall contain names, physical and electronic addresses, and telephone numbers of individuals authorized by the Bidder to address matters related to the Proposal. The transmittal letter shall contain a statement that the Proposal will remain valid at least one hundred and eighty (180) days from the due date of Proposals.
- (2) Attachment 1: Bidder Acknowledgement of Addendum
- (3) Attachment 3: Document Submittal Checklist



- (4) Appendix B: Signed Contract Form (Section 2.2).
  - (5) Designation of Proprietary Information (Section 1.15).
  - (6) Disclosure of Litigation and Other Information (Section 1.19).
  - (7) Conflict of Interest Disclosure (Section 1.20).
  - (8) Certifications and representations, as required by this RFP and listed in the Document Submittal Checklist.
  - (9) Response to specifications, in the order provided for in this Part 4, including technical documentation as appendices.
- d. Number of Copies. Hardcopy and electronic versions of the entire Technical Proposal must be submitted as noted below. All must be marked clearly to differentiate between Volumes.

Hardcopy: Two (2) originals and six (6) copies.

Electronic (non-redacted): Two (2) USB Memory Sticks, each containing a PDF file version.

Electronic (redacted): One (1) USB Memory Stick, containing a PDF file version.

The electronic version must include all Technical Proposal sections within a single file to facilitate searches for terms across the breadth of the Technical Proposal. The electronic version must mirror the full Technical Proposal.

If there are any differences between the hardcopy and electronic versions of the Technical Proposal, the hardcopy version will be deemed to be the Technical Proposal.

3. Pricing Volume.

- a. Use of Attached Form. As Volume 3 – Pricing Proposal, a Bidder may complete the Attachment 2: Pricing Proposal Form. Alternate forms will be considered.
- b. Catalog Attachment. Section 3.4, Product Mix and Marketability requires submission of a Catalog illustrating all products to be

provided submitted by a Bidder during the contract length. That document, required for the Volume 2 - Technical Proposal, shall include pricing information.

- c. Copies Necessary. Hardcopy and electronic versions of Volume 3 – Pricing Proposal shall be submitted. All must be marked clearly to differentiate between Volumes. The electronic version must mirror the hard copy.

Two (2) hardcopy originals and one (1) hard copy  
One (1) USB Memory Stick copy containing a PDF file.

If there are any differences between the hardcopy and electronic versions of the Pricing Proposal, the hardcopy version will be deemed to be the Pricing Proposal.

## **PART 5 – EVALUATION AND SELECTION**

### **5.1 INTRODUCTION**

This section describes the evaluation and award process that will be used to determine which Proposal provides the greatest overall benefits to the State. The ability of the Commission to evaluate a Bidder's Proposal is dependent upon the completeness and proper submission of the Proposal. The failure of a Bidder to provide information requested by this RFP, to submit the Proposal according to the required format, or to respond appropriately to a clarification request or demonstration request, may result in rejection of the Bidder's Proposal or reduction in scoring during the evaluation.

### **5.2 METHOD OF AWARD**

The method of award under Lot 1 of this RFP will be "Best Value," the evaluation method for awarding a Contract to the Bidder whose Proposal optimizes quality, cost, and efficiency among responsible offers. The determination of Best Value will be based on a scoring of Technical and Pricing Proposals in response to the RFP specifications and as defined in this Part 5. Award will be made to the two Bidders with the highest composite scores.

Under Lot 2 and Lot 3 of the RFP, Award shall be made to the responsive and responsible Bidder(s) who meet the minimum qualifying requirements listed in Part 1 of this RFP. Because of the nature of the Products involved, and in recognizing that each supplier has unique features to their products and that the Video Lottery Gaming Facilities are best situated to determine the combination of products will be compose the gaming floor in order to maximize revenue generating potential, award shall be made to more than one Bidder. The Commission intends to award contracts simultaneously to all responsive and responsible Bidders that submit by the proposal due date provided in Section 1.6 and meet the minimum qualification requirements provided in Section 1.5. Following award, Gaming Facilities may select product from any Lot 2 or Lot 3 Successful Bidder throughout the entire term of contract.

### **5.3 EVALUATION METHODOLOGY**

The Commission will conduct a comprehensive, fair, and impartial evaluation of Proposals received in response to this RFP. An evaluation committee (the "Committee") will be designated and will be comprised of Commission staff and other employees of the State of New York. The Commission reserves the right to make changes in the Committee's membership as necessary.

Scoring of the Lot 1 Technical Proposals will be by consensus of the Committee. Lot 1 Pricing Proposals will be scored following conclusion of the Technical Proposal scoring process. The relative scoring weight of Technical to Price will be: Technical seventy (70) percent; Price thirty (30) percent.

Scoring of the Lot 2 and Lot 3 Technical Proposals shall be limited to a Pass/Fail evaluation of the minimum qualifying requirements of the Bidder as provided for in Part 1 of this RFP.

The evaluation and award process will be comprised of the following (For Lots 2 & 3, only A, B, D, and H through L shall be applicable):

- A. Pass/Fail evaluation of the minimum qualifying requirements of the Bidder as provided for in Part 1 of this RFP;
- B. Review of Proposals to assess compliance with Proposal submission requirements, including responsiveness to terms, conditions, and requirements;
- C. Detailed review by the Committee of the Technical Proposals relative to proposed functions, features, services, and references;
- D. Proposal clarifications, if applicable;
- E. Scoring of Technical Proposals by the Committee using pre-defined evaluation criteria;
- F. Assessment and scoring of Pricing Proposals after finalization of the technical scoring process;
- G. Compilation of the technical and pricing score of each Bidder into a summary score sheet, by staff of the Contracts Office;
- H. Preparation of a Recommendation of Award Memorandum (Memorandum), on behalf of the Committee, by the Contract Management Specialist III, or designee. Signature by the Committee Chair on behalf of the Committee, of the final Memorandum;
- I. Submission of the Memorandum to the Commission's Executive Director or designee for review and acceptance of the Committee's recommendation and briefing of the Commissioners;
- J. Review and acceptance of the award by the Commissioners;

- K. Signature of the Memorandum by Commission’s Executive Director or Acting Executive Director, or his or her designee; and
- L. Notice of Award.

**5.4 INFORMATION FROM OTHER SOURCES**

The Commission reserves the right to obtain from sources other than the Bidder, information concerning a Bidder, the Bidder’s offerings and capabilities, and the Bidder’s performance, that the Commission deems pertinent to this RFP, and it may consider such information obtained when evaluating the Bidder’s Proposal. This may include, but is not limited to, the Chair of the Evaluation Committee engaging experts from outside the Committee to better inform the Committee’s findings.

**5.5 EVALUATION & SELECTION CRITERIA**

Lot 1 Proposals determined to comply with the requirements set forth in this RFP and submission requirements outlined in Part 4 – Information Required from Bidders – of this RFP will be evaluated based on the following criteria:

A. Technical Evaluation – seventy (70) percent

- Bidder’s Organization & Financial Viability (10 points)
- Experience (15 points)
- Project Management, Maintenance & Staffing (10 points)
- Product Mix Plan (20 points)
- Marketability/Diversity of Game/Software Portfolio (30 points)
- VLT Specifications (10 points)
- Diversity Practices (5 points)

70 percent of the points awarded in the Technical Evaluation will be applied to the composite score.

B. Pricing Evaluation – thirty (30) percent

The Bidder with the lowest price will be awarded the full points allocated to the pricing evaluation. The score for each of the remaining Bidders will be proportionate to the lowest Bidder. Price will be determined by percent of net revenues bid multiplied by the estimated net revenues for one (1) year.

30 percent of the points awarded in the Pricing Evaluation will be applied to the composite score.

Note: Points awarded will be rounded to the nearest hundredth place.

Lot 2 and Lot 3 Proposals determined to comply with the requirements set forth in this RFP and submission requirements outlined in Part 4 – Information Required from Bidders – of this RFP will be evaluated based on the minimum qualifying requirements criteria outlined in Section 1.5 of Part 1.

## **5.6 FINAL COMPOSITE SCORE/DETERMINATION OF AWARD PROCESS (Lot 1 only)**

The technical and pricing scores will be combined to determine the final composite score for each Bidder. Award will be made to the responsive and responsible Bidder who achieves the highest composite score. In the event of a tie, the award shall be made by to the Bidder with the higher Technical Evaluation score. If the Technical Evaluation score is also tied, the award shall be made to the Bidder with the higher combined Marketability/Diversity of Game/Software Portfolio and Product Mix Plan score.

## **5.7 NOTICE OF AWARD**

A contract award notification letter will be sent to the Successful Bidder, and notification letters to unsuccessful Bidders indicating that an award was made and is subject to approval by the New York State Office of the Attorney General and New York State Office of the State Comptroller.

No public discussion or news releases relating to this RFP or the resulting Contract shall be made by any Bidder without the prior approval of the Commission.

## **5.8 DEBRIEFINGS**

The Commission shall, upon request, provide a debriefing (the Commission will accommodate in person or telephone debriefings, as requested by the Bidder) to any unsuccessful Bidder that responded to this solicitation regarding the reasons that the Bidder's response was not selected for an award. A debriefing shall be requested by the unsuccessful Bidder within fifteen (15) calendar days of release by the state agency of a notice in writing or electronically that the Bidder's offer is unsuccessful.

## 5.9 PROTEST OR APPEAL

If a Bidder decides to protest the award decision, the following protest procedures will be followed:

- A. Any protest of the award decision must be filed with the Commission, no later than ten (10) business days following the date of written notification to the unsuccessful Bidder, pursuant to Section 5.7 of the RFP;
- B. The protest must clearly state the basis for the protest and include all relevant documentation supporting such protest;
- C. The Commission shall conduct a review of the protest and issue a written determination to the protesting party within fifteen (15) business days of receipt of the protest. If additional time for issuance of the determination is necessary, the Commission will inform the Bidder of the delay and of the time frame within which a determination may be expected. The final written determination provided to the Bidder will constitute the Commission's final administrative determination of the protest;
- D. If an unsuccessful Bidder appeals the Commission's final administrative determination of the Bidder's protest, the unsuccessful Bidder must submit such an appeal to the [New York State Office of the State Comptroller, Bureau of Contracts](#), within ten (10) business days of the Bidder's receipt of the Commission's final written determination. The protest appeal must be in writing and must contain specific factual and/or legal allegations setting forth the basis on which the protesting party challenges the Contract award by the Commission. A copy of the appeal must be served on the Commission, the Successful Bidder(s), and any other party that participated in the review of the protest conducted by the Commission. The unsuccessful Bidder's appeal must contain written affirmation that a copy of the appeal has been served as required by this paragraph;
- E. The appeal must be filed with: Director, Bureau of Contracts – 11th Floor, New York State Office of the State Comptroller, 110 State Street, Albany, NY 12236;
- F. The Commission will submit an answer to the appeal to the Bureau of Contracts simultaneously with the delivery of the Contract to the BOC for its review, or within seven (7) business days of the submission of the appeal, whichever is later. The Commission's answer to the appeal must include written affirmation that, simultaneous with the submission to Bureau of Contracts, the answer was transmitted to the protestor and the Successful Bidder(s);

- G. A Successful Bidder may, but is not required to, submit an answer to the appeal with the Bureau of Contracts. Such answer must include written affirmation that the answer was simultaneously delivered to the Commission and the protester and must meet the submission requirements as noted above for the Commission;
- H. The Bureau of Contracts will evaluate the merits of the protest, the Commission's determination and any response submitted by an interested party. In its review, the Bureau of Contracts may require the Commission, the protesting party, the Successful Bidder, or any other interested party to address additional issues raised; may obtain information from an outside source; or may determine whether it deems it necessary to conduct a fact-finding hearing, and the level of formality of any hearing conducted; and
- I. The Bureau of Contracts will issue a written determination addressing the issues raised by the appeal. All interested parties shall be provided with a copy of the determination. The determination shall be made part of the procurement record.



APPENDIX A

STANDARD CLAUSES FOR NEW YORK STATE CONTRACTS

PLEASE RETAIN THIS DOCUMENT  
FOR FUTURE REFERENCE.

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## STANDARD CLAUSES FOR NYS CONTRACTS

The parties to the attached contract, license, lease, amendment or other agreement of any kind (hereinafter, "the contract" or "this contract") agree to be bound by the following clauses which are hereby made a part of the contract (the word "Contractor" herein refers to any party other than the State, whether a contractor, licenser, licensee, lessor, lessee or any other party):

**1. EXECUTORY CLAUSE.** In accordance with Section 41 of the State Finance Law, the State shall have no liability under this contract to the Contractor or to anyone else beyond funds appropriated and available for this contract.

**2. NON-ASSIGNMENT CLAUSE.** In accordance with Section 138 of the State Finance Law, this contract may not be assigned by the Contractor or its right, title or interest therein assigned, transferred, conveyed, sublet or otherwise disposed of without the State's previous written consent, and attempts to do so are null and void. Notwithstanding the foregoing, such prior written consent of an assignment of a contract let pursuant to Article XI of the State Finance Law may be waived at the discretion of the contracting agency and with the concurrence of the State Comptroller where the original contract was subject to the State Comptroller's approval, where the assignment is due to a reorganization, merger or consolidation of the Contractor's business entity or enterprise. The State retains its right to approve an assignment and to require that any Contractor demonstrate its responsibility to do business with the State. The Contractor may, however, assign its right to receive payments without the State's prior written consent unless this contract concerns Certificates of Participation pursuant to Article 5-A of the State Finance Law.

**3. COMPTROLLER'S APPROVAL.** In accordance with Section 112 of the State Finance Law (or, if this contract is with the State University or City University of New York, Section 355 or Section 6218 of the Education Law), if this contract exceeds \$50,000 (or the minimum thresholds agreed to by the Office of the State Comptroller for certain S.U.N.Y. and C.U.N.Y. contracts), or if this is an amendment for any amount to a contract which, as so amended, exceeds said statutory amount, or if, by this contract, the State agrees to give something other than money when the value or reasonably estimated value of such consideration exceeds \$25,000, it shall not be valid, effective or binding upon the State until it has been approved by the State Comptroller and filed in his office. Comptroller's approval of contracts let by the Office of General Services is required when such contracts exceed \$85,000 (State Finance Law § 163.6-a). However, such pre-approval shall not be required for any contract established as a centralized contract through the Office of General Services or for a purchase order or other transaction issued under such centralized contract.

**4. WORKERS' COMPENSATION BENEFITS.** In accordance with Section 142 of the State Finance Law, this contract shall be void and of no force and effect unless the

Contractor shall provide and maintain coverage during the life of this contract for the benefit of such employees as are required to be covered by the provisions of the Workers' Compensation Law.

**5. NON-DISCRIMINATION REQUIREMENTS.** To the extent required by Article 15 of the Executive Law (also known as the Human Rights Law) and all other State and Federal statutory and constitutional non-discrimination provisions, the Contractor will not discriminate against any employee or applicant for employment, nor subject any individual to harassment, because of age, race, creed, color, national origin, sexual orientation, gender identity or expression, military status, sex, disability, predisposing genetic characteristics, familial status, marital status, or domestic violence victim status or because the individual has opposed any practices forbidden under the Human Rights Law or has filed a complaint, testified, or assisted in any proceeding under the Human Rights Law. Furthermore, in accordance with Section 220-e of the Labor Law, if this is a contract for the construction, alteration or repair of any public building or public work or for the manufacture, sale or distribution of materials, equipment or supplies, and to the extent that this contract shall be performed within the State of New York, Contractor agrees that neither it nor its subcontractors shall, by reason of race, creed, color, disability, sex, or national origin: (a) discriminate in hiring against any New York State citizen who is qualified and available to perform the work; or (b) discriminate against or intimidate any employee hired for the performance of work under this contract. If this is a building service contract as defined in Section 230 of the Labor Law, then, in accordance with Section 239 thereof, Contractor agrees that neither it nor its subcontractors shall by reason of race, creed, color, national origin, age, sex or disability: (a) discriminate in hiring against any New York State citizen who is qualified and available to perform the work; or (b) discriminate against or intimidate any employee hired for the performance of work under this contract. Contractor is subject to fines of \$50.00 per person per day for any violation of Section 220-e or Section 239 as well as possible termination of this contract and forfeiture of all moneys due hereunder for a second or subsequent violation.

**6. WAGE AND HOURS PROVISIONS.** If this is a public work contract covered by Article 8 of the Labor Law or a building service contract covered by Article 9 thereof, neither Contractor's employees nor the employees of its subcontractors may be required or permitted to work more than the number of hours or days stated in said statutes, except as otherwise provided in the Labor Law and as set forth in prevailing wage and supplement schedules issued by the State Labor Department. Furthermore, Contractor and its subcontractors must pay at least the prevailing wage rate and pay or provide the prevailing supplements, including the premium rates for overtime pay, as determined by the State Labor Department in accordance with the Labor Law. Additionally, effective April 28, 2008, if this is a public work contract covered by Article 8 of the Labor Law, the Contractor understands and agrees that the filing of payrolls in a manner consistent with Subdivision 3-

a of Section 220 of the Labor Law shall be a condition precedent to payment by the State of any State approved sums due and owing for work done upon the project.

**7. NON-COLLUSIVE BIDDING CERTIFICATION.** In accordance with Section 139-d of the State Finance Law, if this contract was awarded based upon the submission of bids, Contractor affirms, under penalty of perjury, that its bid was arrived at independently and without collusion aimed at restricting competition. Contractor further affirms that, at the time Contractor submitted its bid, an authorized and responsible person executed and delivered to the State a non-collusive bidding certification on Contractor's behalf.

**8. INTERNATIONAL BOYCOTT PROHIBITION.** In accordance with Section 220-f of the Labor Law and Section 139-h of the State Finance Law, if this contract exceeds \$5,000, the Contractor agrees, as a material condition of the contract, that neither the Contractor nor any substantially owned or affiliated person, firm, partnership or corporation has participated, is participating, or shall participate in an international boycott in violation of the federal Export Administration Act of 1979 (50 USC App. Sections 2401 et seq.) or regulations thereunder. If such Contractor, or any of the aforesaid affiliates of Contractor, is convicted or is otherwise found to have violated said laws or regulations upon the final determination of the United States Commerce Department or any other appropriate agency of the United States subsequent to the contract's execution, such contract, amendment or modification thereto shall be rendered forfeit and void. The Contractor shall so notify the State Comptroller within five (5) business days of such conviction, determination or disposition of appeal (2 NYCRR § 105.4).

**9. SET-OFF RIGHTS.** The State shall have all of its common law, equitable and statutory rights of set-off. These rights shall include, but not be limited to, the State's option to withhold for the purposes of set-off any moneys due to the Contractor under this contract up to any amounts due and owing to the State with regard to this contract, any other contract with any State department or agency, including any contract for a term commencing prior to the term of this contract, plus any amounts due and owing to the State for any other reason including, without limitation, tax delinquencies, fee delinquencies or monetary penalties relative thereto. The State shall exercise its set-off rights in accordance with normal State practices including, in cases of set-off pursuant to an audit, the finalization of such audit by the State agency, its representatives, or the State Comptroller.

**10. RECORDS.** The Contractor shall establish and maintain complete and accurate books, records, documents, accounts and other evidence directly pertinent to performance under this contract (hereinafter, collectively, the "Records"). The Records must be kept for the balance of the calendar year in which they were made and for six (6) additional years thereafter. The State Comptroller, the Attorney General and any other person or entity authorized to conduct an examination, as well as the

agency or agencies involved in this contract, shall have access to the Records during normal business hours at an office of the Contractor within the State of New York or, if no such office is available, at a mutually agreeable and reasonable venue within the State, for the term specified above for the purposes of inspection, auditing and copying. The State shall take reasonable steps to protect from public disclosure any of the Records which are exempt from disclosure under Section 87 of the Public Officers Law (the "Statute") provided that: (i) the Contractor shall timely inform an appropriate State official, in writing, that said records should not be disclosed; and (ii) said records shall be sufficiently identified; and (iii) designation of said records as exempt under the Statute is reasonable. Nothing contained herein shall diminish, or in any way adversely affect, the State's right to discovery in any pending or future litigation.

**11. IDENTIFYING INFORMATION AND PRIVACY NOTIFICATION.** (a) Identification Number(s). Every invoice or New York State Claim for Payment submitted to a New York State agency by a payee, for payment for the sale of goods or services or for transactions (e.g., leases, easements, licenses, etc.) related to real or personal property must include the payee's identification number. The number is any or all of the following: (i) the payee's Federal employer identification number, (ii) the payee's Federal social security number, and/or (iii) the payee's Vendor Identification Number assigned by the Statewide Financial System. Failure to include such number or numbers may delay payment. Where the payee does not have such number or numbers, the payee, on its invoice or Claim for Payment, must give the reason or reasons why the payee does not have such number or numbers.

(b) Privacy Notification. (1) The authority to request the above personal information from a seller of goods or services or a lessor of real or personal property, and the authority to maintain such information, is found in Section 5 of the State Tax Law. Disclosure of this information by the seller or lessor to the State is mandatory. The principal purpose for which the information is collected is to enable the State to identify individuals, businesses and others who have been delinquent in filing tax returns or may have understated their tax liabilities and to generally identify persons affected by the taxes administered by the Commissioner of Taxation and Finance. The information will be used for tax administration purposes and for any other purpose authorized by law. (2) The personal information is requested by the purchasing unit of the agency contracting to purchase the goods or services or lease the real or personal property covered by this contract or lease. The information is maintained in the Statewide Financial System by the Vendor Management Unit within the Bureau of State Expenditures, Office of the State Comptroller, 110 State Street, Albany, New York 12236.

**12. EQUAL EMPLOYMENT OPPORTUNITIES FOR MINORITIES AND WOMEN.** In accordance with Section 312 of the Executive Law and 5 NYCRR Part 143, if this contract is: (i) a written agreement or purchase order instrument, providing for a total expenditure in excess of

\$25,000.00, whereby a contracting agency is committed to expend or does expend funds in return for labor, services, supplies, equipment, materials or any combination of the foregoing, to be performed for, or rendered or furnished to the contracting agency; or (ii) a written agreement in excess of \$100,000.00 whereby a contracting agency is committed to expend or does expend funds for the acquisition, construction, demolition, replacement, major repair or renovation of real property and improvements thereon; or (iii) a written agreement in excess of \$100,000.00 whereby the owner of a State assisted housing project is committed to expend or does expend funds for the acquisition, construction, demolition, replacement, major repair or renovation of real property and improvements thereon for such project, then the following shall apply and by signing this agreement the Contractor certifies and affirms that it is Contractor's equal employment opportunity policy that:

(a) The Contractor will not discriminate against employees or applicants for employment because of race, creed, color, national origin, sex, age, disability or marital status, shall make and document its conscientious and active efforts to employ and utilize minority group members and women in its work force on State contracts and will undertake or continue existing programs of affirmative action to ensure that minority group members and women are afforded equal employment opportunities without discrimination. Affirmative action shall mean recruitment, employment, job assignment, promotion, upgradings, demotion, transfer, layoff, or termination and rates of pay or other forms of compensation;

(b) at the request of the contracting agency, the Contractor shall request each employment agency, labor union, or authorized representative of workers with which it has a collective bargaining or other agreement or understanding, to furnish a written statement that such employment agency, labor union or representative will not discriminate on the basis of race, creed, color, national origin, sex, age, disability or marital status and that such union or representative will affirmatively cooperate in the implementation of the Contractor's obligations herein; and

(c) the Contractor shall state, in all solicitations or advertisements for employees, that, in the performance of the State contract, all qualified applicants will be afforded equal employment opportunities without discrimination because of race, creed, color, national origin, sex, age, disability or marital status.

Contractor will include the provisions of "a," "b," and "c" above, in every subcontract over \$25,000.00 for the construction, demolition, replacement, major repair, renovation, planning or design of real property and improvements thereon (the "Work") except where the Work is for the beneficial use of the Contractor. Section 312 does not apply to: (i) work, goods or services unrelated to this contract; or (ii) employment outside New York State. The State shall consider compliance by a contractor or subcontractor with the requirements of any federal law concerning equal employment opportunity which effectuates the purpose of this clause. The

contracting agency shall determine whether the imposition of the requirements of the provisions hereof duplicate or conflict with any such federal law and if such duplication or conflict exists, the contracting agency shall waive the applicability of Section 312 to the extent of such duplication or conflict. Contractor will comply with all duly promulgated and lawful rules and regulations of the Department of Economic Development's Division of Minority and Women's Business Development pertaining hereto.

**13. CONFLICTING TERMS.** In the event of a conflict between the terms of the contract (including any and all attachments thereto and amendments thereof) and the terms of this Appendix A, the terms of this Appendix A shall control.

**14. GOVERNING LAW.** This contract shall be governed by the laws of the State of New York except where the Federal supremacy clause requires otherwise.

**15. LATE PAYMENT.** Timeliness of payment and any interest to be paid to Contractor for late payment shall be governed by Article 11-A of the State Finance Law to the extent required by law.

**16. NO ARBITRATION.** Disputes involving this contract, including the breach or alleged breach thereof, may not be submitted to binding arbitration (except where statutorily authorized), but must, instead, be heard in a court of competent jurisdiction of the State of New York.

**17. SERVICE OF PROCESS.** In addition to the methods of service allowed by the State Civil Practice Law & Rules ("CPLR"), Contractor hereby consents to service of process upon it by registered or certified mail, return receipt requested. Service hereunder shall be complete upon Contractor's actual receipt of process or upon the State's receipt of the return thereof by the United States Postal Service as refused or undeliverable. Contractor must promptly notify the State, in writing, of each and every change of address to which service of process can be made. Service by the State to the last known address shall be sufficient. Contractor will have thirty (30) calendar days after service hereunder is complete in which to respond.

**18. PROHIBITION ON PURCHASE OF TROPICAL HARDWOODS.** The Contractor certifies and warrants that all wood products to be used under this contract award will be in accordance with, but not limited to, the specifications and provisions of Section 165 of the State Finance Law, (Use of Tropical Hardwoods) which prohibits purchase and use of tropical hardwoods, unless specifically exempted, by the State or any governmental agency or political subdivision or public benefit corporation. Qualification for an exemption under this law will be the responsibility of the contractor to establish to meet with the approval of the State.

In addition, when any portion of this contract involving the use of woods, whether supply or installation, is to be performed by

any subcontractor, the prime Contractor will indicate and certify in the submitted bid proposal that the subcontractor has been informed and is in compliance with specifications and provisions regarding use of tropical hardwoods as detailed in § 165 State Finance Law. Any such use must meet with the approval of the State; otherwise, the bid may not be considered responsive. Under bidder certifications, proof of qualification for exemption will be the responsibility of the Contractor to meet with the approval of the State.

**19. MACBRIDE FAIR EMPLOYMENT PRINCIPLES.** In accordance with the MacBride Fair Employment Principles (Chapter 807 of the Laws of 1992), the Contractor hereby stipulates that the Contractor either (a) has no business operations in Northern Ireland, or (b) shall take lawful steps in good faith to conduct any business operations in Northern Ireland in accordance with the MacBride Fair Employment Principles (as described in Section 165 of the New York State Finance Law), and shall permit independent monitoring of compliance with such principles.

**20. OMNIBUS PROCUREMENT ACT OF 1992.** It is the policy of New York State to maximize opportunities for the participation of New York State business enterprises, including minority- and women-owned business enterprises as bidders, subcontractors and suppliers on its procurement contracts.

Information on the availability of New York State subcontractors and suppliers is available from:

NYS Department of Economic Development  
Division for Small Business  
Albany, New York 12245  
Telephone: 518-292-5100  
Fax: 518-292-5884  
email: [opa@esd.ny.gov](mailto:opa@esd.ny.gov)

A directory of certified minority- and women-owned business enterprises is available from:

NYS Department of Economic Development  
Division of Minority and Women's Business Development  
633 Third Avenue  
New York, NY 10017  
212-803-2414  
email: [mwbecertification@esd.ny.gov](mailto:mwbecertification@esd.ny.gov)  
<https://ny.newnycontracts.com/FrontEnd/VendorSearchPublic.asp>

The Omnibus Procurement Act of 1992 (Chapter 844 of the Laws of 1992, codified in State Finance Law § 139-i and Public Authorities Law § 2879(3)(n)-(p)) requires that by signing this bid proposal or contract, as applicable, Contractors certify that whenever the total bid amount is greater than \$1 million:

(a) The Contractor has made reasonable efforts to encourage the participation of New York State Business Enterprises as suppliers and subcontractors, including certified minority- and

women-owned business enterprises, on this project, and has retained the documentation of these efforts to be provided upon request to the State;

(b) The Contractor has complied with the Federal Equal Opportunity Act of 1972 (P.L. 92-261), as amended;

(c) The Contractor agrees to make reasonable efforts to provide notification to New York State residents of employment opportunities on this project through listing any such positions with the Job Service Division of the New York State Department of Labor, or providing such notification in such manner as is consistent with existing collective bargaining contracts or agreements. The Contractor agrees to document these efforts and to provide said documentation to the State upon request; and

(d) The Contractor acknowledges notice that the State may seek to obtain offset credits from foreign countries as a result of this contract and agrees to cooperate with the State in these efforts.

**21. RECIPROCITY AND SANCTIONS PROVISIONS.** Bidders are hereby notified that if their principal place of business is located in a country, nation, province, state or political subdivision that penalizes New York State vendors, and if the goods or services they offer will be substantially produced or performed outside New York State, the Omnibus Procurement Act 1994 and 2000 amendments (Chapter 684 and Chapter 383, respectively, codified in State Finance Law § 165(6) and Public Authorities Law § 2879(5)) require that they be denied contracts which they would otherwise obtain. NOTE: As of October 2019, the list of discriminatory jurisdictions subject to this provision includes the states of South Carolina, Alaska, West Virginia, Wyoming, Louisiana and Hawaii.

**22. COMPLIANCE WITH BREACH NOTIFICATION AND DATA SECURITY LAWS.** Contractor shall comply with the provisions of the New York State Information Security Breach and Notification Act (General Business Law § 899-aa and State Technology Law § 208) and commencing March 21, 2020 shall also comply with General Business Law § 899-bb.

**23. COMPLIANCE WITH CONSULTANT DISCLOSURE LAW.** If this is a contract for consulting services, defined for purposes of this requirement to include analysis, evaluation, research, training, data processing, computer programming, engineering, environmental, health, and mental health services, accounting, auditing, paralegal, legal or similar services, then, in accordance with Section 163 (4)(g) of the State Finance Law (as amended by Chapter 10 of the Laws of 2006), the Contractor shall timely, accurately and properly comply with the requirement to submit an annual employment report for the contract to the agency that awarded the contract, the Department of Civil Service and the State Comptroller.

**24. PROCUREMENT LOBBYING.** To the extent this agreement is a "procurement contract" as defined by State Finance Law §§ 139-j and 139-k, by signing this agreement the contractor certifies and affirms that all disclosures made in accordance with State Finance Law §§ 139-j and 139-k are complete, true and accurate. In the event such certification is found to be intentionally false or intentionally incomplete, the State may terminate the agreement by providing written notification to the Contractor in accordance with the terms of the agreement.

**25. CERTIFICATION OF REGISTRATION TO COLLECT SALES AND COMPENSATING USE TAX BY CERTAIN STATE CONTRACTORS, AFFILIATES AND SUBCONTRACTORS.**

To the extent this agreement is a contract as defined by Tax Law § 5-a, if the contractor fails to make the certification required by Tax Law § 5-a or if during the term of the contract, the Department of Taxation and Finance or the covered agency, as defined by Tax Law § 5-a, discovers that the certification, made under penalty of perjury, is false, then such failure to file or false certification shall be a material breach of this contract and this contract may be terminated, by providing written notification to the Contractor in accordance with the terms of the agreement, if the covered agency determines that such action is in the best interest of the State.

**26. IRAN DIVESTMENT ACT.** By entering into this Agreement, Contractor certifies in accordance with State Finance Law § 165-a that it is not on the "Entities Determined to be Non-Responsive Bidders/Offerers pursuant to the New York State Iran Divestment Act of 2012" ("Prohibited Entities List") posted at: <https://ogs.ny.gov/list-entities-determined-be-non-responsive-biddersofferers-pursuant-nys-iran-divestment-act-2012>

Contractor further certifies that it will not utilize on this Contract any subcontractor that is identified on the Prohibited Entities List. Contractor agrees that should it seek to renew or extend this Contract, it must provide the same certification at the time the Contract is renewed or extended. Contractor also agrees that any proposed Assignee of this Contract will be required to certify that it is not on the Prohibited Entities List before the contract assignment will be approved by the State.

During the term of the Contract, should the state agency receive information that a person (as defined in State Finance Law § 165-a) is in violation of the above-referenced certifications, the state agency will review such information and offer the person an opportunity to respond. If the person fails to demonstrate that it has ceased its engagement in the investment activity which is in violation of the Act within 90 days after the determination of such violation, then the state agency shall take such action as may be appropriate and provided for by law, rule, or contract, including, but not limited to, imposing sanctions, seeking compliance, recovering damages, or declaring the Contractor in default.

The state agency reserves the right to reject any bid, request for assignment, renewal or extension for an entity that appears on the Prohibited Entities List prior to the award, assignment, renewal or extension of a contract, and to pursue a responsibility review with respect to any entity that is awarded a contract and appears on the Prohibited Entities list after contract award.

**27. ADMISSIBILITY OF REPRODUCTION OF CONTRACT.** Notwithstanding the best evidence rule or any other legal principle or rule of evidence to the contrary, the Contractor acknowledges and agrees that it waives any and all objections to the admissibility into evidence at any court proceeding or to the use at any examination before trial of an electronic reproduction of this contract, in the form approved by the State Comptroller, if such approval was required, regardless of whether the original of said contract is in existence.

**VIDEO LOTTERY TERMINALS, GAMES, SOFTWARE AND MAINTENANCE  
C\_\_\_\_\_**

THIS AGREEMENT made this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_ by and between the NEW YORK STATE GAMING COMMISSION, an executive agency of the State of New York having an office at One Broadway Center, Post Office Box 7500, Schenectady, New York 12301-7500 (the "Commission"), and [Contractor], having an office at [address] (the "Contractor").

WHEREAS the Commission issued a Request for Proposals ("RFP") on February 5, 2021 soliciting proposals from qualified firms to provide a Video Lottery Terminals, Games, Software and Maintenance, and clarified the requirements of the RFP with questions and answers dated February 19, 2021 and February 26, 2021 (collectively, the "RFP"); and

WHEREAS the Contractor submitted a Technical Proposal and a Pricing Proposal for Lot 1 (Primary Supplier) dated [\_\_\_\_\_, 2021] (collectively, the "Proposal"), which was deemed to be the Best Value, from among competing proposals by the Commission's evaluation team;

WHEREAS Lot 1 provides the Contractor an award to supply at least 25 percent of the Video Lottery Terminals ("VLTs") at licensed facilities in the state of New York (the "licensed Video Lottery Gaming facilities") in exchange for a guarantee that the Contractor will supply up to 50 percent of the VLTs required at the licensed Video Lottery Gaming facilities if required subject the restrictions and requirements contained within the RFP;



NOW, THEREFORE, in consideration of the foregoing and of the mutual promises hereinafter set forth, the parties hereto agree as follows:

1. Scope of Services. The Contractor agrees to provide the Commission with a VLTs, games, software and maintenance in connection with the operation of video lottery program at licensed Video Lottery Gaming facilities, as more fully set forth in the RFP and the Proposal. Both the RFP and the Proposal are hereby incorporated into this Contract with the same force and effect as if they were fully set forth herein.
2. Term. This Contract shall be effective July 1, 2021 through December 31, 2029.
3. Regulations. Contractor agrees to familiarize itself with the regulations issued by the Commission concerning the operation of video lottery gaming within the State and to comply with same.
4. Licensing. Contractor agrees to submit to licensing procedures established by the Commission and recognizes that satisfactory licensing is a condition of successful performance of the Contract. Failure to maintain the required license shall be cause for termination of the Contract.
5. Financial Arrangements.
  - a. Compensation. In full consideration for all goods and services specified in the RFP and the Proposal, the Commission agrees to pay, and the Contractor agrees to accept, compensation in accordance with the prices set forth in the Proposal, unless otherwise stated herein. No minimum amount is guaranteed by this Contract and the Contractor shall not have any right to make a claim therefore. Expenditures under this Contract shall not exceed [XXXXXXXX].
    - i. For purposes New York State Finance Law and Article 34 of the New York State Tax Law, the goods and services specified in the RFP and the Proposal

qualify the Contractor to be considered a “licensed lottery sales agent” a “licensed lottery retailer” or a “retailer” as that term is used in Article 34 of the New York State Tax Law, permitting the compensation for services through the retention of a portion of sales revenue.

- ii. The Commission shall each week utilize video lottery central system reports to calculate the amount of net win and the compensation due and owing to the Contractor consistent with the schedule provided by the Contractor in its Pricing Proposal. Upon verification of amounts, the Commission will direct payment to the Contractor either (a) by the Commission directly or (b) by the Video Lottery Facility from lottery receipts through ACH processing. The Commission understands and agrees that it shall be responsible for the Video Lottery Facility’s failure to make payment to Contractor as provided herein and that it shall pay Contractor directly in event of such failure.
- iii. Cost for Additional Options. The Contractor shall obtain written affirmation from a Video Lottery Gaming Facility accepting the financial responsibility to reimburse the Commission for all costs exceeding the “Average Base Compensation Rate” as defined within the RFP prior to delivery of any options selected by the licensed Video Lottery Gaming Facility. The Commission will not compensate the Contractor for the cost of any options without proof of such affirmation.
  - b. Liquidated Damages.
    - i. The Commission may, in its discretion, deduct liquidated damages from the compensation otherwise due to the Contractor when the circumstances which give rise to a claim for liquidated damages exist. There may be occurrences whereby, in its sole judgement, the Commission determines not to assert its right

to claim liquidated damages, and such determination shall not be precedential or prejudice the Commission's option to assert such right in the future.

- ii. The parties agree that the assessment will be made per occurrence for the liquidated damages described in Section 2.17 of the RFP for any Contractor failures which do not result in lost revenue to the State of New York. The parties further agree that the failures described in Section 2.17 of the RFP may result in loss of revenues to the State of New York and, therefore, liquidated damages claimed for such failures would not necessarily be limited to damages per occurrence. In that instance, the measure of liquidated damages for failures described in Section 2.17 of the RFP shall be the amount of lost revenue to the State of New York reasonably estimated from historical data. For the purposes of this Contract, lost revenue to the State of New York shall be equal to the portion of net proceeds due to education aid, which shall be calculated as total credits played, less credits won, less promotional credits, less sales agent commissions and less administrative and operating expenses of the Commission applicable to the number of video lottery terminals for a comparable period in question. Damages are assessed when the liquidated damages bear a reasonable proportion to actual losses sustained as a result of Contractor's conduct.
- iii. The Commission shall send written notice of such failure to the Contractor within 30 days of the occurrence. Failure to send such notice constitutes a waiver of any and all liquidated damages with regards to the occurrence.

6. Consent. The Commission agrees that its consent to the Contractor's assignment of its interest and obligations under the Contract shall not be withheld unreasonably.

7. Approvals Required. This Contract, and any extension of the term of this Contract or any amendment of the provisions of this Contract, shall not be effective and binding upon the

Commission, the State of New York, or the Contractor unless and until approved by the New York State Attorney General and the State Comptroller. The Commission agrees to exercise its best efforts to obtain such approval.

8. Mutual Cooperation. The objectives of this Contract include maximizing the net proceeds to the State of New York from video lottery gaming at reasonable rates of compensation to Contractor through the installation and use of a video lottery terminals, games and software as more fully described in the RFP and the Proposal. The parties agree to cooperate fully and in good faith and to assist each other, to the extent reasonably practicable, in order to accomplish these objectives. Contractor agrees to commit to the level and quality of staffing as specified in its Proposal, and to submit quarterly reports to the Commission specifying current staffing levels, personnel, vacancies and plan for filling vacancies.

9. Contractor's Proprietary Rights. The Commission acknowledges the Contractor's proprietary and intellectual property rights in and to Contractor's hardware, system specifications and details set forth in the Proposal and the software heretofore and hereafter created by Contractor for operation of the system on hardware of both the Contractor and the Commission. The Commission further acknowledges that such rights shall survive the expiration or termination of this Contract and agrees to maintain the confidentiality thereof to the extent allowed by law and to render such reasonable assistance as may be necessary to protect and preserve Contractor's interests therein.

11. Limitation of Contractor's Lobbying Activities. Contractor agrees to abide by all applicable rules, regulations and laws relating to its lobbying activities in New York. In addition, Contractor agrees to provide, during the term of this Contract or any extensions thereof, written notification, updated quarterly, to the Commission specifying the name, business address and telephone number of any lobbyist, as that term is defined in Section 1-C of the New York State Lobbying Act (New York State Legislative Law Article 1-A) employed or hired to represent the

Contractor within the State of New York on Commission issues. Failure to provide this information to the Commission will constitute a material breach of the terms of this Contract and be cause for termination.

12. Communication and Contracts. Contractor shall enter into and maintain only authorized communication with other contractors supplying goods and services to the Commission in furtherance of video lottery gaming within New York State. Contractor agrees to forego entry into any contracts other than this Contract to perform services or supply goods in furtherance of video lottery gaming in New York State unless otherwise approved in writing by the Commission.

13. Termination and Suspension.

(a) The Commission shall have the right to terminate this Contract for convenience or for any of the following causes:

- (i) a material breach by the Contractor of any of the provisions of this Contract;
- (ii) a determination by a court of competent jurisdiction that the Contractor is bankrupt or insolvent;
- (iii) a good faith determination by the Commission that continuation of the Contract could place the integrity of the Commission in jeopardy; or
- (iv) a conviction of the Contractor or any of its directors, officers, or employees of any criminal offense connected to the Contractor's business which, in the sole reasonable opinion of the Executive Director of the Commission, would be prejudicial to public confidence in the New York Lottery or the Commission.
- (v) Grounds for Cancellation. Upon the refusal by a person, when called before a grand jury, head of a state department, temporary state commission or other state agency, or the organized crime task force in the department of law, which is empowered to compel the attendance of witnesses and examine them under oath, to testify in an investigation, concerning any transaction or contract had with the

state, any political subdivision thereof, a public authority or with any public department, agency or official of the state or of any political subdivision thereof or of a public authority, to sign a waiver of immunity against subsequent criminal prosecution or to answer any relevant question concerning such transaction or contract.

Such person, and any firm, partnership or corporation of which he is a member, partner, director or officer shall be disqualified from thereafter selling to or submitting bids to or receiving awards from or entering into any contracts with the state or any public department, agency or official thereof, for goods, work or services, for a period of five years after such refusal, and to provide also that any and all contracts made with the state or any public department, agency or official thereof, since the effective date of this law, by such person, and by any firm, partnership or corporation of which he is a member, partner, director or officer may be cancelled or terminated by the state without incurring any penalty or damages on account of such cancellation or termination, but any monies owing by the state for goods delivered or work done prior to the cancellation or termination shall be paid.

(b) In the event that the Commission decides to exercise the right to terminate this Contract for cause, the Commission shall give the Contractor written Notice of Intention to Terminate for Cause (“Notice”). Such Notice shall state clearly and specifically the cause for which termination is sought, and the Contractor shall be entitled to a period of thirty (30) days from receipt of such Notice to correct or cure the cause so described to the reasonable satisfaction of the Commission in which case such Notice shall be deemed withdrawn and a nullity. If termination is sought because of a criminal conviction as described in subparagraph (iv) of Paragraph (a) of this section 14, the cause for termination shall be deemed to be cured if the Contractor causes or obtains the

dismissal, resignation, retirement, or other removal of the person convicted of such offense during such thirty (30) day period.

(c) The Commission reserves the right to terminate this Contract in the event it is found that the certification filed by the Contractor in accordance with New York State's State Finance Law § 139-k was intentionally false or intentionally incomplete. Upon such finding, the Commission may exercise its termination right by providing written notice to the Contractor in accordance with the written notice terms of this Contract.

(d) Upon written notice to the Contractor, and a reasonable opportunity to be heard with appropriate Commission officials or staff, the Contract may be terminated by the Executive Director or his or her designee at the Contractor's expense where the Contractor is determined by the Executive Director or his or her designee to be non-responsible or nonresponsible. In such event, the Executive Director or his or her designee may complete the contractual requirements in any manner he or she may deem advisable and pursue available legal or equitable remedies for breach.

(e) The Executive Director of the Commission or his or her designee, in his or her sole discretion, reserves the right to suspend any or all activities under this Contract, at any time, when he or she discovers information that calls into question the responsibility of the Contractor. In the event of such suspension, the Contractor will be given written notice outlining the particulars of such suspension. Upon issuance of such notice, the Contractor must comply with the terms of the suspension order. Contract activity may resume at such time as the Executive Director of the Commission or his or her designee issues a written notice authorizing a resumption of performance under the Contract.

#### 15. Conflict of Interest.

(a) The Contractor has provided a form (Vendor Assurance of No Conflict of Interest or Detrimental Effect), signed by an authorized executive or legal representative attesting that the

Contractor's performance of the services does not and will not create a conflict of interest with, nor position the Contractor to breach any other contract currently in force with the State of New York, that the Contractor will not act in any manner that is detrimental to any State project on which the Contractor is rendering services.

(b) The Contractor hereby reaffirms the attestations made in its Proposal and covenants and represents that there is and shall be no actual or potential conflict of interest that could prevent the Contractor's satisfactory or ethical performance of duties required to be performed pursuant to the terms of this Contract. The Contractor shall have a duty to notify the Commission immediately of any actual or potential conflicts of interest.

(c) In conjunction with any subcontract under this CONTRACT, the Contractor shall obtain and deliver to the Commission, prior to entering into a subcontract, a Vendor Assurance of No Conflict of Interest or Detrimental Effect form, signed by an authorized executive or legal representative of the subcontractor. The Contractor shall also require in any subcontracting agreement that the subcontractor, in conjunction with any further subcontracting agreement, obtain and deliver to the Commission a signed and completed Vendor Assurance of No Conflict of Interest or Detrimental Effect form for each of its subcontractors prior to entering into a subcontract.

(d) The Commission and the Contractor recognize that conflicts may occur in the future because the Contractor may have existing, or establish new, relationships. The Commission will review the nature of any relationships and reserves the right to terminate this Contract for any reason, or for cause, if, in the judgment of the Commission, a real or potential conflict of interest cannot be cured.

16. Ticket Purchase and Prize Payment Restrictions. No officer or employee of the Contractor or of any subcontractor, and no person residing in the same household of such officer or employee shall purchase a New York Lottery video lottery ticket or be paid a prize in any New



York Lottery video lottery game. The Contractor shall ensure that this requirement is made known to each officer and employee of the Contractor and any subcontractor. "Subcontractor" is defined as those who play a major role in providing the central system supporting the New York Lottery's video lottery games and game accounting and who are employed by the Contractor during the life of the Contract.

17. Confidentiality and Non-Disclosure.

(a) For the purposes of this section, "Confidential Information" means any information not generally known to the public, whether oral or written, that the Commission identifies as confidential and discloses to the Contractor so that the Contractor can provide services to the Commission pursuant to this Contract. Confidential Information may include, but is not limited to, operational and infrastructure information relating to: bid documents, plans, drawings, specifications, reports, product information; business and security processes and procedures; personnel and organizational data, and financial statements; information system IP addresses, passwords, security controls, architectures and designs; and such other data, information and images that the Commission deems confidential. The Commission will identify written Confidential Information by marking it with the word "Confidential" and will identify oral Confidential Information as confidential at the time of disclosure to the Contractor.

(b) Confidential Information does not include information that, at the time of Commission's disclosure to the Contractor:

- (i) is already in the public domain or becomes publicly known through no act of the Contractor;
- (ii) is already known by the Contractor free of any confidentiality obligations;
- (iii) is information that the Commission has approved in writing for disclosure; or
- (iv) is required to be disclosed by the Contractor pursuant to law or applicable professional standards, so long as the Contractor provides the Commission with

notice of such disclosure requirement and an opportunity to defend prior to any such disclosure.

(c) The Contractor may use Confidential Information solely for the purposes of providing services to the Commission pursuant to this Contract. The Contractor shall not make copies of any written Confidential Information except as necessary to perform the services required by this Contract, without the express written permission of the Commission. The Commission's disclosure of Confidential Information to the Contractor shall not convey to the Contractor any right or interest in such Confidential Information and the Commission shall retain all right and title to such Confidential Information at all times.

(d) The Contractor shall hold Confidential Information confidential to the maximum extent permitted by law. The Contractor shall safeguard Confidential Information with at least the same level of care and security, using all reasonable and necessary security measures, devices and procedures that the Contractor uses to maintain its own confidential information.

(e) Upon written request by the Commission, the Contractor shall return all written Confidential Information to the Commission.

18. Records Retention. Records required by this Contract to be retained by the Contractor shall be retained for the periods specified in Appendix A, attached hereto. Such records may be retained in their original form or in any other reliable and readily retrievable format, at the option of the Contractor.

19. Notices. All notices required by this Contract shall be sufficient if in writing and sent by certified mail return receipt requested and all other communications shall be sufficient if communicated in writing to the following addresses or to such other addresses as may be designated from time to time by the parties in writing:

(a) As to the Commission:

Executive Director  
New York State Gaming Commission

One Broadway Center  
Post Office Box 7500  
Schenectady NY 12301-7500

(b) As to the Contractor:

Contact:  
Company Name:  
Address:

20. Liability and Indemnification. The Contractor shall be responsible for all damages to life and property due to the activities of the Contractor, as well as the activities of the subcontractors (if any), agents or employees of the Contractor in connection with the performance of services under this Contract. The Contractor shall indemnify, defend, and save harmless the Commission and the State of New York, and their officers, employees, agents, assigns and retailers from and against any and all third party claims, liabilities, losses, damages, costs, or expenses, including reasonable attorneys' fees, which may be incurred, suffered, or required in whole or in part by an actual or alleged act or omission of:

- (a) the Contractor, its officers, employees, agents, successors and assigns,  
and/or
- (b) a Subcontractor, its officers, employees, agents, successors and assigns.

21. Relationship. The relationship of the Contractor to the Commission arising out of this Contract shall be that of an independent contractor. The Contractor, in accordance with its status as an independent contractor, agrees that it will conduct itself consistent with such status, that it will neither hold itself out as, nor claim to be, an officer or employee of the Commission or the State of New York, and that it will not make any claim, demand or application for any right or privilege applicable to an officer or employee of the Commission or the State of New York, including, but not limited to, workers' compensation coverage, unemployment insurance benefits, social security coverage, or retirement membership or credit. All personnel of the Contractor shall be within the employ of the Contractor only or shall be duly contracted subcontractors of the

Contractor, which alone shall be responsible for their work, the direction thereof, and their compensation. Nothing in this Contract shall impose any liability or duty on the Commission or the State, of New York on account of any acts, omissions, liabilities or obligations of the Contractor or any person, firm, company, agency, association, corporation, or organization engaged by the Contractor as expert, consultant, independent contractor, specialist, trainee, employee, servant or agent, for taxes of any nature, including, but not limited to, unemployment insurance and workers' compensation insurance, and the Contractor hereby agrees to indemnify and hold harmless the Commission and the State of New York against any such liabilities.

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

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

23. Documents Incorporated. Appendix A, Standard Clauses for New York State Contracts, dated January 2014, the RFP, and the Proposal are hereby incorporated herein and made a part hereof.

24. Order of Precedence. Any conflict between the provisions of this Contract and the documents incorporated herein shall be resolved according to the following order of precedence, from the highest to the lowest:

- (a) Appendix A – Standard Clauses for New York State Contracts;
- (b) Any amendments to the Contract;
- (c) Contract and appendices;
- (d) Request for Proposal and any clarifying responses by the Commission;
- (e) Vendor Proposal and any clarifying responses by the vendor.

25. Miscellaneous Provisions.

(a) A waiver of enforcement of any provision of this Contract shall not constitute a waiver of any other provision of this Contract nor shall it preclude the affected party from subsequently enforcing such provision.

(b) This instrument and the documents incorporated herein represent the entire agreement between the Commission and the Contractor, and no modification thereof shall be binding unless the same is in writing and signed by the parties.

(c) The headings contained in this Contract are intended for ease of reference only and shall not be interpreted to limit or modify any of the provisions of this Contract.

(d) The Contractor shall at all times during the Contract term remain responsible. The Contractor agrees, if requested by the Executive Director of the Commission or his or her designee, to present evidence of its continuing legal authority to do business in New York State, integrity, experience, ability, prior performance, and organizational and financial capacity.

IN WITNESS WHEREOF, the parties hereto have executed this Contract as of the day and year first above written.

CONTRACTOR

NEW YORK STATE  
GAMING COMMISSION

By: \_\_\_\_\_

By: \_\_\_\_\_

Title: \_\_\_\_\_

Title: \_\_\_\_\_

Date: \_\_\_\_\_

Date: \_\_\_\_\_

ATTORNEY GENERAL

COMPTROLLER  
Thomas P. DiNapoli

By: \_\_\_\_\_

By: \_\_\_\_\_

Title: \_\_\_\_\_

Title: \_\_\_\_\_

Date: \_\_\_\_\_

Date: \_\_\_\_\_

## Acknowledgement

### ACKNOWLEDGEMENT BY INDIVIDUAL

STATE OF \_\_\_\_\_ )  
 ) ss.:  
 COUNTY OF \_\_\_\_\_ )

On this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_, before me personally came  
 \_\_\_\_\_, to me known and known to me to be the person described in and  
 who executed the foregoing instrument and he/she acknowledged to me that he/she executed the same.

\_\_\_\_\_  
 Notary Public

### ACKNOWLEDGEMENT BY UNINCORPORATED ASSOCIATION

STATE OF \_\_\_\_\_ )  
 ) ss.:  
 COUNTY OF \_\_\_\_\_ )

On this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_, before me personally came  
 \_\_\_\_\_, to me known and known to me to be the person described in and  
 who executed the above instrument, who, being duly sworn by me, did for himself/herself depose and say  
 that he/she is a member of the firm of \_\_\_\_\_ and that he/she executed the foregoing  
 instrument in the firm name of \_\_\_\_\_, and that he/she had authority to sign same, and  
 he/she did duly acknowledge to me that he/she executed the same as the act and deed of said firm of  
 \_\_\_\_\_, for the uses and purposes mentioned therein.

\_\_\_\_\_  
 Notary Public

### ACKNOWLEDGEMENT BY CORPORATION

STATE OF \_\_\_\_\_ )  
 ) ss.:  
 COUNTY OF \_\_\_\_\_ )

On this \_\_\_\_\_ day of \_\_\_\_\_, in the year 20\_\_, before me personally  
 came \_\_\_\_\_, to me known, who, being by me duly sworn did depose and say that  
 he/she resides in \_\_\_\_\_; that he/she is the \_\_\_\_\_  
 of the \_\_\_\_\_, the corporation described in and which executed the above  
 instrument; that he/she knows the seal of said corporation; that the seal affixed to said instrument is such a  
 corporate seal, that it was so affixed by the order of the Board of Directors of said corporation, and that he  
 he/she signed his/her name thereto by like order.

\_\_\_\_\_  
 Notary Public

**VIDEO LOTTERY TERMINALS, GAMES, SOFTWARE AND MAINTENANCE****C\_\_\_\_\_**

THIS AGREEMENT made this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_ by and between the NEW YORK STATE GAMING COMMISSION, an executive agency of the State of New York having an office at One Broadway Center, Post Office Box 7500, Schenectady, New York 12301-7500 (the "Commission"), and [Contractor], having an office at [address] (the "Contractor").

WHEREAS the Commission issued a Request for Proposals ("RFP") on February 5, 2021 soliciting proposals from qualified firms to provide a Video Lottery Terminals, Games, Software and Maintenance, and clarified the requirements of the RFP with questions and answers dated February 19, 2021 and February 26, 2021 (collectively, the "RFP"); and

WHEREAS the Contractor submitted a Technical Proposal and a Pricing Proposal for Lot 2 (Qualified Standard Device Supplier) dated [\_\_\_\_\_, 2021] (collectively, the "Proposal"), which was deemed to have met the minimum qualifications by Commission's evaluation team;

WHEREAS Lot 2 allows the Contractor the ability to provide Standard Device Video Lottery Terminals ("VLTs") at licensed facilities in the state of New York (the "licensed Video Lottery Gaming facilities") upon selection by the licensed Video Lottery Gaming facility of a product offered by the Contractor subject the restrictions and requirements contained within the RFP;



NOW, THEREFORE, in consideration of the foregoing and of the mutual promises hereinafter set forth, the parties hereto agree as follows:

1. Scope of Services. The Contractor agrees to provide the Commission with a VLTs, games, software and maintenance in connection with the operation of the video lottery program at licensed Video Lottery Gaming facilities, as more fully set forth in the RFP and the Proposal. Both the RFP and the Proposal are hereby incorporated into this Contract with the same force and effect as if they were fully set forth herein. Nothing in this agreement shall be construed as a guarantee that the Contractor will be selected to provide a specified number or any VLTs.
2. Term. This Contract shall be effective July 1, 2021 through December 31, 2029.
3. Regulations. Contractor agrees to familiarize itself with the regulations issued by the Commission concerning the operation of video lottery gaming within the State and to comply with same.
4. Licensing. Contractor agrees to submit to licensing procedures established by the Commission and recognizes that satisfactory licensing is a condition of successful performance of the Contract. Failure to maintain the required license shall be cause for termination of the Contract.
5. Financial Arrangements.
  - a. Compensation. In full consideration for all goods and services specified in the RFP and the Proposal, the Commission agrees to pay, and the Contractor agrees to accept, compensation in accordance with the prices set forth in the Proposal, unless otherwise stated herein. No minimum amount is guaranteed by this Contract and the Contractor shall not have any right to make a claim therefore. Expenditures under this Contract shall not exceed [XXXXXXXX].

- i. For purposes New York State Finance Law and Article 34 of the New York State Tax Law, the goods and services specified in the RFP and the Proposal qualify the Contractor to be considered a “licensed lottery sales agent” a “licensed lottery retailer” or a “retailer” as that term is used in Article 34 of the New York State Tax Law, permitting the compensation for services through the retention of a portion of sales revenue.
- ii. The Commission shall each week utilize video lottery central system reports to calculate the amount of net win and the compensation due and owing to the Contractor consistent with the schedule provided by the Contractor in its Pricing Proposal. Upon verification of amounts, the Commission will direct payment to the Contractor either (a) by the Commission directly or (b) by the Video Lottery Facility from lottery receipts through ACH processing. The Commission understands and agrees that it shall be responsible for the Video Lottery Facility’s failure to make payment to Contractor as provided herein and that it shall pay Contractor directly in event of such failure.
- iii. The Contractor shall obtain written affirmation from a Video Lottery Gaming Facility accepting the financial responsibility to reimburse the Commission for all costs exceeding the “Average Base Compensation Rate” as defined within the RFP prior to delivery of any games selected by the licensed Video Lottery Gaming Facility. The Commission will not compensate the Contractor any amount in excess of the Average Base Compensation Rate without proof of such affirmation.
  - b. Liquidated Damages.
    - i. The Commission may, in its discretion, deduct liquidated damages from the compensation otherwise due to the Contractor when the circumstances which

give rise to a claim for liquidated damages exist. There may be occurrences whereby, in its sole judgement, the Commission determines not to assert its right to claim liquidated damages, and such determination shall not be precedential or prejudice the Commission's option to assert such right in the future.

- ii. The parties agree that the assessment will be made per occurrence for the liquidated damages described in Section 2.17 of the RFP for any Contractor failures which do not result in lost revenue to the State of New York. The parties further agree that the failures described in Section 2.17 of the RFP may result in loss of revenues to the State of New York and, therefore, liquidated damages claimed for such failures would not necessarily be limited to damages per occurrence. In that instance, the measure of liquidated damages for failures described in Section 2.17 of the RFP shall be the amount of lost revenue to the State of New York reasonably estimated from historical data. For the purposes of this Contract, lost revenue to the State of New York shall be equal to the portion of net proceeds due to education aid, which shall be calculated as total credits played, less credits won, less promotional credits, less sales agent commissions and less administrative and operating expenses of the Commission applicable to the number of video lottery terminals for a comparable period in question. Damages are assessed when the liquidated damages bear a reasonable proportion to actual losses sustained as a result of Contractor's conduct.
- iii. The Commission shall send written notice of such failure to the Contractor within 30 days of the occurrence. Failure to send such notice constitutes a waiver of any and all liquidated damages with regards to the occurrence.

6. Consent. The Commission agrees that its consent to the Contractor's assignment of its interest and obligations under the Contract shall not be withheld unreasonably.

7. Approvals Required. This Contract, and any extension of the term of this Contract or any amendment of the provisions of this Contract, shall not be effective and binding upon the Commission, the State of New York, or the Contractor unless and until approved by the New York State Attorney General and the State Comptroller. The Commission agrees to exercise its best efforts to obtain such approval.

8. Mutual Cooperation. The objectives of this Contract include maximizing the net proceeds to the State of New York from video lottery gaming at reasonable rates of compensation to Contractor through the installation and use of a video lottery terminals, games and software as more fully described in the RFP and the Proposal. The parties agree to cooperate fully and in good faith and to assist each other, to the extent reasonably practicable, in order to accomplish these objectives. Contractor agrees to commit to the level and quality of staffing as specified in its Proposal, and to submit quarterly reports to the Commission specifying current staffing levels, personnel, vacancies and plan for filling vacancies.

9. Contractor's Proprietary Rights. The Commission acknowledges the Contractor's proprietary and intellectual property rights in and to Contractor's hardware, system specifications and details set forth in the Proposal and the software heretofore and hereafter created by Contractor for operation of the system on hardware of both the Contractor and the Commission. The Commission further acknowledges that such rights shall survive the expiration or termination of this Contract and agrees to maintain the confidentiality thereof to the extent allowed by law and to render such reasonable assistance as may be necessary to protect and preserve Contractor's interests therein.

11. Limitation of Contractor's Lobbying Activities. Contractor agrees to abide by all applicable rules, regulations and laws relating to its lobbying activities in New York. In addition, Contractor agrees to provide, during the term of this Contract or any extensions thereof, written notification, updated quarterly, to the Commission specifying the name, business address and

telephone number of any lobbyist, as that term is defined in Section 1-C of the New York State Lobbying Act (New York State Legislative Law Article 1-A) employed or hired to represent the Contractor within the State of New York on Commission issues. Failure to provide this information to the Commission will constitute a material breach of the terms of this Contract and be cause for termination.

12. Communication and Contracts. Contractor shall enter into and maintain only authorized communication with other contractors supplying goods and services to the Commission in furtherance of video lottery gaming within New York State. Contractor agrees to forego entry into any contracts other than this Contract to perform services or supply goods in furtherance of video lottery gaming in New York State unless otherwise approved in writing by the Commission.

13. Termination and Suspension.

(a) The Commission shall have the right to terminate this Contract for convenience or for any of the following causes:

(i) a material breach by the Contractor of any of the provisions of this Contract;

(ii) a determination by a court of competent jurisdiction that the Contractor is bankrupt or insolvent;

(iii) a good faith determination by the Commission that continuation of the Contract could place the integrity of the Commission in jeopardy; or

(iv) a conviction of the Contractor or any of its directors, officers, or employees of any criminal offense connected to the Contractor's business which, in the sole reasonable opinion of the Executive Director of the Commission, would be prejudicial to public confidence in the New York Lottery or the Commission.

(v) Grounds for Cancellation. Upon the refusal by a person, when called before a grand jury, head of a state department, temporary state commission or other state agency, or the organized crime task force in the department of law, which is

empowered to compel the attendance of witnesses and examine them under oath, to testify in an investigation, concerning any transaction or contract had with the state, any political subdivision thereof, a public authority or with any public department, agency or official of the state or of any political subdivision thereof or of a public authority, to sign a waiver of immunity against subsequent criminal prosecution or to answer any relevant question concerning such transaction or contract.

Such person, and any firm, partnership or corporation of which he is a member, partner, director or officer shall be disqualified from thereafter selling to or submitting bids to or receiving awards from or entering into any contracts with the state or any public department, agency or official thereof, for goods, work or services, for a period of five years after such refusal, and to provide also that any and all contracts made with the state or any public department, agency or official thereof, since the effective date of this law, by such person, and by any firm, partnership or corporation of which he is a member, partner, director or officer may be cancelled or terminated by the state without incurring any penalty or damages on account of such cancellation or termination, but any monies owing by the state for goods delivered or work done prior to the cancellation or termination shall be paid.

(b) In the event that the Commission decides to exercise the right to terminate this Contract for cause, the Commission shall give the Contractor written Notice of Intention to Terminate for Cause (“Notice”). Such Notice shall state clearly and specifically the cause for which termination is sought, and the Contractor shall be entitled to a period of thirty (30) days from receipt of such Notice to correct or cure the cause so described to the reasonable satisfaction of the Commission in which case such Notice shall be deemed withdrawn and a nullity. If termination is sought

because of a criminal conviction as described in subparagraph (iv) of Paragraph (a) of this section 14, the cause for termination shall be deemed to be cured if the Contractor causes or obtains the dismissal, resignation, retirement, or other removal of the person convicted of such offense during such thirty (30) day period.

(c) The Commission reserves the right to terminate this Contract in the event it is found that the certification filed by the Contractor in accordance with New York State's State Finance Law § 139-k was intentionally false or intentionally incomplete. Upon such finding, the Commission may exercise its termination right by providing written notice to the Contractor in accordance with the written notice terms of this Contract.

(d) Upon written notice to the Contractor, and a reasonable opportunity to be heard with appropriate Commission officials or staff, the Contract may be terminated by the Executive Director or his or her designee at the Contractor's expense where the Contractor is determined by the Executive Director or his or her designee to be non-responsible or nonresponsible. In such event, the Executive Director or his or her designee may complete the contractual requirements in any manner he or she may deem advisable and pursue available legal or equitable remedies for breach.

(e) The Executive Director of the Commission or his or her designee, in his or her sole discretion, reserves the right to suspend any or all activities under this Contract, at any time, when he or she discovers information that calls into question the responsibility of the Contractor. In the event of such suspension, the Contractor will be given written notice outlining the particulars of such suspension. Upon issuance of such notice, the Contractor must comply with the terms of the suspension order. Contract activity may resume at such time as the Executive Director of the Commission or his or her designee issues a written notice authorizing a resumption of performance under the Contract.

#### 15. Conflict of Interest.

(a) The Contractor has provided a form (Vendor Assurance of No Conflict of Interest or Detrimental Effect), signed by an authorized executive or legal representative attesting that the Contractor's performance of the services does not and will not create a conflict of interest with, nor position the Contractor to breach any other contract currently in force with the State of New York, that the Contractor will not act in any manner that is detrimental to any State project on which the Contractor is rendering services.

(b) The Contractor hereby reaffirms the attestations made in its Proposal and covenants and represents that there is and shall be no actual or potential conflict of interest that could prevent the Contractor's satisfactory or ethical performance of duties required to be performed pursuant to the terms of this Contract. The Contractor shall have a duty to notify the Commission immediately of any actual or potential conflicts of interest.

(c) In conjunction with any subcontract under this CONTRACT, the Contractor shall obtain and deliver to the Commission, prior to entering into a subcontract, a Vendor Assurance of No Conflict of Interest or Detrimental Effect form, signed by an authorized executive or legal representative of the subcontractor. The Contractor shall also require in any subcontracting agreement that the subcontractor, in conjunction with any further subcontracting agreement, obtain and deliver to the Commission a signed and completed Vendor Assurance of No Conflict of Interest or Detrimental Effect form for each of its subcontractors prior to entering into a subcontract.

(d) The Commission and the Contractor recognize that conflicts may occur in the future because the Contractor may have existing, or establish new, relationships. The Commission will review the nature of any relationships and reserves the right to terminate this Contract for any reason, or for cause, if, in the judgment of the Commission, a real or potential conflict of interest cannot be cured.



16. Ticket Purchase and Prize Payment Restrictions. No officer or employee of the Contractor or of any subcontractor, and no person residing in the same household of such officer or employee shall purchase a New York Lottery video lottery ticket or be paid a prize in any New York Lottery video lottery game. The Contractor shall ensure that this requirement is made known to each officer and employee of the Contractor and any subcontractor. "Subcontractor" is defined as those who play a major role in providing the central system supporting the New York Lottery's video lottery games and game accounting and who are employed by the Contractor during the life of the Contract.

17. Confidentiality and Non-Disclosure.

(a) For the purposes of this section, "Confidential Information" means any information not generally known to the public, whether oral or written, that the Commission identifies as confidential and discloses to the Contractor so that the Contractor can provide services to the Commission pursuant to this Contract. Confidential Information may include, but is not limited to, operational and infrastructure information relating to: bid documents, plans, drawings, specifications, reports, product information; business and security processes and procedures; personnel and organizational data, and financial statements; information system IP addresses, passwords, security controls, architectures and designs; and such other data, information and images that the Commission deems confidential. The Commission will identify written Confidential Information by marking it with the word "Confidential" and will identify oral Confidential Information as confidential at the time of disclosure to the Contractor.

(b) Confidential Information does not include information that, at the time of Commission's disclosure to the Contractor:

(i) is already in the public domain or becomes publicly known through no act of the Contractor;

(ii) is already known by the Contractor free of any confidentiality obligations;

- (iii) is information that the Commission has approved in writing for disclosure; or
- (iv) is required to be disclosed by the Contractor pursuant to law or applicable professional standards, so long as the Contractor provides the Commission with notice of such disclosure requirement and an opportunity to defend prior to any such disclosure.

(c) The Contractor may use Confidential Information solely for the purposes of providing services to the Commission pursuant to this Contract. The Contractor shall not make copies of any written Confidential Information except as necessary to perform the services required by this Contract, without the express written permission of the Commission. The Commission's disclosure of Confidential Information to the Contractor shall not convey to the Contractor any right or interest in such Confidential Information and the Commission shall retain all right and title to such Confidential Information at all times.

(d) The Contractor shall hold Confidential Information confidential to the maximum extent permitted by law. The Contractor shall safeguard Confidential Information with at least the same level of care and security, using all reasonable and necessary security measures, devices and procedures that the Contractor uses to maintain its own confidential information.

(e) Upon written request by the Commission, the Contractor shall return all written Confidential Information to the Commission.

18. Records Retention. Records required by this Contract to be retained by the Contractor shall be retained for the periods specified in Appendix A, attached hereto. Such records may be retained in their original form or in any other reliable and readily retrievable format, at the option of the Contractor.

19. Notices. All notices required by this Contract shall be sufficient if in writing and sent by certified mail return receipt requested and all other communications shall be sufficient if

communicated in writing to the following addresses or to such other addresses as may be designated from time to time by the parties in writing:

(a) As to the Commission:

Executive Director  
New York State Gaming Commission  
One Broadway Center  
Post Office Box 7500  
Schenectady NY 12301-7500

(b) As to the Contractor:

Contact:  
Company Name:  
Address:

20. Liability and Indemnification. The Contractor shall be responsible for all damages to life and property due to the activities of the Contractor, as well as the activities of the subcontractors (if any), agents or employees of the Contractor in connection with the performance of services under this Contract. The Contractor shall indemnify, defend, and save harmless the Commission and the State of New York, and their officers, employees, agents, assigns and retailers from and against any and all third party claims, liabilities, losses, damages, costs, or expenses, including reasonable attorneys' fees, which may be incurred, suffered, or required in whole or in part by an actual or alleged act or omission of:

(a) the Contractor, its officers, employees, agents, successors and assigns,

and/or

(b) a Subcontractor, its officers, employees, agents, successors and assigns.

21. Relationship. The relationship of the Contractor to the Commission arising out of this Contract shall be that of an independent contractor. The Contractor, in accordance with its status as an independent contractor, agrees that it will conduct itself consistent with such status, that it will neither hold itself out as, nor claim to be, an officer or employee of the Commission or the State of New York, and that it will not make any claim, demand or application for any right or

privilege applicable to an officer or employee of the Commission or the State of New York, including, but not limited to, workers' compensation coverage, unemployment insurance benefits, social security coverage, or retirement membership or credit. All personnel of the Contractor shall be within the employ of the Contractor only or shall be duly contracted subcontractors of the Contractor, which alone shall be responsible for their work, the direction thereof, and their compensation. Nothing in this Contract shall impose any liability or duty on the Commission or the State, of New York on account of any acts, omissions, liabilities or obligations of the Contractor or any person, firm, company, agency, association, corporation, or organization engaged by the Contractor as expert, consultant, independent contractor, specialist, trainee, employee, servant or agent, for taxes of any nature, including, but not limited to, unemployment insurance and workers' compensation insurance, and the Contractor hereby agrees to indemnify and hold harmless the Commission and the State of New York against any such liabilities.

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

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

23. Documents Incorporated. Appendix A, Standard Clauses for New York State Contracts, dated January 2014, the RFP, and the Proposal are hereby incorporated herein and made a part hereof.

24. Order of Precedence. Any conflict between the provisions of this Contract and the documents incorporated herein shall be resolved according to the following order of precedence, from the highest to the lowest:

- (a) Appendix A – Standard Clauses for New York State Contracts;
- (b) Any amendments to the Contract;
- (c) Contract and appendices;
- (d) Request for Proposal and any clarifying responses by the Commission;
- (e) Vendor Proposal and any clarifying responses by the vendor.

25. Miscellaneous Provisions.

(a) A waiver of enforcement of any provision of this Contract shall not constitute a waiver of any other provision of this Contract nor shall it preclude the affected party from subsequently enforcing such provision.

(b) This instrument and the documents incorporated herein represent the entire agreement between the Commission and the Contractor, and no modification thereof shall be binding unless the same is in writing and signed by the parties.

(c) The headings contained in this Contract are intended for ease of reference only and shall not be interpreted to limit or modify any of the provisions of this Contract.

(d) The Contractor shall at all times during the Contract term remain responsible. The Contractor agrees, if requested by the Executive Director of the Commission or his or her designee, to present evidence of its continuing legal authority to do business in New York State, integrity, experience, ability, prior performance, and organizational and financial capacity.



IN WITNESS WHEREOF, the parties hereto have executed this Contract as of the day and year first above written.

CONTRACTOR

NEW YORK STATE  
GAMING COMMISSION

By: \_\_\_\_\_

By: \_\_\_\_\_

Title: \_\_\_\_\_

Title: \_\_\_\_\_

Date: \_\_\_\_\_

Date: \_\_\_\_\_

ATTORNEY GENERAL

COMPTROLLER  
Thomas P. DiNapoli

By: \_\_\_\_\_

By: \_\_\_\_\_

Title: \_\_\_\_\_

Title: \_\_\_\_\_

Date: \_\_\_\_\_

Date: \_\_\_\_\_

## Acknowledgement

### ACKNOWLEDGEMENT BY INDIVIDUAL

STATE OF \_\_\_\_\_ )  
 ) ss.:  
 COUNTY OF \_\_\_\_\_ )

On this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_, before me personally came \_\_\_\_\_, to me known and known to me to be the person described in and who executed the foregoing instrument and he/she acknowledged to me that he/she executed the same.

\_\_\_\_\_  
 Notary Public

### ACKNOWLEDGEMENT BY UNINCORPORATED ASSOCIATION

STATE OF \_\_\_\_\_ )  
 ) ss.:  
 COUNTY OF \_\_\_\_\_ )

On this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_, before me personally came \_\_\_\_\_, to me known and known to me to be the person described in and who executed the above instrument, who, being duly sworn by me, did for himself/herself depose and say that he/she is a member of the firm of \_\_\_\_\_ and that he/she executed the foregoing instrument in the firm name of \_\_\_\_\_, and that he/she had authority to sign same, and he/she did duly acknowledge to me that he/she executed the same as the act and deed of said firm of \_\_\_\_\_, for the uses and purposes mentioned therein.

\_\_\_\_\_  
 Notary Public

### ACKNOWLEDGEMENT BY CORPORATION

STATE OF \_\_\_\_\_ )  
 ) ss.:  
 COUNTY OF \_\_\_\_\_ )

On this \_\_\_\_\_ day of \_\_\_\_\_, in the year 20\_\_, before me personally came \_\_\_\_\_, to me known, who, being by me duly sworn did depose and say that he/she resides in \_\_\_\_\_; that he/she is the \_\_\_\_\_ of the \_\_\_\_\_, the corporation described in and which executed the above instrument; that he/she knows the seal of said corporation; that the seal affixed to said instrument is such a corporate seal, that it was so affixed by the order of the Board of Directors of said corporation, and that he he/she signed his/her name thereto by like order.

\_\_\_\_\_  
 Notary Public



**VIDEO LOTTERY TERMINALS, GAMES, SOFTWARE AND MAINTENANCE**

C\_\_\_\_\_

THIS AGREEMENT made this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_ by and between the NEW YORK STATE GAMING COMMISSION, an executive agency of the State of New York having an office at One Broadway Center, Post Office Box 7500, Schenectady, New York 12301-7500 (the "Commission"), and [Contractor], having an office at [address] (the "Contractor").

WHEREAS the Commission issued a Request for Proposals ("RFP") on February 5, 2021 soliciting proposals from qualified firms to provide a Video Lottery Terminals, Games, Software and Maintenance, and clarified the requirements of the RFP with questions and answers dated February 19, 2021 and February 26, 2021 (collectively, the "RFP"); and

WHEREAS the Contractor submitted a Technical Proposal and a Pricing Proposal for Lot 3 (Qualified Electronic Table Games Supplier) dated [\_\_\_\_\_, 2021] (collectively, the "Proposal"), which was deemed to have met the minimum qualifications by Commission's evaluation team;

WHEREAS Lot 3 allows the Contractor the ability to provide Electronic Table Games Video Lottery Terminals ("ETGs") at licensed facilities in the state of New York (the "licensed Video Lottery Gaming facilities") upon selection by the licensed Video Lottery Gaming facility of a product offered by the Contractor subject the restrictions and requirements contained within the RFP;

NOW, THEREFORE, in consideration of the foregoing and of the mutual promises hereinafter set forth, the parties hereto agree as follows:

1. Scope of Services. The Contractor agrees to provide the Commission with a VLTs, games, software and maintenance in connection with the operation of the video lottery program at licensed Video Lottery Gaming facilities, as more fully set forth in the RFP and the Proposal. Both the RFP and the Proposal are hereby incorporated into this Contract with the same force and effect as if they were fully set forth herein. Nothing in this agreement shall be construed as a guarantee that the Contractor will be selected to provide a specified number or any VLTs.
2. Term. This Contract shall be effective July 1, 2021 through December 31, 2029.
3. Regulations. Contractor agrees to familiarize itself with the regulations issued by the Commission concerning the operation of video lottery gaming within the State and to comply with same.
4. Licensing. Contractor agrees to submit to licensing procedures established by the Commission and recognizes that satisfactory licensing is a condition of successful performance of the Contract. Failure to maintain the required license shall be cause for termination of the Contract.
5. Financial Arrangements.
  - a. Compensation. In full consideration for all goods and services specified in the RFP and the Proposal, the Commission agrees to pay, and the Contractor agrees to accept, compensation in accordance with the prices set forth in the Proposal, unless otherwise stated herein. No minimum amount is guaranteed by this Contract and the Contractor shall not have any right to make a claim therefore. Expenditures under this Contract shall not exceed [XXXXXXXX].

- i. For purposes New York State Finance Law and Article 34 of the New York State Tax Law, the goods and services specified in the RFP and the Proposal qualify the Contractor to be considered a “licensed lottery sales agent” a “licensed lottery retailer” or a “retailer” as that term is used in Article 34 of the New York State Tax Law, permitting the compensation for services through the retention of a portion of sales revenue.
  - ii. The Commission shall each week utilize video lottery central system reports to calculate the amount of net win and the compensation due and owing to the Contractor consistent with the schedule provided by the Contractor in its Pricing Proposal. Upon verification of amounts, the Commission will direct payment to the Contractor either (a) by the Commission directly or (b) by the Video Lottery Facility from lottery receipts through ACH processing. The Commission understands and agrees that it shall be responsible for the Video Lottery Facility’s failure to make payment to Contractor as provided herein and that it shall pay Contractor directly in event of such failure.
  - iii. The Contractor shall obtain written affirmation from a Video Lottery Gaming Facility accepting the financial responsibility to reimburse the Commission for all costs exceeding the “Average Base Compensation Rate” as defined within the RFP prior to delivery of any games selected by the licensed Video Lottery Gaming Facility. The Commission will not compensate the Contractor any amount in excess of the Average Base Compensation Rate without proof of such affirmation.
- b. Liquidated Damages.
- i. The Commission may, in its discretion, deduct liquidated damages from the compensation otherwise due to the Contractor when the circumstances which

give rise to a claim for liquidated damages exist. There may be occurrences whereby, in its sole judgement, the Commission determines not to assert its right to claim liquidated damages, and such determination shall not be precedential or prejudice the Commission's option to assert such right in the future.

- ii. The parties agree that the assessment will be made per occurrence for the liquidated damages described in Section 2.17 of the RFP for any Contractor failures which do not result in lost revenue to the State of New York. The parties further agree that the failures described in Section 2.17 of the RFP may result in loss of revenues to the State of New York and, therefore, liquidated damages claimed for such failures would not necessarily be limited to damages per occurrence. In that instance, the measure of liquidated damages for failures described in Section 2.17 of the RFP shall be the amount of lost revenue to the State of New York reasonably estimated from historical data. For the purposes of this Contract, lost revenue to the State of New York shall be equal to the portion of net proceeds due to education aid, which shall be calculated as total credits played, less credits won, less promotional credits, less sales agent commissions and less administrative and operating expenses of the Commission applicable to the number of video lottery terminals for a comparable period in question. Damages are assessed when the liquidated damages bear a reasonable proportion to actual losses sustained as a result of Contractor's conduct.
- iii. The Commission shall send written notice of such failure to the Contractor within 30 days of the occurrence. Failure to send such notice constitutes a waiver of any and all liquidated damages with regards to the occurrence.

6. Consent. The Commission agrees that its consent to the Contractor's assignment of its interest and obligations under the Contract shall not be withheld unreasonably.

7. Approvals Required. This Contract, and any extension of the term of this Contract or any amendment of the provisions of this Contract, shall not be effective and binding upon the Commission, the State of New York, or the Contractor unless and until approved by the New York State Attorney General and the State Comptroller. The Commission agrees to exercise its best efforts to obtain such approval.

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9. Contractor's Proprietary Rights. The Commission acknowledges the Contractor's proprietary and intellectual property rights in and to Contractor's hardware, system specifications and details set forth in the Proposal and the software heretofore and hereafter created by Contractor for operation of the system on hardware of both the Contractor and the Commission. The Commission further acknowledges that such rights shall survive the expiration or termination of this Contract and agrees to maintain the confidentiality thereof to the extent allowed by law and to render such reasonable assistance as may be necessary to protect and preserve Contractor's interests therein.

11. Limitation of Contractor's Lobbying Activities. Contractor agrees to abide by all applicable rules, regulations and laws relating to its lobbying activities in New York. In addition, Contractor agrees to provide, during the term of this Contract or any extensions thereof, written notification, updated quarterly, to the Commission specifying the name, business address and

telephone number of any lobbyist, as that term is defined in Section 1-C of the New York State Lobbying Act (New York State Legislative Law Article 1-A) employed or hired to represent the Contractor within the State of New York on Commission issues. Failure to provide this information to the Commission will constitute a material breach of the terms of this Contract and be cause for termination.

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(i) a material breach by the Contractor of any of the provisions of this Contract;

(ii) a determination by a court of competent jurisdiction that the Contractor is bankrupt or insolvent;

(iii) a good faith determination by the Commission that continuation of the Contract could place the integrity of the Commission in jeopardy; or

(iv) a conviction of the Contractor or any of its directors, officers, or employees of any criminal offense connected to the Contractor's business which, in the sole reasonable opinion of the Executive Director of the Commission, would be prejudicial to public confidence in the New York Lottery or the Commission.

(v) Grounds for Cancellation. Upon the refusal by a person, when called before a grand jury, head of a state department, temporary state commission or other state agency, or the organized crime task force in the department of law, which is

empowered to compel the attendance of witnesses and examine them under oath, to testify in an investigation, concerning any transaction or contract had with the state, any political subdivision thereof, a public authority or with any public department, agency or official of the state or of any political subdivision thereof or of a public authority, to sign a waiver of immunity against subsequent criminal prosecution or to answer any relevant question concerning such transaction or contract.

Such person, and any firm, partnership or corporation of which he is a member, partner, director or officer shall be disqualified from thereafter selling to or submitting bids to or receiving awards from or entering into any contracts with the state or any public department, agency or official thereof, for goods, work or services, for a period of five years after such refusal, and to provide also that any and all contracts made with the state or any public department, agency or official thereof, since the effective date of this law, by such person, and by any firm, partnership or corporation of which he is a member, partner, director or officer may be cancelled or terminated by the state without incurring any penalty or damages on account of such cancellation or termination, but any monies owing by the state for goods delivered or work done prior to the cancellation or termination shall be paid.

(b) In the event that the Commission decides to exercise the right to terminate this Contract for cause, the Commission shall give the Contractor written Notice of Intention to Terminate for Cause (“Notice”). Such Notice shall state clearly and specifically the cause for which termination is sought, and the Contractor shall be entitled to a period of thirty (30) days from receipt of such Notice to correct or cure the cause so described to the reasonable satisfaction of the Commission in which case such Notice shall be deemed withdrawn and a nullity. If termination is sought

because of a criminal conviction as described in subparagraph (iv) of Paragraph (a) of this section 14, the cause for termination shall be deemed to be cured if the Contractor causes or obtains the dismissal, resignation, retirement, or other removal of the person convicted of such offense during such thirty (30) day period.

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(d) Upon written notice to the Contractor, and a reasonable opportunity to be heard with appropriate Commission officials or staff, the Contract may be terminated by the Executive Director or his or her designee at the Contractor's expense where the Contractor is determined by the Executive Director or his or her designee to be non-responsible or nonresponsible. In such event, the Executive Director or his or her designee may complete the contractual requirements in any manner he or she may deem advisable and pursue available legal or equitable remedies for breach.

(e) The Executive Director of the Commission or his or her designee, in his or her sole discretion, reserves the right to suspend any or all activities under this Contract, at any time, when he or she discovers information that calls into question the responsibility of the Contractor. In the event of such suspension, the Contractor will be given written notice outlining the particulars of such suspension. Upon issuance of such notice, the Contractor must comply with the terms of the suspension order. Contract activity may resume at such time as the Executive Director of the Commission or his or her designee issues a written notice authorizing a resumption of performance under the Contract.

#### 15. Conflict of Interest.



(a) The Contractor has provided a form (Vendor Assurance of No Conflict of Interest or Detrimental Effect), signed by an authorized executive or legal representative attesting that the Contractor's performance of the services does not and will not create a conflict of interest with, nor position the Contractor to breach any other contract currently in force with the State of New York, that the Contractor will not act in any manner that is detrimental to any State project on which the Contractor is rendering services.

(b) The Contractor hereby reaffirms the attestations made in its Proposal and covenants and represents that there is and shall be no actual or potential conflict of interest that could prevent the Contractor's satisfactory or ethical performance of duties required to be performed pursuant to the terms of this Contract. The Contractor shall have a duty to notify the Commission immediately of any actual or potential conflicts of interest.

(c) In conjunction with any subcontract under this CONTRACT, the Contractor shall obtain and deliver to the Commission, prior to entering into a subcontract, a Vendor Assurance of No Conflict of Interest or Detrimental Effect form, signed by an authorized executive or legal representative of the subcontractor. The Contractor shall also require in any subcontracting agreement that the subcontractor, in conjunction with any further subcontracting agreement, obtain and deliver to the Commission a signed and completed Vendor Assurance of No Conflict of Interest or Detrimental Effect form for each of its subcontractors prior to entering into a subcontract.

(d) The Commission and the Contractor recognize that conflicts may occur in the future because the Contractor may have existing, or establish new, relationships. The Commission will review the nature of any relationships and reserves the right to terminate this Contract for any reason, or for cause, if, in the judgment of the Commission, a real or potential conflict of interest cannot be cured.

16. Ticket Purchase and Prize Payment Restrictions. No officer or employee of the Contractor or of any subcontractor, and no person residing in the same household of such officer or employee shall purchase a New York Lottery video lottery ticket or be paid a prize in any New York Lottery video lottery game. The Contractor shall ensure that this requirement is made known to each officer and employee of the Contractor and any subcontractor. "Subcontractor" is defined as those who play a major role in providing the central system supporting the New York Lottery's video lottery games and game accounting and who are employed by the Contractor during the life of the Contract.

17. Confidentiality and Non-Disclosure.

(a) For the purposes of this section, "Confidential Information" means any information not generally known to the public, whether oral or written, that the Commission identifies as confidential and discloses to the Contractor so that the Contractor can provide services to the Commission pursuant to this Contract. Confidential Information may include, but is not limited to, operational and infrastructure information relating to: bid documents, plans, drawings, specifications, reports, product information; business and security processes and procedures; personnel and organizational data, and financial statements; information system IP addresses, passwords, security controls, architectures and designs; and such other data, information and images that the Commission deems confidential. The Commission will identify written Confidential Information by marking it with the word "Confidential" and will identify oral Confidential Information as confidential at the time of disclosure to the Contractor.

(b) Confidential Information does not include information that, at the time of Commission's disclosure to the Contractor:

(i) is already in the public domain or becomes publicly known through no act of the Contractor;

(ii) is already known by the Contractor free of any confidentiality obligations;

- (iii) is information that the Commission has approved in writing for disclosure; or
- (iv) is required to be disclosed by the Contractor pursuant to law or applicable professional standards, so long as the Contractor provides the Commission with notice of such disclosure requirement and an opportunity to defend prior to any such disclosure.

(c) The Contractor may use Confidential Information solely for the purposes of providing services to the Commission pursuant to this Contract. The Contractor shall not make copies of any written Confidential Information except as necessary to perform the services required by this Contract, without the express written permission of the Commission. The Commission's disclosure of Confidential Information to the Contractor shall not convey to the Contractor any right or interest in such Confidential Information and the Commission shall retain all right and title to such Confidential Information at all times.

(d) The Contractor shall hold Confidential Information confidential to the maximum extent permitted by law. The Contractor shall safeguard Confidential Information with at least the same level of care and security, using all reasonable and necessary security measures, devices and procedures that the Contractor uses to maintain its own confidential information.

(e) Upon written request by the Commission, the Contractor shall return all written Confidential Information to the Commission.

18. Records Retention. Records required by this Contract to be retained by the Contractor shall be retained for the periods specified in Appendix A, attached hereto. Such records may be retained in their original form or in any other reliable and readily retrievable format, at the option of the Contractor.

19. Notices. All notices required by this Contract shall be sufficient if in writing and sent by certified mail return receipt requested and all other communications shall be sufficient if

communicated in writing to the following addresses or to such other addresses as may be designated from time to time by the parties in writing:

(a) As to the Commission:

Executive Director  
New York State Gaming Commission  
One Broadway Center  
Post Office Box 7500  
Schenectady NY 12301-7500

(b) As to the Contractor:

Contact:  
Company Name:  
Address:

20. Liability and Indemnification. The Contractor shall be responsible for all damages to life and property due to the activities of the Contractor, as well as the activities of the subcontractors (if any), agents or employees of the Contractor in connection with the performance of services under this Contract. The Contractor shall indemnify, defend, and save harmless the Commission and the State of New York, and their officers, employees, agents, assigns and retailers from and against any and all third party claims, liabilities, losses, damages, costs, or expenses, including reasonable attorneys' fees, which may be incurred, suffered, or required in whole or in part by an actual or alleged act or omission of:

(a) the Contractor, its officers, employees, agents, successors and assigns,

and/or

(b) a Subcontractor, its officers, employees, agents, successors and assigns.

21. Relationship. The relationship of the Contractor to the Commission arising out of this Contract shall be that of an independent contractor. The Contractor, in accordance with its status as an independent contractor, agrees that it will conduct itself consistent with such status, that it will neither hold itself out as, nor claim to be, an officer or employee of the Commission or the State of New York, and that it will not make any claim, demand or application for any right or

privilege applicable to an officer or employee of the Commission or the State of New York, including, but not limited to, workers' compensation coverage, unemployment insurance benefits, social security coverage, or retirement membership or credit. All personnel of the Contractor shall be within the employ of the Contractor only or shall be duly contracted subcontractors of the Contractor, which alone shall be responsible for their work, the direction thereof, and their compensation. Nothing in this Contract shall impose any liability or duty on the Commission or the State, of New York on account of any acts, omissions, liabilities or obligations of the Contractor or any person, firm, company, agency, association, corporation, or organization engaged by the Contractor as expert, consultant, independent contractor, specialist, trainee, employee, servant or agent, for taxes of any nature, including, but not limited to, unemployment insurance and workers' compensation insurance, and the Contractor hereby agrees to indemnify and hold harmless the Commission and the State of New York against any such liabilities.

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

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

23. Documents Incorporated. Appendix A, Standard Clauses for New York State Contracts, dated January 2014, the RFP, and the Proposal are hereby incorporated herein and made a part hereof.

24. Order of Precedence. Any conflict between the provisions of this Contract and the documents incorporated herein shall be resolved according to the following order of precedence, from the highest to the lowest:

- (a) Appendix A – Standard Clauses for New York State Contracts;
- (b) Any amendments to the Contract;
- (c) Contract and appendices;
- (d) Request for Proposal and any clarifying responses by the Commission;
- (e) Vendor Proposal and any clarifying responses by the vendor.

25. Miscellaneous Provisions.

(a) A waiver of enforcement of any provision of this Contract shall not constitute a waiver of any other provision of this Contract nor shall it preclude the affected party from subsequently enforcing such provision.

(b) This instrument and the documents incorporated herein represent the entire agreement between the Commission and the Contractor, and no modification thereof shall be binding unless the same is in writing and signed by the parties.

(c) The headings contained in this Contract are intended for ease of reference only and shall not be interpreted to limit or modify any of the provisions of this Contract.

(d) The Contractor shall at all times during the Contract term remain responsible. The Contractor agrees, if requested by the Executive Director of the Commission or his or her designee, to present evidence of its continuing legal authority to do business in New York State, integrity, experience, ability, prior performance, and organizational and financial capacity.

IN WITNESS WHEREOF, the parties hereto have executed this Contract as of the day and year first above written.

CONTRACTOR

NEW YORK STATE  
GAMING COMMISSION

By: \_\_\_\_\_

By: \_\_\_\_\_

Title: \_\_\_\_\_

Title: \_\_\_\_\_

Date: \_\_\_\_\_

Date: \_\_\_\_\_

ATTORNEY GENERAL

COMPTROLLER  
Thomas P. DiNapoli

By: \_\_\_\_\_

By: \_\_\_\_\_

Title: \_\_\_\_\_

Title: \_\_\_\_\_

Date: \_\_\_\_\_

Date: \_\_\_\_\_

**Acknowledgement**

**ACKNOWLEDGEMENT BY INDIVIDUAL**

STATE OF \_\_\_\_\_ )  
 ) ss.:  
COUNTY OF \_\_\_\_\_ )

On this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_, before me personally came \_\_\_\_\_, to me known and known to me to be the person described in and who executed the foregoing instrument and he/she acknowledged to me that he/she executed the same.

\_\_\_\_\_  
Notary Public

**ACKNOWLEDGEMENT BY UNINCORPORATED ASSOCIATION**

STATE OF \_\_\_\_\_ )  
 ) ss.:  
COUNTY OF \_\_\_\_\_ )

On this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_, before me personally came \_\_\_\_\_, to me known and known to me to be the person described in and who executed the above instrument, who, being duly sworn by me, did for himself/herself depose and say that he/she is a member of the firm of \_\_\_\_\_ and that he/she executed the foregoing instrument in the firm name of \_\_\_\_\_, and that he/she had authority to sign same, and he/she did duly acknowledge to me that he/she executed the same as the act and deed of said firm of \_\_\_\_\_, for the uses and purposes mentioned therein.

\_\_\_\_\_  
Notary Public

**ACKNOWLEDGEMENT BY CORPORATION**

STATE OF \_\_\_\_\_ )  
 ) ss.:  
COUNTY OF \_\_\_\_\_ )

On this \_\_\_\_\_ day of \_\_\_\_\_, in the year 20\_\_, before me personally came \_\_\_\_\_, to me known, who, being by me duly sworn did depose and say that he/she resides in \_\_\_\_\_; that he/she is the \_\_\_\_\_ of the \_\_\_\_\_, the corporation described in and which executed the above instrument; that he/she knows the seal of said corporation; that the seal affixed to said instrument is such a corporate seal, that it was so affixed by the order of the Board of Directors of said corporation, and that he he/she signed his/her name thereto by like order.

\_\_\_\_\_  
Notary Public



**BIDDER/OFFERER DISCLOSURE/CERTIFICATION FORM**

**CONTRACT/PROJECT DESCRIPTION: New York Lottery Video Lottery Games**

**CONTRACT/PROJECT NUMBER: #C202017**

**RESTRICTED PERIOD FOR THIS PROCUREMENT: February 5, 2021 through approval of the Office of the State Comptroller.**

**PERMISSABLE CONTACTS: Stacey Relation and Alysan Bowers**

1. CONTACTS - Contractor affirms that it understands and agrees to comply with the procedures on procurement lobbying restrictions regarding permissible contacts in the restricted period for a procurement contract in accordance with State Finance Law §§ 139-j and 139-k.  I agree

2. BIDDER/OFFERER DISCLOSURE OF PRIOR NON-RESPONSIBILITY DETERMINATIONS Pursuant to Procurement Lobbying Law (SFL §139-j)

(a) Has any Governmental Entity made a finding of non-responsibility regarding the individual or entity seeking to enter into the Procurement Contract in the previous four years?

Yes  No

If yes, please answer the following question:

(b) Was the basis for the finding of non-responsibility due to a violation of State Finance Law §139-j?

Yes  No

(c) If "Yes" was the basis for the finding of non-responsibility due to the intentional provision of false or incomplete information to a governmental entity?

Yes  No

If "Yes", please provide details regarding the finding of non-responsibility:

Governmental Entity: \_\_\_\_\_

Date of Finding of Non-Responsibility: \_\_\_\_\_

Basis of Finding of Non-Responsibility (attach additional sheets if necessary): \_\_\_\_\_

3. Has any governmental agency terminated or withheld a procurement contract with the above-named individual or entity due to the intentional provision of false or incomplete information?

Yes  No

If yes, provide details:

Governmental Entity: \_\_\_\_\_

Date of Termination or Withholding of Contract: \_\_\_\_\_

Basis of Termination or Withholding: (add additional pages if necessary) \_\_\_\_\_

4. TERMINATION CLAUSE:

Contractor certifies that all information provided to the Agency with respect to State Finance Law §§139 (j) and 139 (k) is complete true and accurate. If found to be in violation of State Finance Law §§139 (j) and 139 (k), the contract will result in termination.

I agree

**Name of Contractor's Firm/Company:** \_\_\_\_\_

**Contractor Address:** \_\_\_\_\_

**Contractor's signature:** \_\_\_\_\_

*I understand that my signature represents that I am signing and responding to both certifications listed above*

**Print Name:** \_\_\_\_\_

**Occupation of Person signing this form:** \_\_\_\_\_

**Email Address:** \_\_\_\_\_

**Non-Collusive Bidding Certification  
Required By Section 139-D of the State Finance Law**

**By submission of this bid, bidder and each person signing on behalf of bidder certifies, under penalty of perjury, that to the best of his/her knowledge and belief:**

**[1] The prices of this bid have been arrived at independently, without collusion, consultation, communication, or agreement, for the purposes of restricting competition, as to any matter relating to such prices with any other Bidder or with any competitor;**

**[2] Unless otherwise required by law, the prices which have been quoted in this bid have not been knowingly disclosed by the Bidder and will not knowingly be disclosed by the Bidder prior to opening, directly or indirectly, to any other Bidder or to any competitor; and**

**[3] No attempt has been made or will be made by the Bidder to induce any other person, partnership or corporation to submit or not to submit a bid for the purpose of restricting competition.**

**A BID SHALL NOT BE CONSIDERED FOR AWARD NOR SHALL ANY AWARD BE MADE WHERE [1], [2], [3] ABOVE HAVE NOT BEEN COMPLIED WITH; PROVIDED HOWEVER, THAT IF IN ANY CASE THE BIDDER(S) CANNOT MAKE THE FORGOING CERTIFICATION, THE BIDDER SHALL SO STATE AND SHALL FURNISH BELOW A SIGNED STATEMENT WHICH SETS FORTH IN DETAIL THE REASONS THEREFORE:**

**[AFFIX ADDEDUM TO THIS PAGE IF SPACE IS REQUIRED FOR STATEMENT.]**

**Subscribed to under penalty of perjury under the laws of the State of New York, this \_\_\_\_\_ day \_\_\_\_\_, 20\_\_ as the act and deed of said corporation.**

\_\_\_\_\_  
**Title**

\_\_\_\_\_  
**Signature**



The submission of the attached Vendor Responsibility Questionnaire is required with your bid.

You must include your ten-digit Vendor ID identifier number issued by New York State. Please insert the Vendor ID number on the top right corner of pages 2-10 of the questionnaire.

If you have previously submitted a New York State Vendor Questionnaire that was signed less than one year ago in connection with another State solicitation or contract, and there are no material changes to that questionnaire, you may submit an Affidavit of No Change along with a copy of the previously completed Vendor Questionnaire.

You are encouraged to complete the questionnaire online. By doing so, you will not be required to complete the questionnaire for future contracts with New York State agencies, so long as you certify the information every six months.

If you are interested in completing the online questionnaire, please visit the following website for additional information:

<https://www.osc.state.ny.us/vendrep/>

If you have filed your questionnaire online, please sign below and return only this page with your bid.

-----  
Complete the below only if you have filed your questionnaire online, otherwise, please complete the attached questionnaire.

\_\_\_\_\_  
Contractor Name (print)

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Company Name

\_\_\_\_\_  
Date

**NEW YORK STATE  
VENDOR RESPONSIBILITY QUESTIONNAIRE  
FOR-PROFIT BUSINESS ENTITY**

You have selected the For-Profit Non-Construction questionnaire which may be printed and completed in this format or, for your convenience, may be completed online using the New York State VendRep System.

**COMPLETION & CERTIFICATION**

The person(s) completing the questionnaire must be knowledgeable about the vendor's business and operations. An owner or officer must certify the questionnaire and the signature must be notarized.

**NEW YORK STATE VENDOR IDENTIFICATION NUMBER (VENDOR ID)**

The Vendor ID is a ten-digit identifier issued by New York State when the vendor is registered on the Statewide Vendor File. This number must now be included on the questionnaire. If the business entity has not obtained a Vendor ID, contact the OSC Help Desk at [ciohelpdesk@osc.state.ny.us](mailto:ciohelpdesk@osc.state.ny.us) or call 866-370-4672.

**DEFINITIONS**

All underlined terms are defined in the "New York State Vendor Responsibility Definitions List," found at [www.osc.state.ny.us/vendrep/documents/definitions.pdf](http://www.osc.state.ny.us/vendrep/documents/definitions.pdf). These terms may not have their ordinary, common or traditional meanings. Each vendor is strongly encouraged to read the respective definitions for any and all underlined terms. By submitting this questionnaire, the vendor agrees to be bound by the terms as defined in the "New York State Vendor Responsibility Definitions List" existing at the time of certification.

**RESPONSES**

Every question must be answered. Each response must provide all relevant information which can be obtained within the limits of the law. However, information regarding a determination or finding made in error which was subsequently corrected is not required. Individuals and Sole Proprietors may use a Social Security Number but are encouraged to obtain and use a federal Employer Identification Number (EIN).

**REPORTING ENTITY**

Each vendor must indicate if the questionnaire is filed on behalf of the entire Legal Business Entity or an Organizational Unit within or operating under the authority of the Legal Business Entity and having the same EIN. Generally, the Organizational Unit option may be appropriate for a vendor that meets the definition of "Reporting Entity" but due to the size and complexity of the Legal Business Entity, is best able to provide the required information for the Organizational Unit, while providing more limited information for other parts of the Legal Business Entity and Associated Entities.

**ASSOCIATED ENTITY**

An Associated Entity is one that owns or controls the Reporting Entity or any entity owned or controlled by the Reporting Entity. However, the term Associated Entity does **not** include "sibling organizations" (i.e., entities owned or controlled by a parent company that owns or controls the Reporting Entity), unless such sibling entity has a direct relationship with or impact on the Reporting Entity.

**STRUCTURE OF THE QUESTIONNAIRE**

The questionnaire is organized into eleven sections. Section I is to be completed for the Legal Business Entity. Section II requires the vendor to specify the Reporting Entity for the questionnaire. Section III refers to the individuals of the Reporting Entity, while Sections IV-VIII require information about the Reporting Entity. Section IX pertains to any Associated Entities, with one question about their Officials/Owners. Section X relates to disclosure under the Freedom of Information Law (FOIL). Section XI requires an authorized contact for the questionnaire information.

**NEW YORK STATE  
VENDOR RESPONSIBILITY QUESTIONNAIRE  
FOR-PROFIT BUSINESS ENTITY**

| <b>I. LEGAL BUSINESS ENTITY INFORMATION</b>   |      |  |  |
|---|------|--|--|
| <u>Legal Business Entity Name</u> *   |      | <u>EIN</u> (Enter 9 digits, without hyphen)        |  |
| Address of the <u>Principal Place of Business</u> (street, city, state, zip code)   |      | <u>New York State Vendor Identification Number</u> |  |
|   |      | Telephone<br>ext.                                  | Fax  |
| Email   |      | Website  |  |
| Additional <u>Legal Business Entity</u> Identities: If applicable, list any other <u>DBA</u> , <u>Trade Name</u> , <u>Former Name</u> , Other Identity, or <u>EIN</u> used in the last five (5) years and the status (active or inactive).                          |      |  |  |
| Type  | Name | EIN  | Status   |
|   |      |  |  |
|   |      |  |  |
| 1.0 <u>Legal Business Entity</u> Type – Check appropriate box and provide additional information:   |      |  |  |
| <input type="checkbox"/> <u>Corporation</u> (including <u>PC</u> )  |      | Date of Incorporation                              |  |
| <input type="checkbox"/> <u>Limited Liability Company (LLC or PLLC)</u>   |      | Date of Organization                               |  |
| <input type="checkbox"/> <u>Partnership</u> (including <u>LLP</u> , <u>LP</u> or <u>General</u> )   |      | Date of Registration or Establishment              |  |
| <input type="checkbox"/> <u>Sole Proprietor</u>   |      | How many years in business?                        |  |
| <input type="checkbox"/> Other  |      | Date Established                                   |  |
| If Other, explain:  |      |  |  |
| 1.1 Was the <u>Legal Business Entity</u> formed or incorporated in New York State?  |      |  | <input type="checkbox"/> Yes <input type="checkbox"/> No |
| If ‘No,’ indicate jurisdiction where <u>Legal Business Entity</u> was formed or incorporated and attach a <u>Certificate of Good Standing</u> from the applicable jurisdiction or provide an explanation if a <u>Certificate of Good Standing</u> is not available. |      |  |  |
| <input type="checkbox"/> United States    State    _____  |      |  |  |
| <input type="checkbox"/> Other            Country    _____  |      |  |  |
| Explain, if not available:  |      |  |  |
| 1.2 Is the <u>Legal Business Entity</u> publicly traded?  |      |  | <input type="checkbox"/> Yes <input type="checkbox"/> No |
| If “Yes,” provide <u>CIK Code</u> or Ticker Symbol  |      |  |  |
| 1.3 Does the <u>Legal Business Entity</u> have a <u>DUNS</u> Number?  |      |  | <input type="checkbox"/> Yes <input type="checkbox"/> No |
| If “Yes,” Enter <u>DUNS</u> Number  |      |  |  |

\*All underlined terms are defined in the “New York State Vendor Responsibility Definitions List,” which can be found at [www.osc.state.ny.us/vendrep/documents/definitions.pdf](http://www.osc.state.ny.us/vendrep/documents/definitions.pdf).

**NEW YORK STATE  
VENDOR RESPONSIBILITY QUESTIONNAIRE  
FOR-PROFIT BUSINESS ENTITY**

**I. LEGAL BUSINESS ENTITY INFORMATION**

|  |  |
|--|--|
| 1.4 If the <u>Legal Business Entity's Principal Place of Business</u> is not in New York State, does the <u>Legal Business Entity</u> maintain an office in New York State?<br>(Select "N/A," if <u>Principal Place of Business</u> is in New York State.) | <input type="checkbox"/> Yes <input type="checkbox"/> No<br><input type="checkbox"/> N/A |
|--|--|

If "Yes," provide the address and telephone number for one office located in New York State.

|  |  |
|--|--|
| 1.5 Is the <u>Legal Business Entity</u> a New York State certified <u>Minority-Owned Business Enterprise (MBE)</u> , <u>Women-Owned Business Enterprise (WBE)</u> , <u>New York State Small Business (SB)</u> or a federally certified <u>Disadvantaged Business Enterprise (DBE)</u> ?<br>If "Yes," check all that apply:<br><input type="checkbox"/> New York State certified <u>Minority-Owned Business Enterprise (MBE)</u><br><input type="checkbox"/> New York State certified <u>Women-Owned Business Enterprise (WBE)</u><br><input type="checkbox"/> <u>New York State Small Business (SB)</u><br><input type="checkbox"/> Federally certified <u>Disadvantaged Business Enterprise (DBE)</u> | <input type="checkbox"/> Yes <input type="checkbox"/> No |
|--|--|

1.6 Identify Officials and Principal Owners, if applicable. For each person, include name, title and percentage of ownership. Attach additional pages if necessary. If applicable, reference to relevant SEC filing(s) containing the required information is optional.

| Name | Title | Percentage Ownership<br><i>(Enter 0% if not applicable)</i> |
|------|-------|---|
|      |       |   |
|      |       |   |
|      |       |   |
|      |       |   |

**NEW YORK STATE  
VENDOR RESPONSIBILITY QUESTIONNAIRE  
FOR-PROFIT BUSINESS ENTITY**

**II. REPORTING ENTITY INFORMATION**

2.0 The Reporting Entity for this questionnaire is:

Note: Select only one.

Legal Business Entity

*Note: If selecting this option, “Reporting Entity” refers to the entire Legal Business Entity for the remainder of the questionnaire. (SKIP THE REMAINDER OF SECTION II AND PROCEED WITH SECTION III.)*

Organizational Unit within and operating under the authority of the Legal Business Entity

SEE DEFINITIONS OF “REPORTING ENTITY” AND “ORGANIZATIONAL UNIT” FOR ADDITIONAL INFORMATION ON CRITERIA TO QUALIFY FOR THIS SELECTION.

*Note: If selecting this option, “Reporting Entity” refers to the Organizational Unit within the Legal Business Entity for the remainder of the questionnaire. (COMPLETE THE REMAINDER OF SECTION II AND ALL REMAINING SECTIONS OF THIS QUESTIONNAIRE.)*

**IDENTIFYING INFORMATION**

a) Reporting Entity Name

Address of the Primary Place of Business (street, city, state, zip code)

Telephone

ext.

b) Describe the relationship of the Reporting Entity to the Legal Business Entity

c) Attach an organizational chart

d) Does the Reporting Entity have a DUNS Number?

Yes  No

If “Yes,” enter DUNS Number

e) Identify the designated manager(s) responsible for the business of the Reporting Entity.

*For each person, include name and title. Attach additional pages if necessary.*

Name

Title

**NEW YORK STATE  
VENDOR RESPONSIBILITY QUESTIONNAIRE  
FOR-PROFIT BUSINESS ENTITY**

**INSTRUCTIONS FOR SECTIONS III THROUGH VII**

For each “Yes,” provide an explanation of the issue(s), relevant dates, the government entity involved, any remedial or corrective action(s) taken and the current status of the issue(s). For each “Other,” provide an explanation which provides the basis for not definitively responding “Yes” or “No.” Provide the explanation at the end of the section or attach additional sheets with numbered responses, including the Reporting Entity name at the top of any attached pages.

| <b>III. LEADERSHIP INTEGRITY</b>  |   |
|---|---|
| <i>Within the past five (5) years, has any current or former reporting entity official or any individual currently or formerly having the authority to sign, execute or approve bids, proposals, contracts or supporting documentation on behalf of the reporting entity with any government entity been:</i> |   |
| 3.0 <u>Sanctioned</u> relative to any business or professional permit and/or license?   | <input type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> Other |
| 3.1 <u>Suspended, debarred, or disqualified</u> from any <u>government contracting process</u> ?  | <input type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> Other |
| 3.2 The subject of an <u>investigation</u> , whether open or closed, by any <u>government entity</u> for a civil or criminal violation for any business-related conduct?  | <input type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> Other |
| 3.3 Charged with a misdemeanor or felony, indicted, granted immunity, convicted of a crime or subject to a <u>judgment</u> for:<br>a) Any business-related activity; or<br>b) Any crime, whether or not business-related, the underlying conduct of which was related to truthfulness?                        | <input type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> Other |
| For each “Yes” or “Other” explain:  |   |

| <b>IV. INTEGRITY – CONTRACT BIDDING</b>  |  |
|--|--|
| <i>Within the past five (5) years, has the reporting entity:</i>   |  |
| 4.0 Been <u>suspended or debarred</u> from any <u>government contracting process</u> or been <u>disqualified</u> on any government procurement, permit, license, concession, franchise or lease, including, but not limited to, <u>debarment</u> for a violation of New York State Workers’ Compensation or Prevailing Wage laws or New York State Procurement Lobbying Law? | <input type="checkbox"/> Yes <input type="checkbox"/> No |
| 4.1 Been subject to a denial or revocation of a government prequalification?   | <input type="checkbox"/> Yes <input type="checkbox"/> No |
| 4.2 Been denied a contract award or had a bid rejected based upon a <u>non-responsibility finding</u> by a <u>government entity</u> ?  | <input type="checkbox"/> Yes <input type="checkbox"/> No |
| 4.3 Had a low bid rejected on a <u>government contract</u> for failure to <u>make good faith efforts</u> on any <u>Minority-Owned Business Enterprise, Women-Owned Business Enterprise or Disadvantaged Business Enterprise</u> goal or <u>statutory affirmative action requirements</u> on a previously held contract?  | <input type="checkbox"/> Yes <input type="checkbox"/> No |
| 4.4 Agreed to a voluntary exclusion from bidding/contracting with a <u>government entity</u> ?   | <input type="checkbox"/> Yes <input type="checkbox"/> No |
| 4.5 Initiated a request to withdraw a bid submitted to a <u>government entity</u> in lieu of responding to an information request or subsequent to a formal request to appear before the <u>government entity</u> ?  | <input type="checkbox"/> Yes <input type="checkbox"/> No |
| For each “Yes,” explain:   |  |



**NEW YORK STATE  
VENDOR RESPONSIBILITY QUESTIONNAIRE  
FOR-PROFIT BUSINESS ENTITY**

**V. INTEGRITY – CONTRACT AWARD**

*Within the past five (5) years, has the reporting entity:*

- |   |  |
|---|--|
| 5.0 Been <u>suspended</u> , cancelled or <u>terminated for cause</u> on any <u>government contract</u> including, but not limited to, a <u>non-responsibility finding</u> ? | <input type="checkbox"/> Yes <input type="checkbox"/> No |
| 5.1 Been subject to an <u>administrative proceeding</u> or civil action seeking specific performance or restitution in connection with any <u>government contract</u> ?     | <input type="checkbox"/> Yes <input type="checkbox"/> No |
| 5.2 Entered into a formal monitoring agreement as a condition of a contract award from a <u>government entity</u> ?   | <input type="checkbox"/> Yes <input type="checkbox"/> No |

For each “Yes,” explain:

**VI. CERTIFICATIONS/LICENSES**

*Within the past five (5) years, has the reporting entity:*

- |   |  |
|---|--|
| 6.0 Had a revocation, <u>suspension</u> or <u>disbarment</u> of any business or professional permit and/or license?   | <input type="checkbox"/> Yes <input type="checkbox"/> No |
| 6.1 Had a denial, decertification, revocation or forfeiture of New York State certification of <u>Minority-Owned Business Enterprise</u> , <u>Women-Owned Business Enterprise</u> or federal certification of <u>Disadvantaged Business Enterprise</u> status for other than a change of ownership? | <input type="checkbox"/> Yes <input type="checkbox"/> No |

For each “Yes,” explain:

**VII. LEGAL PROCEEDINGS**

*Within the past five (5) years, has the reporting entity:*

- |  |  |
|--|--|
| 7.0 Been the subject of an <u>investigation</u> , whether open or closed, by any <u>government entity</u> for a civil or criminal violation?   | <input type="checkbox"/> Yes <input type="checkbox"/> No |
| 7.1 Been the subject of an indictment, grant of immunity, <u>judgment</u> or conviction (including entering into a plea bargain) for conduct constituting a crime?   | <input type="checkbox"/> Yes <input type="checkbox"/> No |
| 7.2 Received any OSHA citation and Notification of Penalty containing a violation classified as <u>serious</u> or <u>willful</u> ?   | <input type="checkbox"/> Yes <input type="checkbox"/> No |
| 7.3 Had a <u>government entity</u> find a willful prevailing wage or supplemental payment violation or any other willful violation of New York State Labor Law?  | <input type="checkbox"/> Yes <input type="checkbox"/> No |
| 7.4 Entered into a consent order with the New York State Department of Environmental Conservation, or received an enforcement determination by any <u>government entity</u> involving a violation of federal, state or local environmental laws?   | <input type="checkbox"/> Yes <input type="checkbox"/> No |
| 7.5 Other than previously disclosed:<br>a) Been subject to fines or penalties imposed by <u>government entities</u> which in the aggregate total \$25,000 or more; or<br>b) Been convicted of a criminal offense pursuant to any administrative and/or regulatory action taken by any <u>government entity</u> ? | <input type="checkbox"/> Yes <input type="checkbox"/> No |

For each “Yes,” explain:

**NEW YORK STATE  
VENDOR RESPONSIBILITY QUESTIONNAIRE  
FOR-PROFIT BUSINESS ENTITY**

| <b>VIII. FINANCIAL AND ORGANIZATIONAL CAPACITY</b>  |  |
|---|--|
| 8.0 Within the past five (5) years, has the <u>Reporting Entity</u> received any <u>formal unsatisfactory performance assessment(s)</u> from any <u>government entity</u> on any contract?  | <input type="checkbox"/> Yes <input type="checkbox"/> No |
| If “Yes,” provide an explanation of the issue(s), relevant dates, the <u>government entity</u> involved, any remedial or corrective action(s) taken and the current status of the issue(s). Provide answer below or attach additional sheets with numbered responses.             |  |
| 8.1 Within the past five (5) years, has the <u>Reporting Entity</u> had any <u>liquidated damages</u> assessed over \$25,000?   | <input type="checkbox"/> Yes <input type="checkbox"/> No |
| If “Yes,” provide an explanation of the issue(s), relevant dates, contracting party involved, the amount assessed and the current status of the issue(s). Provide answer below or attach additional sheets with numbered responses.   |  |
| 8.2 Within the past five (5) years, have any <u>liens</u> or <u>judgments</u> (not including UCC filings) over \$25,000 been filed against the <u>Reporting Entity</u> which remain undischarged?   | <input type="checkbox"/> Yes <input type="checkbox"/> No |
| If “Yes,” provide an explanation of the issue(s), relevant dates, the Lien holder or Claimant’s name(s), the amount of the <u>lien(s)</u> and the current status of the issue(s). Provide answer below or attach additional sheets with numbered responses.                       |  |
| 8.3 In the last seven (7) years, has the <u>Reporting Entity</u> initiated or been the subject of any bankruptcy proceedings, whether or not closed, or is any bankruptcy proceeding pending?   | <input type="checkbox"/> Yes <input type="checkbox"/> No |
| If “Yes,” provide the bankruptcy chapter number, the court name and the docket number. Indicate the current status of the proceedings as “Initiated,” “Pending” or “Closed.” Provide answer below or attach additional sheets with numbered responses.                            |  |
| 8.4 During the past three (3) years, has the <u>Reporting Entity</u> failed to file or pay any tax returns required by <u>federal, state or local tax laws</u> ?  | <input type="checkbox"/> Yes <input type="checkbox"/> No |
| If “Yes,” provide the taxing jurisdiction, the type of tax, the liability year(s), the tax liability amount the <u>Reporting Entity</u> failed to file/pay and the current status of the tax liability. Provide answer below or attach additional sheets with numbered responses. |  |
| 8.5 During the past three (3) years, has the <u>Reporting Entity</u> failed to file or pay any New York State unemployment insurance returns?   | <input type="checkbox"/> Yes <input type="checkbox"/> No |
| If “Yes,” provide the years the <u>Reporting Entity</u> failed to file/pay the insurance, explain the situation and any remedial or corrective action(s) taken and the current status of the issue(s). Provide answer below or attach additional sheets with numbered responses.  |  |
| 8.6 During the past three (3) years, has the <u>Reporting Entity</u> had any <u>government audit(s)</u> completed?  | <input type="checkbox"/> Yes <input type="checkbox"/> No |
| a) If “Yes,” did any audit of the <u>Reporting Entity</u> identify any reported significant deficiencies in internal control, fraud, illegal acts, significant violations of provisions of contract or grant agreements, significant abuse or any <u>material disallowance</u> ?  | <input type="checkbox"/> Yes <input type="checkbox"/> No |
| If “Yes” to 8.6 a), provide an explanation of the issue(s), relevant dates, the <u>government entity</u> involved, any remedial or corrective action(s) taken and the current status of the issue(s). Provide answer below or attach additional sheets with numbered responses.   |  |

**NEW YORK STATE  
VENDOR RESPONSIBILITY QUESTIONNAIRE  
FOR-PROFIT BUSINESS ENTITY**

**IX. ASSOCIATED ENTITIES**

*This section pertains to any entity(ies) that either controls or is controlled by the reporting entity.  
(See definition of "associated entity" for additional information to complete this section.)*

9.0 Does the Reporting Entity have any Associated Entities?

Yes  No

Note: All questions in this section must be answered if the Reporting Entity is either:

- An Organizational Unit; or
- The entire Legal Business Entity which controls, or is controlled by, any other entity(ies).

If "No," SKIP THE REMAINDER OF SECTION IX AND PROCEED WITH SECTION X.

9.1 Within the past five (5) years, has any Associated Entity Official or Principal Owner been charged with a misdemeanor or felony, indicted, granted immunity, convicted of a crime or subject to a judgment for:

Yes  No

- a) Any business-related activity; or
- b) Any crime, whether or not business-related, the underlying conduct of which was related to truthfulness?

If "Yes," provide an explanation of the issue(s), the individual involved, his/her title and role in the Associated Entity, his/her relationship to the Reporting Entity, relevant dates, the government entity involved, any remedial or corrective action(s) taken and the current status of the issue(s).

9.2 Does any Associated Entity have any currently undischarged federal, New York State, New York City or New York local government liens or judgments (not including UCC filings) over \$50,000?

Yes  No

If "Yes," provide an explanation of the issue(s), identify the Associated Entity's name(s), EIN(s), primary business activity, relationship to the Reporting Entity, relevant dates, the Lien holder or Claimant's name(s), the amount of the lien(s) and the current status of the issue(s). Provide answer below or attach additional sheets with numbered responses.

9.3 Within the past five (5) years, has any Associated Entity:

- a) Been disqualified, suspended or debarred from any federal, New York State, New York City or other New York local government contracting process?

Yes  No

- b) Been denied a contract award or had a bid rejected based upon a non-responsibility finding by any federal, New York State, New York City, or New York local government entity?

Yes  No

- c) Been suspended, cancelled or terminated for cause (including for non-responsibility) on any federal, New York State, New York City or New York local government contract?

Yes  No

- d) Been the subject of an investigation, whether open or closed, by any federal, New York State, New York City, or New York local government entity for a civil or criminal violation with a penalty in excess of \$500,000?

Yes  No

- e) Been the subject of an indictment, grant of immunity, judgment, or conviction (including entering into a plea bargain) for conduct constituting a crime?

Yes  No

- f) Been convicted of a criminal offense pursuant to any administrative and/or regulatory action taken by any federal, New York State, New York City, or New York local government entity?

Yes  No

- g) Initiated or been the subject of any bankruptcy proceedings, whether or not closed, or is any bankruptcy proceeding pending?

Yes  No

For each "Yes," provide an explanation of the issue(s), identify the Associated Entity's name(s), EIN(s), primary business activity, relationship to the Reporting Entity, relevant dates, the government entity involved, any remedial or corrective action(s) taken and the current status of the issue(s). Provide answer below or attach additional sheets with numbered responses.

**NEW YORK STATE  
VENDOR RESPONSIBILITY QUESTIONNAIRE  
FOR-PROFIT BUSINESS ENTITY**

**X. FREEDOM OF INFORMATION LAW (FOIL)**

|  |  |
|--|--|
| 10. Indicate whether any information supplied herein is believed to be exempt from disclosure under the Freedom of Information Law (FOIL).<br>Note: A determination of whether such information is exempt from FOIL will be made at the time of any request for disclosure under FOIL. | <input type="checkbox"/> Yes <input type="checkbox"/> No |
|--|--|

If "Yes," indicate the question number(s) and explain the basis for the claim.

**XI. AUTHORIZED CONTACT FOR THIS QUESTIONNAIRE**

|       |           |     |
|-------|-----------|-----|
| Name  | Telephone | Fax |
|       | ext.      |     |
| Title | Email     |     |

**NEW YORK STATE  
VENDOR RESPONSIBILITY QUESTIONNAIRE  
FOR-PROFIT BUSINESS ENTITY**

**Certification**

The undersigned: (1) recognizes that this questionnaire is submitted for the express purpose of assisting New York State contracting entities in making responsibility determinations regarding an award of a contract or approval of a subcontract; (2) recognizes that the Office of the State Comptroller (OSC) will rely on information disclosed in the questionnaire in making responsibility determinations and in approving a contract or subcontract; (3) acknowledges that the New York State contracting entities and OSC may, in their discretion, by means which they may choose, verify the truth and accuracy of all statements made herein; and (4) acknowledges that intentional submission of false or misleading information may constitute a misdemeanor or felony under New York State Penal Law, may be punishable by a fine and/or imprisonment under Federal Law, and may result in a finding of non-responsibility, contract suspension or contract termination.

**The undersigned certifies that he/she:**

- is knowledgeable about the Reporting Entity's business and operations;
- has read and understands all of the questions contained in the questionnaire;
- has not altered the content of the questionnaire in any manner;
- has reviewed and/or supplied full and complete responses to each question;
- to the best of his/her knowledge, information and belief, confirms that the Reporting Entity's responses are true, accurate and complete, including all attachments, if applicable;
- understands that New York State will rely on the information disclosed in the questionnaire when entering into a contract with the Reporting Entity; and
- is under obligation to update the information provided herein to include any material changes to the Reporting Entity's responses at the time of bid/proposal submission through the contract award notification, and may be required to update the information at the request of the New York State contracting entities or OSC prior to the award and/or approval of a contract, or during the term of the contract.

Signature of Owner/Officer \_\_\_\_\_

Printed Name of Signatory \_\_\_\_\_

Title \_\_\_\_\_

Reporting Entity Name \_\_\_\_\_

Address \_\_\_\_\_

City, State, Zip \_\_\_\_\_

Sworn to before me this \_\_\_\_\_ day of \_\_\_\_\_ 20 \_\_\_\_\_ ;

\_\_\_\_\_ Notary Public



**NEW YORK STATE OFFICE OF THE STATE COMPTROLLER  
SUBSTITUTE FORM W-9:  
REQUEST FOR TAXPAYER IDENTIFICATION NUMBER & CERTIFICATION**

**TYPE OR PRINT INFORMATION NEATLY. PLEASE REFER TO INSTRUCTIONS FOR MORE INFORMATION.**

**Part I: Vendor Information**

|   |  |  |
|---|--|--|
| 1. Legal Business Name: _____   | 2. Business name/disregarded entity name, if different from Legal Business Name: _____ |  |
| 3. Entity Type (Check one only):<br><input type="checkbox"/> Individual Sole Proprietor <input type="checkbox"/> Partnership <input type="checkbox"/> Limited Liability Co. <input type="checkbox"/> Corporation <input type="checkbox"/> Not For Profit<br><input type="checkbox"/> Trusts/Estates <input type="checkbox"/> Federal, State or Local Government <input type="checkbox"/> Public Authority <input type="checkbox"/> Disregarded Entity<br><input type="checkbox"/> Other _____ |  | <input type="checkbox"/> <b>Exempt Payee</b> |

**Part II: Taxpayer Identification Number (TIN) & Taxpayer Identification Type**

|   |  |  |  |  |  |  |  |  |  |  |  |
|---|--|--|--|--|--|--|--|--|--|--|--|
| 1. Enter your TIN here: ( <i>DO NOT USE DASHES</i> )<br>See instructions.   | <table border="1" style="width:100%; height: 25px; border-collapse: collapse;"> <tr> <td style="width:12.5%;"></td><td style="width:12.5%;"></td><td style="width:12.5%;"></td><td style="width:12.5%;"></td><td style="width:12.5%;"></td><td style="width:12.5%;"></td><td style="width:12.5%;"></td><td style="width:12.5%;"></td><td style="width:12.5%;"></td><td style="width:12.5%;"></td> </tr> </table> |  |  |  |  |  |  |  |  |  |  |
|   |  |  |  |  |  |  |  |  |  |  |  |
| 2. Taxpayer Identification Type (check appropriate box):<br><input type="checkbox"/> Employer ID No. (EIN) <input type="checkbox"/> Social Security No. (SSN) <input type="checkbox"/> Individual Taxpayer ID No. (ITIN) <input type="checkbox"/> N/A (Non-United States Business Entity) |  |  |  |  |  |  |  |  |  |  |  |

**Part III: Address**

|   |   |
|---|---|
| 1. Physical Address:<br>Number, Street, and Apartment or Suite Number | 2. Remittance Address:<br>Number, Street, and Apartment or Suite Number |
| City, State, and Nine Digit Zip Code or Country                       | City, State, and Nine Digit Zip Code or Country                         |

**Part IV: Certification and Exemption from Backup Withholding**

Under penalties of perjury, I certify that:

1. The number shown on this form is my correct taxpayer identification number (TIN), and
2. I am a U.S. citizen or other U.S. person, and
3. (Check one only):  
 **I am not subject to backup withholding.** I am (a) exempt from back up withholding, or (b) I have not been notified by the Internal Revenue Service (IRS) that I am subject to backup withholding as a result of a failure to report all interest or dividends, or (c) the IRS has notified me that I am no longer subject to backup withholding), or  
 **I am subject to backup withholding.** I have been notified by the IRS that I am subject to backup withholding as a result of a failure to report all interest or dividends, and I have not been notified by the IRS that I am no longer subject to back withholding.

**Sign Here:**

|                       |              |               |
|-----------------------|--------------|---------------|
| Signature             | Title        | Date          |
| Print Preparer's Name | Phone Number | Email Address |

**Part V: Vendor Primary Contact Information – Executive Authorized to Represent the Vendor**

|                             |                     |
|-----------------------------|---------------------|
| Primary Contact Name: _____ | Title: _____        |
| Email Address: _____        | Phone Number: _____ |

**DO NOT SUBMIT FORM TO IRS — SUBMIT FORM TO NYS ONLY AS DIRECTED**

## NYS Office of the State Comptroller Instructions for Completing Substitute Form W-9

---

New York State (NYS) must obtain your correct Taxpayer Identification Number (TIN) to report income paid to you or your organization. NYS Office of the State Comptroller uses the Substitute Form W-9 to obtain certification of your TIN in order to ensure accuracy of information contained in its payee/vendor database and to avoid backup withholding.<sup>1</sup> We ask for the information on the Substitute Form W-9 to carry out the Internal Revenue laws of the United States. You are required to give us the information.

Any payee/vendor who wishes to do business with New York State must complete the Substitute Form W-9. Substitute Form W-9 is the only acceptable documentation. We will not accept IRS Form W-9.

### ***Part I: Vendor Information***

1. **Legal Business Name:** For individuals, enter the name of the person who will do business with NYS as it appears on the Social Security card or other required Federal tax documents. An organization should enter the name shown on its charter or other legal documents that created the organization. Do not abbreviate names.
2. **Business name/disregarded entity name, if different from Legal Business Name:** Enter your DBA name or another name your entity is known by.
3. **Entity Type:** Check the Entity Type doing business with New York State.

### ***Part II: Taxpayer Identification Number (TIN) and Taxpayer Identification Type***

The TIN provided must match the name in the "Legal Business Name" box to avoid backup withholding. For individuals, this is your social security number (SSN). However, for a resident alien, sole proprietor, or disregarded entity, refers to IRS W-9 instructions for additional information. For other entities, it is your employer identification number (EIN). If you do not have a number or if the account is in more than one name, refer to IRS W-9 instructions for additional information.

1. **Taxpayer Identification Number:** Enter your nine-digit Social Security Number, Individual Taxpayer Identification Number (ITIN) or Employer Identification Number (EIN).
2. **Taxpayer Identification Type:** Check the type of identification number provided.

### ***Part III: Address***

1. **Physical Address:** Enter the location of where your business is physically located.
2. **Remittance Address:** Enter the address where payments should be mailed.

### ***Part IV: Certification and Exemption from Backup Withholding***

Check the appropriate box indicating your exemption status from backup withholding. Individuals and sole proprietors are not exempt from backup withholding. Corporations are exempt from backup withholding for certain types of payments. Refer to IRS Form W-9 instructions for additional information. The signature should be provided by the individual, owner, officer, legal representative, or other authorized person of the entity listed on the form. Certain exceptions to the signature requirement are listed in the IRS instructions for form W-9.

### ***Part V: Vendor Primary Contact Information***

Please provide the contact information for an executive at your organization. This individual should be the person who makes legal and financial decisions for your organization.

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<sup>1</sup> According to IRS Regulations, OSC must withhold 28% of all payments if a payee/vendor fails to provide OSC its certified TIN. The Substitute Form W-9 certifies a payee/vendor's TIN.



# ELECTRONIC PAYMENT (ePAYMENT) REQUEST

**TYPE OR PRINT INFORMATION NEATLY. PLEASE REFER TO INSTRUCTIONS FOR MORE INFORMATION.**

## Part I: Vendor Information

NYS Vendor Number:

|  |  |  |  |  |  |  |  |  |  |  |  |
|--|--|--|--|--|--|--|--|--|--|--|--|
|  |  |  |  |  |  |  |  |  |  |  |  |
|--|--|--|--|--|--|--|--|--|--|--|--|

Legal Business Name:

Remittance Address –  
Number, Street, Apartment, Suite Number or Rural Route:

City or Town, State, Zip, Postal Code:

## Part II: Type of ePayment Request

New Enrollment    
  Change ePayment Bank Information    
  Cancel ePayments

## Part III: Vendor Certification

**Recovery of Funds Deposited in Error:** In the event that an erroneous electronic payment is sent, the State reserves the right to 'reverse' the electronic payment. In the event that a 'reversal' cannot be implemented, the State will utilize any other lawful means to retrieve payments to which the payee was not entitled.

**I certify that I understand this Electronic Payments authorization, including the Recovery of Funds Deposited in Error, for the State of New York to deposit funds into the designated bank account through an electronic fund transfer. The agreement represented by this authorization remains in effect until cancelled by the payee.**

Authorized Vendor Contact Signature:

Vendor Contact Name (Printed):

Title:

Email Address (Required):

Phone Number:

## Part IV: Financial Institution Information

Name of Financial Institution:

Type of Account:

Savings Account    
  Checking Account

Bank Routing Number/ABA#:

Account Number: (Only use the number of boxes needed.)

|  |  |  |  |  |  |  |  |  |  |  |  |
|--|--|--|--|--|--|--|--|--|--|--|--|
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|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|

## Part V: Financial Institution Certification –

**Only completed by financial institution if directing funds to a savings account or if an original voided check is not attached to this form.**

**I certify that the account number is in the name of the payee name above. As a representative of the named financial institution, I certify that this financial institution is ACH capable and agrees to receive and deposit payments to the account shown.**

Institution Officer Signature:

Institution Officer Email Address (Required):

Institution Officer Name (Printed):

Title:

Phone Number:

**SUBMIT FORM TO NYS OFFICE OF THE STATE COMPTROLLER – VENDOR MANAGEMENT UNIT**  
**Mail to: 110 State Street Mail Drop 10-4,**  
**Albany, NY 12236-0001**



## NYS Office of the State Comptroller Instructions for Electronic Payment (ePayment) Request

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**Please Note: For your protection, we will not accept email or fax to enroll or change electronic payment information. Failure to provide the requested information may delay or prevent the receipt of payments through the Electronic Payment (ePayment) Program.**

**Notification Required under Personal Privacy Protection Law:** The information provided on this form is required under Section 109 of the New York State Finance Law, as well as the New York State and Federal tax laws (See New York State Tax Law § 674, 26 USC §6041). This information will be provided only to the designated financial institution(s) and/or their agent(s) for the purpose of processing payments, and for other official business of the Office of the State Comptroller. No further disclosure of this information will be made unless such disclosure is authorized or required by law. The information provided is maintained in New York State's Statewide Financial System by the Vendor Management Unit within the Bureau of State Expenditures, Office of the State Comptroller, 110 State Street, Albany, New York 12236.

### Part I: NYS Vendor Information

**Vendor ID (Required):** The NYS Vendor ID is a ten-character identifier issued by the Vendor Management Unit when the vendor is registered in the Vendor File.

**Legal Business Name (Required):** The name of the person or business as it appears on the Social Security card or other required Federal tax documents. Do not abbreviate names.

**Remittance Address:** The Remittance Address is the default address where payments will be delivered if the payment fails to process electronically.

### Part II: Type of ePayment Request

**Select one of the following options (Required):**

**New Enrollment** – Please complete all information in Part III and IV and attach an original voided check. If you do not attach an original voided check the financial institution must complete Part IV and V.

**Change ePayment Bank Information** – Please complete all information in Part III and IV and attach an original voided check. If you do not attach an original voided check the financial institution must complete Part IV and V.

**Cancel ePayments** – Please complete all information in Part III. To cancel, the payee's authorized vendor contact must provide this form or signed written notification (including all information in Part III) to the address provided on the front of this form. Notification may be submitted via mail, fax (518-402-4212) or email (epayments@osc.state.ny.us).

### Part III: Vendor Certification

**Authorized Vendor Contact Signature (Required):** The signature of the contact person at the vendor submitting the request. This should be someone who can make financial and/or legal decisions for the entity or the Vendor's Primary Contact on their NYS Vendor Record.

**Vendor Contact Name (Required):** Print the name of the contact person at the vendor. This should be someone who can make financial and/or legal decisions for the entity or the Vendor's Primary Contact on their Vendor Record.

**Title (Required):** Contact's title

**Email Address (Required):** Contact's email address

**Phone Number (Required):** Contact's phone number

### Part IV: Financial Institution Information

**Name of Financial Institution (Required):** Name of the bank that the account is with.

**Type of Account:** Savings or Checking Account

**Bank Routing Number/ABA# (Required):** Nine-digit number identifying the financial institution the account belongs to.

**Account Number (Required):** Vendor's Bank Account Number

### Part V: Financial Institution Certification

**Institution Officer Signature (Required):** Signature of the Institution Officer at the bank certifying the banking information provided on this form.

**Institution Officer Name (Required):** Name of the Institution Officer at the bank completing this section of the form.

**Title (Required):** Institution Officer's title

**Phone Number (Required):** Institution Officer's phone number

**Email Address (Required):** Institution Officer's email address



Department of Taxation and Finance

# Contractor Certification

(Pursuant to Tax Law Section 5-a, as amended,  
effective April 26, 2006)

# ST-220-TD

(4/15)

For information, consult Publication 223, *Questions and Answers Concerning Tax Law Section 5-a* (see *Need help?* below).

|  |   |  |                |
|--|---|--|----------------|
| Contractor name  |   |  |                |
| Contractor's principal place of business   |   | City                                   | State ZIP code |
| Contractor's mailing address (if different than above)   |   | City                                   | State ZIP code |
| Contractor's federal employer identification number (EIN)  | Contractor's sales tax ID number (if different from contractor's EIN) | Contractor's telephone number<br>( )   |                |
| Covered agency or state agency   | Contract number or description  | Covered agency telephone number<br>( ) |                |
| Covered agency address   | City  | State                                  | ZIP code       |
| Is the estimated contract value over the full term of the contract (but not including renewals) more than \$100,000? |   |  |                |
| Yes <input type="checkbox"/> No <input type="checkbox"/> Unknown at this time <input type="checkbox"/>               |   |  |                |

## General information

Tax Law section 5-a, as amended, effective April 26, 2006, requires certain contractors awarded certain state contracts valued at more than \$100,000 to certify to the Tax Department that they are registered to collect New York State and local sales and compensating use taxes, if they made sales delivered by any means to locations within New York State of tangible personal property or taxable services having a cumulative value in excess of \$300,000, measured over a specified period. In addition, contractors must certify to the Tax Department that each affiliate and subcontractor exceeding such sales threshold during a specified period is registered to collect New York State and local sales and compensating use taxes. Contractors must also file Form ST-220-CA, *Contractor Certification to Covered Agency*, certifying to the procuring state entity that they filed Form ST-220-TD with the Tax Department and that the information contained on Form ST-220-TD is correct and complete as of the date they file Form ST-220-CA.

All sections must be completed including all fields on the top of this page, all sections on page 2, Schedule A on page 3, if applicable, and *Individual, Corporation, Partnership, or LLC Acknowledgement* on page 4. If you do not complete these areas, the form will be returned to you for completion.

For more detailed information regarding this form and Tax Law section 5-a, see Publication 223, *Questions and Answers Concerning Tax Law Section 5-a, (as amended, effective April 26, 2006)*. See *Need help?* for more information on how to obtain this publication.

**Note:** Form ST-220-TD must be signed by a person authorized to make the certification on behalf of the contractor, and the acknowledgement on page 4 of this form must be completed before a notary public.

Mail completed form to:

**NYS TAX DEPARTMENT  
DATA ENTRY SECTION  
W A HARRIMAN CAMPUS  
ALBANY NY 12227-0826**

## Privacy notification

New York State Law requires all government agencies that maintain a system of records to provide notification of the legal authority for any request, the principal purpose(s) for which the information is to be collected, and where it will be maintained. To view this information, visit our Web site, or, if you do not have Internet access, call and request Publication 54, *Privacy Notification*. See *Need help?* for the Web address and telephone number.

## Need help?



Visit our Web site at **[www.tax.ny.gov](http://www.tax.ny.gov)**

- get information and manage your taxes online
- check for new online services and features



### Telephone assistance

**Sales Tax** Information Center: (518) 485-2889

To order forms and publications: (518) 457-5431

**Text Telephone (TTY) Hotline** (for persons with hearing and speech disabilities using a TTY): (518) 485-5082



**Persons with disabilities:** In compliance with the Americans with Disabilities Act, we will ensure that our lobbies, offices, meeting rooms, and other facilities are accessible to persons with disabilities. If you have questions about special accommodations for persons with disabilities, call the information center.

I, \_\_\_\_\_, hereby affirm, under penalty of perjury, that I am \_\_\_\_\_  
(name) (title)  
of the above-named contractor, and that I am authorized to make this certification on behalf of such contractor.

**Complete Sections 1, 2, and 3 below. Make only one entry in each section.**

**Section 1 – Contractor registration status**

- The contractor has made sales delivered by any means to locations within New York State of tangible personal property or taxable services having a cumulative value in excess of \$300,000 during the four sales tax quarters which immediately precede the sales tax quarter in which this certification is made. The contractor is registered to collect New York State and local sales and compensating use taxes with the Commissioner of Taxation and Finance pursuant to Tax Law sections 1134 and 1253, and is listed on Schedule A of this certification.
- The contractor has not made sales delivered by any means to locations within New York State of tangible personal property or taxable services having a cumulative value in excess of \$300,000 during the four sales tax quarters which immediately precede the sales tax quarter in which this certification is made.

**Section 2 – Affiliate registration status**

- The contractor does not have any affiliates.
- To the best of the contractor's knowledge, the contractor has one or more affiliates having made sales delivered by any means to locations within New York State of tangible personal property or taxable services having a cumulative value in excess of \$300,000 during the four sales tax quarters which immediately precede the sales tax quarter in which this certification is made, and each affiliate exceeding the \$300,000 cumulative sales threshold during such quarters is registered to collect New York State and local sales and compensating use taxes with the Commissioner of Taxation and Finance pursuant to Tax Law sections 1134 and 1253. The contractor has listed each affiliate exceeding the \$300,000 cumulative sales threshold during such quarters on Schedule A of this certification.
- To the best of the contractor's knowledge, the contractor has one or more affiliates, and each affiliate has not made sales delivered by any means to locations within New York State of tangible personal property or taxable services having a cumulative value in excess of \$300,000 during the four sales tax quarters which immediately precede the sales tax quarter in which this certification is made.

**Section 3 – Subcontractor registration status**

- The contractor does not have any subcontractors.
- To the best of the contractor's knowledge, the contractor has one or more subcontractors having made sales delivered by any means to locations within New York State of tangible personal property or taxable services having a cumulative value in excess of \$300,000 during the four sales tax quarters which immediately precede the sales tax quarter in which this certification is made, and each subcontractor exceeding the \$300,000 cumulative sales threshold during such quarters is registered to collect New York State and local sales and compensating use taxes with the Commissioner of Taxation and Finance pursuant to Tax Law sections 1134 and 1253. The contractor has listed each subcontractor exceeding the \$300,000 cumulative sales threshold during such quarters on Schedule A of this certification.
- To the best of the contractor's knowledge, the contractor has one or more subcontractors, and each subcontractor has not made sales delivered by any means to locations within New York State of tangible personal property or taxable services having a cumulative value in excess of \$300,000 during the four sales tax quarters which immediately precede the sales tax quarter in which this certification is made.

Sworn to this \_\_\_\_ day of \_\_\_\_\_, 20 \_\_\_\_

\_\_\_\_\_  
(sign before a notary public)

\_\_\_\_\_  
(title)

**Schedule A – Listing of each entity (contractor, affiliate, or subcontractor) exceeding \$300,000 cumulative sales threshold**

List the contractor, or affiliate, or subcontractor in Schedule A only if such entity exceeded the \$300,000 cumulative sales threshold during the specified sales tax quarters. See directions below. For more information, see Publication 223.

| A<br>Relationship<br>to<br>contractor | B<br>Name | C<br>Address | D<br>Federal ID number | E<br>Sales tax ID number | F<br>Registration<br>in progress |
|---------------------------------------|-----------|--------------|------------------------|--------------------------|----------------------------------|
|                                       |           |              |                        |                          |                                  |
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|                                       |           |              |                        |                          |                                  |
|                                       |           |              |                        |                          |                                  |

- Column A – Enter **C** in column A if the contractor; **A** if an affiliate of the contractor; or **S** if a subcontractor.
- Column B – Name - If the entity is a corporation or limited liability company, enter the exact legal name as registered with the NY Department of State, if applicable. If the entity is a partnership or sole proprietor, enter the name of the partnership and each partner’s given name, or the given name(s) of the owner(s), as applicable. If the entity has a different DBA (doing business as) name, enter that name as well.
- Column C – Address - Enter the street address of the entity’s principal place of business. Do not enter a PO box.
- Column D – ID number - Enter the federal employer identification number (EIN) assigned to the entity. If the entity is an individual, enter the social security number of that person.
- Column E – Sales tax ID number - Enter only if different from federal EIN in column D.
- Column F – If applicable, enter an X if the entity has submitted Form DTF-17 to the Tax Department but has not received its certificate of authority as of the date of this certification.





# Contractor Certification to Covered Agency

(Pursuant to Section 5-a of the Tax Law, as amended, effective April 26, 2006)

# ST-220-CA

(12/11)

For information, consult Publication 223, *Questions and Answers Concerning Tax Law Section 5-a* (see *Need Help?* on back).

|   |  |  |                                |
|---|--|--|--------------------------------|
| Contractor name   |  | For covered agency use only  |                                |
| Contractor's principal place of business                  |  | City   | State                          |
| Contractor's mailing address (if different than above)    |  | ZIP code   | Contract number or description |
| Contractor's federal employer identification number (EIN) |  | Contractor's sales tax ID number (if different from contractor's EIN)                |                                |
| Contractor's telephone number                             |  | Covered agency name  |                                |
| Covered agency address                                    |  | Covered agency telephone number  |                                |
|   |  | Estimated contract value over the full term of contract (but not including renewals) |                                |
|   |  | \$   |                                |

I, \_\_\_\_\_, hereby affirm, under penalty of perjury, that I am \_\_\_\_\_

(name)

(title)

of the above-named contractor, that I am authorized to make this certification on behalf of such contractor, and I further certify that:

(Mark an X in only one box)

The contractor has filed Form ST-220-TD with the Department of Taxation and Finance in connection with this contract and, to the best of contractor's knowledge, the information provided on the Form ST-220-TD, is correct and complete.

The contractor has previously filed Form ST-220-TD with the Tax Department in connection with \_\_\_\_\_

(insert contract number or description)

and, to the best of the contractor's knowledge, the information provided on that previously filed Form ST-220-TD, is correct and complete as of the current date, and thus the contractor is not required to file a new Form ST-220-TD at this time.

Sworn to this \_\_\_\_ day of \_\_\_\_\_, 20 \_\_\_\_

(sign before a notary public)

(title)

## Instructions

### General information

Tax Law section 5-a was amended, effective April 26, 2006. On or after that date, in all cases where a contract is subject to Tax Law section 5-a, a contractor must file (1) Form ST-220-CA, *Contractor Certification to Covered Agency*, with a covered agency, and (2) Form ST-220-TD with the Tax Department before a contract may take effect. The circumstances when a contract is subject to section 5-a are listed in Publication 223, Q&A 3. See *Need help?* for more information on how to obtain this publication. In addition, a contractor must file a new Form ST-220-CA with a covered agency before an existing contract with such agency may be renewed.

**Note:** Form ST-220-CA must be signed by a person authorized to make the certification on behalf of the contractor, and the acknowledgement on page 2 of this form must be completed before a notary public.

### When to complete this form

As set forth in Publication 223, a contract is subject to section 5-a, and you must make the required certification(s), if:

- i. The procuring entity is a *covered agency* within the meaning of the statute (see Publication 223, Q&A 5);
- ii. The contractor is a *contractor* within the meaning of the statute (see Publication 223, Q&A 6); and
- iii. The contract is a *contract* within the meaning of the statute. This is the case when it (a) has a value in excess of \$100,000 and (b) is a contract for *commodities* or *services*, as such terms are defined for purposes of the statute (see Publication 223, Q&A 8 and 9).

Furthermore, the procuring entity must have begun the solicitation to purchase on or after January 1, 2005, and the resulting contract must have been awarded, amended, extended, renewed, or assigned *on or after April 26, 2006* (the effective date of the section 5-a amendments).

Individual, Corporation, Partnership, or LLC Acknowledgment

STATE OF }
: SS.:
COUNTY OF }

On the \_\_\_ day of \_\_\_\_\_ in the year 20\_\_\_, before me personally appeared \_\_\_\_\_, known to me to be the person who executed the foregoing instrument, who, being duly sworn by me did depose and say that \_he resides at \_\_\_\_\_,

Town of \_\_\_\_\_,

County of \_\_\_\_\_,

State of \_\_\_\_\_; and further that:

[Mark an X in the appropriate box and complete the accompanying statement.]

- (If an individual): \_he executed the foregoing instrument in his/her name and on his/her own behalf.
(If a corporation): \_he is the \_\_\_\_\_ of \_\_\_\_\_, the corporation described in said instrument; that, by authority of the Board of Directors of said corporation, \_he is authorized to execute the foregoing instrument on behalf of the corporation for purposes set forth therein; and that, pursuant to that authority, \_he executed the foregoing instrument in the name of and on behalf of said corporation as the act and deed of said corporation.
(If a partnership): \_he is a \_\_\_\_\_ of \_\_\_\_\_, the partnership described in said instrument; that, by the terms of said partnership, \_he is authorized to execute the foregoing instrument on behalf of the partnership for purposes set forth therein; and that, pursuant to that authority, \_he executed the foregoing instrument in the name of and on behalf of said partnership as the act and deed of said partnership.
(If a limited liability company): \_he is a duly authorized member of \_\_\_\_\_, LLC, the limited liability company described in said instrument; that \_he is authorized to execute the foregoing instrument on behalf of the limited liability company for purposes set forth therein; and that, pursuant to that authority, \_he executed the foregoing instrument in the name of and on behalf of said limited liability company as the act and deed of said limited liability company.

Notary Public

Registration No.

Privacy notification

The Commissioner of Taxation and Finance may collect and maintain personal information pursuant to the New York State Tax Law, including but not limited to, sections 5-a, 171, 171-a, 287, 308, 429, 475, 505, 697, 1096, 1142, and 1415 of that Law; and may require disclosure of social security numbers pursuant to 42 USC 405(c)(2)(C)(i).

This information will be used to determine and administer tax liabilities and, when authorized by law, for certain tax offset and exchange of tax information programs as well as for any other lawful purpose.

Information concerning quarterly wages paid to employees is provided to certain state agencies for purposes of fraud prevention, support enforcement, evaluation of the effectiveness of certain employment and training programs and other purposes authorized by law.

Failure to provide the required information may subject you to civil or criminal penalties, or both, under the Tax Law.

This information is maintained by the Manager of Document Management, NYS Tax Department, W A Harriman Campus, Albany NY 12227; telephone (518) 457-5181.

Need help?



- Visit our Web site at www.tax.ny.gov
• get information and manage your taxes online
• check for new online services and features



Telephone assistance

Sales Tax Information Center: (518) 485-2889
To order forms and publications: (518) 457-5431

Text Telephone (TTY) Hotline (for persons with hearing and speech disabilities using a TTY): (518) 485-5082



Persons with disabilities: In compliance with the Americans with Disabilities Act, we will ensure that our lobbies, offices, meeting rooms, and other facilities are accessible to persons with disabilities. If you have questions about special accommodations for persons with disabilities, call the information center.

## ENCOURAGING USE OF NEW YORK STATE BUSINESSES IN CONTRACT PERFORMANCE

New York State businesses have a substantial presence in State contracts and strongly contribute to the economies of the state and the nation. In recognition of their economic activity and leadership in doing business in New York State, bidders/proposers for this contract for commodities, services or technology are strongly encouraged and expected to consider New York State businesses in the fulfillment of the requirements of the contract. Such partnering may be as subcontractors, suppliers, protégés or other supporting roles.

Bidders/proposers need to be aware that all authorized users of this contract will be strongly encouraged, to the maximum extent practical and consistent with legal requirements, to use responsible and responsive New York State businesses in purchasing commodities that are of equal quality and functionality and in utilizing services and technology. Furthermore, bidders/proposers are reminded that they must continue to utilize small, minority and women-owned businesses, consistent with current State law.

Utilizing New York State businesses in State contracts will help create more private sector jobs, rebuild New York's infrastructure, and maximize economic activity to the mutual benefit of the contractor and its New York State business partners. New York State businesses will promote the contractor's optimal performance under the contract, thereby fully benefiting the public sector programs that are supported by associated procurements.

Public procurements can drive and improve the State's economic engine through promotion of the use of New York businesses by its contractors. The State therefore expects bidders/proposers to provide maximum assistance to New York businesses in their use of the contract. The potential participation by all kinds of New York businesses will deliver great value to the State and its taxpayers.

Bidders/proposers can demonstrate their commitment to the use of New York State businesses by responding to the question below:

Will New York State Businesses be used in the performance of this contract? \_\_\_\_\_  
Yes No

If yes, identify New York State businesses that will be used and attach identifying information.

Firm Name: \_\_\_\_\_

Signature \_\_\_\_\_ Date: \_\_\_\_\_



## **APPENDIX J**

### **EEO and MWBE Program**

**J: Contractor Requirements and Procedures for Business Participation Opportunities for EEO and MWBE Program**

**J-1: Work Force Employment Utilization Report Instructions**

**J-2: Work Force Employment Staffing Plan**

**J-3: Work Force Employment Periodic Report**

**J-4: MWBE Utilization Plan Form**

**J-5: MWBE Quarterly Subcontracting/Supplier Activity Report**

**J-6: MWBE Quarterly Subcontracting/Supplier Activity Report Business Information Report**

**J-7: MWBE Request for Waiver Form**

## **PARTICIPATION BY MINORITY AND WOMEN-OWNED BUSINESS ENTERPRISES: REQUIREMENTS AND PROCEDURES**

### **I. General Provisions**

- A. The New York State Gaming Commission (the “Commission”) is required to implement the provisions of New York State Executive Law Article 15-A and Parts 140-145 of Title 5 of the New York Codes, Rules and Regulations (“NYCRR”) for all State contracts, as defined therein, with a value (1) in excess of \$25,000 for labor, services, equipment, materials, or any combination of the foregoing or (2) in excess of \$100,000 for real property renovations and construction.
- B. The contractor to the subject contract (the “Contractor” and the “Contract,” respectively) agrees, in addition to any other nondiscrimination provision of the Contract and at no additional cost to the Commission, to fully comply and cooperate with the Commission in the implementation of New York State Executive Law Article 15-A and the regulations promulgated thereunder. These requirements include equal employment opportunities for minority group members and women (“EEO”) and contracting opportunities for New York State-certified minority and women-owned business enterprises (“MWBEs”). The Contractor’s demonstration of “good faith efforts” pursuant to 5 NYCRR § 142.8 shall be a part of these requirements. These provisions shall be deemed supplementary to, and not in lieu of, the nondiscrimination provisions required by New York State Executive Law Article 15 (the “Human Rights Law”) and other applicable federal, state, and local laws.
- C. Failure to comply with all of the requirements herein may result in a finding of non-responsiveness, non-responsibility and/or a breach of contract, leading to the assessment of liquidated damages pursuant to Section VII of this Appendix and such other remedies are available to the Commission pursuant to the Contract and applicable law.

### **II. Contract Goals**

For purposes of this solicitation, the Commission hereby establishes an overall goal of **30%** for MWBE participation, based on the current availability of qualified MBEs and WBEs.

- A. For purposes of providing meaningful participation by MWBEs on the Contract and achieving the MWBE Contract Goals established in Section II-A hereof, the Contractor should reference the directory of MWBEs at the following internet address: <https://ny.newnycontracts.com>.

Additionally, the Contractor is encouraged to contact the Division of Minority and Women’s Business Development at (212) 803-2414 to discuss additional methods of maximizing participation by MWBEs on the Contract.

- B. The Contractor understands that only sums paid to MWBEs for the performance of a commercially useful function, as that term is defined in 5 NYCRR § 140.1, may be

applied towards the achievement of the applicable MWBE participation goal. The portion of a contract with an MWBE serving as a broker that shall be deemed to represent the commercially useful function performed by the MWBE shall be 25percent of the total value of the contract.

- C. The Contractor must document “good faith efforts,” pursuant to 5 NYCRR § 142.8, to provide meaningful participation by MWBEs as subcontractors and suppliers in the performance of the Contract. Such documentation shall include, but not necessarily be limited to:
1. Evidence of outreach to MWBEs;
  2. Any responses by MWBEs to the Contractor’s outreach;
  3. Copies of advertisements for participation by MWBEs in appropriate general circulation, trade, and minority or women-oriented publications;
  4. The dates of attendance at any pre-bid, pre-award, or other meetings, if any, scheduled by the Commission with MWBEs; and,
  5. Information describing specific steps undertaken by the Contractor to reasonably structure the Contract scope of work to maximize opportunities for MWBE participation.

### **III. Equal Employment Opportunity (“EEO”)**

- A. The provisions of Article 15-A of the Executive Law and the rules and regulations promulgated thereunder pertaining to equal employment opportunities for minority group members and women shall apply to the Contract.
- B. In performing the Contract, the Contractor shall:
1. Ensure that each contractor and subcontractor performing work on the Contract shall undertake or continue existing EEO programs to ensure that minority group members and women are afforded equal employment opportunities without discrimination because of race, creed, color, national origin, sex, age, disability or marital status. For these purposes, EEO shall apply in the areas of recruitment, employment, job assignment, promotion, upgrading, demotion, transfer, layoff, or termination and rates of pay or other forms of compensation.
  2. The Contractor shall submit an EEO policy statement to the Commission within seventy-two (72) hours after the date of the notice by the Commission to award the Contract to the Contractor.
  3. If the Contractor, or any of its subcontractors, does not have an existing EEO policy statement, the Commission may require the Contractor or subcontractor to adopt a model statement (see Form – Equal Employment Opportunity Policy Statement).
  4. The Contractor’s EEO policy statement shall include the following language:
    - a. The Contractor will not discriminate against any employee or applicant for employment because of race, creed, color, national origin, sex, age, disability, or marital status, will undertake or continue existing EEO programs to ensure that

minority group members and women are afforded equal employment opportunities without discrimination, and shall make and document its conscientious and active efforts to employ and utilize minority group members and women in its work force.

- b. The Contractor shall state in all solicitations or advertisements for employees that, in the performance of the contract, all qualified applicants will be afforded equal employment opportunities without discrimination because of race, creed, color, national origin, sex, age, disability or marital status.
- c. The Contractor shall request each employment agency, labor union, or authorized representative of workers with which it has a collective bargaining or other agreement or understanding, to furnish a written statement that such employment agency, labor union, or representative will not discriminate on the basis of race, creed, color, national origin, sex age, disability or marital status and that such union or representative will affirmatively cooperate in the implementation of the Contractor's obligations herein.
- d. The Contractor will include the provisions of Subdivisions (a) through (c) of this Subsection 4 and Paragraph "E" of this Section III, which provides for relevant provisions of the Human Rights Law, in every subcontract in such a manner that the requirements of the subdivisions will be binding upon each subcontractor as to work in connection with the Contract.

#### C. Form J-2- Staffing Plan

To ensure compliance with this Section, the Contractor shall submit a staffing plan to document the composition of the proposed workforce to be utilized in the performance of the Contract by the specified categories listed, including ethnic background, gender, and Federal occupational categories. The Contractor shall complete the staffing plan form and submit it as part of their bid or proposal or within a reasonable time, as directed by the Commission.

#### D. Form J-3 - Workforce Utilization Report

1. The Contractor shall submit a Workforce Utilization Report, and shall require each of its subcontractors to submit a Workforce Utilization Report, in such form as shall be required by the Commission on a quarterly basis during the term of the Contract.
2. Separate forms shall be completed by the Contractor and any subcontractors.

- E. The Contractor shall comply with the provisions of the Human Rights Law, and all other State and Federal statutory and constitutional non-discrimination provisions. The Contractor and its subcontractors shall not discriminate against any employee or applicant for employment because of race, creed (religion), color, sex, national origin, sexual orientation, military status, age, disability, predisposing genetic characteristic, marital status or domestic violence victim status, and shall also follow the requirements of the Human Rights Law with regard to non-discrimination on the basis of prior criminal conviction and prior arrest.

#### **IV. MWBE Utilization Plan**

- A. The Contractor represents and warrants that the Contractor has submitted an MWBE Utilization Plan, or shall submit an MWBE Utilization Plan at such time as shall be required by the Commission, through the New York State Contract System (“NYSCS”), which can be viewed at <https://ny.newnycontracts.com>, provided, however, that the Contractor may arrange to provide such evidence via a non-electronic method to the Commission, either prior to, or at the time of, the execution of the contract.
- B. The Contractor agrees to adhere to such MWBE Utilization Plan in the performance of the Contract.
- C. The Contractor further agrees that failure to submit and/or adhere to such MWBE Utilization Plan shall constitute a material breach of the terms of the Contract. Upon the occurrence of such a material breach, the Commission shall be entitled to any remedy provided herein, including but not limited to, a finding that the Contractor is non-responsive.

#### **V. Waivers**

- A. If the Contractor, after making good faith efforts, is unable to achieve the MWBE Contract Goals stated herein, the Contractor may submit a request for a waiver through the NYSCS, or a non-electronic method provided by the Commission. Such waiver request must be supported by evidence of the Contractor’s good faith efforts to achieve the maximum feasible MWBE participation towards the applicable MWBE Contract Goals. If the documentation included with the waiver request is complete, the Commission shall evaluate the request and issue a written notice of approval or denial within twenty (20) business days of receipt.
- B. If the Commission, upon review of the MWBE Utilization Plan, quarterly MWBE Contractor Compliance Reports described in Section VI, or any other relevant information, determines that the Contractor is failing or refusing to comply with the MWBE Contract Goals, and no waiver has been issued in regards to such non-compliance, the Commission may issue a notice of deficiency to the Contractor. The Contractor must respond to the notice of deficiency within seven (7) business days of receipt. Such response may include a request for partial or total waiver of MWBE Contract Goals.

#### **VI. Quarterly MWBE Contractor Compliance Report**

The Contractor is required to submit a quarterly MWBE Contractor Compliance Report through the NYSCS, provided, however, that the Contractor may arrange to provide such report via a non-electronic method to the Commission by the 10<sup>th</sup> day following the end of each quarter during the term of the Contract.

#### **VII. Liquidated Damages - MWBE Participation**

- A. Where the Commission determines that the Contractor is not in compliance with the requirements of this Appendix and the Contractor refuses to comply with such requirements, or if the Contractor is found to have willfully and intentionally failed to comply with the MWBE participation goals, the Contractor shall be obligated to pay to the Commission liquidated damages.
- B. Such liquidated damages shall be calculated as an amount equaling the difference between:
  - 1. All sums identified for payment to MWBEs had the Contractor achieved the contractual MWBE goals; and
  - 2. All sums actually paid to MWBEs for work performed or materials supplied under the Contract.
- C. In the event a determination has been made which requires the payment of liquidated damages and such identified sums have not been withheld by the Commission, the Contractor shall pay such liquidated damages to the Commission within sixty (60) days after they are assessed. Provided, however, that if the Contractor has filed a complaint with the Director of the Division of Minority and Women's Business Development pursuant to 5 NYCRR § 142.12, liquidated damages shall be payable only in the event of a determination adverse to the Contractor following the complaint process.

**MINORITY AND WOMEN-OWNED BUSINESS ENTERPRISES – EQUAL  
EMPLOYMENT OPPORTUNITY POLICY STATEMENT**

**M/WBE AND EEO POLICY STATEMENT**

I, \_\_\_\_\_, the (awardee/contractor) \_\_\_\_\_ agree to adopt the following policies with respect to the project being developed or services rendered at \_\_\_\_\_

**M/WBE**

**EEO**

This organization will and will cause its contractors and subcontractors to take good faith actions to achieve the M/WBE contract participations goals set by the State for that area in which the State-funded project is located, by taking the following steps:

- (1) Actively and affirmatively solicit bids for contracts and subcontracts from qualified State certified MBEs or WBEs, including solicitations to M/WBE contractor associations.
- (2) Request a list of State-certified M/WBEs from the Commission and solicit bids from them directly.
- (3) Ensure that plans, specifications, request for proposals and other documents used to secure bids will be made available in sufficient time for review by prospective M/WBEs.
- (4) Where feasible, divide the work into smaller portions to enhanced participations by M/WBEs and encourage the formation of joint venture and other partnerships among M/WBE contractors to enhance their participation.
- (5) Document and maintain records of bid solicitation, including those to M/WBEs and the results thereof. The Contractor will also maintain records of actions that its subcontractors have taken toward meeting M/WBE contract participation goals.
- (6) Ensure that progress payments to M/WBEs are made on a timely basis so that undue financial hardship is avoided, and that, if legally permissible, bonding and other credit requirements are waived or appropriate alternatives developed to encourage M/WBE participation.

- (a) This organization will not discriminate against any employee or applicant for employment because of race, creed, color, national origin, sex, age, disability or marital status, will undertake or continue existing programs of affirmative action to ensure that minority group members are afforded equal employment opportunities without discrimination, and shall make and document its conscientious and active efforts to employ and utilize minority group members and women in its work force on state contracts.
- (b) This organization shall state in all solicitation or advertisements for employees that in the performance of the State contract all qualified applicants will be afforded equal employment opportunities without discrimination because of race, creed, color, national origin, sex disability or marital status.
- (c) At the request of the contracting agency, this organization shall request each employment agency, labor union, or authorized representative will not discriminate on the basis of race, creed, color, national origin, sex, age, disability or marital status and that such union or representative will affirmatively cooperate in the implementation of this organization's obligations herein.
- (d) The Contractor shall comply with the provisions of the Human Rights Law, all other State and Federal statutory and constitutional non-discrimination provisions. The Contractor and subcontractors shall not discriminate against any employee or applicant for employment because of race, creed (religion), color, sex, national origin, sexual orientation, military status, age, disability, predisposing genetic characteristic, marital status or domestic violence victim status, and shall also follow the requirements of the Human Rights Law with regard to non-discrimination on the basis of prior criminal conviction and prior arrest.
- (e) This organization will include the provisions of sections (a) through (d) of this agreement in every subcontract in such a manner that the requirements of the subdivisions will be binding upon each subcontractor as to work in connection with the State contract

Agreed to this \_\_\_\_\_ day of \_\_\_\_\_, 2\_\_\_\_\_

By \_\_\_\_\_

Print: \_\_\_\_\_ Title: \_\_\_\_\_

\_\_\_\_\_ is designated as the Minority Business Enterprise Liaison

(Name of Designated Liaison)

responsible for administering the Minority and Women-Owned Business Enterprises- Equal Employment Opportunity (M/WBE-EEO) program.

**M/WBE Contract Goals**

\_\_\_30%\_\_percent Minority and Women's Business Enterprise Participation

\_\_\_\_\_percent Minority Business Enterprise Participation

\_\_\_\_\_percent Women's Business Enterprise Participation

\_\_\_\_\_

Authorized Representative

Title: \_\_\_\_\_

Date: \_\_\_\_\_



### **Instructions for Submitting the Workforce Utilization Report**

The Workforce Utilization Report (“Report”) is to be submitted on a monthly basis for construction contracts, and a quarterly basis for all other contracts, during the life of the contract to report the actual workforce utilized in the performance of the contract broken down by job title. When the workforce utilized in the performance of the contract can be separated out from the contractor’s and/or subcontractor’s total workforce, the contractor and/or subcontractor shall submit a Report of the workforce utilized on the contract. When the workforce to be utilized on the contract cannot be separated out from the contractor’s and/or subcontractor’s total workforce, information on the contractor’s and/or subcontractor’s total workforce may be included in the Report.

Reports are to be submitted electronically, using the provided Report worksheet, to [Michele.June@gaming.ny.gov](mailto:Michele.June@gaming.ny.gov) within ten (10) days following the end of each month or quarter, whichever is applicable.

### **Instructions for Completing the Workforce Utilization Report**

1. **REPORTING ENTITY:** Check off the appropriate box to indicate if the entity completing the Report is the contractor or a subcontractor.
2. **FEDERAL EMPLOYER IDENTIFICATION NUMBER:** Enter the Federal Employer Identification Number (FEIN) assigned by the IRS. Contractors utilizing their social security number in lieu of an FEIN should leave this field blank.
3. **CONTRACTOR NAME and CONTRACTOR ADDRESS:** Enter the primary business address for the entity completing the Report.
4. **CONTRACT NUMBER:** Enter the number of the contract to which the Report applies.
5. **REPORTING PERIOD:** Check off the box that corresponds to the applicable quarterly or monthly reporting period for this Report. Only select one box.
6. **WORKFORCE IDENTIFIED IN REPORT:** Check off the appropriate box to indicate if the workforce being reported is just for the contract or the contractor’s or subcontractor’s total workforce.
7. **OCCUPATION CLASSIFICATIONS and SOC JOB TITLE:** Select the occupation classification and job title that best describes each group of employees performing work on the state contract under columns A and B.
8. **EEO JOB TITLE and SOC CODE:** These fields will populate automatically based upon the Occupation Classifications and SOC Job Titles selected. Do not modify the results generated in these fields.
9. **NUMBER OF EMPLOYEES and NUMBER OF HOURS:** Enter the number of employees and total number of hours worked by such employees for each job title under the columns corresponding to the gender and racial/ethnic groups with which the employees most closely identify.
10. **TOTAL COMPENSATION:** Enter the total compensation paid to all employees for each job code, and each gender and racial/ethnic group, identified in the Report. Contractors and subcontractors should report only compensation for work on the contract paid to employees during the period covered by the Report. Compensation should include only sums which must be reported in Box 1 of IRS Form W2.
11. **PREPARER’S INFORMATION:** Enter the name and title for the person completing the form, enter the date upon which the Report was completed, and check the box accepting the name entered into the Report as the digital signature of the preparer.

### **Race/Ethnic Identification**

Race/ethnic designations do not denote scientific definitions of anthropological origins. For the purposes of this Report, an employee must be included in the group with which he or she most closely identifies. No person may be counted in more than one race/ethnic group. In determining an employee's race or ethnicity, a contractor may rely upon an employee's self-identification, employment records, or, in cases where an employee refuses to identify his or her race or identity, observer identification. The race/ethnic categories for this Report are:

- **WHITE** (Not of Hispanic origin) All persons having origins in any of the original peoples of Europe, North Africa, or the Middle East.
- **BLACK/AFRICAN AMERICAN** a person, not of Hispanic origin, who has origins in any of the black racial groups of the original peoples of Africa.
- **HISPANIC/LATINO** a person of Mexican, Puerto Rican, Cuban, Central or South American or other Spanish culture or origin, regardless of race.
- **ASIAN, NATIVE HAWAIIAN OR OTHER PACIFIC ISLANDER** a person having origins in any of the original peoples of the Far East, Southeast Asia, the Indian subcontinent or the Pacific Islands.
- **NATIVE AMERICAN/ALASKAN NATIVE** a person having origins in any of the original peoples of North America, and who maintains cultural identification through tribal affiliation or community recognition.

### **Resources**

If you have questions regarding these requirements, are unsure of the appropriate job titles to include in your Report, or otherwise require assistance in preparing or submitting the Report, please contact [Michele.June@gaming.ny.gov](mailto:Michele.June@gaming.ny.gov), 518-388-2134.

**WORK FORCE EMPLOYMENT STAFFING PLAN**

Project/RFP Title \_\_\_\_\_ Location of Contract \_\_\_\_\_  
 Contractor/Firm Name \_\_\_\_\_ Address \_\_\_\_\_  
 County \_\_\_\_\_ Zip \_\_\_\_\_  
 State \_\_\_\_\_ Zip \_\_\_\_\_

Check applicable categories (1) Staff Estimates include: Contract/Project Staff \_\_\_ Total Work Force \_\_\_ Subcontractors \_\_\_  
 (2) Type of Contract: Construction Consultants \_\_\_ Commodities \_\_\_ Services/Consultants \_\_\_

| Total Anticipated Work Force  |                           |      |                                |      |          |      |                           |      |                                 |      | Total Percent Minority Employees | Total Percent Female Employees |  |
|-------------------------------|---------------------------|------|--------------------------------|------|----------|------|---------------------------|------|---------------------------------|------|----------------------------------|--------------------------------|--|
| Federal Occupational Category | Total Number of Employees |      | Black (Not of Hispanic Origin) |      | Hispanic |      | Asian or Pacific Islander |      | Native American/ Alaskan Native |      |                                  |                                |  |
|                               |                           | Male | Female                         | Male | Female   | Male | Female                    | Male | Female                          | Male | Female                           |                                |  |
| Officials/Admin               |                           |      |                                |      |          |      |                           |      |                                 |      |                                  |                                |  |
| Professionals                 |                           |      |                                |      |          |      |                           |      |                                 |      |                                  |                                |  |
| Technicians                   |                           |      |                                |      |          |      |                           |      |                                 |      |                                  |                                |  |
| Sales Workers                 |                           |      |                                |      |          |      |                           |      |                                 |      |                                  |                                |  |
| Office & Clerical             |                           |      |                                |      |          |      |                           |      |                                 |      |                                  |                                |  |
| Craft Workers                 |                           |      |                                |      |          |      |                           |      |                                 |      |                                  |                                |  |
| Operatives                    |                           |      |                                |      |          |      |                           |      |                                 |      |                                  |                                |  |
| Laborers                      |                           |      |                                |      |          |      |                           |      |                                 |      |                                  |                                |  |
| Service Workers               |                           |      |                                |      |          |      |                           |      |                                 |      |                                  |                                |  |
| <b>TOTALS</b>                 |                           |      |                                |      |          |      |                           |      |                                 |      |                                  |                                |  |

Company Official's Name \_\_\_\_\_ Title \_\_\_\_\_  
 Company Official's Signature \_\_\_\_\_ Date \_\_\_\_\_  
 Telephone Number \_\_\_\_\_



# EEO-1 JOB CLASSIFICATION GUIDE, 2014

## (Effective beginning with the 2014 EEO-1 survey)

| EEO-1 Job Group          | Job Title/Description of Standard Occupational Classification (SOC) | Six-Level SOC Job Code | Four-Digit Census Code |
|--------------------------|---|------------------------|------------------------|
| Exec/Senior Offs & Mgrs. | Chief Executives *** (See Details in Bottom Note)                   | 11-1011                | 0010                   |
| First/Mid Offs & Mgrs.   | General and Operations Managers                                     | 11-1021                | 0020                   |
| First/Mid Offs & Mgrs.   | Advertising and Promotions Managers                                 | 11-2011                | 0040                   |
| First/Mid Offs & Mgrs.   | Marketing Managers  | 11-2021                | 0050                   |
| First/Mid Offs & Mgrs.   | Sales Managers  | 11-2022                | 0050                   |
| First/Mid Offs & Mgrs.   | Public Relations and Fundraising Managers                           | 11-2031                | 0060                   |
| First/Mid Offs & Mgrs.   | Administrative Services Managers                                    | 11-3011                | 0100                   |
| First/Mid Offs & Mgrs.   | Computer and Information Systems Managers                           | 11-3021                | 0110                   |
| First/Mid Offs & Mgrs.   | Financial Managers  | 11-3031                | 0120                   |
| First/Mid Offs & Mgrs.   | Industrial Production Managers                                      | 11-3051                | 0140                   |
| First/Mid Offs & Mgrs.   | Purchasing Managers   | 11-3061                | 0150                   |
| First/Mid Offs & Mgrs.   | Transportation, Storage, and Distribution Managers                  | 11-3071                | 0160                   |
| First/Mid Offs & Mgrs.   | Compensation and Benefits Managers                                  | 11-3111                | 0135                   |
| First/Mid Offs & Mgrs.   | Human Resources Managers  | 11-3121                | 0136                   |
| First/Mid Offs & Mgrs.   | Training and Development Managers                                   | 11-3131                | 0137                   |
| First/Mid Offs & Mgrs.   | Farmers, Ranchers, and Other Agricultural Managers                  | 11-9013                | 0205                   |
| First/Mid Offs & Mgrs.   | Construction Managers   | 11-9021                | 0220                   |
| First/Mid Offs & Mgrs.   | Education Administrators, Preschool and Childcare Center/Program    | 11-9031                | 0230                   |
| First/Mid Offs & Mgrs.   | Education Administrators, Elementary and Secondary School           | 11-9032                | 0230                   |
| First/Mid Offs & Mgrs.   | Education Administrators, Postsecondary                             | 11-9033                | 0230                   |
| First/Mid Offs & Mgrs.   | Education Administrators, All Other                                 | 11-9039                | 0230                   |
| First/Mid Offs & Mgrs.   | Architectural and Engineering Managers                              | 11-9041                | 0300                   |
| First/Mid Offs & Mgrs.   | Food Service Managers   | 11-9051                | 0310                   |
| First/Mid Offs & Mgrs.   | Funeral Service Managers  | 11-9061                | 0430                   |
| First/Mid Offs & Mgrs.   | Gaming Managers   | 11-9071                | 0330                   |
| First/Mid Offs & Mgrs.   | Lodging Managers  | 11-9081                | 0340                   |
| First/Mid Offs & Mgrs.   | Medical and Health Services Managers                                | 11-9111                | 0350                   |
| First/Mid Offs & Mgrs.   | Natural Sciences Managers   | 11-9121                | 0360                   |
| First/Mid Offs & Mgrs.   | Postmasters and Mail Superintendents                                | 11-9131                | 0430                   |
| First/Mid Offs & Mgrs.   | Property, Real Estate, and Community Association Managers           | 11-9141                | 0410                   |
| First/Mid Offs & Mgrs.   | Social and Community Service Managers                               | 11-9151                | 0420                   |
| First/Mid Offs & Mgrs.   | Emergency Management Directors                                      | 11-9161                | 0425                   |
| First/Mid Offs & Mgrs.   | Managers, All Other   | 11-9199                | 0430                   |
| First/Mid Offs & Mgrs.   | Morticians, Undertakers, and Funeral Directors                      | 39-4031                | 4465                   |
| Professionals            | Agents and Business Managers of Artists, Performers, and Athletes   | 13-1011                | 0500                   |
| Professionals            | Buyers and Purchasing Agents, Farm Products                         | 13-1021                | 0510                   |
| Professionals            | Wholesale and Retail Buyers, Except Farm Products                   | 13-1022                | 0520                   |
| Professionals            | Purchasing Agents, Except Wholesale, Retail, and Farm Products      | 13-1023                | 0530                   |

| <b>EEO-1 Job Group</b> | <b>Job Title/Description of Standard Occupational Classification (SOC)</b> | <b>Six-Level SOC Job Code</b> | <b>Four-Digit Census Code</b> |
|------------------------|--|-------------------------------|-------------------------------|
| Professionals          | Claims Adjusters, Examiners, and Investigators                             | 13-1031                       | 0540                          |
| Professionals          | Insurance Appraisers, Auto Damage  | 13-1032                       | 0540                          |
| Professionals          | Compliance Officers  | 13-1041                       | 0565                          |
| Professionals          | Cost Estimators  | 13-1051                       | 0600                          |
| Professionals          | Human Resources Specialists  | 13-1071                       | 0630                          |
| Professionals          | Farm Labor Contractors   | 13-1074                       | 0630                          |
| Professionals          | Labor Relations Specialists  | 13-1075                       | 0630                          |
| Professionals          | Logisticians   | 13-1081                       | 0700                          |
| Professionals          | Management Analysts  | 13-1111                       | 0710                          |
| Professionals          | Meeting, Convention, and Event Planners                                    | 13-1121                       | 0725                          |
| Professionals          | Fundraisers  | 13-1131                       | 0726                          |
| Professionals          | Compensation, Benefits, and Job Analysis Specialists                       | 13-1141                       | 0640                          |
| Professionals          | Training and Development Specialists                                       | 13-1151                       | 0650                          |
| Professionals          | Market Research Analysts and Marketing Specialists                         | 13-1161                       | 0735                          |
| Professionals          | Business Operations Specialists, All Other                                 | 13-1199                       | 0740                          |
| Professionals          | Accountants and Auditors   | 13-2011                       | 0800                          |
| Professionals          | Appraisers and Assessors of Real Estate                                    | 13-2021                       | 0810                          |
| Professionals          | Budget Analysts  | 13-2031                       | 0820                          |
| Professionals          | Credit Analysts  | 13-2041                       | 0830                          |
| Professionals          | Financial Analysts   | 13-2051                       | 0840                          |
| Professionals          | Personal Financial Advisors  | 13-2052                       | 0850                          |
| Professionals          | Insurance Underwriters   | 13-2053                       | 0860                          |
| Professionals          | Financial Examiners  | 13-2061                       | 0900                          |
| Professionals          | Credit Counselors  | 13-2071                       | 0910                          |
| Professionals          | Loan Officers  | 13-2072                       | 0910                          |
| Professionals          | Tax Examiners and Collectors, and Revenue Agents                           | 13-2081                       | 0930                          |
| Professionals          | Tax Preparers  | 13-2082                       | 0940                          |
| Professionals          | Financial Specialists, All Other   | 13-2099                       | 0950                          |
| Professionals          | Computer and Information Research Scientists                               | 15-1111                       | 1005                          |
| Professionals          | Computer Systems Analysts  | 15-1121                       | 1006                          |
| Professionals          | Information Security Analysts  | 15-1122                       | 1007                          |
| Professionals          | Computer Programmers   | 15-1131                       | 1010                          |
| Professionals          | Software Developers, Applications  | 15-1132                       | 1020                          |
| Professionals          | Software Developers, Systems Software                                      | 15-1133                       | 1020                          |
| Professionals          | Web Developers   | 15-1134                       | 1030                          |
| Professionals          | Database Administrators  | 15-1141                       | 1060                          |
| Professionals          | Network and Computer Systems Administrators                                | 15-1142                       | 1105                          |
| Professionals          | Computer Network Architects  | 15-1143                       | 1106                          |
| Professionals          | Computer User Support Specialists  | 15-1151                       | 1050                          |
| Professionals          | Computer Network Support Specialists                                       | 15-1152                       | 1050                          |
| Professionals          | Computer Occupations, All Other  | 15-1199                       | 1107                          |

| <b>EEO-1 Job Group</b> | <b>Job Title/Description of Standard Occupational Classification (SOC)</b> | <b>Six-Level SOC Job Code</b> | <b>Four-Digit Census Code</b> |
|------------------------|--|-------------------------------|-------------------------------|
| Professionals          | Actuaries  | 15-2011                       | 1200                          |
| Professionals          | Mathematicians   | 15-2021                       | 1240                          |
| Professionals          | Operations Research Analysts   | 15-2031                       | 1220                          |
| Professionals          | Statisticians  | 15-2041                       | 1240                          |
| Professionals          | Mathematical Technicians   | 15-2091                       | 1240                          |
| Professionals          | Mathematical Science Occupations, All Other                                | 15-2099                       | 1240                          |
| Professionals          | Architects, Except Landscape and Naval                                     | 17-1011                       | 1300                          |
| Professionals          | Landscape Architects   | 17-1012                       | 1300                          |
| Professionals          | Cartographers and Photogrammetrists  | 17-1021                       | 1310                          |
| Professionals          | Surveyors  | 17-1022                       | 1310                          |
| Professionals          | Aerospace Engineers  | 17-2011                       | 1320                          |
| Professionals          | Agricultural Engineers   | 17-2021                       | 1340                          |
| Professionals          | Biomedical Engineers   | 17-2031                       | 1340                          |
| Professionals          | Chemical Engineers   | 17-2041                       | 1350                          |
| Professionals          | Civil Engineers  | 17-2051                       | 1520                          |
| Professionals          | Computer Hardware Engineers  | 17-2061                       | 1400                          |
| Professionals          | Electrical Engineers   | 17-2071                       | 1410                          |
| Professionals          | Electronics Engineers, Except Computer                                     | 17-2072                       | 1410                          |
| Professionals          | Environmental Engineers  | 17-2081                       | 1420                          |
| Professionals          | Health and Safety Engineers, Except Mining Safety Engineers and Inspectors | 17-2111                       | 1430                          |
| Professionals          | Industrial Engineers   | 17-2112                       | 1430                          |
| Professionals          | Marine Engineers and Naval Architects                                      | 17-2121                       | 1440                          |
| Professionals          | Materials Engineers  | 17-2131                       | 1450                          |
| Professionals          | Mechanical Engineers   | 17-2141                       | 1460                          |
| Professionals          | Mining and Geological Engineers, Including Mining Safety Engineers         | 17-2151                       | 1520                          |
| Professionals          | Nuclear Engineers  | 17-2161                       | 1530                          |
| Professionals          | Petroleum Engineers  | 17-2171                       | 1520                          |
| Professionals          | Engineers, All Other   | 17-2199                       | 1530                          |
| Professionals          | Animal Scientists  | 19-1011                       | 1600                          |
| Professionals          | Food Scientists and Technologists  | 19-1012                       | 1600                          |
| Professionals          | Soil and Plant Scientists  | 19-1013                       | 1600                          |
| Professionals          | Biochemists and Biophysicists  | 19-1021                       | 1610                          |
| Professionals          | Microbiologists  | 19-1022                       | 1610                          |
| Professionals          | Zoologists and Wildlife Biologists   | 19-1023                       | 1610                          |
| Professionals          | Biological Scientists, All Other   | 19-1029                       | 1610                          |
| Professionals          | Conservation Scientists  | 19-1031                       | 1640                          |
| Professionals          | Foresters  | 19-1032                       | 1640                          |
| Professionals          | Epidemiologists  | 19-1041                       | 1650                          |
| Professionals          | Medical Scientists, Except Epidemiologists                                 | 19-1042                       | 1650                          |
| Professionals          | Life Scientists, All Other   | 19-1099                       | 1650                          |
| Professionals          | Astronomers  | 19-2011                       | 1700                          |

| <b>EEO-1 Job Group</b> | <b>Job Title/Description of Standard Occupational Classification (SOC)</b> | <b>Six-Level SOC Job Code</b> | <b>Four-Digit Census Code</b> |
|------------------------|--|-------------------------------|-------------------------------|
| Professionals          | Physicists   | 19-2012                       | 1700                          |
| Professionals          | Atmospheric and Space Scientists   | 19-2021                       | 1710                          |
| Professionals          | Chemists   | 19-2031                       | 1720                          |
| Professionals          | Materials Scientists   | 19-2032                       | 1720                          |
| Professionals          | Environmental Scientists and Specialists, Including Health                 | 19-2041                       | 1740                          |
| Professionals          | Geoscientists, Except Hydrologists and Geographers                         | 19-2042                       | 1740                          |
| Professionals          | Hydrologists   | 19-2043                       | 1740                          |
| Professionals          | Physical Scientists, All Other   | 19-2099                       | 1760                          |
| Professionals          | Economists   | 19-3011                       | 1800                          |
| Professionals          | Survey Researchers   | 19-3022                       | 1860                          |
| Professionals          | Clinical, Counseling, and School Psychologists                             | 19-3031                       | 1820                          |
| Professionals          | Industrial-Organizational Psychologists                                    | 19-3032                       | 1820                          |
| Professionals          | Psychologists, All Other   | 19-3039                       | 1820                          |
| Professionals          | Sociologists   | 19-3041                       | 1860                          |
| Professionals          | Urban and Regional Planners  | 19-3051                       | 1840                          |
| Professionals          | Anthropologists and Archeologists  | 19-3091                       | 1860                          |
| Professionals          | Geographers  | 19-3092                       | 1860                          |
| Professionals          | Historians   | 19-3093                       | 1860                          |
| Professionals          | Political Scientists   | 19-3094                       | 1860                          |
| Professionals          | Social Scientists and Related Workers, All Other                           | 19-3099                       | 1860                          |
| Professionals          | Substance Abuse and Behavioral Disorder Counselors                         | 21-1011                       | 2000                          |
| Professionals          | Educational, Guidance, School, and Vocational Counselors                   | 21-1012                       | 2000                          |
| Professionals          | Marriage and Family Therapists   | 21-1013                       | 2000                          |
| Professionals          | Mental Health Counselors   | 21-1014                       | 2000                          |
| Professionals          | Rehabilitation Counselors  | 21-1015                       | 2000                          |
| Professionals          | Counselors, All Other  | 21-1019                       | 2000                          |
| Professionals          | Child, Family, and School Social Workers                                   | 21-1021                       | 2010                          |
| Professionals          | Healthcare Social Workers  | 21-1022                       | 2010                          |
| Professionals          | Mental Health and Substance Abuse Social Workers                           | 21-1023                       | 2010                          |
| Professionals          | Social Workers, All Other  | 21-1029                       | 2010                          |
| Professionals          | Health Educators   | 21-1091                       | 2025                          |
| Professionals          | Probation Officers and Correctional Treatment Specialists                  | 21-1092                       | 2015                          |
| Professionals          | Community Health Workers   | 21-1094                       | 2025                          |
| Professionals          | Community and Social Service Specialists, All Other                        | 21-1099                       | 2025                          |
| Professionals          | Clergy   | 21-2011                       | 2040                          |
| Professionals          | Directors, Religious Activities and Education                              | 21-2021                       | 2050                          |
| Professionals          | Religious Workers, All Other   | 21-2099                       | 2060                          |
| Professionals          | Lawyers  | 23-1011                       | 2100                          |
| Professionals          | Judicial Law Clerks  | 23-1012                       | 2105                          |
| Professionals          | Administrative Law Judges, Adjudicators, and Hearing Officers              | 23-1021                       | 2100                          |
| Professionals          | Arbitrators, Mediators, and Conciliators                                   | 23-1022                       | 2100                          |



| <b>EEO-1 Job Group</b> | <b>Job Title/Description of Standard Occupational Classification (SOC)</b> | <b>Six-Level SOC Job Code</b> | <b>Four-Digit Census Code</b> |
|------------------------|--|-------------------------------|-------------------------------|
| Professionals          | Judges, Magistrate Judges, and Magistrates                                 | 23-1023                       | 2100                          |
| Professionals          | Business Teachers, Postsecondary   | 25-1011                       | 2200                          |
| Professionals          | Computer Science Teachers, Postsecondary                                   | 25-1021                       | 2200                          |
| Professionals          | Mathematical Science Teachers, Postsecondary                               | 25-1022                       | 2200                          |
| Professionals          | Architecture Teachers, Postsecondary                                       | 25-1031                       | 2200                          |
| Professionals          | Engineering Teachers, Postsecondary  | 25-1032                       | 2200                          |
| Professionals          | Agricultural Sciences Teachers, Postsecondary                              | 25-1041                       | 2200                          |
| Professionals          | Biological Science Teachers, Postsecondary                                 | 25-1042                       | 2200                          |
| Professionals          | Forestry and Conservation Science Teachers, Postsecondary                  | 25-1043                       | 2200                          |
| Professionals          | Atmospheric, Earth, Marine, and Space Sciences Teachers, Postsecondary     | 25-1051                       | 2200                          |
| Professionals          | Chemistry Teachers, Postsecondary  | 25-1052                       | 2200                          |
| Professionals          | Environmental Science Teachers, Postsecondary                              | 25-1053                       | 2200                          |
| Professionals          | Physics Teachers, Postsecondary  | 25-1054                       | 2200                          |
| Professionals          | Anthropology and Archeology Teachers, Postsecondary                        | 25-1061                       | 2200                          |
| Professionals          | Area, Ethnic, and Cultural Studies Teachers, Postsecondary                 | 25-1062                       | 2200                          |
| Professionals          | Economics Teachers, Postsecondary  | 25-1063                       | 2200                          |
| Professionals          | Geography Teachers, Postsecondary  | 25-1064                       | 2200                          |
| Professionals          | Political Science Teachers, Postsecondary                                  | 25-1065                       | 2200                          |
| Professionals          | Psychology Teachers, Postsecondary   | 25-1066                       | 2200                          |
| Professionals          | Sociology Teachers, Postsecondary  | 25-1067                       | 2200                          |
| Professionals          | Social Sciences Teachers, Postsecondary, All Other                         | 25-1069                       | 2200                          |
| Professionals          | Health Specialties Teachers, Postsecondary                                 | 25-1071                       | 2200                          |
| Professionals          | Nursing Instructors and Teachers, Postsecondary                            | 25-1072                       | 2200                          |
| Professionals          | Education Teachers, Postsecondary  | 25-1081                       | 2200                          |
| Professionals          | Library Science Teachers, Postsecondary                                    | 25-1082                       | 2200                          |
| Professionals          | Criminal Justice and Law Enforcement Teachers, Postsecondary               | 25-1111                       | 2200                          |
| Professionals          | Law Teachers, Postsecondary  | 25-1112                       | 2200                          |
| Professionals          | Social Work Teachers, Postsecondary  | 25-1113                       | 2200                          |
| Professionals          | Art, Drama, and Music Teachers, Postsecondary                              | 25-1121                       | 2200                          |
| Professionals          | Communications Teachers, Postsecondary                                     | 25-1122                       | 2200                          |
| Professionals          | English Language and Literature Teachers, Postsecondary                    | 25-1123                       | 2200                          |
| Professionals          | Foreign Language and Literature Teachers, Postsecondary                    | 25-1124                       | 2200                          |
| Professionals          | History Teachers, Postsecondary  | 25-1125                       | 2200                          |
| Professionals          | Philosophy and Religion Teachers, Postsecondary                            | 25-1126                       | 2200                          |
| Professionals          | Graduate Teaching Assistants   | 25-1191                       | 2200                          |
| Professionals          | Home Economics Teachers, Postsecondary                                     | 25-1192                       | 2200                          |
| Professionals          | Recreation and Fitness Studies Teachers, Postsecondary                     | 25-1193                       | 2200                          |
| Professionals          | Vocational Education Teachers, Postsecondary                               | 25-1194                       | 2200                          |
| Professionals          | Postsecondary Teachers, All Other  | 25-1199                       | 2200                          |
| Professionals          | Preschool Teachers, Except Special Education                               | 25-2011                       | 2300                          |
| Professionals          | Kindergarten Teachers, Except Special Education                            | 25-2012                       | 2300                          |

| <b>EEO-1 Job Group</b> | <b>Job Title/Description of Standard Occupational Classification (SOC)</b> | <b>Six-Level SOC Job Code</b> | <b>Four-Digit Census Code</b> |
|------------------------|--|-------------------------------|-------------------------------|
| Professionals          | Elementary School Teachers, Except Special Education                       | 25-2021                       | 2310                          |
| Professionals          | Middle School Teachers, Except Special and Career/Technical Education      | 25-2022                       | 2310                          |
| Professionals          | Career/Technical Education Teachers, Middle School                         | 25-2023                       | 2310                          |
| Professionals          | Secondary School Teachers, Except Special and Career/Technical Education   | 25-2031                       | 2320                          |
| Professionals          | Career/Technical Education Teachers, Secondary School                      | 25-2032                       | 2320                          |
| Professionals          | Special Education Teachers, Preschool                                      | 25-2051                       | 2330                          |
| Professionals          | Special Education Teachers, Kindergarten and Elementary School             | 25-2052                       | 2330                          |
| Professionals          | Special Education Teachers, Middle School                                  | 25-2053                       | 2330                          |
| Professionals          | Special Education Teachers, Secondary School                               | 25-2054                       | 2330                          |
| Professionals          | Special Education Teachers, All Other                                      | 25-2059                       | 2330                          |
| Professionals          | Adult Basic and Secondary Education and Literacy Teachers and Instructors  | 25-3011                       | 2340                          |
| Professionals          | Self-Enrichment Education Teachers   | 25-3021                       | 2340                          |
| Professionals          | Teachers and Instructors, All Other  | 25-3099                       | 2340                          |
| Professionals          | Archivists   | 25-4011                       | 2400                          |
| Professionals          | Curators   | 25-4012                       | 2400                          |
| Professionals          | Museum Technicians and Conservators  | 25-4013                       | 2400                          |
| Professionals          | Librarians   | 25-4021                       | 2430                          |
| Professionals          | Audio-Visual and Multimedia Collections Specialists                        | 25-9011                       | 2550                          |
| Professionals          | Farm and Home Management Advisors  | 25-9021                       | 2550                          |
| Professionals          | Instructional Coordinators   | 25-9031                       | 2550                          |
| Professionals          | Education, Training, and Library Workers, All Other                        | 25-9099                       | 2550                          |
| Professionals          | Art Directors  | 27-1011                       | 2600                          |
| Professionals          | Craft Artists  | 27-1012                       | 2600                          |
| Professionals          | Fine Artists, Including Painters, Sculptors, and Illustrators              | 27-1013                       | 2600                          |
| Professionals          | Multimedia Artists and Animators   | 27-1014                       | 2600                          |
| Professionals          | Artists and Related Workers, All Other                                     | 27-1019                       | 2600                          |
| Professionals          | Commercial and Industrial Designers  | 27-1021                       | 2630                          |
| Professionals          | Fashion Designers  | 27-1022                       | 2630                          |
| Professionals          | Floral Designers   | 27-1023                       | 2630                          |
| Professionals          | Graphic Designers  | 27-1024                       | 2630                          |
| Professionals          | Interior Designers   | 27-1025                       | 2630                          |
| Professionals          | Merchandise Displayers and Window Trimmers                                 | 27-1026                       | 2630                          |
| Professionals          | Set and Exhibit Designers  | 27-1027                       | 2630                          |
| Professionals          | Designers, All Other   | 27-1029                       | 2630                          |
| Professionals          | Actors   | 27-2011                       | 2700                          |
| Professionals          | Producers and Directors  | 27-2012                       | 2710                          |
| Professionals          | Athletes and Sports Competitors  | 27-2021                       | 2720                          |
| Professionals          | Coaches and Scouts   | 27-2022                       | 2720                          |
| Professionals          | Umpires, Referees, and Other Sports Officials                              | 27-2023                       | 2720                          |
| Professionals          | Dancers  | 27-2031                       | 2740                          |
| Professionals          | Choreographers   | 27-2032                       | 2740                          |

| <b>EEO-1 Job Group</b> | <b>Job Title/Description of Standard Occupational Classification (SOC)</b> | <b>Six-Level SOC Job Code</b> | <b>Four-Digit Census Code</b> |
|------------------------|--|-------------------------------|-------------------------------|
| Professionals          | Music Directors and Composers  | 27-2041                       | 2750                          |
| Professionals          | Musicians and Singers  | 27-2042                       | 2750                          |
| Professionals          | Entertainers and Performers, Sports and Related Workers, All Other         | 27-2099                       | 2760                          |
| Professionals          | Radio and Television Announcers  | 27-3011                       | 2800                          |
| Professionals          | Public Address System and Other Announcers                                 | 27-3012                       | 2800                          |
| Professionals          | Broadcast News Analysts  | 27-3021                       | 2810                          |
| Professionals          | Reporters and Correspondents   | 27-3022                       | 2810                          |
| Professionals          | Public Relations Specialists   | 27-3031                       | 2825                          |
| Professionals          | Editors  | 27-3041                       | 2830                          |
| Professionals          | Technical Writers  | 27-3042                       | 2840                          |
| Professionals          | Writers and Authors  | 27-3043                       | 2850                          |
| Professionals          | Interpreters and Translators   | 27-3091                       | 2860                          |
| Professionals          | Media and Communication Workers, All Other                                 | 27-3099                       | 2860                          |
| Professionals          | Photographers  | 27-4021                       | 2910                          |
| Professionals          | Camera Operators, Television, Video, and Motion Picture                    | 27-4031                       | 2920                          |
| Professionals          | Film and Video Editors   | 27-4032                       | 2920                          |
| Professionals          | Chiropractors  | 29-1011                       | 3000                          |
| Professionals          | Dentists, General  | 29-1021                       | 3010                          |
| Professionals          | Oral and Maxillofacial Surgeons  | 29-1022                       | 3010                          |
| Professionals          | Orthodontists  | 29-1023                       | 3010                          |
| Professionals          | Prosthodontists  | 29-1024                       | 3010                          |
| Professionals          | Dentists, All Other Specialists  | 29-1029                       | 3010                          |
| Professionals          | Dietitians and Nutritionists   | 29-1031                       | 3030                          |
| Professionals          | Optometrists   | 29-1041                       | 3040                          |
| Professionals          | Pharmacists  | 29-1051                       | 3050                          |
| Professionals          | Anesthesiologists  | 29-1061                       | 3060                          |
| Professionals          | Family and General Practitioners   | 29-1062                       | 3060                          |
| Professionals          | Internists, General  | 29-1063                       | 3060                          |
| Professionals          | Obstetricians and Gynecologists  | 29-1064                       | 3060                          |
| Professionals          | Pediatricians, General   | 29-1065                       | 3060                          |
| Professionals          | Psychiatrists  | 29-1066                       | 3060                          |
| Professionals          | Surgeons   | 29-1067                       | 3060                          |
| Professionals          | Physicians and Surgeons, All Other   | 29-1069                       | 3060                          |
| Professionals          | Physician Assistants   | 29-1071                       | 3110                          |
| Professionals          | Podiatrists  | 29-1081                       | 3120                          |
| Professionals          | Occupational Therapists  | 29-1122                       | 3150                          |
| Professionals          | Physical Therapists  | 29-1123                       | 3160                          |
| Professionals          | Radiation Therapists   | 29-1124                       | 3200                          |
| Professionals          | Recreational Therapists  | 29-1125                       | 3210                          |
| Professionals          | Respiratory Therapists   | 29-1126                       | 3220                          |
| Professionals          | Speech-Language Pathologists   | 29-1127                       | 3230                          |

| <b>EEO-1 Job Group</b> | <b>Job Title/Description of Standard Occupational Classification (SOC)</b> | <b>Six-Level SOC Job Code</b> | <b>Four-Digit Census Code</b> |
|------------------------|--|-------------------------------|-------------------------------|
| Professionals          | Exercise Physiologists   | 29-1128                       | 3245                          |
| Professionals          | Therapists, All Other  | 29-1129                       | 3245                          |
| Professionals          | Veterinarians  | 29-1131                       | 3250                          |
| Professionals          | Registered Nurses  | 29-1141                       | 3255                          |
| Professionals          | Nurse Anesthetists   | 29-1151                       | 3256                          |
| Professionals          | Nurse Midwives   | 29-1161                       | 3258                          |
| Professionals          | Nurse Practitioners  | 29-1171                       | 3258                          |
| Professionals          | Audiologists   | 29-1181                       | 3140                          |
| Professionals          | Health Diagnosing and Treating Practitioners, All Other                    | 29-1199                       | 3260                          |
| Professionals          | Animal Trainers  | 39-2011                       | 4340                          |
| Professionals          | Sales Engineers  | 41-9031                       | 4930                          |
| Professionals          | Agricultural Inspectors  | 45-2011                       | 6010                          |
| Professionals          | Construction and Building Inspectors                                       | 47-4011                       | 6660                          |
| Professionals          | Airline Pilots, Copilots, and Flight Engineers                             | 53-2011                       | 9030                          |
| Professionals          | Commercial Pilots  | 53-2012                       | 9030                          |
| Professionals          | Transportation Inspectors  | 53-6051                       | 9410                          |
| Technicians            | Architectural and Civil Drafters   | 17-3011                       | 1540                          |
| Technicians            | Electrical and Electronics Drafters  | 17-3012                       | 1540                          |
| Technicians            | Mechanical Drafters  | 17-3013                       | 1540                          |
| Technicians            | Drafters, All Other  | 17-3019                       | 1540                          |
| Technicians            | Aerospace Engineering and Operations Technicians                           | 17-3021                       | 1550                          |
| Technicians            | Civil Engineering Technicians  | 17-3022                       | 1550                          |
| Technicians            | Electrical and Electronics Engineering Technicians                         | 17-3023                       | 1550                          |
| Technicians            | Electro-Mechanical Technicians   | 17-3024                       | 1550                          |
| Technicians            | Environmental Engineering Technicians                                      | 17-3025                       | 1550                          |
| Technicians            | Industrial Engineering Technicians   | 17-3026                       | 1550                          |
| Technicians            | Mechanical Engineering Technicians   | 17-3027                       | 1550                          |
| Technicians            | Engineering Technicians, Except Drafters, All Other                        | 17-3029                       | 1550                          |
| Technicians            | Surveying and Mapping Technicians  | 17-3031                       | 1560                          |
| Technicians            | Agricultural and Food Science Technicians                                  | 19-4011                       | 1900                          |
| Technicians            | Biological Technicians   | 19-4021                       | 1910                          |
| Technicians            | Chemical Technicians   | 19-4031                       | 1920                          |
| Technicians            | Geological and Petroleum Technicians                                       | 19-4041                       | 1930                          |
| Technicians            | Nuclear Technicians  | 19-4051                       | 1930                          |
| Technicians            | Social Science Research Assistants   | 19-4061                       | 1965                          |
| Technicians            | Environmental Science and Protection Technicians, Including Health         | 19-4091                       | 1965                          |
| Technicians            | Forensic Science Technicians   | 19-4092                       | 1965                          |
| Technicians            | Forest and Conservation Technicians  | 19-4093                       | 1965                          |
| Technicians            | Life, Physical, and Social Science Technicians, All Other                  | 19-4099                       | 1965                          |
| Technicians            | Audio and Video Equipment Technicians                                      | 27-4011                       | 2900                          |
| Technicians            | Broadcast Technicians  | 27-4012                       | 2900                          |

| <b>EEO-1 Job Group</b> | <b>Job Title/Description of Standard Occupational Classification (SOC)</b> | <b>Six-Level SOC Job Code</b> | <b>Four-Digit Census Code</b> |
|------------------------|--|-------------------------------|-------------------------------|
| Technicians            | Radio Operators  | 27-4013                       | 2900                          |
| Technicians            | Sound Engineering Technicians  | 27-4014                       | 2900                          |
| Technicians            | Media and Communication Equipment Workers, All Other                       | 27-4099                       | 2900                          |
| Technicians            | Medical and Clinical Laboratory Technologists                              | 29-2011                       | 3300                          |
| Technicians            | Medical and Clinical Laboratory Technicians                                | 29-2012                       | 3300                          |
| Technicians            | Dental Hygienists  | 29-2021                       | 3310                          |
| Technicians            | Cardiovascular Technologists and Technicians                               | 29-2031                       | 3320                          |
| Technicians            | Diagnostic Medical Sonographers  | 29-2032                       | 3320                          |
| Technicians            | Nuclear Medicine Technologists   | 29-2033                       | 3320                          |
| Technicians            | Radiologic Technologists   | 29-2034                       | 3320                          |
| Technicians            | Magnetic Resonance Imaging Technologists                                   | 29-2035                       | 3320                          |
| Technicians            | Emergency Medical Technicians and Paramedics                               | 29-2041                       | 3400                          |
| Technicians            | Dietetic Technicians   | 29-2051                       | 3420                          |
| Technicians            | Pharmacy Technicians   | 29-2052                       | 3420                          |
| Technicians            | Psychiatric Technicians  | 29-2053                       | 3420                          |
| Technicians            | Respiratory Therapy Technicians  | 29-2054                       | 3420                          |
| Technicians            | Surgical Technologists   | 29-2055                       | 3420                          |
| Technicians            | Veterinary Technologists and Technicians                                   | 29-2056                       | 3420                          |
| Technicians            | Ophthalmic Medical Technicians   | 29-2057                       | 3420                          |
| Technicians            | Licensed Practical and Licensed Vocational Nurses                          | 29-2061                       | 3500                          |
| Technicians            | Medical Records and Health Information Technicians                         | 29-2071                       | 3510                          |
| Technicians            | Opticians, Dispensing  | 29-2081                       | 3520                          |
| Technicians            | Orthotists and Prosthetists  | 29-2091                       | 3535                          |
| Technicians            | Hearing Aid Specialists  | 29-2092                       | 3535                          |
| Technicians            | Health Technologists and Technicians, All Other                            | 29-2099                       | 3535                          |
| Technicians            | Occupational Health and Safety Specialists                                 | 29-9011                       | 3540                          |
| Technicians            | Occupational Health and Safety Technicians                                 | 29-9012                       | 3540                          |
| Technicians            | Athletic Trainers  | 29-9091                       | 3540                          |
| Technicians            | Genetic Counselors   | 29-9092                       | 3540                          |
| Technicians            | Healthcare Practitioners and Technical Workers, All Other                  | 29-9099                       | 3540                          |
| Technicians            | Air Traffic Controllers  | 53-2021                       | 9040                          |
| Technicians            | Airfield Operations Specialists  | 53-2022                       | 9040                          |
| Sales Workers          | First-Line Supervisors of Retail Sales Workers                             | 41-1011                       | 4700                          |
| Sales Workers          | First-Line Supervisors of Non-Retail Sales Workers                         | 41-1012                       | 4710                          |
| Sales Workers          | Cashiers   | 41-2011                       | 4720                          |
| Sales Workers          | Gaming Change Persons and Booth Cashiers                                   | 41-2012                       | 4720                          |
| Sales Workers          | Counter and Rental Clerks  | 41-2021                       | 4740                          |
| Sales Workers          | Parts Salespersons   | 41-2022                       | 4750                          |
| Sales Workers          | Retail Salespersons  | 41-2031                       | 4760                          |
| Sales Workers          | Advertising Sales Agents   | 41-3011                       | 4800                          |
| Sales Workers          | Insurance Sales Agents   | 41-3021                       | 4810                          |

| <b>EEO-1 Job Group</b>         | <b>Job Title/Description of Standard Occupational Classification (SOC)</b>                   | <b>Six-Level SOC Job Code</b> | <b>Four-Digit Census Code</b> |
|--------------------------------|--|-------------------------------|-------------------------------|
| Sales Workers                  | Securities, Commodities, and Financial Services Sales Agents                                 | 41-3031                       | 4820                          |
| Sales Workers                  | Travel Agents  | 41-3041                       | 4830                          |
| Sales Workers                  | Sales Representatives, Services, All Other   | 41-3099                       | 4840                          |
| Sales Workers                  | Sales Representatives, Wholesale and Manufacturing, Technical and Scientific Products        | 41-4011                       | 4850                          |
| Sales Workers                  | Sales Representatives, Wholesale and Manufacturing, Except Technical and Scientific Products | 41-4012                       | 4850                          |
| Sales Workers                  | Demonstrators and Product Promoters  | 41-9011                       | 4900                          |
| Sales Workers                  | Models   | 41-9012                       | 4900                          |
| Sales Workers                  | Real Estate Brokers  | 41-9021                       | 4920                          |
| Sales Workers                  | Real Estate Sales Agents   | 41-9022                       | 4920                          |
| Sales Workers                  | Telemarketers  | 41-9041                       | 4940                          |
| Sales Workers                  | Door-to-Door Sales Workers, News and Street Vendors, and Related Workers                     | 41-9091                       | 4950                          |
| Sales Workers                  | Sales and Related Workers, All Other   | 41-9099                       | 4965                          |
| Administrative Support Workers | Social and Human Service Assistants  | 21-1093                       | 2016                          |
| Administrative Support Workers | Paralegals and Legal Assistants  | 23-2011                       | 2145                          |
| Administrative Support Workers | Court Reporters  | 23-2091                       | 2160                          |
| Administrative Support Workers | Title Examiners, Abstractors, and Searchers  | 23-2093                       | 2160                          |
| Administrative Support Workers | Legal Support Workers, All Other   | 23-2099                       | 2160                          |
| Administrative Support Workers | Library Technicians  | 25-4031                       | 2440                          |
| Administrative Support Workers | Teacher Assistants   | 25-9041                       | 2540                          |
| Administrative Support Workers | Medical Transcriptionists  | 31-9094                       | 3646                          |
| Administrative Support Workers | First-Line Supervisors of Office and Administrative Support Workers                          | 43-1011                       | 5000                          |
| Administrative Support Workers | Switchboard Operators, Including Answering Service   | 43-2011                       | 5010                          |
| Administrative Support Workers | Telephone Operators  | 43-2021                       | 5020                          |
| Administrative Support Workers | Communications Equipment Operators, All Other  | 43-2099                       | 5030                          |
| Administrative Support Workers | Bill and Account Collectors  | 43-3011                       | 5100                          |
| Administrative Support Workers | Billing and Posting Clerks   | 43-3021                       | 5110                          |
| Administrative Support Workers | Bookkeeping, Accounting, and Auditing Clerks   | 43-3031                       | 5120                          |
| Administrative Support Workers | Gaming Cage Workers  | 43-3041                       | 5130                          |
| Administrative Support Workers | Payroll and Timekeeping Clerks   | 43-3051                       | 5140                          |
| Administrative Support Workers | Procurement Clerks   | 43-3061                       | 5150                          |
| Administrative Support Workers | Tellers  | 43-3071                       | 5160                          |

| <b>EEO-1 Job Group</b>         | <b>Job Title/Description of Standard Occupational Classification (SOC)</b> | <b>Six-Level SOC Job Code</b> | <b>Four-Digit Census Code</b> |
|--------------------------------|--|-------------------------------|-------------------------------|
| Administrative Support Workers | Financial Clerks, All Other  | 43-3099                       | 5165                          |
| Administrative Support Workers | Brokerage Clerks   | 43-4011                       | 5200                          |
| Administrative Support Workers | Correspondence Clerks  | 43-4021                       | 5350                          |
| Administrative Support Workers | Court, Municipal, and License Clerks                                       | 43-4031                       | 5220                          |
| Administrative Support Workers | Credit Authorizers, Checkers, and Clerks                                   | 43-4041                       | 5230                          |
| Administrative Support Workers | Customer Service Representatives   | 43-4051                       | 5240                          |
| Administrative Support Workers | Eligibility Interviewers, Government Programs                              | 43-4061                       | 5250                          |
| Administrative Support Workers | File Clerks  | 43-4071                       | 5260                          |
| Administrative Support Workers | Hotel, Motel, and Resort Desk Clerks                                       | 43-4081                       | 5300                          |
| Administrative Support Workers | Interviewers, Except Eligibility and Loan                                  | 43-4111                       | 5310                          |
| Administrative Support Workers | Library Assistants, Clerical   | 43-4121                       | 5320                          |
| Administrative Support Workers | Loan Interviewers and Clerks   | 43-4131                       | 5330                          |
| Administrative Support Workers | New Accounts Clerks  | 43-4141                       | 5340                          |
| Administrative Support Workers | Order Clerks   | 43-4151                       | 5350                          |
| Administrative Support Workers | Human Resources Assistants, Except Payroll and Timekeeping                 | 43-4161                       | 5360                          |
| Administrative Support Workers | Receptionists and Information Clerks                                       | 43-4171                       | 5400                          |
| Administrative Support Workers | Reservation and Transportation Ticket Agents and Travel Clerks             | 43-4181                       | 5410                          |
| Administrative Support Workers | Information and Record Clerks, All Other                                   | 43-4199                       | 5420                          |
| Administrative Support Workers | Cargo and Freight Agents   | 43-5011                       | 5500                          |
| Administrative Support Workers | Couriers and Messengers  | 43-5021                       | 5510                          |
| Administrative Support Workers | Police, Fire, and Ambulance Dispatchers                                    | 43-5031                       | 5520                          |
| Administrative Support Workers | Dispatchers, Except Police, Fire, and Ambulance                            | 43-5032                       | 5520                          |
| Administrative Support Workers | Meter Readers, Utilities   | 43-5041                       | 5530                          |
| Administrative Support Workers | Postal Service Clerks  | 43-5051                       | 5540                          |
| Administrative Support Workers | Postal Service Mail Carriers   | 43-5052                       | 5550                          |
| Administrative Support Workers | Postal Service Mail Sorters, Processors, and Processing Machine Operators  | 43-5053                       | 5560                          |
| Administrative Support Workers | Production, Planning, and Expediting Clerks                                | 43-5061                       | 5600                          |

| <b>EEO-1 Job Group</b>         | <b>Job Title/Description of Standard Occupational Classification (SOC)</b>      | <b>Six-Level SOC Job Code</b> | <b>Four-Digit Census Code</b> |
|--------------------------------|---|-------------------------------|-------------------------------|
| Administrative Support Workers | Shipping, Receiving, and Traffic Clerks   | 43-5071                       | 5610                          |
| Administrative Support Workers | Stock Clerks and Order Fillers  | 43-5081                       | 5620                          |
| Administrative Support Workers | Weighers, Measurers, Checkers, and Samplers, Recordkeeping                      | 43-5111                       | 5630                          |
| Administrative Support Workers | Executive Secretaries and Executive Administrative Assistants                   | 43-6011                       | 5700                          |
| Administrative Support Workers | Legal Secretaries   | 43-6012                       | 5700                          |
| Administrative Support Workers | Medical Secretaries   | 43-6013                       | 5700                          |
| Administrative Support Workers | Secretaries and Administrative Assistants, Except Legal, Medical, and Executive | 43-6014                       | 5700                          |
| Administrative Support Workers | Computer Operators  | 43-9011                       | 5800                          |
| Administrative Support Workers | Data Entry Keyers   | 43-9021                       | 5810                          |
| Administrative Support Workers | Word Processors and Typists   | 43-9022                       | 5820                          |
| Administrative Support Workers | Desktop Publishers  | 43-9031                       | 5940                          |
| Administrative Support Workers | Insurance Claims and Policy Processing Clerks                                   | 43-9041                       | 5840                          |
| Administrative Support Workers | Mail Clerks and Mail Machine Operators, Except Postal Service                   | 43-9051                       | 5850                          |
| Administrative Support Workers | Office Clerks, General  | 43-9061                       | 5860                          |
| Administrative Support Workers | Office Machine Operators, Except Computer                                       | 43-9071                       | 5900                          |
| Administrative Support Workers | Proofreaders and Copy Markers   | 43-9081                       | 5910                          |
| Administrative Support Workers | Statistical Assistants  | 43-9111                       | 5920                          |
| Administrative Support Workers | Office and Administrative Support Workers, All Other                            | 43-9199                       | 5940                          |
| Craft Workers                  | First-Line Supervisors of Construction Trades and Extraction Workers            | 47-1011                       | 6200                          |
| Craft Workers                  | Boilermakers  | 47-2011                       | 6210                          |
| Craft Workers                  | Brickmasons and Blockmasons   | 47-2021                       | 6220                          |
| Craft Workers                  | Stonemasons   | 47-2022                       | 6220                          |
| Craft Workers                  | Carpenters  | 47-2031                       | 6230                          |
| Craft Workers                  | Carpet Installers   | 47-2041                       | 6240                          |
| Craft Workers                  | Floor Layers, Except Carpet, Wood, and Hard Tiles                               | 47-2042                       | 6240                          |
| Craft Workers                  | Floor Sanders and Finishers   | 47-2043                       | 6240                          |
| Craft Workers                  | Tile and Marble Setters   | 47-2044                       | 6240                          |
| Craft Workers                  | Cement Masons and Concrete Finishers  | 47-2051                       | 6250                          |
| Craft Workers                  | Terrazzo Workers and Finishers  | 47-2053                       | 6250                          |
| Craft Workers                  | Paving, Surfacing, and Tamping Equipment Operators                              | 47-2071                       | 6300                          |
| Craft Workers                  | Pile-Driver Operators   | 47-2072                       | 6320                          |
| Craft Workers                  | Operating Engineers and Other Construction Equipment Operators                  | 47-2073                       | 6320                          |



| <b>EEO-1 Job Group</b> | <b>Job Title/Description of Standard Occupational Classification (SOC)</b>    | <b>Six-Level SOC Job Code</b> | <b>Four-Digit Census Code</b> |
|------------------------|---|-------------------------------|-------------------------------|
| Craft Workers          | Drywall and Ceiling Tile Installers   | 47-2081                       | 6330                          |
| Craft Workers          | Tapers  | 47-2082                       | 6330                          |
| Craft Workers          | Electricians  | 47-2111                       | 6355                          |
| Craft Workers          | Glaziers  | 47-2121                       | 6360                          |
| Craft Workers          | Insulation Workers, Floor, Ceiling, and Wall                                  | 47-2131                       | 6400                          |
| Craft Workers          | Insulation Workers, Mechanical  | 47-2132                       | 6400                          |
| Craft Workers          | Painters, Construction and Maintenance  | 47-2141                       | 6420                          |
| Craft Workers          | Paperhangers  | 47-2142                       | 6430                          |
| Craft Workers          | Pipelayers  | 47-2151                       | 6440                          |
| Craft Workers          | Plumbers, Pipefitters, and Steamfitters                                       | 47-2152                       | 6440                          |
| Craft Workers          | Plasterers and Stucco Masons  | 47-2161                       | 6460                          |
| Craft Workers          | Reinforcing Iron and Rebar Workers  | 47-2171                       | 6500                          |
| Craft Workers          | Roofers   | 47-2181                       | 6515                          |
| Craft Workers          | Sheet Metal Workers   | 47-2211                       | 6520                          |
| Craft Workers          | Structural Iron and Steel Workers   | 47-2221                       | 6530                          |
| Craft Workers          | Solar Photovoltaic Installers   | 47-2231                       | 6765                          |
| Craft Workers          | Elevator Installers and Repairers   | 47-4021                       | 6700                          |
| Craft Workers          | Fence Erectors  | 47-4031                       | 6710                          |
| Craft Workers          | Hazardous Materials Removal Workers   | 47-4041                       | 6720                          |
| Craft Workers          | Highway Maintenance Workers   | 47-4051                       | 6730                          |
| Craft Workers          | Rail-Track Laying and Maintenance Equipment Operators                         | 47-4061                       | 6740                          |
| Craft Workers          | Septic Tank Servicers and Sewer Pipe Cleaners                                 | 47-4071                       | 6765                          |
| Craft Workers          | Segmental Pavers  | 47-4091                       | 6765                          |
| Craft Workers          | Construction and Related Workers, All Other                                   | 47-4099                       | 6765                          |
| Craft Workers          | Derrick Operators, Oil and Gas  | 47-5011                       | 6800                          |
| Craft Workers          | Rotary Drill Operators, Oil and Gas   | 47-5012                       | 6800                          |
| Craft Workers          | Service Unit Operators, Oil, Gas, and Mining                                  | 47-5013                       | 6800                          |
| Craft Workers          | Earth Drillers, Except Oil and Gas  | 47-5021                       | 6820                          |
| Craft Workers          | Explosives Workers, Ordnance Handling Experts, and Blasters                   | 47-5031                       | 6830                          |
| Craft Workers          | Continuous Mining Machine Operators   | 47-5041                       | 6840                          |
| Craft Workers          | Mine Cutting and Channeling Machine Operators                                 | 47-5042                       | 6840                          |
| Craft Workers          | Mining Machine Operators, All Other   | 47-5049                       | 6840                          |
| Craft Workers          | Rock Splitters, Quarry  | 47-5051                       | 6940                          |
| Craft Workers          | Roof Bolters, Mining  | 47-5061                       | 6940                          |
| Craft Workers          | Roustabouts, Oil and Gas  | 47-5071                       | 6800                          |
| Craft Workers          | Helpers--Extraction Workers   | 47-5081                       | 6940                          |
| Craft Workers          | Extraction Workers, All Other   | 47-5099                       | 6940                          |
| Craft Workers          | First-Line Supervisors of Mechanics, Installers, and Repairers                | 49-1011                       | 7000                          |
| Craft Workers          | Computer, Automated Teller, and Office Machine Repairers                      | 49-2011                       | 7010                          |
| Craft Workers          | Radio, Cellular, and Tower Equipment Installers and Repairs                   | 49-2021                       | 7020                          |
| Craft Workers          | Telecommunications Equipment Installers and Repairers, Except Line Installers | 49-2022                       | 7020                          |

| <b>EEO-1 Job Group</b> | <b>Job Title/Description of Standard Occupational Classification (SOC)</b>    | <b>Six-Level SOC Job Code</b> | <b>Four-Digit Census Code</b> |
|------------------------|---|-------------------------------|-------------------------------|
| Craft Workers          | Avionics Technicians  | 49-2091                       | 7030                          |
| Craft Workers          | Electric Motor, Power Tool, and Related Repairers                             | 49-2092                       | 7040                          |
| Craft Workers          | Electrical and Electronics Installers and Repairers, Transportation Equipment | 49-2093                       | 7100                          |
| Craft Workers          | Electrical and Electronics Repairers, Commercial and Industrial Equipment     | 49-2094                       | 7100                          |
| Craft Workers          | Electrical and Electronics Repairers, Powerhouse, Substation, and Relay       | 49-2095                       | 7100                          |
| Craft Workers          | Electronic Equipment Installers and Repairers, Motor Vehicles                 | 49-2096                       | 7110                          |
| Craft Workers          | Electronic Home Entertainment Equipment Installers and Repairers              | 49-2097                       | 7120                          |
| Craft Workers          | Security and Fire Alarm Systems Installers                                    | 49-2098                       | 7130                          |
| Craft Workers          | Aircraft Mechanics and Service Technicians                                    | 49-3011                       | 7140                          |
| Craft Workers          | Automotive Body and Related Repairers   | 49-3021                       | 7150                          |
| Craft Workers          | Automotive Glass Installers and Repairers                                     | 49-3022                       | 7160                          |
| Craft Workers          | Automotive Service Technicians and Mechanics                                  | 49-3023                       | 7200                          |
| Craft Workers          | Bus and Truck Mechanics and Diesel Engine Specialists                         | 49-3031                       | 7210                          |
| Craft Workers          | Farm Equipment Mechanics and Service Technicians                              | 49-3041                       | 7220                          |
| Craft Workers          | Mobile Heavy Equipment Mechanics, Except Engines                              | 49-3042                       | 7220                          |
| Craft Workers          | Rail Car Repairers  | 49-3043                       | 7220                          |
| Craft Workers          | Motorboat Mechanics and Service Technicians                                   | 49-3051                       | 7240                          |
| Craft Workers          | Motorcycle Mechanics  | 49-3052                       | 7240                          |
| Craft Workers          | Outdoor Power Equipment and Other Small Engine Mechanics                      | 49-3053                       | 7240                          |
| Craft Workers          | Bicycle Repairers   | 49-3091                       | 7260                          |
| Craft Workers          | Recreational Vehicle Service Technicians                                      | 49-3092                       | 7260                          |
| Craft Workers          | Tire Repairers and Changers   | 49-3093                       | 7260                          |
| Craft Workers          | Mechanical Door Repairers   | 49-9011                       | 7300                          |
| Craft Workers          | Control and Valve Installers and Repairers, Except Mechanical Door            | 49-9012                       | 7300                          |
| Craft Workers          | Heating, Air Conditioning, and Refrigeration Mechanics and Installers         | 49-9021                       | 7315                          |
| Craft Workers          | Home Appliance Repairers  | 49-9031                       | 7320                          |
| Craft Workers          | Industrial Machinery Mechanics  | 49-9041                       | 7330                          |
| Craft Workers          | Maintenance Workers, Machinery  | 49-9043                       | 7350                          |
| Craft Workers          | Millwrights   | 49-9044                       | 7360                          |
| Craft Workers          | Refractory Materials Repairers, Except Brickmasons                            | 49-9045                       | 7330                          |
| Craft Workers          | Electrical Power-Line Installers and Repairers                                | 49-9051                       | 7410                          |
| Craft Workers          | Telecommunications Line Installers and Repairers                              | 49-9052                       | 7420                          |
| Craft Workers          | Camera and Photographic Equipment Repairers                                   | 49-9061                       | 7430                          |
| Craft Workers          | Medical Equipment Repairers   | 49-9062                       | 7430                          |
| Craft Workers          | Musical Instrument Repairers and Tuners                                       | 49-9063                       | 7430                          |
| Craft Workers          | Watch Repairers   | 49-9064                       | 7430                          |
| Craft Workers          | Precision Instrument and Equipment Repairers, All Other                       | 49-9069                       | 7430                          |
| Craft Workers          | Maintenance and Repair Workers, General                                       | 49-9071                       | 7340                          |
| Craft Workers          | Wind Turbine Service Technicians  | 49-9081                       | 7630                          |
| Craft Workers          | Coin, Vending, and Amusement Machine Servicers and Repairers                  | 49-9091                       | 7510                          |
| Craft Workers          | Commercial Divers   | 49-9092                       | 7630                          |

| <b>EEO-1 Job Group</b> | <b>Job Title/Description of Standard Occupational Classification (SOC)</b> | <b>Six-Level SOC Job Code</b> | <b>Four-Digit Census Code</b> |
|------------------------|--|-------------------------------|-------------------------------|
| Craft Workers          | Fabric Menders, Except Garment   | 49-9093                       | 7630                          |
| Craft Workers          | Locksmiths and Safe Repairers  | 49-9094                       | 7540                          |
| Craft Workers          | Manufactured Building and Mobile Home Installers                           | 49-9095                       | 7550                          |
| Craft Workers          | Riggers  | 49-9096                       | 7560                          |
| Craft Workers          | Signal and Track Switch Repairers  | 49-9097                       | 7630                          |
| Craft Workers          | Installation, Maintenance, and Repair Workers, All Other                   | 49-9099                       | 7630                          |
| Craft Workers          | Structural Metal Fabricators and Fitters                                   | 51-2041                       | 7740                          |
| Craft Workers          | Machinists   | 51-4041                       | 8030                          |
| Craft Workers          | Model Makers, Metal and Plastic  | 51-4061                       | 8060                          |
| Craft Workers          | Patternmakers, Metal and Plastic   | 51-4062                       | 8060                          |
| Craft Workers          | Tool and Die Makers  | 51-4111                       | 8130                          |
| Craft Workers          | Prepress Technicians and Workers   | 51-5111                       | 8250                          |
| Craft Workers          | Print Binding and Finishing Workers  | 51-5113                       | 8256                          |
| Craft Workers          | Shoe and Leather Workers and Repairers                                     | 51-6041                       | 8330                          |
| Craft Workers          | Sewers, Hand   | 51-6051                       | 8350                          |
| Craft Workers          | Tailors, Dressmakers, and Custom Sewers                                    | 51-6052                       | 8350                          |
| Craft Workers          | Upholsterers   | 51-6093                       | 8450                          |
| Craft Workers          | Cabinetmakers and Bench Carpenters   | 51-7011                       | 8500                          |
| Craft Workers          | Furniture Finishers  | 51-7021                       | 8510                          |
| Craft Workers          | Model Makers, Wood   | 51-7031                       | 8550                          |
| Craft Workers          | Patternmakers, Wood  | 51-7032                       | 8550                          |
| Craft Workers          | Woodworkers, All Other   | 51-7099                       | 8550                          |
| Craft Workers          | Nuclear Power Reactor Operators  | 51-8011                       | 8600                          |
| Craft Workers          | Power Distributors and Dispatchers   | 51-8012                       | 8600                          |
| Craft Workers          | Power Plant Operators  | 51-8013                       | 8600                          |
| Craft Workers          | Stationary Engineers and Boiler Operators                                  | 51-8021                       | 8610                          |
| Craft Workers          | Water and Wastewater Treatment Plant and System Operators                  | 51-8031                       | 8620                          |
| Craft Workers          | Jewelers and Precious Stone and Metal Workers                              | 51-9071                       | 8750                          |
| Craft Workers          | Dental Laboratory Technicians  | 51-9081                       | 8760                          |
| Craft Workers          | Medical Appliance Technicians  | 51-9082                       | 8760                          |
| Craft Workers          | Ophthalmic Laboratory Technicians  | 51-9083                       | 8760                          |
| Craft Workers          | Etchers and Engravers  | 51-9194                       | 8910                          |
| Craft Workers          | Crane and Tower Operators  | 53-7021                       | 9510                          |
| Craft Workers          | Dredge Operators   | 53-7031                       | 9520                          |
| Craft Workers          | Excavating and Loading Machine and Dragline Operators                      | 53-7032                       | 9520                          |
| Craft Workers          | Loading Machine Operators, Underground Mining                              | 53-7033                       | 9520                          |
| Operatives             | Graders and Sorters, Agricultural Products                                 | 45-2041                       | 6040                          |
| Operatives             | First-Line Supervisors of Production and Operating Workers                 | 51-1011                       | 7700                          |
| Operatives             | Aircraft Structure, Surfaces, Rigging, and Systems Assemblers              | 51-2011                       | 7710                          |
| Operatives             | Coil Winders, Tapers, and Finishers  | 51-2021                       | 7720                          |
| Operatives             | Electrical and Electronic Equipment Assemblers                             | 51-2022                       | 7720                          |

| <b>EEO-1 Job Group</b> | <b>Job Title/Description of Standard Occupational Classification (SOC)</b>                                | <b>Six-Level SOC Job Code</b> | <b>Four-Digit Census Code</b> |
|------------------------|---|-------------------------------|-------------------------------|
| Operatives             | Electromechanical Equipment Assemblers  | 51-2023                       | 7720                          |
| Operatives             | Engine and Other Machine Assemblers   | 51-2031                       | 7730                          |
| Operatives             | Fiberglass Laminators and Fabricators   | 51-2091                       | 7750                          |
| Operatives             | Team Assemblers   | 51-2092                       | 7750                          |
| Operatives             | Timing Device Assemblers and Adjusters  | 51-2093                       | 7750                          |
| Operatives             | Assemblers and Fabricators, All Other   | 51-2099                       | 7750                          |
| Operatives             | Bakers  | 51-3011                       | 7800                          |
| Operatives             | Butchers and Meat Cutters   | 51-3021                       | 7810                          |
| Operatives             | Meat, Poultry, and Fish Cutters and Trimmers  | 51-3022                       | 7810                          |
| Operatives             | Slaughtering and Meat Packers   | 51-3023                       | 7810                          |
| Operatives             | Food and Tobacco Roasting, Baking, and Drying Machine Operators and Tenders                               | 51-3091                       | 7830                          |
| Operatives             | Food Batchmakers  | 51-3092                       | 7840                          |
| Operatives             | Food Cooking Machine Operators and Tenders  | 51-3093                       | 7850                          |
| Operatives             | Food Processing Workers, All Other  | 51-3099                       | 7855                          |
| Operatives             | Computer-Controlled Machine Tool Operators, Metal and Plastic   | 51-4011                       | 7900                          |
| Operatives             | Computer Numerically Controlled Machine Tool Programmers, Metal and Plastic                               | 51-4012                       | 7900                          |
| Operatives             | Extruding and Drawing Machine Setters, Operators, and Tenders, Metal and Plastic                          | 51-4021                       | 7920                          |
| Operatives             | Forging Machine Setters, Operators, and Tenders, Metal and Plastic  | 51-4022                       | 7930                          |
| Operatives             | Rolling Machine Setters, Operators, and Tenders, Metal and Plastic  | 51-4023                       | 7940                          |
| Operatives             | Cutting, Punching, and Press Machine Setters, Operators, and Tenders, Metal and Plastic                   | 51-4031                       | 7950                          |
| Operatives             | Drilling and Boring Machine Tool Setters, Operators, and Tenders, Metal and Plastic                       | 51-4032                       | 7960                          |
| Operatives             | Grinding, Lapping, Polishing, and Buffing Machine Tool Setters, Operators, and Tenders, Metal and Plastic | 51-4033                       | 8000                          |
| Operatives             | Lathe and Turning Machine Tool Setters, Operators, and Tenders, Metal and Plastic                         | 51-4034                       | 8010                          |
| Operatives             | Milling and Planing Machine Setters, Operators, and Tenders, Metal and Plastic                            | 51-4035                       | 8220                          |
| Operatives             | Metal-Refining Furnace Operators and Tenders  | 51-4051                       | 8040                          |
| Operatives             | Pourers and Casters, Metal  | 51-4052                       | 8040                          |
| Operatives             | Foundry Mold and Coremakers   | 51-4071                       | 8100                          |
| Operatives             | Molding, Coremaking, and Casting Machine Setters, Operators, and Tenders, Metal and Plastic               | 51-4072                       | 8100                          |
| Operatives             | Multiple Machine Tool Setters, Operators, and Tenders, Metal and Plastic                                  | 51-4081                       | 8220                          |
| Operatives             | Welders, Cutters, Solderers, and Brazers  | 51-4121                       | 8140                          |
| Operatives             | Welding, Soldering, and Brazing Machine Setters, Operators, and Tenders                                   | 51-4122                       | 8140                          |
| Operatives             | Heat Treating Equipment Setters, Operators, and Tenders, Metal and Plastic                                | 51-4191                       | 8150                          |
| Operatives             | Layout Workers, Metal and Plastic   | 51-4192                       | 8220                          |
| Operatives             | Plating and Coating Machine Setters, Operators, and Tenders, Metal and Plastic                            | 51-4193                       | 8200                          |
| Operatives             | Tool Grinders, Filers, and Sharpeners   | 51-4194                       | 8210                          |
| Operatives             | Metal Workers and Plastic Workers, All Other  | 51-4199                       | 8220                          |
| Operatives             | Printing Press Operators  | 51-5112                       | 8255                          |
| Operatives             | Laundry and Dry-Cleaning Workers  | 51-6011                       | 8300                          |
| Operatives             | Pressers, Textile, Garment, and Related Materials   | 51-6021                       | 8310                          |
| Operatives             | Sewing Machine Operators  | 51-6031                       | 8320                          |

| <b>EEO-1 Job Group</b> | <b>Job Title/Description of Standard Occupational Classification (SOC)</b>                          | <b>Six-Level SOC Job Code</b> | <b>Four-Digit Census Code</b> |
|------------------------|---|-------------------------------|-------------------------------|
| Operatives             | Shoe Machine Operators and Tenders  | 51-6042                       | 8340                          |
| Operatives             | Textile Bleaching and Dyeing Machine Operators and Tenders  | 51-6061                       | 8400                          |
| Operatives             | Textile Cutting Machine Setters, Operators, and Tenders   | 51-6062                       | 8400                          |
| Operatives             | Textile Knitting and Weaving Machine Setters, Operators, and Tenders                                | 51-6063                       | 8410                          |
| Operatives             | Textile Winding, Twisting, and Drawing Out Machine Setters, Operators, and Tenders                  | 51-6064                       | 8420                          |
| Operatives             | Extruding and Forming Machine Setters, Operators, and Tenders, Synthetic and Glass Fibers           | 51-6091                       | 8460                          |
| Operatives             | Fabric and Apparel Patternmakers  | 51-6092                       | 8460                          |
| Operatives             | Textile, Apparel, and Furnishings Workers, All Other  | 51-6099                       | 8460                          |
| Operatives             | Sawing Machine Setters, Operators, and Tenders, Wood  | 51-7041                       | 8530                          |
| Operatives             | Woodworking Machine Setters, Operators, and Tenders, Except Sawing                                  | 51-7042                       | 8540                          |
| Operatives             | Chemical Plant and System Operators   | 51-8091                       | 8630                          |
| Operatives             | Gas Plant Operators   | 51-8092                       | 8630                          |
| Operatives             | Petroleum Pump System Operators, Refinery Operators, and Gaugers                                    | 51-8093                       | 8630                          |
| Operatives             | Plant and System Operators, All Other   | 51-8099                       | 8630                          |
| Operatives             | Chemical Equipment Operators and Tenders  | 51-9011                       | 8640                          |
| Operatives             | Separating, Filtering, Clarifying, Precipitating, and Still Machine Setters, Operators, and Tenders | 51-9012                       | 8640                          |
| Operatives             | Crushing, Grinding, and Polishing Machine Setters, Operators, and Tenders                           | 51-9021                       | 8650                          |
| Operatives             | Grinding and Polishing Workers, Hand  | 51-9022                       | 8650                          |
| Operatives             | Mixing and Blending Machine Setters, Operators, and Tenders   | 51-9023                       | 8650                          |
| Operatives             | Cutters and Trimmers, Hand  | 51-9031                       | 8710                          |
| Operatives             | Cutting and Slicing Machine Setters, Operators, and Tenders   | 51-9032                       | 8710                          |
| Operatives             | Extruding, Forming, Pressing, and Compacting Machine Setters, Operators, and Tenders                | 51-9041                       | 8720                          |
| Operatives             | Furnace, Kiln, Oven, Drier, and Kettle Operators and Tenders  | 51-9051                       | 8730                          |
| Operatives             | Inspectors, Testers, Sorters, Samplers, and Weighers  | 51-9061                       | 8740                          |
| Operatives             | Packaging and Filling Machine Operators and Tenders   | 51-9111                       | 8800                          |
| Operatives             | Coating, Painting, and Spraying Machine Setters, Operators, and Tenders                             | 51-9121                       | 8810                          |
| Operatives             | Painters, Transportation Equipment  | 51-9122                       | 8810                          |
| Operatives             | Painting, Coating, and Decorating Workers   | 51-9123                       | 8810                          |
| Operatives             | Semiconductor Processors  | 51-9141                       | 8965                          |
| Operatives             | Photographic Process Workers and Processing Machine Operators                                       | 51-9151                       | 8830                          |
| Operatives             | Adhesive Bonding Machine Operators and Tenders  | 51-9191                       | 8850                          |
| Operatives             | Cleaning, Washing, and Metal Pickling Equipment Operators and Tenders                               | 51-9192                       | 8860                          |
| Operatives             | Cooling and Freezing Equipment Operators and Tenders  | 51-9193                       | 8965                          |
| Operatives             | Molders, Shapers, and Casters, Except Metal and Plastic   | 51-9195                       | 8920                          |
| Operatives             | Paper Goods Machine Setters, Operators, and Tenders   | 51-9196                       | 8930                          |
| Operatives             | Tire Builders   | 51-9197                       | 8940                          |
| Operatives             | Production Workers, All Other   | 51-9199                       | 8965                          |
| Operatives             | Aircraft Cargo Handling Supervisors   | 53-1011                       | 9000                          |
| Operatives             | First-Line Supervisors of Helpers, Laborers, and Material Movers, Hand                              | 53-1021                       | 9000                          |
| Operatives             | First-Line Supervisors of Transportation and Material-Moving Machine and Vehicle Operators          | 53-1031                       | 9000                          |

| <b>EEO-1 Job Group</b> | <b>Job Title/Description of Standard Occupational Classification (SOC)</b>      | <b>Six-Level SOC Job Code</b> | <b>Four-Digit Census Code</b> |
|------------------------|---|-------------------------------|-------------------------------|
| Operatives             | Flight Attendants   | 53-2031                       | 9050                          |
| Operatives             | Ambulance Drivers and Attendants, Except Emergency Medical Technicians          | 53-3011                       | 9110                          |
| Operatives             | Bus Drivers, Transit and Intercity  | 53-3021                       | 9120                          |
| Operatives             | Bus Drivers, School or Special Client   | 53-3022                       | 9120                          |
| Operatives             | Driver/Sales Workers  | 53-3031                       | 9130                          |
| Operatives             | Heavy and Tractor-Trailer Truck Drivers   | 53-3032                       | 9130                          |
| Operatives             | Light Truck or Delivery Services Drivers  | 53-3033                       | 9130                          |
| Operatives             | Taxi Drivers and Chauffeurs   | 53-3041                       | 9140                          |
| Operatives             | Motor Vehicle Operators, All Other  | 53-3099                       | 9150                          |
| Operatives             | Locomotive Engineers  | 53-4011                       | 9200                          |
| Operatives             | Locomotive Firers   | 53-4012                       | 9200                          |
| Operatives             | Rail Yard Engineers, Dinkey Operators, and Hostlers                             | 53-4013                       | 9200                          |
| Operatives             | Railroad Brake, Signal, and Switch Operators                                    | 53-4021                       | 9230                          |
| Operatives             | Railroad Conductors and Yardmasters   | 53-4031                       | 9240                          |
| Operatives             | Subway and Streetcar Operators  | 53-4041                       | 9260                          |
| Operatives             | Rail Transportation Workers, All Other  | 53-4099                       | 9260                          |
| Operatives             | Sailors and Marine Oilers   | 53-5011                       | 9300                          |
| Operatives             | Captains, Mates, and Pilots of Water Vessels                                    | 53-5021                       | 9310                          |
| Operatives             | Motorboat Operators   | 53-5022                       | 9310                          |
| Operatives             | Ship Engineers  | 53-5031                       | 9300                          |
| Operatives             | Bridge and Lock Tenders   | 53-6011                       | 9420                          |
| Operatives             | Parking Lot Attendants  | 53-6021                       | 9350                          |
| Operatives             | Traffic Technicians   | 53-6041                       | 9420                          |
| Operatives             | Transportation Attendants, Except Flight Attendants                             | 53-6061                       | 9415                          |
| Operatives             | Transportation Workers, All Other   | 53-6099                       | 9420                          |
| Operatives             | Conveyor Operators and Tenders  | 53-7011                       | 9560                          |
| Operatives             | Hoist and Winch Operators   | 53-7041                       | 9560                          |
| Operatives             | Industrial Truck and Tractor Operators  | 53-7051                       | 9600                          |
| Operatives             | Packers and Packagers, Hand   | 53-7064                       | 9640                          |
| Operatives             | Gas Compressor and Gas Pumping Station Operators                                | 53-7071                       | 9650                          |
| Operatives             | Pump Operators, Except Wellhead Pumpers   | 53-7072                       | 9650                          |
| Operatives             | Wellhead Pumpers  | 53-7073                       | 9650                          |
| Operatives             | Mine Shuttle Car Operators  | 53-7111                       | 9750                          |
| Operatives             | Tank Car, Truck, and Ship Loaders   | 53-7121                       | 9750                          |
| Operatives             | Material Moving Workers, All Other  | 53-7199                       | 9750                          |
| Labors and Helpers     | First-Line Supervisors of Landscaping, Lawn Service, and Groundskeeping Workers | 37-1012                       | 4210                          |
| Labors and Helpers     | Landscaping and Groundskeeping Workers  | 37-3011                       | 4250                          |
| Labors and Helpers     | Pesticide Handlers, Sprayers, and Applicators, Vegetation                       | 37-3012                       | 4250                          |
| Labors and Helpers     | Tree Trimmers and Pruners   | 37-3013                       | 4250                          |
| Labors and Helpers     | Grounds Maintenance Workers, All Other  | 37-3019                       | 4250                          |
| Labors and Helpers     | Nonfarm Animal Caretakers   | 39-2021                       | 4350                          |

| <b>EEO-1 Job Group</b> | <b>Job Title/Description of Standard Occupational Classification (SOC)</b>  | <b>Six-Level SOC Job Code</b> | <b>Four-Digit Census Code</b> |
|------------------------|---|-------------------------------|-------------------------------|
| Labors and Helpers     | First-Line Supervisors of Farming, Fishing, and Forestry Workers            | 45-1011                       | 6005                          |
| Labors and Helpers     | Animal Breeders   | 45-2021                       | 6050                          |
| Labors and Helpers     | Agricultural Equipment Operators  | 45-2091                       | 6050                          |
| Labors and Helpers     | Farmworkers and Laborers, Crop, Nursery, and Greenhouse                     | 45-2092                       | 6050                          |
| Labors and Helpers     | Farmworkers, Farm, Ranch, and Aquacultural Animals                          | 45-2093                       | 6050                          |
| Labors and Helpers     | Agricultural Workers, All Other   | 45-2099                       | 6050                          |
| Labors and Helpers     | Fishers and Related Fishing Workers   | 45-3011                       | 6100                          |
| Labors and Helpers     | Hunters and Trappers  | 45-3021                       | 6100                          |
| Labors and Helpers     | Forest and Conservation Workers   | 45-4011                       | 6120                          |
| Labors and Helpers     | Fallers   | 45-4021                       | 6130                          |
| Labors and Helpers     | Logging Equipment Operators   | 45-4022                       | 6130                          |
| Labors and Helpers     | Log Graders and Scalers   | 45-4023                       | 6130                          |
| Labors and Helpers     | Logging Workers, All Other  | 45-4029                       | 6130                          |
| Labors and Helpers     | Construction Laborers   | 47-2061                       | 6260                          |
| Labors and Helpers     | Helpers--Brickmasons, Blockmasons, Stonemasons, and Tile and Marble Setters | 47-3011                       | 6600                          |
| Labors and Helpers     | Helpers--Carpenters   | 47-3012                       | 6600                          |
| Labors and Helpers     | Helpers--Electricians   | 47-3013                       | 6600                          |
| Labors and Helpers     | Helpers--Painters, Paperhangers, Plasterers, and Stucco Masons              | 47-3014                       | 6600                          |
| Labors and Helpers     | Helpers--Pipelayers, Plumbers, Pipefitters, and Steamfitters                | 47-3015                       | 6600                          |
| Labors and Helpers     | Helpers--Roofers  | 47-3016                       | 6600                          |
| Labors and Helpers     | Helpers, Construction Trades, All Other                                     | 47-3019                       | 6600                          |
| Labors and Helpers     | Helpers--Installation, Maintenance, and Repair Workers                      | 49-9098                       | 7610                          |
| Labors and Helpers     | Helpers--Production Workers   | 51-9198                       | 8950                          |
| Labors and Helpers     | Automotive and Watercraft Service Attendants                                | 53-6031                       | 9360                          |
| Labors and Helpers     | Cleaners of Vehicles and Equipment  | 53-7061                       | 9610                          |
| Labors and Helpers     | Laborers and Freight, Stock, and Material Movers, Hand                      | 53-7062                       | 9620                          |
| Labors and Helpers     | Machine Feeders and Offbearers  | 53-7063                       | 9630                          |
| Labors and Helpers     | Refuse and Recyclable Material Collectors                                   | 53-7081                       | 9720                          |
| Service Workers        | Home Health Aides   | 31-1011                       | 3600                          |
| Service Workers        | Psychiatric Aides   | 31-1013                       | 3600                          |
| Service Workers        | Nursing Assistants  | 31-1014                       | 3600                          |
| Service Workers        | Orderlies   | 31-1015                       | 3600                          |
| Service Workers        | Occupational Therapy Assistants   | 31-2011                       | 3610                          |
| Service Workers        | Occupational Therapy Aides  | 31-2012                       | 3610                          |
| Service Workers        | Physical Therapist Assistants   | 31-2021                       | 3620                          |
| Service Workers        | Physical Therapist Aides  | 31-2022                       | 3620                          |
| Service Workers        | Massage Therapists  | 31-9011                       | 3630                          |
| Service Workers        | Dental Assistants   | 31-9091                       | 3640                          |
| Service Workers        | Medical Assistants  | 31-9092                       | 3645                          |
| Service Workers        | Medical Equipment Preparers   | 31-9093                       | 3655                          |
| Service Workers        | Pharmacy Aides  | 31-9095                       | 3647                          |



| <b>EEO-1 Job Group</b> | <b>Job Title/Description of Standard Occupational Classification (SOC)</b> | <b>Six-Level SOC Job Code</b> | <b>Four-Digit Census Code</b> |
|------------------------|--|-------------------------------|-------------------------------|
| Service Workers        | Veterinary Assistants and Laboratory Animal Caretakers                     | 31-9096                       | 3648                          |
| Service Workers        | Phlebotomists  | 31-9097                       | 3649                          |
| Service Workers        | Healthcare Support Workers, All Other                                      | 31-9099                       | 3655                          |
| Service Workers        | First-Line Supervisors of Correctional Officers                            | 33-1011                       | 3700                          |
| Service Workers        | First-Line Supervisors of Police and Detectives                            | 33-1012                       | 3710                          |
| Service Workers        | First-Line Supervisors of Fire Fighting and Prevention Workers             | 33-1021                       | 3720                          |
| Service Workers        | First-Line Supervisors of Protective Service Workers, All Other            | 33-1099                       | 3730                          |
| Service Workers        | Firefighters   | 33-2011                       | 3740                          |
| Service Workers        | Fire Inspectors and Investigators  | 33-2021                       | 3750                          |
| Service Workers        | Forest Fire Inspectors and Prevention Specialists                          | 33-2022                       | 3750                          |
| Service Workers        | Bailiffs   | 33-3011                       | 3800                          |
| Service Workers        | Correctional Officers and Jailers  | 33-3012                       | 3800                          |
| Service Workers        | Detectives and Criminal Investigators                                      | 33-3021                       | 3820                          |
| Service Workers        | Fish and Game Wardens  | 33-3031                       | 3840                          |
| Service Workers        | Parking Enforcement Workers  | 33-3041                       | 3840                          |
| Service Workers        | Police and Sheriff's Patrol Officers                                       | 33-3051                       | 3850                          |
| Service Workers        | Transit and Railroad Police  | 33-3052                       | 3850                          |
| Service Workers        | Animal Control Workers   | 33-9011                       | 3900                          |
| Service Workers        | Private Detectives and Investigators                                       | 33-9021                       | 3910                          |
| Service Workers        | Gaming Surveillance Officers and Gaming Investigators                      | 33-9031                       | 3930                          |
| Service Workers        | Security Guards  | 33-9032                       | 3930                          |
| Service Workers        | Crossing Guards  | 33-9091                       | 3940                          |
| Service Workers        | Lifeguards, Ski Patrol, and Other Recreational Protective Service Workers  | 33-9092                       | 3955                          |
| Service Workers        | Transportation Security Screeners  | 33-9093                       | 3945                          |
| Service Workers        | Protective Service Workers, All Other                                      | 33-9099                       | 3955                          |
| Service Workers        | Chefs and Head Cooks   | 35-1011                       | 4000                          |
| Service Workers        | First-Line Supervisors of Food Preparation and Serving Workers             | 35-1012                       | 4010                          |
| Service Workers        | Cooks, Fast Food   | 35-2011                       | 4020                          |
| Service Workers        | Cooks, Institution and Cafeteria   | 35-2012                       | 4020                          |
| Service Workers        | Cooks, Private Household   | 35-2013                       | 4020                          |
| Service Workers        | Cooks, Restaurant  | 35-2014                       | 4020                          |
| Service Workers        | Cooks, Short Order   | 35-2015                       | 4020                          |
| Service Workers        | Cooks, All Other   | 35-2019                       | 4020                          |
| Service Workers        | Food Preparation Workers   | 35-2021                       | 4030                          |
| Service Workers        | Bartenders   | 35-3011                       | 4040                          |
| Service Workers        | Combined Food Preparation and Serving Workers, Including Fast Food         | 35-3021                       | 4050                          |
| Service Workers        | Counter Attendants, Cafeteria, Food Concession, and Coffee Shop            | 35-3022                       | 4060                          |
| Service Workers        | Waiters and Waitresses   | 35-3031                       | 4110                          |
| Service Workers        | Food Servers, Nonrestaurant  | 35-3041                       | 4120                          |
| Service Workers        | Dining Room and Cafeteria Attendants and Bartender Helpers                 | 35-9011                       | 4130                          |
| Service Workers        | Dishwashers  | 35-9021                       | 4140                          |



| <b>EEO-1 Job Group</b> | <b>Job Title/Description of Standard Occupational Classification (SOC)</b> | <b>Six-Level SOC Job Code</b> | <b>Four-Digit Census Code</b> |
|------------------------|--|-------------------------------|-------------------------------|
| Service Workers        | Hosts and Hostesses, Restaurant, Lounge, and Coffee Shop                   | 35-9031                       | 4150                          |
| Service Workers        | Food Preparation and Serving Related Workers, All Other                    | 35-9099                       | 4130                          |
| Service Workers        | First-Line Supervisors of Housekeeping and Janitorial Workers              | 37-1011                       | 4200                          |
| Service Workers        | Janitors and Cleaners, Except Maids and Housekeeping Cleaners              | 37-2011                       | 4220                          |
| Service Workers        | Maids and Housekeeping Cleaners  | 37-2012                       | 4230                          |
| Service Workers        | Building Cleaning Workers, All Other                                       | 37-2019                       | 4220                          |
| Service Workers        | Pest Control Workers   | 37-2021                       | 4240                          |
| Service Workers        | Gaming Supervisors   | 39-1011                       | 4300                          |
| Service Workers        | Slot Supervisors   | 39-1012                       | 4300                          |
| Service Workers        | First-Line Supervisors of Personal Service Workers                         | 39-1021                       | 4320                          |
| Service Workers        | Gaming Dealers   | 39-3011                       | 4400                          |
| Service Workers        | Gaming and Sports Book Writers and Runners                                 | 39-3012                       | 4400                          |
| Service Workers        | Gaming Service Workers, All Other  | 39-3019                       | 4400                          |
| Service Workers        | Motion Picture Projectionists  | 39-3021                       | 4410                          |
| Service Workers        | Ushers, Lobby Attendants, and Ticket Takers                                | 39-3031                       | 4420                          |
| Service Workers        | Amusement and Recreation Attendants  | 39-3091                       | 4430                          |
| Service Workers        | Costume Attendants   | 39-3092                       | 4430                          |
| Service Workers        | Locker Room, Coatroom, and Dressing Room Attendants                        | 39-3093                       | 4430                          |
| Service Workers        | Entertainment Attendants and Related Workers, All Other                    | 39-3099                       | 4430                          |
| Service Workers        | Embalmers  | 39-4011                       | 4460                          |
| Service Workers        | Funeral Attendants   | 39-4021                       | 4460                          |
| Service Workers        | Barbers  | 39-5011                       | 4500                          |
| Service Workers        | Hairdressers, Hairstylists, and Cosmetologists                             | 39-5012                       | 4510                          |
| Service Workers        | Makeup Artists, Theatrical and Performance                                 | 39-5091                       | 4520                          |
| Service Workers        | Manicurists and Pedicurists  | 39-5092                       | 4520                          |
| Service Workers        | Shampooers   | 39-5093                       | 4520                          |
| Service Workers        | Skincare Specialists   | 39-5094                       | 4520                          |
| Service Workers        | Baggage Porters and Bellhops   | 39-6011                       | 4530                          |
| Service Workers        | Concierges   | 39-6012                       | 4530                          |
| Service Workers        | Tour Guides and Escorts  | 39-7011                       | 4540                          |
| Service Workers        | Travel Guides  | 39-7012                       | 4540                          |
| Service Workers        | Childcare Workers  | 39-9011                       | 4600                          |
| Service Workers        | Personal Care Aides  | 39-9021                       | 4610                          |
| Service Workers        | Fitness Trainers and Aerobics Instructors                                  | 39-9031                       | 4620                          |
| Service Workers        | Recreation Workers   | 39-9032                       | 4620                          |
| Service Workers        | Residential Advisors   | 39-9041                       | 4640                          |
| Service Workers        | Personal Care and Service Workers, All Other                               | 39-9099                       | 4650                          |

\*\*\* NOTE: Executive/Senior Level Officials and Managers include individuals who plan, direct and formulate policies, set strategy and provide the overall direction of enterprises/organizations for the development and delivery of products or services, within the parameters approved by boards of directors or other governing bodies. Residing in the highest levels of organizations, these executives plan, direct or coordinate activities with the support of subordinate executives and staff managers. They include, in larger organizations, those individuals within two reporting levels of the CEO. Examples

of these kinds of managers are: chief executive officers, chief operating officers, chief financial officers, line of functional areas or operating groups, chief information officers, chief human resources officers, chief marketing officers, chief legal officers, management directors and managing partners.

**INSTRUCTIONS FOR COMPLETING THE NEW YORK STATE GAMING COMMISSION'S  
MINORITY AND WOMEN-OWNED BUSINESS ENTERPRISE PROGRAM  
VENDOR/CONTRACTOR'S MWBE UTILIZATION PLAN FORM**

As mandated by Article 15-A of the Executive Law and the new subtitle N of 9 NYCRR 540 et seq, the New York State Gaming Commission (the "Commission") has established a goal of 0% participation by New York State Certified Minority and Women owned Business Enterprise (MWBE) as subcontractors/suppliers in this contract. Contractors must submit the attached MWBE Utilization Plan Form indicating how they will intend to comply with the established goals.

For the directory of New York State certified MWBE's, please visit the New York State's Division of Minority and Women-owned Business Development website at:  
<https://ny.newnycontracts.com/FrontEnd/VendorSearchPublic.asp>

**Completion of the Form:**

The Commission will complete all the un-shaded areas including: agency information, contract details, and summary of allocation of MWBE utilization and related value.

The contractor will complete the remaining, shaded, areas. It is important that the contractor provide detailed contact information including: name, phone number and email address.

Within the utilization section of the form, the contractor must list the names and addresses of all subcontractors or suppliers that will be utilized during this contract. The following items should be completed for each vendor listed:

- Subcontractor's Federal ID#;
- Subcontractor information as follows:
  - By checking the appropriate boxes, indicate whether the subcontractors are "SUB" or "SUP", minority-owned business enterprise "MBE" or women-owned business enterprise "WBE", and if they are NYS Certified.
- Brief description of the work the subcontractor's will provide.

Note: additional sheets may be used if necessary.

**Attestation and Form Acceptance**

The preparer must attest to the information provided by signing in the appropriate space; in addition, print the name of the contractor, provide telephone number, and date.

The last section, bottom right, will be completed by the Commission upon its review of the form. The contractor will be notified of the acceptance or deficiency of the MWBE Utilization Plan Form.

If assistance is required in completing this form or locating a New York State certified vendor to utilize as subcontractors or suppliers, please contact the Commission's Contracts Officer at (518) 388-3329.

**NEW YORK STATE GAMING COMMISSION  
VENDOR/CONTRACTOR'S MINORITY AND WOMEN-OWNED BUSINESS UTILIZATION PLAN FORM**

AGENCY NAME \_\_\_\_\_  
 AGENCY CONTACT \_\_\_\_\_  
 AGENCY PHONE \_\_\_\_\_

|  |  |   |                               |                       |                             |                        |                         |
|--|--|---|-------------------------------|-----------------------|-----------------------------|------------------------|-------------------------|
| CONTRACTOR NAME AND ADDRESS                      | CHECK APPROPRIATE BOX  |   | DATE SUBMITTED                |                       | TOTAL VALUE OF CONTRACT     |                        |                         |
|  | <input type="checkbox"/> SUPPLIER<br><input type="checkbox"/> CONTRACTOR |   | CONTRACTOR'S FID#             |                       | CONTRACT EFFECTIVE DATES    |                        |                         |
| PROJECT DESCRIPTION                              | GOALS<br>MBE<br>WBE  |   | JOB NUMBER<br>(IF APPLICABLE) |                       | CONTRACT NUMBER             |                        |                         |
| MWBE<br>SUBCONTRACTOR/SUPPLIER<br>NAME & ADDRESS | CHECK<br>ONE   | SUBCONTRACTOR/SUPPLIER<br>TAXPAYER/FEDERAL ID # | MBE<br>(CHECK)                | WBE<br>(CHECK)        | NYS<br>CERTIFIED<br>(CHECK) | DESCRIPTION<br>OF WORK | \$ VALUE OF<br>CONTRACT |
|  | SUB _____<br>SUP _____   |   | YES _____<br>NO _____         | YES _____<br>NO _____ | YES _____<br>NO _____       |                        |                         |
|  | SUB _____<br>SUP _____   |   | YES _____<br>NO _____         | YES _____<br>NO _____ | YES _____<br>NO _____       |                        |                         |
|  | SUB _____<br>SUP _____   |   | YES _____<br>NO _____         | YES _____<br>NO _____ | YES _____<br>NO _____       |                        |                         |
|  | SUB _____<br>SUP _____   |   | YES _____<br>NO _____         | YES _____<br>NO _____ | YES _____<br>NO _____       |                        |                         |

|   |                  |                   |
|---|------------------|-------------------|
|   | <u>\$ AMOUNT</u> | <u>% OF TOTAL</u> |
| (A) TOTAL CONTRACT BID AMOUNT:                                | _____            | _____             |
| (B) TOTAL SUBCONTRACTS FOR COMMODITIES AND SERVICES TO MBE'S: | _____            | _____             |
| (C) TOTAL SUBCONTRACTS FOR COMMODITIES AND SERVICES TO WBE'S: | _____            | _____             |

CONTRACTOR'S ATTESTATION: MY FIRM PROPOSES TO USE THE MWBE'S LISTED ON THIS FORM.

|  |                          |                  |      |
|--|--------------------------|------------------|------|
| PREPARED BY: (SIGNATURE OF CONTRACTOR) | PRINT NAME OF CONTRACTOR | TELEPHONE NUMBER | DATE |
|--|--------------------------|------------------|------|

|                           |
|---------------------------|
| FOR OFFICE USE ONLY       |
| REVIEWED BY:              |
| DATE:                     |
| MWBE FIRMS CERTIFIED:     |
| MWBE FIRMS NOT CERTIFIED: |

NOTICE: this report is required pursuant to Executive Law; failure to report will result in noncompliance.

**NEW YORK STATE GAMING COMMISSION  
 MWBE CONTRACT COMPLIANCE PROGRAM  
 CONTRACTOR'S QUARTERLY SUBCONTRACTING/SUPPLIER ACTIVITY REPORT  
 FOR THE PERIOD OF \_\_\_\_\_**

|                                 |                               |                   |                               |
|---------------------------------|-------------------------------|-------------------|-------------------------------|
| 1. NAME AND ADDRESS:            | 2. PROJECT/CONTRACT GOALS:    | 3. DATE SUBMITTED | 4. CONTRACT NO: _____         |
|                                 | MBE _____                     |                   | JOB NO.: _____                |
|                                 | WBE _____                     |                   | LOCATION/REGION: _____        |
| FEDERAL ID/SOCIAL SECURITY NO.* | 5. PROJECT WORK DESCRIPTION:* |                   | 6. CONTRACT EFFECTIVE DATES:* |

**SUBCONTRACTING/SUPPLIER ACTIVITY REPORT**

| 7. REPORT SUBCONTRACTOR'S SUPPLIERS AWARDED/PURCHASED THIS QUARTER | # AWARDED THIS PERIOD | AMOUNT AWARDED THIS PERIOD | # AWARDED TO NYS CERTIFIED |     | TOTAL DOLLAR AMOUNT AWARDED THIS PERIOD TO NYS CERTIFIED |     | PERCENTAGE |     |
|--|-----------------------|----------------------------|----------------------------|-----|--|-----|------------|-----|
|  |                       |                            | MBE                        | WBE | MBE  | WBE | MBE        | WBE |
| DOLLAR RANGE: \$0-\$24,000   |                       |                            |                            |     |  |     |            |     |
| \$25,000 +   |                       |                            |                            |     |  |     |            |     |
| TOTAL  |                       |                            |                            |     |  |     |            |     |

|  |                          |               |      |
|--|--------------------------|---------------|------|
| PREPARED BY: (SIGNATURE OF CONTRACTOR) | PRINT NAME OF CONTRACTOR | TELEPHONE NO. | DATE |
|--|--------------------------|---------------|------|

This report is required by contract specifications. Failure to report will result in noncompliance with contract specifications.

\*Delete information if reported on previous submittal.



**REQUEST FOR WAIVER FORM**

|  |   |
|--|---|
| <b>INSTRUCTIONS: SEE PAGE 2 OF THIS ATTACHMENT FOR REQUIREMENTS AND DOCUMENT SUBMISSION INSTRUCTIONS.</b>  |   |
| <b>Offerer/Contractor Name:</b>  | <b>Federal Identification No.:</b>  |
| <b>Address:</b>  | <b>Solicitation/Contract No.:</b>   |
| <b>City, State, Zip Code:</b>  | <b>M/WBE Goals: MBE      %      WBE      %</b>  |
| By submitting this form and the required information, the offerer/contractor certifies that every Good Faith Effort has been taken to promote M/WBE participation pursuant to the M/WBE requirements set forth under the contract.   |   |
| <b>Contractor is requesting a:</b><br><br>1. <input type="checkbox"/> MBE Waiver – A waiver of the MBE Goal for this procurement is requested. <input type="checkbox"/> Total <input type="checkbox"/> Partial<br><br>2. <input type="checkbox"/> WBE Waiver – A waiver of the WBE Goal for this procurement is requested. <input type="checkbox"/> Total <input type="checkbox"/> Partial |   |
| <b>PREPARED BY (Signature):</b>  | <b>Date:</b>  |
| SUBMISSION OF THIS FORM CONSTITUTES THE OFFERER/CONTRACTOR'S ACKNOWLEDGEMENT AND AGREEMENT TO COMPLY WITH THE M/WBE REQUIREMENTS SET FORTH UNDER NYS EXECUTIVE LAW, ARTICLE 15-A AND 5 NYCRR PART 143. FAILURE TO SUBMIT COMPLETE AND ACCURATE INFORMATION MAY RESULT IN A FINDING OF NONCOMPLIANCE AND/OR TERMINATION OF THE CONTRACT.  |   |
| <b>Name and Title of Preparer (Printed or Typed):</b>  | <b>Telephone Number:</b>  |
|  | <b>Email Address:</b>   |
| <b>Submit with the bid or proposal or if submitting after award submit to:</b><br><br>NYS Gaming Commission<br>Attn: Stacey Relation<br>One Broadway Center<br>Schenectady, NY 12301   | ***** GAMING COMMISSION USE ONLY *****  |
|  | <b>REVIEWED BY:</b>   |
|  | <b>DATE:</b>  |
|  | Waiver Granted: <input type="checkbox"/> YES      MBE: <input type="checkbox"/> WBE: <input type="checkbox"/><br><br><input type="checkbox"/> Total Waiver <input type="checkbox"/> Partial Waiver<br><input type="checkbox"/> *Conditional<br><input type="checkbox"/> Notice of Deficiency Issued _____<br>*Comments: |

## REQUIREMENTS AND DOCUMENT SUBMISSION INSTRUCTIONS

**When completing the Request for Waiver Form please check all boxes that apply. To be considered, the Request for Waiver Form must be accompanied by documentation for items 1 – 10, as listed below.. Copies of the following information and all relevant supporting documentation must be submitted along with the request:**

1. A statement setting forth your basis for requesting a partial or total waiver.
2. The names of general circulation, trade association, and M/WBE-oriented publications in which you solicited certified M/WBEs for the purposes of complying with your participation goals.
3. A list identifying the date(s) that all solicitations for certified M/WBE participation were published in any of the above publications.
4. A list of all certified M/WBEs appearing in the NYS Directory of Certified Firms that were solicited for purposes of complying with your certified M/WBE participation levels.
5. Copies of notices, dates of contact, letters, and other correspondence as proof that solicitations were made in writing and copies of such solicitations, or a sample copy of the solicitation if an identical solicitation was made to all certified M/WBEs.
6. Provide copies of responses made by certified M/WBEs to your solicitations.
7. Provide a description of any contract documents, plans, or specifications made available to certified M/WBEs for purposes of soliciting their bids and the date and manner in which these documents were made available.
8. Provide documentation of any negotiations between you, the Offerer/Contractor, and the M/WBEs undertaken for purposes of complying with the certified M/WBE participation goals.
9. Provide any other information you deem relevant which may help us in evaluating your request for a waiver.
10. Provide the name, title, address, telephone number, and email address of offerer/contractor's representative authorized to discuss and negotiate this waiver request.

**Note: Unless a Total Waiver has been granted, the offerer or contractor will be required to submit all reports and documents pursuant to the provisions set forth in the Contract.**



## **APPENDIX K**

### **Diversity Practices**

- K.1: Diversity Practices Questionnaire**
- K.2: How to Score Diversity Practices**
- K.3: Diversity Practices Scoring Matrix**

## Diversity Practices Questionnaire (Response worth up to 5 Technical Points)

**Note: Points will not be awarded based on your company's status as a certified MWBE firm; monies spend within your own firm; or training provided to your own employees. All points awarded will be based on the information provided in response to the questions herein pertaining to efforts made toward New York State certified MWBE firms.**

I, \_\_\_\_\_, as \_\_\_\_\_ (title) of \_\_\_\_\_ firm or company (hereafter referred to as the company), swear and/or affirm under penalty of perjury that the answers submitted to the following questions are complete and accurate to the best of my knowledge:

1. Does your company have a Chief Diversity Officer or other individual who is tasked with supplier diversity initiatives? **Yes** or **No**

If Yes, provide the name, title, description of duties assigned to the position and evidence of initiatives performed by this individual or individuals.

2. What percentage of your company's gross revenues (from your prior fiscal year) was paid to New York State certified minority and/or women-owned business enterprises as subcontractors, suppliers, joint-venturers, partners or other similar arrangement for the provision of goods or services to your company's clients or customers?

3. What percentage of your company's overhead (i.e. those expenditures that are not directly related to the provision of goods or services to your company's clients or customers) or non-contract-related expenses (from your prior fiscal year) was paid to New York State certified minority- and women-owned business enterprises as suppliers/contractors?<sup>1</sup>

4. Does your company provide technical training<sup>2</sup> to minority- and women-owned business enterprises? **Yes** or **No**

If Yes, provide a description of such training which should include, but not be limited to, the date the program was initiated, the names and the number of minority- and women-owned business enterprises participating in such training, the number of years such training has been offered and the number of hours per year for which such training occurs.

<sup>1</sup> Do not include onsite project overhead.

<sup>2</sup> Technical training is the process of teaching employees how to more accurately and thoroughly perform the technical components of their jobs. Training can include technology applications, products, sales and service tactics, and more. Technical skills are job-specific as opposed to soft skills, which are transferable.

5. Is your company participating in a government approved minority- and women-owned business enterprises focused mentor protégé program? **Yes** or **No**

If Yes, identify the governmental mentoring program in which your company participates and provide evidence demonstrating the extent of your company's commitment to the governmental mentoring program.

6. Does your company include specific quantitative goals for the utilization of minority- and women-owned business enterprises in its non-government procurements? **Yes** or **No**

If Yes, provide a description of such non-government procurements (including time period, goal, scope and dollar amount) and indicate the percentage of the goals that were attained.

7. Does your company have a formal minority- and women-owned business enterprises supplier diversity program? **Yes** or **No**

If Yes, provide documentation of program activities and a copy of policy or program materials.

**NOTE:** All information provided in connection with the questionnaire is subject to audit and any fraudulent statements are subject to criminal prosecution and debarment.

**Signature of Owner/Official** \_\_\_\_\_

**Printed Name of Signatory** \_\_\_\_\_

**Title** \_\_\_\_\_

**Name of Business** \_\_\_\_\_

**Address** \_\_\_\_\_

**City, State, Zip** \_\_\_\_\_

# INFORMATION ONLY

## How to Score Diversity Practices

Diversity practices are the efforts of contractors to include New York State-certified Minority and Women-owned Business Enterprises (“MWBEs”) in their business practices. Diversity practices may include past, present, or future actions and policies, and include activities of contractors on contracts with private entities and governmental units other than the State of New York. Assessing the diversity practices of contractors enables contractors to engage in meaningful, capacity-building collaborations with MWBEs.

This guide provides instructions on how to determine whether diversity practices should be scored on your procurement, step-by-step instructions as to how to apply diversity practices, and suggestions as to how to customize diversity practices to the particular needs of your organization.

### *Is My Procurement Subject to Diversity Practices?*

Diversity practices are intended to be applied on procurements in which procurement personnel exercise their subjective judgment in selecting one or more successful contractors on the basis of best value, NOT on procurements that are awarded based upon lowest price. The following checklist illustrates when diversity practices should be scored as part of a procurement:

- |   |                              |                             |
|---|------------------------------|-----------------------------|
| 1. Is the procurement based upon best value (RFP or RFQ)?                   | Yes <input type="checkbox"/> | No <input type="checkbox"/> |
| 2. Is the anticipated award \$250,000 or greater?                           | Yes <input type="checkbox"/> | No <input type="checkbox"/> |
| 3. Is scoring for diversity practices practical, feasible, and appropriate? | Yes <input type="checkbox"/> | No <input type="checkbox"/> |

If the answer to all three questions is “Yes,” the procurement should be scored for diversity practices. If the answer to questions 1 or 2 is “No,” no further action is needed and the procurement should not be scored for diversity practices. If the answer to question 3 is “No,” such determination should be documented in writing and diversity practices should not be scored. For more information on when a procurement is subject to diversity practices, please see the frequently asked questions below.

### Frequently Asked Questions

*May I score diversity practices and award points to contractors that are MWBEs based upon their MWBE certification on the same procurement?* No. Procurements may award points to contractors based upon their efforts to collaborate with and promote MWBEs (diversity practices) OR award points to contractors based upon whether they are certified as MWBEs (quantitative factor), but may not score for both. Procurements may not be scored for diversity practices when a quantitative factor is applied.

*When is it NOT practical, feasible, or appropriate to score diversity practices?* In circumstances where MWBE firms are not available to participate as subcontractors or suppliers in the industry

that is the subject of the procurement, contractors' ability to implement diversity practices may be too minimal to score respondents to an RFP or an RFQ. However, it is important to note that diversity practices should be scored when MWBEs are available to participate as subcontractors or suppliers in the industry, even if such subcontracting or supplying opportunities do not exist on the specific project that is the subject of your procurement.

Additionally, certain methods of identifying contractors may not be conducive to scoring for diversity practices. For example, where an RFQ is to be used to identify the availability of contractors and inform the contents of a future RFP, it may be appropriate to defer scoring of diversity practices until the RFP used to select the successful contractor or contractors is ultimately released.

*Should I score for diversity practices where multiple vendors will be selected via a procurement, and the award to each of them is anticipated to be less than \$250,000?* Yes. Diversity practices should be scored where the aggregated spending via a procurement is expected to equal or exceed \$250,000, even if the amount allocated to each successful contractor is less than \$250,000.

#### *Scoring for Diversity Practices*

Once you determine to score diversity practices as part of a procurement, you must identify the number of points you intend to allocate to contractors' diversity practices and include appropriate language in your RFP or RFQ, score the diversity practices of contractors using the diversity practices matrix, and weight each score in accordance with the percentage of points allocated to diversity practices.

Where an organization determines to score diversity practices as part of determining best value on a procurement, the RFP or RFQ in question should include the following: (1) a provision indicating that diversity practices will be scored, (2) the maximum number of points that may be awarded based upon respondents' diversity practices, and (3) a diversity practices questionnaire that respondents may provide as part of their response to the RFP or RFQ. A sample provision indicating that diversity practices will be scored is provided below:

[Name of Agency] has determined, pursuant to New York State Executive Law Article 15-A, that the assessment of the diversity practices of respondents to this procurement is practical, feasible, and appropriate. Accordingly, respondents to this procurement shall be required to include as part of their response to this procurement, as described in [Section ###] herein, forms [Diversity Form Numbers].

The diversity practices questionnaire provided by the Division of Minority and Women's Business Development provides eight questions for respondents to answer. Your organization may include additional questions, as discussed in more detail on page 5. The following provides a guide to scoring responses to each of the questions.

### Question 1

Question 1 solely addresses whether the respondent employs a chief diversity officer. In order to receive points for a response to question 1, a respondent should provide all of the information requested, including evidence of initiatives performed by the chief diversity officer. Merely identifying a chief diversity officer without providing the requested information should result in a score of zero.

### Questions 2 and 3

These questions direct respondents to provide information on the share of expenditures that the respondents made with MWBEs. Only the prior fiscal year of a respondent should be taken into account when assigning a score to questions 2 and 3. Any additional data that respondents provide illustrating expenditures made with MWBEs in other fiscal years should be disregarded.

In addition, any data regarding expenditures made to businesses certified as MWBEs by an entity other than the State of New York should be disregarded. Expenditures made to businesses with certifications other than MWBE, such as Disadvantaged Business Enterprises and Service-Disabled Veteran-owned Business Enterprises, are not to be considered in this analysis.

### Question 4

Respondents may score points in response to question 4 by identifying industry-specific technical training of MWBEs. Technical training is specific to the industry in question, and does not include generic training in skills that are transferrable across industries. Examples of trainings that do not qualify as technical training include trainings in managerial skills and leadership, effective communication, and professional development and networking. Examples of technical training topics include the use, installation, or safe handling of particular products, the use of industry-specific IT, and industry-specific sales and customer service strategies.

In assessing the robustness of a respondent's technical training, you should take into account the duration of the technical training program, the number of MWBEs served, and the total number of hours devoted to technical training of MWBEs. The characteristics of a robust technical training program will vary based upon the nature of the industry and the associated opportunities for MWBE training. However, characteristics of technical training programs fitting the "minimum" scoring criterion will typically be that the respondent has been providing technical training for one year or less, that the respondent has provided fewer than one hundred hours of technical training, or that the respondent has provided technical training to only one MWBE firm in a contracting area for which there is significant MWBE availability.

### Question 5

In order for a respondent to receive points for its response to question 5, the respondent must provide documentation demonstrating its participation in a mentor-protégé program approved by a governmental entity. Such governmental entity need not necessarily be the State of New York.

Appropriate documentation of the existence of a mentor-protégé program will vary based upon the approving governmental entity. Only documents generated by a governmental entity should be accepted to demonstrate the existence of a mentor-protégé program.

A robust mentor-protégé program must include the following elements:

- The mentee must be able to meaningfully participate in the delivery of contract requirements.
- For services contracts: at least one element of the scope must be performed by the MWBE with the Prime serving as mentor. Multi-year contracts must have a plan in place to expose the MWBE to each element of the scope through the lifetime of the contract.
- Mentor and mentee must enter into an agreement, approved by a governmental entity, which outlines the expectations of each party.
- Specific metrics must be identified which will be used to measure the effectiveness and success of the Mentor/Protégé relationship.

#### Question 6

Question 6 evaluates both the existence of MWBE goals on the part of the respondent in its own contracting, and the respondent's achievement of these goals. Whether a goal is robust depends on the availability of MWBEs in the industry in question. One tool to assist you in determining the availability of MWBE firms in the industry is the New York State Contract System MWBE Directory <<https://ny.newnycontracts.com/>>. This analysis should, to the extent possible, be based upon subcontracting activities that are available in the industry in which the respondent is engaged, not solely the availability of MWBE subcontractors for the procurement being made by your organization.

Once you have evaluated the robustness of the goal, you must take into account the share of the goal that the respondent has achieved. A respondent should only receive a robust score if the respondent has achieved a significant portion of an appropriate goal; achieving a small percentage of a robust goal should not entitle a respondent to a robust score.

#### Question 7

Question 7 considers whether a respondent has an immersive, formal program to promote the use of MWBEs as suppliers. A formal supplier diversity program must be documented via a program policy manual or similar document describing the requirements for participation and elements of the program, as well as documentation of program activities.

Characteristics of a supplier diversity program meeting the minimum requirement for the respondent to be awarded points could include a supplier diversity program with weak verification procedures focused solely on creating a list of diverse suppliers from which the respondent may procure goods or services. A robust supplier diversity program may be characterized by rigorous verification of MWBE status, plans for outreach to MWBE suppliers, and training and education programs designed to increase the capacity of MWBE suppliers.

## Question 8

The final question considers the use of MWBEs on the procurement for which diversity practices are being scored. This is the only criterion that considers the circumstances of the procurement exclusively, without regard to the respondent's other activities to promote MWBEs. The robustness of a utilization plan is to be assessed based upon the availability of MWBEs to perform as subcontractors and suppliers to the respondent on the procurement. As with question 6, you should refer to the MWBE Directory in order to determine the availability of MWBEs.

### Determine the Weighted Score

Once you have added the scores for all eight questions for a respondent, multiply that score based upon the weight you have assigned to diversity practices on the procurement. For example, if diversity practices account for 8% of the available points on your RFP and a respondent achieves a total score of 50 points for diversity practices on the diversity practices matrix, that respondent's weighted score is the product of 50 points and .08, or 4 points.

### *Customizing Diversity Practices*

The eight questions reflected on the diversity practices questionnaire constitute the minimum required to assess the diversity practices of respondents. You may add additional questions to the diversity practices questionnaire to customize it to your procurement activities. In order to determine whether additional fields may be useful, consider some of the following questions:

- Are there particular resources or skills needed to serve as a subcontractor or supplier in the industry?
- Are there technical or financial barriers to entry in the industry?
- Could respondents facilitate MWBE training and participation in the industry in ways not reflected on the questionnaire?
- Are there specific types of MWBE subcontractors or suppliers that are particularly underutilized in the industry in question?

In the case that you decide to include additional questions on the diversity practices questionnaire, you must revise the diversity practices matrix accordingly to reflect any points to be awarded to respondents for additional questions.



## New York State Diversity Practices Scoring Matrix

Questions

| Q1 - CDO or other person tasked with function                                      |        |        |        |          | Yes     | No    | Total |
|--|--------|--------|--------|----------|---------|-------|-------|
|  |        |        |        |          | 5 pts   | 0 pts |       |
| Q2 - Percentage of prior yr. revenues that involved M/WBEs as subs or JVs/partners | 20%+   | 15-19% | 10-14% | 5-9%     | 1-4%    | 0%    |       |
|  | 20 pts | 14 pts | 10 pts | 6 pts    | 2 pts   | 0pts  |       |
| Q3 - Percentage of overhead expenses paid to M/WBEs                                | 20%+   | 15-19% | 10-14% | 5-9%     | 1-4%    | 0%    |       |
|  | 16 pts | 10 pts | 7 pts  | 4 pts    | 1 pts   | 0pts  |       |
| Q4 - M/WBE Training  |        |        | Robust | Moderate | Minimum | None  |       |
|  |        |        | 16 pts | 8 pts    | 4 pts   | 0 pts |       |
| Q5 - M/WBE Mentoring   |        |        | Robust | Moderate | Minimum | None  |       |
|  |        |        | 12 pts | 8 pts    | 4 pts   | 0 pts |       |
| Q6 - Written M/WBE goals included in the Company's procurements                    |        |        | Robust | Moderate | Minimum | No    |       |
|  |        |        | 20 pts | 12 pts   | 6 pts   | 0 pts |       |
| Q7 - Formal Supplier Diversity Program   |        |        | Robust | Moderate | Minimum | No    |       |
|  |        |        | 6 pts  | 4 pts    | 2 pts   | 0 pts |       |
| Q8 - Utilization Plan  |        |        | Robust | Moderate | Minimum | No    |       |
|  |        |        | 5 pts  | 3 pts    | 1 pts   | 0 pts |       |

**Total Diversity Score  
(Max 100 pts)**

**Weighted Score (Up to  
10% of Technical)**



One Broadway Center, Schenectady, NY 12305  
[www.gaming.ny.gov](http://www.gaming.ny.gov)

## **PARTICIPATION OPPORTUNITIES FOR NEW YORK STATE CERTIFIED SERVICE-DISABLED VETERAN-OWNED BUSINESSES**

Article 17-B of the New York State Executive Law provides for more meaningful participation in public procurement by certified Service-Disabled Veteran-Owned Businesses (“SDVOB”), thereby further integrating such businesses into New York State’s economy. The New York State Gaming Commission (the “Commission”) recognizes the need to promote the employment of service-disabled veterans and to ensure that certified service-disabled veteran-owned businesses have opportunities for maximum feasible participation in the performance of Commission contracts.

In recognition of the service and sacrifices made by service-disabled veterans and in recognition of their economic activity in doing business in New York State, Bidders are expected to consider SDVOBs in the fulfillment of the requirements of the Contract. Such participation may be as subcontractors or suppliers, as protégés, or in other partnering or supporting roles.

### **I. Contract Goals**

- A. The Commission hereby establishes an overall goal of **6%** for SDVOB participation, based on the current availability of qualified SDVOBs. For purposes of providing meaningful participation by SDVOBs, the Bidder/Contractor should reference the directory of New York State Certified SDVOBs found at: [https://ogs.ny.gov/veterans/Docs/CertifiedNYS\\_SDVOB.pdf](https://ogs.ny.gov/veterans/Docs/CertifiedNYS_SDVOB.pdf). Questions regarding compliance with SDVOB participation goals should be directed to Michele June, [Michele.june@gaming.ny.gov](mailto:Michele.june@gaming.ny.gov). Additionally, following Contract execution, Contractor is encouraged to contact the Commission to discuss additional methods of maximizing participation by SDVOBs on the Contract.
- B. Contractor must document “good faith efforts” to provide meaningful participation by SDVOBs as subcontractors or suppliers in the performance of the Contract (see clause IV below).

### **II. SDVOB Utilization Plan**

- A. In accordance with 9 NYCRR § 252.2(i), Bidders are required to submit a completed SDVOB Utilization Plan on Form SDVOB 100 with their bid.
- B. The Utilization Plan shall list the SDVOBs that the Bidder intends to use to perform the Contract, a description of the work that the Bidder intends the SDVOB to perform to meet the goals on the Contract, the estimated dollar amounts to be paid to an SDVOB, or,

if not known, an estimate of the percentage of Contract work the SDVOB will perform. By signing the Utilization Plan, the Bidder acknowledges that making false representations or providing information that shows a lack of good faith as part of, or in conjunction with, the submission of a Utilization Plan is prohibited by law and may result in penalties including, but not limited to, termination of a contract for cause, loss of eligibility to submit future bids, and/or withholding of payments. Any modifications or changes to the agreed participation by SDVOBs after the Contract award and during the term of the Contract must be reported on a revised SDVOB Utilization Plan and submitted to the Commission.

- C. The Commission will review the submitted SDVOB Utilization Plan and advise the Bidder/Contractor of Commission acceptance or issue a notice of deficiency within 20 days of receipt.
- D. If a notice of deficiency is issued, Bidder/Contractor agrees that it shall respond to the notice of deficiency, within seven business days of receipt, by submitting to the Commission a written remedy in response to the notice of deficiency. If the written remedy that is submitted is not timely or is found by the Commission to be inadequate, the Commission shall notify the Bidder/Contractor and direct the Bidder/Contractor to submit, within five business days of notification by the Commission, a request for a partial or total waiver of SDVOB participation goals on SDVOB 200. Failure to file the waiver form in a timely manner may be grounds for disqualification of the bid or proposal.
- E. The Commission may disqualify a Bidder's bid or proposal as being non-responsive under the following circumstances:
  - (a) If a Bidder fails to submit an SDVOB Utilization Plan;
  - (b) If a Bidder fails to submit a written remedy to a notice of deficiency;
  - (c) If a Bidder fails to submit a request for waiver; or
  - (d) If the Commission determines that the Bidder has failed to document good faith efforts.
- F. If awarded a Contract, Contractor certifies that it will follow the submitted SDVOB Utilization Plan for the performance of SDVOBs on the Contract pursuant to the prescribed SDVOB contract goals set forth above.
- G. Contractor further agrees that a failure to use SDVOBs as agreed in the Utilization Plan shall constitute a material breach of the terms of the Contract. Upon the occurrence of such a material breach, the Commission shall be entitled to any remedy provided herein, including but not limited to, a finding of Contractor non-responsibility.

### **III. Request for Waiver**

- A. **Prior to submission of a request for a partial or total waiver, Bidder/Contractor shall speak to the Commission for guidance.**
- B. In accordance with 9 NYCRR § 252.2(m), a Bidder/Contractor that is able to document good faith efforts to meet the goal requirements, as set forth in clause IV below, may submit a request for a partial or total waiver on Form SDVOB 200, accompanied by

supporting documentation. A Bidder may submit the request for waiver at the same time it submits its SDVOB Utilization Plan. If a request for waiver is submitted with the SDVOB Utilization Plan and is not accepted by the Commission at that time, the provisions of clauses II (C), (D) & (E) will apply. If the documentation included with the Bidder's/Contractor's waiver request is complete, the Commission shall evaluate the request and issue a written notice of acceptance or denial within 20 days of receipt.

- C. Contractor shall attempt to utilize, in good faith, the SDVOBs identified within its SDVOB Utilization Plan, during the performance of the Contract. Requests for a partial or total waiver of established goal requirements made subsequent to Contract award may be made at any time during the term of the Contract to the Commission, but must be made no later than prior to the submission of a request for final payment on the Contract.
- D. If the Commission, upon review of the SDVOB Utilization Plan and Monthly SDVOB Compliance Report (SDVOB 101) determines that Contractor is failing or refusing to comply with the contract goals and no waiver has been issued in regards to such non-compliance, the Commission may issue a notice of deficiency to the Contractor. The Contractor must respond to the notice of deficiency within seven business days of receipt. Such response may include a request for partial or total waiver of SDVOB contract goals.

Waiver requests should be sent to Michele.june@gaming.ny.gov.

#### **IV. Required Good Faith Efforts**

In accordance with 9 NYCRR § 252.2(n), Contractors must document their good faith efforts toward utilizing SDVOBs on the Contract. Evidence of required good faith efforts shall include, but not be limited to, the following:

- (1) Copies of solicitations to SDVOBs and any responses thereto.
- (2) Explanation of the specific reasons each SDVOB that responded to Bidders/Contractors' solicitation was not selected.
- (3) Dates of any pre-bid, pre-award or other meetings attended by Contractor, if any, scheduled by the Commission with certified SDVOBs whom the Commission determined were capable of fulfilling the SDVOB goals set in the Contract.
- (4) Information describing the specific steps undertaken to reasonably structure the Contract scope of work for the purpose of subcontracting with, or obtaining supplies from, certified SDVOBs.
- (5) Other information deemed relevant to the waiver request.

#### **V. Monthly SDVOB Contractor Compliance Report**

In accordance with 9 NYCRR § 252.2(q), Contractor is required to report Monthly SDVOB Contractor Compliance to the Commission during the term of the Contract for the preceding month's activity, documenting progress made towards achieving the Contract SDVOB goals. This information must be submitted using form SDVOB 101 available at <https://ogs.ny.gov/veterans/>, and should be completed by the Contractor and

submitted to the Commission, by the 10th day of each month during the term of the Contract, for the preceding month's activity to: [Michele.june@gaming.ny.gov](mailto:Michele.june@gaming.ny.gov).

**VI. Breach of Contract and Damages**

In accordance with 9 NYCRR § 252.2(s), any Contractor found to have willfully and intentionally failed to comply with the SDVOB participation goals set forth in the Contract, shall be found to have breached the contract and Contractor shall pay damages as set forth therein.

## **Vendor Assurance of No Conflict of Interest or Detrimental Effect**

The Firm offering to provide services pursuant to this [RFP/Contract], as a contractor, joint venture contractor, subcontractor, or consultant, attests that its performance of the services outlined in this [RFP/Contract] does not and will not create a conflict of interest with nor position the Firm to breach any other contract currently in force with the State of New York.

Furthermore, the Firm attests that it will not act in any manner that is detrimental to any State project on which the Firm is rendering services. Specifically, the Firm attests that:

1. The fulfillment of obligations by the Firm, as proposed in the response, does not violate any existing contracts or agreements between the Firm and the State;
2. The fulfillment of obligations by the Firm, as proposed in the response, does not and will not create any conflict of interest, or perception thereof, with any current role or responsibility that the Firm has with regard to any existing contracts or agreements between the Firm and the State;
3. The fulfillment of obligations by the Firm, as proposed in the response, does not and will not compromise the Firm's ability to carry out its obligations under any existing contracts between the Firm and the State;
4. The fulfillment of any other contractual obligations that the Firm has with the State will not affect or influence its ability to perform under any contract with the State resulting from this RFP;
5. During the negotiation and execution of any contract resulting from this RFP, the Firm will not knowingly take any action or make any decision which creates a potential for conflict of interest or might cause a detrimental impact to the State as a whole including, but not limited to, any action or decision to divert resources from one State project to another;
6. In fulfilling obligations under each of its State contracts, including any contract which results from this RFP, the Firm will act in accordance with the terms of each of its State contracts and will not knowingly take any action or make any decision which might cause a detrimental impact to the State as a whole including, but not limited to, any action or decision to divert resources from one State project to another;
7. No former officer or employee of the State who is now employed by the Firm, nor any former officer or employee of the Firm who is now employed by the State, has played a role with regard to the administration of this contract procurement in a manner that may violate section 73(8)(a) of the State Ethics Law; and
8. The Firm has not and shall not offer to any employee, member or director of the State any gift, whether in the form of money, service, loan, travel, entertainment,

hospitality, thing or promise, or in any other form, under circumstances in which it could reasonably be inferred that the gift was intended to influence said employee, member or director, or could reasonably be expected to influence said employee, member or director, in the performance of the official duty of said employee, member or director or was intended as a reward for any official action on the part of said employee, member or director.

Firms responding to this [RFP/Contract] should note that the State recognizes that conflicts may occur in the future because a Firm may have existing or new relationships. The State will review the nature of any such new relationship and reserves the right to terminate the contract for cause if, in its judgment, a real or potential conflict of interest cannot be cured.

Name, Title:

Signature:

Date:

This form must be signed by an authorized executive or legal representative.

### **Statement on sexual harassment**

By submission of this bid, each bidder and each person signing on behalf of any bidder certifies, and in the case of a joint bid each party thereto certifies as to its own organization, under penalty of perjury, that the bidder has and has implemented a written policy addressing sexual harassment prevention in the workplace and provides annual sexual harassment prevention training to all of its employees. Such policy shall, at a minimum, meet the requirements of section two hundred one-g of the labor law.

Contractor certifies that this statement provided to the Agency with respect to State Finance Law §139 (l) is complete, true and accurate.

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**Authorized Signatory**

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**Signature**

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**Title**

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**Company Name**



***Anti-Discrimination EO 177 Certification***

The New York State Human Rights Law, Article 15 of the Executive Law, prohibits discrimination and harassment based on age, race, creed, color, national origin, sex, pregnancy or pregnancy-related conditions, sexual orientation, gender identity, disability, marital status, familial status, domestic violence victim status, prior arrest or conviction record, military status or predisposing genetic characteristics.

The Human Rights Law may also require reasonable accommodation for persons with disabilities and pregnancy-related conditions. A reasonable accommodation is an adjustment to a job or work environment that enables a person with a disability to perform the essential functions of a job in a reasonable manner. The Human Rights Law may also require reasonable accommodation in employment on the basis of Sabbath observance or religious practices.

Generally, the Human Rights Law applies to:

- all employers of four or more people, employment agencies, labor organizations and apprenticeship training programs in all instances of discrimination or harassment;
- employers with fewer than four employees in all cases involving sexual harassment; and,
- any employer of domestic workers in cases involving sexual harassment or harassment based on gender, race, religion or national origin.

In accordance with Executive Order No. 177, the Bidder hereby certifies that it does not have institutional policies or practices that fail to address the harassment and discrimination of individuals on the basis of their age, race, creed, color, national origin, sex, sexual orientation, gender identity, disability, marital status, military status, or other protected status under the Human Rights Law. 3

Executive Order No. 177 and this certification do not affect institutional policies or practices that are protected by existing law, including but not limited to the First Amendment of the United States Constitution, Article 1, Section 3 of the New York State Constitution, and Section 296(11) of the New York State Human Rights Law.

Contractor:

By: \_\_\_\_\_

Name: \_\_\_\_\_

Title: \_\_\_\_\_

Date: \_\_\_\_\_, 20\_\_

## **INSURER QUALIFICATIONS AND INSURANCE REQUIREMENTS**

### **Insurer Qualifications**

All insurance required under this RFP must be written by an company with a current rating of "A-" or better as rated by A.M. Best & Co., have a record of successful continuous operation, are licensed, admitted, and authorized to do business in the State of New York, and are approved by the Commission. (). Non-admitted carriers will only be accepted when coverage cannot be secured from an admitted carrier, as evidenced by appropriate Excess Line Association of New York ("ELANY") documentation (see Certificate of Insurance Requirements).

Required coverage and limits must be put into effect as of the effective date of the Contract and must remain in effect throughout the term of the Contract, as determined by the Commission.

### **Insurance Requirements**

Prior to the start of work the Contractor shall procure at its sole cost and expense, and shall maintain in force at all times during the term of the Contract, policies of insurance as herein below set forth, written by companies authorized by the New York State Department of Financial Services to issue insurance in the State of New York (Admitted Carriers). The Commission may, at its sole discretion, accept policies of insurance written by a non-authorized carrier or carriers when Certificates and/or other policy documentation is accompanied by a completed ELANY Affidavit; provided that nothing herein shall be construed to require the Commission to accept insurance placed with a non-authorized carrier under any circumstances.

Upon award, the Contractor shall deliver to the Commission evidence of such insurance coverage as defined below. In the event there is a claim asserted that is covered by insurance, the Contractor shall make available for inspection to the Commission upon the Commission's request, at Commission headquarters, during reasonable business hours, any applicable policy required by this Contract.

Throughout the Contract period, the Contractor shall notify the Commission of any material changes to the policy coverages, or any cancellations prior to the expiration date. The carrier shall also send notification of cancellation, termination, or failure to renew any policy in accordance with the policy provisions when practicable.

## **General Conditions**

A. **Conditions Applicable to Insurance.** All policies of insurance required by the RFP and Contract must meet the following requirements:

1. **Coverage Types and Policy Limits.** The types of insurance coverage and policy limits required from the Contractor are specified in Paragraph B below – Specific Coverages and Limits.

2. **Policy Forms.** Policies must be written on an **occurrence** basis, except as may be otherwise specifically provided herein, or agreed to in writing by the Commission. Under certain circumstances, the Commission may elect to accept policies written on a claims-made basis provided that, at a minimum, the policy remains in force throughout the performance of the services and for three (3) years after completion of the Contract. If the policy is cancelled or not renewed during that time, the Contractor must purchase at its sole expense Discovery Clause coverage sufficient to complete the 3-year period after completion of the Contract. Written proof of this extended reporting period must be provided to the Commission prior to the expiration or cancellation of the policy.

3. **Certificates of Insurance/Notices.** Contractor shall provide a Certificate or Certificates of Insurance, in a form satisfactory to the Commission, before commencing any work under this Contract. Certificates shall be mailed using the contact information provided in Part 1 of this RFP. Copies of the full policy shall be provided to the Commission by the Contractor upon request.

Unless otherwise agreed, insurance policies shall be written so as to include a provision that the policy will not be canceled, materially changed, or not renewed without at least thirty (30) days' prior written notice to the Commission.

Certificates of Insurance shall:

- a. Be in the form approved by the Commission.
- b. Disclose any deductible, self-insured retention, aggregate limit or any exclusion to the policy that materially changes the coverage required by the RFP and the Contract.
- c. Specify the Additional Insureds and Named Insureds as required herein.
- d. When coverage is provided by a non-admitted carrier, be accompanied by a completed ELANY Affidavit,
- e. Be signed by an authorized representative of the insurance carrier or producer.

4. **Primary Coverage.** All insurance policies shall provide that the required coverage shall apply on a primary and not on an excess or contributing basis as to any other insurance that may be available to the Commission for any claim arising from the Contractor's work under this Contract, or as a result of the Contractor's activities. Any other insurance maintained by the Commission shall be excess of and shall not contribute with the Contractor's insurance regardless of the "other insurance" clause contained in the Commission's own policy of insurance.
5. **Policy Renewal/Expiration.** At least two weeks prior to the expiration of any insurance policy required by this Contract, evidence of renewal or replacement policies of insurance with terms no less favorable to the Commission than the expiring policies shall be delivered to the Commission in the manner required for service of notice in Paragraph A.3 above. If, at any time during the term of this Contract, the coverage provisions and limits of the insurance policies required herein do not meet the provisions and limits set forth in the Contract or proof thereof is not provided to the Commission, the Contractor shall immediately cease work on the project. The Contractor shall not resume work on the project outlined within the RFP and the Contract until authorized to do so by the Commission. Any delay, time lost, or additional cost incurred as a result of the Contractor not having the insurance required by the Contract, or not providing proof of same in a form acceptable to the Commission, shall not give rise to a delay claim or any other claim against the Commission. Should the Contractor fail to provide or maintain any insurance required by this Contract, or proof of insurance is not provided to the Commission, the Commission may withhold further Contract payments, treat such failure as a breach or default of the Contract, and/or, after providing written notice to the Contractor, require the Surety, if any, to secure appropriate coverage and/or purchase insurance complying with the Contract and charge back such purchase to the Contractor.
6. **Self-Insured Retention/Deductibles.** Additional surety/security may be required in certain circumstances. The Contractor shall be solely responsible for all claim expenses and loss payments within any self-insured retention or deductible.
7. **Subcontractors.** Should the Contractor engage a subcontractor, the Contractor shall endeavor to impose the insurance requirements of this document on the subcontractor, as applicable. Required insurance limits should be determined commensurate with the work of the subcontractor. Proof thereof shall be supplied to the Commission.
- B. **Specific Coverages and Limits.** The types of insurance and minimum policy limits shall be as provided below.

1. **General Liability.** Commercial General Liability Insurance (CGL), covering the liability of the Contractor for bodily injury, property damage, and personal/advertising injury arising from all work and operations under this Contract. The limits under such policy shall not be less than the following:

- Each Occurrence limit: \$2,000,000
- General Aggregate: \$5,000,000
- Products/Completed Operations should equal the General Aggregate limit
- Personal Advertising Injury \$1,000,000
- Property Damage \$2,000,000
- Medical Expense \$5,000

Coverage shall include, but not be limited to, the following: premises liability; independent contractors; blanket contractual liability, including tort liability of another assumed in a Contract; defense and/or indemnification obligations, including obligations assumed under this Contract; cross-liability for additional insureds; products/completed operations for a term of no less than three years, commencing upon acceptance of the Contractor's and any subcontractor's work, as required by the Contract; explosion, collapse, and underground hazards; contractor means and methods; liability resulting from Section 240 or Section 241 of the New York State Labor Law.

The following ISO forms must be endorsed to the policy:

- CG 00 01 01 96 or an equivalent – Commercial General Liability Coverage Form
- CG 20 10 11 85, or, an equivalent- Additional Insured-Owner, Lessees or Contractors (Form B)

Limits may be provided through a combination of primary and umbrella/excess liability policies.

Each insurance policy shall name the Commission as an Additional Insured, and such coverage shall be extended to afford Additional Insured status to those entities during the Products/Completed Operations term. No endorsement or exclusions shall be included within each insurance policy to reduce, limit, or exclude the Commission's full position as an Additional Insured.

The CGL policy, and any umbrella/excess policies used to meet the "Each Occurrence" limits specified above, must be endorsed to be primary with respects to the coverage afforded the Additional Insureds, and such polic(ies) shall be primary to, and non-contributing with, any other insurance maintained by the Commission. Any other insurance maintained by the Commission shall be in excess of and shall not contribute with the Contractor's or any

subcontractor's insurance, regardless of the "Other Insurance" clause contained in either party's policy of insurance.

2. **Property Insurance.** The Contractor must maintain insurance on all buildings, furniture, fixtures, computer and communications equipment used in operating and supporting the central system in an amount equal to or greater than the actual replacement cost thereof. Coverage must include an All Risk Property Floater to insure personal property including contents, equipment, and mobile items, against fire, theft, collision flood, etc. The State of New York, the Commission and video lottery gaming facilities will not be responsible for insuring any equipment or facilities included in or associated with the central system.
3. **Crime Insurance.** The Contractor must maintain crime insurance with a limit of not less than \$5,000,000 protecting the State of New York and the Commission against losses resulting from fraudulent or dishonest acts by the Contractor, any subcontractors, or any officer, employee or agent of the Contractor or any subcontractors.
4. **Workers' Compensation and Disability.** For work to be performed in New York State, the Contractor shall provide and maintain insurance coverage during the life of this Contract for the benefit of such employees as are required to be covered by the New York State Workers' Compensation Law ([www.wcb.ny.gov](http://www.wcb.ny.gov)).

Evidence of New York State Workers' Compensation and Employers Liability coverage and New York State Disability Benefits coverage, or exemption from coverage, must be provided on **one** of the following forms specified by the Commissioner of the New York State Workers' Compensation Board. For forms and guidance, the Board's website is:

[http://www.wcb.ny.gov/content/main/forms/Forms\\_EMPLOYER.jsp](http://www.wcb.ny.gov/content/main/forms/Forms_EMPLOYER.jsp)

A. Workers' Compensation and Employers Liability Coverage:

- **Form CE-200** - Certificate of Attestation for New York Entities with No Employees and Certain Out of State Entities, that New York State Workers' Compensation and/or Disability Benefits Insurance Coverage is Not Required); or
- **Form C-105.2** - (September 2015, or most current version) – Certificate of Workers' Compensation Insurance, sent to the Commission by the Contractor's insurance carrier upon request; or
- **Form U-26.3** – Certificate of Workers' Compensation Insurance from the State Insurance Fund. Bidder must request that the State Insurance Fund send this form to the Commission; or
- **Form SI-12** – Certificate of Workers' Compensation Self Insurance, available from the New York State Workers' Compensation Board's Self-Insurance Office; or
- **Form GSI-105.2** – Certificate of Participation in Workers'

Compensation Group Self-Insurance, available from the Bidder's Group Self-Insurance Administrator.

B. Disability Benefits:

- **Form CE-200** - Certificate of Attestation for New York Entities with No Employees and Certain Out of State Entities, That New York State Workers' Compensation and/or Disability Benefits Insurance Coverage is Not Required); or
- **Form DB-120.1** (September 2015 or most current version), Certificate of Insurance Coverage under the NYS Disability Benefits Law. Bidder must request its business insurance carrier to send this form to the Commission.
- **Form DB-155**, Certificate of Disability Benefits Self-Insurance.

**All forms must name THE NEW YORK STATE GAMING COMMISSION as the Entity Requesting Proof of Coverage (i.e., the entity being listed as the Certificate Holder).**

**All forms are valid for one year from the date the form is signed/ stamped, or until policy expiration, whichever is earlier. (ACORD forms are NOT acceptable proof of Workers' Compensation insurance coverage).**

## **BOND REQUIREMENTS**

### **PROPOSAL VALIDITY AND PROPOSAL BOND**

Proposals must remain valid for a period of eighteen (18) months.

Lot 1 Only

Each Vendor must submit a Proposal Bond with its Proposal. The Proposal Bond must be acceptable to the New York State Gaming Commission (the "Commission") in form and substance, and issued by a qualified issuer as described below, in the amount of one hundred thousand dollars (\$100,000). This Proposal Bond will guarantee the availability of the goods and services at the price(s) quoted in the Proposal for a period of eighteen (18) months after submission of the Proposal. In lieu of the Proposal Bond, the Commission will accept a certified check from the Vendor in this amount. The check or Proposal Bond shall be made payable to the New York State Gaming Commission.

The check or Proposal Bond will be returned to an unsuccessful Vendor upon the award of the Contract. The check or Proposal Bond of the Vendor awarded the Contract (the "Successful Vendor") will be retained by the Commission until the Contract is signed and approved, and until the Commission is furnished with an acceptable Performance Bond. The check or Proposal Bond will be forfeited to the Commission if the Successful Vendor fails to timely submit the Performance Bond or other security, as required, or fails to sign the Contract when required to do so by the Commission.

Bonds shall be issued by a reliable surety company with a record of successful continuous operation and licensed to do business in the State of New York.

### **LITIGATION BOND**

Lot 1

Each Vendor must submit with the Proposal a Litigation Bond in the amount of one million dollars (\$1,000,000). A claim upon the Bond may be made by the Commission if the Vendor sues the New York Gaming Commission, the State of New York, or any of their officers, employees, representatives, other contractors, or sales agents with regard to any matter relating to this RFP, determination of responsiveness of Commission or the award of a contract pursuant to this RFP; and the Commission or other defendant is the prevailing party in such suit.

The purpose of the Bond is to permit the Commission or other defendants to recover damages, including the cost of appeal relative to the additional cost in compensation to the current vendor during implementation or conversion delay, and including reasonable attorneys' fees, expenses and court costs resulting from such litigation. The Litigation Bond shall remain in effect for a period of two (2) years from the date of submission of the Proposal.

Lot 2 and Lot 3

Each Vendor must submit with the Proposal a Litigation Bond in the amount of two-hundred fifty thousand (\$250,000). A claim upon the Bond may be made by the Commission if the Vendor sues



the New York Gaming Commission, the State of New York, or any of their officers, employees, representatives, other contractors, or sales agents with regard to any matter relating to this RFP, determination of responsiveness of Commission or the award of a contract pursuant to this RFP; and the Commission or other defendant is the prevailing party in such suit.

The purpose of the Bond is to permit the Commission or other defendants to recover damages, including the cost of appeal relative to the additional cost in compensation to the current vendor during implementation or conversion delay, and including reasonable attorneys' fees, expenses and court costs resulting from such litigation. The Litigation Bond shall remain in effect for a period of two (2) years from the date of submission of the Proposal.

Bidders submitted proposals for multiple Lots may submit one Bond in the amount for the Lot requiring the highest bonding

### PERFORMANCE BOND

#### Lot 1

Upon notification of the Contract award, the Successful Vendor will be required to obtain a Performance Bond or other acceptable form of security in the amount of twenty-five million dollars (\$25,000,000). The Performance Bond shall be maintained throughout the term of any resulting Contract or any extension thereof. The Performance Bond may be paid in full or in part to the Commission if the Successful Vendor defaults in the performance of the Contract or has occasioned uncompensated liquidated damages.

The Performance Bond may be assessed liquidated damages if these damages have not been received by the Commission within thirty (30) calendar days of written notice to the Successful Vendor that they have been incurred.

Other forms of security may be acceptable but are subject to the Commission's discretion. Failure to post a replacement security within seven (7) days after notice that the proposed security is inadequate shall be grounds for immediate termination of the Contract.

Along with its Proposal, each Vendor must include a letter from a qualified surety company or agent acting on behalf of such surety stating that the Vendor will be able to secure a Performance Bond in the amount required by the RFP, should the Vendor be the Successful Vendor.

#### Lot 2 and Lot 3

Upon notification of the Contract award, the Successful Vendor will be required to obtain a Performance Bond or other acceptable form of security in the amount of one million dollars (\$1,000,000). The Performance Bond shall be maintained throughout the term of any resulting Contract or any extension thereof. The Performance Bond may be paid in full or in part to the Commission if the Successful Vendor defaults in the performance of the Contract or has occasioned uncompensated liquidated damages.

The Performance Bond may be assessed liquidated damages if these damages have not been received by the Commission within thirty (30) calendar days of written notice to the Successful Vendor that they have been incurred.

Other forms of security may be acceptable but are subject to the Commission's discretion. Failure to post a replacement security within seven (7) days after notice that the proposed security is

inadequate shall be grounds for immediate termination of the Contract.

Along with its Proposal, each Vendor must include a letter from a qualified surety company or agent acting on behalf of such surety stating that the Vendor will be able to secure a Performance Bond in the amount required by the RFP, should the Vendor be the Successful Vendor.

## 2.19 FIDELITY BOND

Upon notification of award and prior to Contract approval, the Successful Vendor must obtain a Fidelity Bond in the amount of five million dollars (\$5,000,000) covering any loss to the Commission due to any fraudulent or dishonest act on the part of the Successful Vendor's officers, employees, agents or subcontractors. Such an event, in the sole discretion of the Commission, could be grounds for termination of the Contract, whether or not the losses arising as a result thereof were paid under the Fidelity Bond.

## APPENDIX R – GLOSSARY OF TERMS

Terms used throughout this RFP shall have the following meaning unless context would indicate an alternative definition:

|                                      |   |
|--------------------------------------|---|
| Affected State Agency                | All agencies and departments over which the Governor has Executive Authority; and all public-benefit corporations, public authorities and commissions, for which the Governor appoints the Chair, the Chief Executive, or the majority of Board Members, except for the Port Authority of New York and New Jersey |
| Application Programming Interfaces   | The system of tools and resources in an operating system, enabling developers to create software applications   |
| Average Base Compensation Rate       | The weighted average of the base compensation rate as a percentage of net machine income bid by the two Successful Primary Bidders where the weighting shall be the relative percentage of actual net win achieved on each Primary Suppliers machines.  |
| Best and Final Offers                | The final proposal submitted after negotiations are completed that contains the vendor's most favorable terms for price and services or product to be delivered   |
| Bidder                               | The party submitting a proposal in response to the RFP  |
| Breach of the Security of the System | The unauthorized acquisition or acquisition without valid authorization of computerized data which compromises the security, confidentiality, or integrity of personal information maintained by a state entity   |
| Central System                       | See "Video Lottery Central System"  |
| Commission                           | The New York Gaming Commission  |

|                            |  |
|----------------------------|--|
| Confidential Information   | Any information (1) concerning a natural person which, because of name, number, symbol, mark or other identifier, can be used to identify that natural person; or (2) are trade secrets or are submitted to an agency by a commercial enterprise or derived from information obtained from a commercial enterprise and which if disclosed would cause substantial injury to the competitive position of the subject enterprise |
| Contract                   | The signed agreement, the RFP including all question & answers and amendments thereto, and the Successful Bidder's proposal including all exhibits, appendices and attachments thereto   |
| Contractor                 | See "Successful Bidder"  |
| Custom Products            | Any deliverable developed by a Successful Bidder in order to perform services required under the RFP, including but not limited to, the development of intellectual property   |
| Data Breach                | An unauthorized acquisition or acquisition without valid authorization of computerized data which compromises the security, confidentiality, or integrity of personal information  |
| Designated Contacts        | State employee(s), designated at the time that a restricted period is imposed, who are knowledgeable about the procurement and who may be contacted by offerers relative to the governmental procurement   |
| Electronic Payment         | Distribution of funds made by electronic funds transfer through the Automated Clearing House (ACH) network   |
| Electronic Payment Request | Form to be completed by a Successful Bidder to voluntarily enroll in the State's ePayment program  |
| Electronic Table Games     | VLTs, which must connect with the Central System via site controllers, that may generate outcomes at each bank of games. Although player skill may influence the player's chance to win, outcomes must be  |

determined to a material degree upon the element of chance.

|                         |   |
|-------------------------|---|
| ePayment                | Electronic Payment program offered the Office of the New York State Comptroller   |
| ETGs                    | Electronic Table Games, see "Electronic Table Games"  |
| Ethics Requirements     | Applicable provisions of the New York State Public Officers Law, other laws applicable to the service of State employees, and the rules, regulations, opinions, guidelines or policies promulgated or issued by the New York State Joint Commission on Public Ethics, or its predecessors |
| Everi Games, Inc.       | The contracted operator (provider) of the Video Lottery Central System  |
| Everi Protocol          | The protocols required for communication between the Video Lottery Central System and the VLTs  |
| Executive Director      | The Executive Director of the New York Gaming Commission  |
| Field Service           | Any and all work required to maintain the operability and appearance of equipment and software placed in service at a Video Lottery Gaming Facility   |
| FOIL                    | New York State's Freedom of Information Law (Public Officers Law §87 et. seq.) allows members of the public to access records of governmental agencies. FOIL provides a process for the review and copying of an agency's records (known in other jurisdictions as FOIA)                  |
| Games                   | Any game played on a Video Lottery Terminal   |
| Gaming Floor            | The area of a Video Lottery Gaming Facility where VLTs are permitted to be located for play by the general public   |
| Gaming Floor Allocation | The number of VLTs and ETGs approved for each Video Lottery Gaming Facility and the distribution of those terminals between suppliers   |

|                                       |  |
|---------------------------------------|--|
| Highest Applicable Industry Standards | The degree of care, skill, efficiency, and diligence that a prudent person possessing technical expertise in the subject area and acting in a like capacity would exercise in similar circumstances  |
| Human Rights Law                      | Article 15 of the New York State Executive Law   |
| Internal Audit Unit                   | The Office of Internal Audit of the New York Gaming Commission   |
| Material Change in Ownership          | Any merger, acquisition, assignment or change in parties who, in the aggregate, own greater than five (5) percent of the Bidder or the parent company of the Bidder  |
| Maximum Repair Time                   | The maximum time allotted for the repair or replacement of an inoperable terminal measured from the time the Successful Bidder receives a service call to the time a repair is considered complete and the technician who completed the repair informs the Video Lottery Central System provider that the VLTs are repaired and ready to be activated for play |
| New York Lottery                      | The sale of lottery tickets by the Commission, acting through the Division of Lottery or Division of Gaming, either directly or through a sales agent, pursuant to section 9 of the New York State Constitution and the New York State Lottery for Education Law   |
| Non-Collusive Bidding Certification   | Affirmation required of the Bidder that their submission in response to the RFP adheres to the non-collusion requirements of section 139-d of the State Finance Law  |
| Non-Disclosure Agreement              | Affirmation by required of any Bidder or potential Bidder to maintain the confidentiality of proprietary information received to facilitate participation or potential participation in the RFP  |

|   |   |
|---|---|
| Pricing Proposal  | Submission by a Bidder of the Bidder's proposed cost structure or amounts under the prescribed requirements of the RFP  |
| Primary Suppliers   | Licensees authorized to each supply Video Lottery Terminals (VLTs) at a minimum of twenty-five (25) percent of each gaming floor and may be required to supply up to fifty (50) percent of each of the gaming floors, if necessary.   |
| Procurement Lobbying Law  | Sections 139-j and 139-k of the State Finance Law   |
| Qualified Electronic Table Games Suppliers or "Qualified ETG Suppliers" | Licensees authorized to collectively supply ETGs up to one hundred (100) percent of each gaming floor allocation of ETGs and no individual supplier may supply ETGs in excess of fifty (50) percent of each gaming floor allocation of ETGs   |
| Qualified Standard Device Suppliers or "Qualified VLT Suppliers"        | Licensees authorized to collectively supply standard device VLTs to up to fifty (50) percent of each gaming floor, and no individual supplier may supply standard device VLTs in excess of ten (10) percent of each gaming floor. An individual Qualified Supplier will not be guaranteed an allocation on any of the gaming floors.                              |
| Qualified Suppliers   | Licensees authorized to provide either standard device VLTs or ETGs to licensed Video Lottery Gaming Facilities at the discretion of each facility, subject to the restrictions included in this RFP  |
| Questionnaire   | New York State Vendor Responsibility Questionnaire  |
| Restricted Period   | The period of time commencing with the earliest posting of written notice, advertisement or solicitation of a request for proposal, invitation for bids, or solicitation of proposals, or any other method provided for by law or regulation for soliciting a response from offerers intending to result in a procurement contract with a governmental entity and |

ending with the final contract award and approval by the governmental entity and, where applicable, the state comptroller

Request for Proposals

A type of bid document which is used for procurements where factors in addition to cost are considered and weighted in awarding the contract and where the method of award is "best value ", as defined by State Finance Law

RFP

Request for Proposals, see "Request for Proposals"

Schedule

The timeline established by the Commission within the RFP and any subsequent deliverable dates promised by a Successful Bidder

Security Breach

An unauthorized access to or accessing without valid authorization a computerized system which compromises the security, confidentiality, or integrity of such system

Site Controllers

Computers programmed to draw, store and dispense an electronic instant lottery tickets in the sequence received from the Central System which link VLTs to the Central System

Standard Device VLTs

VLTs, which connect to the Central System via site controllers, that displays results drawn from the Video Lottery Central System

Statewide Financial System

Electronic system used to initiate, process, and track financial transactions including, but not limited to, travel, purchasing, vendor payments, etc.

Strategic Alliance

Any mutually advantageous, joint business venture between two or more entities that (1) produces a commodity or service not otherwise available, and/or (2) results in the sharing of expertise and resources

Subcontractor

A Vendor to whom a Successful Bidder procures goods or services from in order to fulfill the terms and conditions of the Contract



|                               |   |
|-------------------------------|---|
| Successful Bidder             | A vendor to whom the Commission awards and with whom the Commission executes a Contract pursuant to this RFP  |
| Supplier                      | Licensees authorized to supply Video Lottery Terminals as either a Primary or Qualified Supplier  |
| Technical Proposal            | Submission by a Bidder of the Bidder's providing all responses to the non-pricing requirements of the RFP   |
| Vendor                        | Any entity under a contract to provide goods or services  |
| Vendor Identification Number  | A unique New York State ten-digit vendor identification number (Vendor ID - VIN) issued by the Office of the State Comptroller, that is assigned to a bidder and/or an authorized reseller of a bidder, for use on all payment transactions with New York State.  |
| Video Lottery Central System  | A fault-tolerant or duplexed central determinate, finite pool system with supporting peripheral equipment including, but not limited to, media storage, printers, controllers, management and data entry terminals; Video Lottery Gaming site controllers; application and system software required to operate the equipment and Central System; front-end communications processors and network connections for the Central System, as required; and terminals at each location to validate vouchers |
| Video Lottery Gaming          | The sale of Lottery games through VLTs as authorized by Section 1617-a of the New York State Tax Law  |
| Video Lottery Gaming Facility | Locations that have been authorized to be license for the operation Video Lottery Gaming pursuant to Section 1617-a of the New York State Tax Law   |
| Video Lottery Gaming License  | A license granted to an individual or organization to participate in the operation of Video Lottery Gaming or to be employed at a Video Lottery Gaming Facility   |
| Video Lottery Gaming Program  | The administration of Video Lottery Gaming by the Commission and its Licensees  |

|                             |  |
|-----------------------------|--|
| Video Lottery Gaming System | All electronic components required for the operation and management of Video Lottery Gaming including the Central System, VLTs, and Site Controllers   |
| Video Lottery Terminals     | Video display terminals, which connect to the Central System via site controllers, accept players' play amount and game selections, graphically display game menus, each game presentation and drawing results and issue redemption tickets. |
| VLTs                        | Video Lottery Terminals, see "Video Lottery Terminals"   |



# Gaming Commission

## VIDEO LOTTERY GAMING APPLICATION FOR:

- AGENT
- VENDOR

Agent/Vendor Name: \_\_\_\_\_ Date Received: \_\_\_\_\_

# IMPORTANT

## FAILURE TO ANSWER ANY QUESTION ON THIS FORM COMPLETELY AND TRUTHFULLY MAY RESULT IN DENIAL OF YOUR APPLICATION.

### I. COMPLETING THIS FORM:

- a. You must make accurate statements and include all material facts. **Any misrepresentation, or the failure to provide requested information, may result in the denial of your application.**
- b. Read each question carefully prior to answering. Answer every question completely. Do not leave blank spaces. If a question does not apply to you or you have nothing to disclose, indicate “**Does Not Apply**” in response to that question. Failure to provide a response to every question could result in the denial of your application.
- c. If the space available is insufficient to respond to a question, supply the required information on an attachment page and clearly identify which question you are answering.
- d. If you make any modification to the pre-printed questions or information contained in this form, your application may be denied. Once your application is submitted, it becomes the property of the New York State Gaming Commission and will not be returned.

### II. BE SURE:

- a. You sign the **Statement and Authorization** at the end of this form in the presence of a notary public or other person authorized to authenticate your signature.
- b. All Attachments/Exhibits are catalogued by appropriate question number and alpha index.
- c. You retain a completed copy of your application for your own records.

**PLEASE PRINT OR TYPE THE ANSWERS TO THE  
FOLLOWING QUESTIONS IN THE SPACES PROVIDED**

**APPLICANT DATA**

1) APPLICANT NAME: \_\_\_\_\_

2) BUSINESS ADDRESS: \_\_\_\_\_  
NUMBER AND STREET CITY/TOWN STATE ZIP/POSTAL CODE

MAILING ADDRESS: \_\_\_\_\_  
(IF DIFFERENT THAN BUSINESS ADDRESS) NUMBER AND STREET CITY/TOWN STATE ZIP/POSTAL CODE

3) BUSINESS TELEPHONE NO: \_\_\_\_\_ FAX NUMBER: \_\_\_\_\_  
(AREA CODE) (NUMBER) (AREA CODE) (NUMBER)

4) E-MAIL CONTACT: \_\_\_\_\_ WEB SITE (if applicable): \_\_\_\_\_

5) Applying for qualification in connection with (please check one):  
 An Initial Video Lottery Gaming Agent License Application  
 An Initial Video Lottery Gaming Vendor License Application  
 OTHER (Specify) \_\_\_\_\_

6) If enterprise named above is not an applicant in connection with number 5, please list below the name of the Enterprise applying for the license.  
 \_\_\_\_\_

7) Attach a copy of the certificate of incorporation, charter, by-laws, partnership agreement, trust agreement or other documentation relating to the legal organization of the applicant or licensee.

8) A description of any present and any former businesses engaged in by the applicant or licensee and any holding, intermediary or subsidiary company.

| DATES         |             | NAMES & ADDRESS OF PRESENT & FORMER BUSINESSES | DESCRIPTION OF RELATIONSHIP | CURRENT STATUS OF RELATIONSHIP |
|---------------|-------------|--|-----------------------------|--------------------------------|
| FROM: (MO/YR) | TO: (MO/YR) |  |                             |                                |
|               |             |  |                             |                                |

9) A description of the nature, type, number of shares, terms, conditions, rights and privileges of all classes of stock issued by the applicant or licensee, if any, or which the applicant or licensee plans to issue.

| NO. OF SHARES | NATURE/ TYPE | TERMS | CONDITIONS | RIGHTS | PRIVILEGES |
|---------------|--------------|-------|------------|--------|------------|
|               |              |       |            |        |            |

10) List the name, address, date of birth, number and percentage of shares held by each person or entity having at least a ten (10) percent ownership interest in any non-voting stock.

| NAME | ADDRESS | DATE OF BIRTH | NUMBER AND PERCENTAGE OF SHARES |
|------|---------|---------------|---------------------------------|
|      |         |               |                                 |

11) List the name, home address, date of birth, current title or position and, if applicable, percentage of ownership for the following persons at the date of the application: (1) Each officer, director or trustee; (2) Each owner, or partner, including all partners whether general, limited or otherwise; (3) Each beneficial owner of outstanding voting securities.

| NAME | HOME ADDRESS | DATE OF BIRTH | CURRENT TITLE OR POSITION | PERCENTAGE OF OWNERSHIP |
|------|--------------|---------------|---------------------------|-------------------------|
|      |              |               |                           |                         |

12) Attach a flow chart which illustrates the ownership of any other entity or parent company which holds an interest in the filing applicant or licensee.

13) List the name, last known address, date of birth, position, date the position was held, and reason for leaving for any former officers or directors who held such office during the preceding ten (10) years.

| NAME | LAST KNOWN ADDRESS | DATE OF BIRTH | POSITION | DATES            |                | REASON FOR LEAVING |
|------|--------------------|---------------|----------|------------------|----------------|--------------------|
|      |                    |               |          | FROM:<br>(MO/YR) | TO:<br>(MO/YR) |                    |
|      |                    |               |          |                  |                |                    |

14) List the annual compensation of each partner, officer, director and trustee.

| NAME | POSITION | ANNUAL COMPENSATION |
|------|----------|---------------------|
|      |          |                     |

15) List the name, home address, date of birth, position, length of time employed and the amount of compensation of each person other than the persons identified in fourteen (14) above, currently expected to receive annual compensation including salaries, bonuses, and profit sharing of more than \$75,000.

| NAME | HOME ADDRESS | DATE OF BIRTH | POSITION | LENGTH OF TIME EMPLOYED | AMOUNT OF COMPENSATION |
|------|--------------|---------------|----------|-------------------------|------------------------|
|      |              |               |          |                         |                        |

16) Attach description of all bonus, profit sharing, pension, retirement, deferred compensation or similar plans.

17) If the applicant or licensee is a partnership, LLC, list a description of the interest held by each partner including the amount of initial investment, amount of additional contribution, amount and nature of any anticipated future investments, degree of control of each partner and percentage of ownership of each partner/member.

| NAME | DESCRIPTION OF INTEREST HELD | INITIAL INVESTMENT | AMOUNT OF ADDITIONAL CONTRIBUTION | FUTURE INVESTMENTS | DEGREE OF CONTROL | PERCENTAGE OF OWNERSHIP |
|------|------------------------------|--------------------|-----------------------------------|--------------------|-------------------|-------------------------|
|      |                              |                    |                                   |                    |                   |                         |

18) Attach a description of the nature, type, terms, covenants, and priorities of all outstanding debt and the name, address and date of birth of each debt holder or security holder, type and class of debt instrument held, original debt amount and current debt balance.

19) Attach a description of the nature, type, terms and conditions of all securities options.

20) Provide the following information for each account held in the name of the applicant or licensee or its nominee or which is otherwise under the direct or indirect control of the applicant or licensee.

| FINANCIAL INSTITUTION | ADDRESS | TYPE OF ACCOUNT | ACCOUNT NUMBERS | DATES HELD    |             |
|-----------------------|---------|-----------------|-----------------|---------------|-------------|
|                       |         |                 |                 | FROM: (MO/YR) | TO: (MO/YR) |
|                       |         |                 |                 |               |             |

21) Attach a copy of all contracts of \$50,000 or more in value, including employment contracts of more than one (1) year duration, and contracts pursuant to which the applicant or licensee has received \$50,000 or more in goods or services in the past six (6) months.

22) Provide the name and address of each company in which the applicant or licensee holds stock, type of stock held, purchase price per share, number of shares held, and percentage of ownership held.

| NAME | ADDRESS | TYPE OF STOCK | PURCHASE PRICE PER SHARE | NUMBER OF SHARES HELD | PERCENTAGE OF OWNERSHIP |
|------|---------|---------------|--------------------------|-----------------------|-------------------------|
|      |         |               |                          |                       |                         |

23) Attach information regarding any transaction during the past five (5) years involving a change in the beneficial ownership of the applicant or licensee's securities on the part of an officer or director who owned more than ten (10) percent of any class of equity security.



- 24) A description of any civil, criminal, administrative and investigatory proceedings in any jurisdiction in which the applicant or licensee or its subsidiaries have been involved as follows:
- a. Any conviction for any criminal or disorderly persons offense;
  - b. Any criminal proceeding in which the applicant or licensee or its subsidiaries has been a party or has been named as an uninfected co-conspirator;
  - c. Existing civil litigation if damages are reasonably expected to exceed \$50,000, except for claims covered by insurance;
  - d. Any judgment, order consent decree or consent order entered against the applicant or licensee pertaining to a violation or alleged violation of the Federal Antitrust, Trade Regulation or Securities Laws or similar laws of any jurisdiction; and
  - e. Any judgment, order, consent decree or consent order entered against the applicant or licensee pertaining to a violation or alleged violation of any other state or federal statute, regulation statute regulation or code which resulted in the imposition of a fine or penalty of \$50,000 or more.

| NAME GOVERNMENTAL AGENCY/ORGANIZATION INVOLVED | ADDRESS | NATURE OF PROCEEDING | DATE |
|--|---------|----------------------|------|
|  |         |                      |      |

25) Attach copies of any judgments or petitions for bankruptcy or insolvency and any relief sought under any provision of the Federal Bankruptcy Act (United States Code, Title 11) or any state insolvency law (New York State Debtor and Creditor Law), and any receiver, fiscal agent, trustee or similar officer appointed for the property or business of the applicant or licensee or any holding, intermediary or subsidiary company.

26) Provide the following information if the applicant or licensee has had any license or certificate denied, suspended or revoked by any government agency in this State or any other jurisdiction, the nature of such license or certificate, the agency and its location, the date of such action, the reasons therefore, and the facts related thereto. The applicant or licensee will execute waivers permitting the Division or its duly authorized representative to obtain copies of licensing documentation and to speak with representatives of other gaming license jurisdictions.

| NAME GOVERNMENTAL AGENCY/JURISDICTION | ADDRESS | LICENSE/CERTIFICATE | DATE OF SUCH ACTION | REASONS/FACTS FOR DENIAL, SUSPENSION, OR REVOCATION |
|---------------------------------------|---------|---------------------|---------------------|---|
|                                       |         |                     |                     |   |

27) Provide the following information if the applicant or licensee or any holding company, intermediary or subsidiary company has ever applied for a license, permit or authorization to participate in any lawful gaming operation in this State or any other jurisdiction, the agency and its location, date of application, the nature of the license permit or authorization, number and expiration date.

| NAME GOVERNMENTAL AGENCY/JURISDICTION | ADDRESS | LICENSE/PERMIT | DATE OF APPLICATION | NUMBER AND EXPIRATION DATE |
|---------------------------------------|---------|----------------|---------------------|----------------------------|
|                                       |         |                |                     |                            |

28) Whether the applicant or licensee or any director, officer, partner, employee or person acting on behalf of the applicant or licensee has made bribes or kickbacks to any employee, company, organization or government official.

29) The names and addresses of any current or former directors, officers, employees or third parties who would have knowledge or information concerning 28 above.

**FINANCIAL DATA**

30) Attach copies of the following: (List as Exhibit 30A, 30B, 30C, etc.)

- a. Annual reports for the past five (5) years;
- b. Any annual reports prepared within the last five (5) years on Form 10K pursuant to Sections 13 or 15d of the Securities Exchange Act of 1934;
- c. An audited financial statement for the last fiscal year, including, without limitation, an income statement, balance sheet and statement of sources and application of funds, and all notes to such statements and related financial schedules;
- d. Copies of all annual financial statements, whether audited or unaudited, prepared in the last five (5) fiscal years, any exception taken to such statements by an independent auditor and the management response thereto;
- e. The most recent quarterly unaudited financial statement prepared by or for the applicant or licensee or, if the applicant or licensee is registered with the Securities Exchange Commission (SEC), a copy of the most recently filed Form 10Q
- f. Any current report prepared due to a change in control of the applicant or licensee, an acquisition or disposition of assets, a bankruptcy or receivership proceeding, a change in the applicant or licensee’s certifying accountant or any other material event, or, if the applicant or licensee is registered with the SEC, a copy of the most recently filed Form 8K;
- g. The most recent Proxy or Information Statement filed pursuant to Section 14 of the Securities Exchange Act of 1934
- h. Registration Statements filed in the last five (5) years pursuant to the Securities Act of 1933; and
- i. All reports and correspondence submitted within the last five (5) years by independent auditors for the applicant or licensee which pertain to the issuance of financial statements, managerial advisory services or internal control recommendations;

31) Attach an organizational chart of the applicant, licensee, or parent company, including position descriptions and the name of the person holding each position.

32) Attach copies of all Internal Revenue Forms 1120 (corporate income tax return), all Internal Revenue Forms 1065 (partnership return) or all internal Revenue Forms 1040 (personal return) filed for the last five (5) years.

- 33) Such information and documentation as may be required by the Division to establish compliance with all relevant facilities requirements of the rules of the Division including without limitation, the following: (List as Exhibit 33A, 33B, 33C, etc.)
- a. A certified copy of the applicant's license to engage in pari-mutuel wagering activities issued by the New York State Gaming Commission.
  - b. A certified copy of the local law authorizing the applicant's participation in video lottery gaming, if applicable.
  - c. A certified copy of the certificate of occupancy demonstrating that the entire premises of the video lottery gaming agent, including those areas where video lottery gaming will not be conducted, is in compliance with all state and local fire, health and safety codes. Such copies shall be certified no earlier than four (4) months prior to the commencement of the video lottery gaming facility.
  - d. Certified payroll records showing that all workers engage or to be engaged in the construction, reconstruction, development, rehabilitation or maintenance of any area utilized or to be utilized for video lottery gaming will be paid prevailing wages in accordance with Articles 8 and 9 of the New York State labor Law to the extent provided in said articles.
  - e. A description of the proposed video lottery gaming facility site, including site plans, total acreage, total square footage, frontages and elevation;
  - f. A description of the proposed video lottery gaming facility, including number of terminals requested and proposed location of each VLT;
  - g. A certificate of general liability insurance in the amount of at least \$2,000,000.00 per claim covering tort claims by patrons of the video lottery gaming facility;
  - h. The construction program, including estimated construction time and anticipated date of opening, the status of all required governmental and regulatory approvals and any conditions thereto; the project budget; and the architect general contractor, construction manager and primary subcontractors, environment consultant and interior designer and proof of insurance of all phases of the construction process;
  - i. A copy of any agreements with the organization authorized to represent the horsemen in accordance with the Video Lottery Gaming Law.
  - j. A copy of your internal controls for video lottery operations.
- 34) Any other information or documentation which the Division may deem material to the licensing of the applicant, or of any person required to be licensed pursuant to the rules of the Division.

**Statement and Authorization**

**Statement**

I am the authorized officer of the applicant, and I supplied the information contained in this application on behalf of the applicant. I understand and read the English language or I have had an interpreter read, explain and record the answer to each and every question on this form. Any document accompanying this application that is not an original document is a true copy of the original document. I swear that the foregoing statements are true.

**Notification and Release Authorization**

The New York State Gaming Commission is hereby authorized to provide information relative to the applicant's identity, including its name and video lottery gaming license to any other State agency for the purposes of obtaining a license.

To any person and all Courts, Probation Departments, Selective Service Boards, Employers, Educational Institutions, Banks, Financial and Other Such Institutions, and All Governmental Agencies – federal, state and local, including unemployment insurance agencies, without exception, both foreign and domestic: The applicant has authorized the New York State Gaming Commission and the New York Division of Criminal Justice Services to conduct a full investigation into its background and activities.

The applicant hereby authorizes the New York State Gaming Commission to obtain a credit report on the applicant through a credit agency of its choice and the applicant further authorize the New York State Gaming Commission to check its credit record, as needed, on a continuing basis as it relates to its employment or suitability for employment. If an adverse employment decision is made totally or partially due to the information on the Credit Report, the New York State Gaming Commission will provide a copy of the Credit Report, a summary of rights under the Fair Credit Reporting Act, and the source of the credit report so that the applicant may contact the credit agency, if it wishes.

Therefore, you are hereby authorized to release any and all information pertaining to the applicant, documentary or otherwise, as requested by any employee or agent of the New York State Gaming Commission, provided that he or she certifies to you that the applicant has an application pending before the New York State Gaming Commission or that the applicant is presently a licensee or registrant required to be qualified under New York Tax Law Section 1617-a.

This authorization shall supersede any prior request or authorization to the contrary.

A copy of this authorization shall be considered as effective and valid as the original.

\_\_\_\_\_  
(Print Name Authorized Officer)                      (Title)

\_\_\_\_\_/\_\_\_\_\_/\_\_\_\_\_  
(Date of Birth)                      (Social Security #)

\_\_\_\_\_  
(Company)

\_\_\_\_\_  
(FEIN #)

\_\_\_\_\_  
(Address)

\_\_\_\_\_  
(City, State, Zip)

DATED: \_\_\_\_\_

\_\_\_\_\_  
(SIGNATURE OF AUTHORIZED OFFICER)

Subscribed and sworn to  
before me this \_\_\_\_\_ day  
of \_\_\_\_\_,

\_\_\_\_\_  
NOTARY PUBLIC

**C202017**

**ATTACHMENTS**

- Attachment 1: Bidder Acknowledgement of Addendum**
- Attachment 2: Pricing Proposal Form**
- Attachment 3: Document Proposal Submittal Checklist**
- Attachment 4: Non-Bid Response Form**



**RFP: C202017 – New York Lottery Video Lottery Games**

**BIDDER ACKNOWLEDGEMENT OF ADDENDUM**

Amendment Number: \_\_\_\_\_

Date Issued: \_\_\_\_\_

Summary:

By signing below, the bidder attests to receiving and responding to the amendment number indicated above.

FIRM NAME: \_\_\_\_\_

REPRESENTATIVE SIGNATURE: \_\_\_\_\_

### Pricing Proposal

Lot 1 Bidders must use this form. Lot 2 and 3 may use an alternative form.

#### Base Pricing

Each vendor shall provide their pricing for slant top and upright as a percentage of net terminal income, carried to four (4) decimal places, including zeros. If a bidder does not carry out a price quote to four (4) decimal places, the Commission will add the appropriate number of zeros. For example, if a quote is stated as 0.10%, the Commission will add two (2) zeros to make the quote read 0.1000%. Pricing is inclusive of machine lease, games, software, maintenance and seats.

#### Lot 1 - Primary Suppliers

**% Net Machine Income:** \_\_\_\_\_%  
**Specified Option:** Attach Catalog with pricing

#### Lot 2 - Qualified Standard Device Suppliers

**% Net Machine Income:** \_\_\_\_\_%  
**Specified Option:** Attach catalog with pricing

#### Lot 3 - Qualified Electronic Table Games Suppliers

**% Net Machine Income:** \_\_\_\_\_%  
**Specified Option:** Attach catalog with pricing

|   |       |
|---|-------|
| <i>Please include the following information to verify the Entity for which this Proposal is being made:</i> |       |
| Company Name:   |       |
| Signature:  |       |
|   | Date: |



# Gaming Commission

One Broadway Center, Schenectady, NY 12305  
[www.gaming.ny.gov](http://www.gaming.ny.gov)

## RFP – C202017 New York Lottery Video Lottery Games

### DOCUMENT SUBMITTAL CHECKLIST

#### Submissions Required with Proposal:

| Description of Document   | RFP          | Submittal Requirements                                      | Checklist |
|---|--------------|---|-----------|
| Transmittal Letter  | §4.2<br>§4.3 | With Proposal   |           |
| Bidder Acknowledgement of Addendum (Attachment 1)   | §1.12        | With Proposal, if applicable                                |           |
| Document Submittal Checklist (Attachment 3)   | §4.2<br>§4.3 | With Proposal   |           |
| Contract Form (Appendix B) (incorporates Appendix A)  | §2.2         | Must be signed—With Proposal                                |           |
| Bidder/Offerer Disclosure/Certification Form (Appendix C)   | §1.11        | With Proposal   |           |
| Non-Collusive Bidding Certification (Appendix D)  | §1.1         | With Proposal   |           |
| NYS Vendor Responsibility Questionnaire (Appendix E)  | §1.14        | With Proposal, unless filed online                          |           |
| Encouraging Use of New York State Businesses in Contract Performance (Appendix I)                         | §2.22        | With Proposal   |           |
| Work Force Employment Staffing Plan (Appendix J-2)  | §2.18        | With Proposal   |           |
| MWBE Utilization Plan Form (Appendix J-4) <ul style="list-style-type: none"> <li>Proposed Plan</li> </ul> | §2.18        | Proposed plan, including estimated percentage—With Proposal |           |
| Diversity Practices Questionnaire (Appendix K)  | §4.2<br>§4.3 | With Proposal   |           |
| Participation Opportunities for New York State Service-Disabled Veteran Owned Businesses (Appendix L)     | §2.19        | With Proposal   |           |
| Vendor Assurance of No Conflict of Interest or Detrimental Effect (Appendix M)                            | §1.20        | With Proposal   |           |
| Statement on Sexual Harassment (Appendix N)   | §1.23        | With Proposal   |           |



|   |              |   |  |
|---|--------------|---|--|
| Anti-Discrimination EO 177 Certification (Appendix O)   | §1.24        | With Proposal   |  |
| Insurer Qualifications and Insurance Requirements (Appendix P) <ul style="list-style-type: none"> <li>Compliance Statement</li> </ul> | §2.15        | Include a statement of compliance with the insurer qualifications and insurance requirement—With Proposal |  |
| Bond Requirements (Appendix Q)  | §2.16        | With Proposal and upon award (See Appendix Q)   |  |
| Video Lottery Gaming Application For Agent/Vendor (Appendix S)  | §4.2<br>§4.3 | With Proposal   |  |
| Designation of Proprietary Information (FOIL)   | §1.15        | With Proposal   |  |
| Disclosure of Litigation  | §1.19        | With Proposal   |  |
| References  | §4.2<br>§4.3 | With Proposal   |  |
| Technical & Pricing Proposals   | §4.2<br>§4.3 | Submit Technical and Pricing Proposals Separately as Defined in RFP                                       |  |

**Submissions Required Subsequent to Award:**

| Description of Document  | RFP   | Submittal Requirements                                    | Checklist |
|--|-------|---|-----------|
| Substitute Form W-9 (Appendix F)   | §2.2  | Upon notification of award                                |           |
| Electronic Payment (ePayment) Request (Appendix G)   | §2.13 | Upon notification of award                                |           |
| ST-220 Contractor Certification forms (Appendix H) <ul style="list-style-type: none"> <li>ST220-TD (submit to DTF)</li> <li>ST220-CA (submit to Commission)</li> </ul> | §2.14 | Within seven calendar days of notification of award       |           |
| EEO and M/WBE Program Equal Employment Opportunity Policy Statement (Appendix J)   | §2.18 | Within 72 hours of notice of award                        |           |
| Workforce Employment Periodic Report (Appendix J-3)  | §2.18 | Quarterly   |           |
| MWBE Utilization Plan Form (Appendix J-4)  | §2.18 | Within 14 days after notification of award                |           |
| MWBE Quarterly Subcontracting/Supplier Activity Report (Appendix J-5)  | §2.18 | Within 10 days following the end of the previous quarter  |           |
| Insurer Qualifications and Insurance Requirements (Appendix P)   | §2.15 | Upon notification of award provide insurance certificates |           |

FIRM NAME: \_\_\_\_\_

REPRESENTATIVE SIGNATURE: \_\_\_\_\_



**NON-BID RESPONSE**

RFP: C202017 New York Lottery Video Lottery Games

If your company will not be submitting a response to the RFP, it would be helpful in the preparation of future bidding opportunities to understand why your company is not submitting a proposal. Please help us by selecting your reason from the choices below or selecting "Other" with a brief explanation.

Company Name: \_\_\_\_\_

\_\_\_\_\_ Although the bid is within the scope of our business, and we are interested in principle, at present, we are unable to respond, due to other commitments.

\_\_\_\_\_ The services / products described in the subject RFP are not within our area of expertise.

\_\_\_\_\_ We do not have the staffing / resources available at this time to provide the services requested.

\_\_\_\_\_ There were certain requirements or restrictions stated in the RFP that preclude our company from bidding. Those requirements are:

\_\_\_\_\_  
\_\_\_\_\_

\_\_\_\_\_ Other: \_\_\_\_\_  
\_\_\_\_\_

**This form may be emailed to: [officer.contracing@gaming.ny.gov](mailto:officer.contracing@gaming.ny.gov), or mailed to:**

New York State Gaming Commission  
Contract Unit, 4<sup>th</sup> Floor  
One Broadway Center  
Schenectady, NY 12305

Please be advised that **no response** may result in removal of your company from our bidders' List.