

STATE OF NEW HAMPSHIRE LOTTERY COMMISSION



RFQ LOT 2021-02 INDEPENDENT TESTING LABORATORY

May 7, 2021



Over \$2 Billion and Counting for our Schools

**STATE OF NEW HAMPSHIRE
 LOTTERY COMMISSION
 REQUEST FOR QUALIFICATIONS
 INDEPENDENT TESTING LABORATORY**

RFQ 2021-02

SECTION 1 – Overview and Schedule

A. Executive Summary

The New Hampshire Lottery Commission (“NHLC” or “Agency”) is responsible for the oversight of most gaming activity within the State of New Hampshire pursuant to RSA 284 and 287-D-I. The New Hampshire Legislature is currently considering legislation authorizing historic horse racing (“HHR”) machines in the state. The proposed operation of HHR machines will be regulated by the NHLC.

In anticipation of the potential passage of this legislation, NHLC is seeking to contract with one or more entities to become authorized independent testing laboratories for HHR machines. The selected contractor(s) will be responsible to test HHR machines to ensure integrity, proper operation, and compliance with statutory and regulatory requirements. The approved contractor(s) may also be requested to provide limited technical services to NHLC relating to operation and technical regulation of the HHR machines.

Any potential contract will be contingent on final passage of legislation authorizing the operation of HHR machines in New Hampshire.

B. Schedule

The following table provides a Schedule of Events for this Request for Qualifications (RFQ) through contract finalization and approval. The Agency reserves the right to amend this Schedule at its sole discretion and at any time through a published Addendum.

EVENT	DATE	LOCAL TIME
RFQ Released (Advertisement)	May 7, 2021	
Inquiry Ends	May 14, 2021	4:00 PM
Final Agency Responses to Inquiries	May 18, 2021	4:00 PM
Submission of Qualifications	May 21, 2021	4:00 PM
Estimated Notification of Selection and Begin Contract Negotiations	May 28, 2021	
Estimated Date of Approval of Final Contract/Work Begins	TBD	

SECTION 2 – Description of Agency Issuing the Request for Proposals

NHLC is an executive branch commission of the State of New Hampshire and is the oldest modern lottery in the United States having been established in 1964. The agency is responsible for the operation and sales of lottery games and for regulating charitable gaming, racing, and sports betting within the State. For the Fiscal Year 2020, the Lottery reported over \$392 million in revenue and generated a net profit of over \$99 million.

SECTION 3 – Proposed Scope of Work

NHLC anticipates that both the authorizing statute and regulation will require testing from an independent laboratory for all HHR machines. The successful company(ies) will be established independent testing laboratories for gaming hardware and software with a specialized expertise in HHR wagering. The company(ies) will be designated as the authorized testing laboratory(ies) for HHR machines that will be put into operation in the State of New Hampshire.

Testing responsibilities will include that the cabinet and all hardware accessories meet applicable GLI® standards for gaming equipment and that all systems operate in compliance with the statutory and regulatory requirements, including the requirement that the wagering be pari-mutuel in nature. Payment for this testing will be the responsibility of any HHR machine manufacturers seeking to operate in New Hampshire. Contractors will agree to provide the testing service at commercially reasonable rates.

Additionally, the successful contractor(s) may provide technical support to NHLC relating to the operation and regulation of HHR at an hourly rate.

SECTION 4 – Process for Submitting a Statement of Qualifications

A. Submission, Deadline, and Location Instructions

Statements of Qualifications submitted in response to this RFQ must be received by NHLC no later than the time and date specified in the Schedule section herein. Submissions may be sent electronically as set forth below. Submissions must be addressed to Valerie.A.King@lottery.nh.gov and John.J.Conforti@lottery.nh.gov.

Submissions must be clearly marked as follows:

**STATE OF NEW HAMPSHIRE
LOTTERY COMMISSION
RESPONSE TO RFQ 2021-02**

Unless waived as a non-material deviation in accordance with Section 5A, late submissions will not be accepted and will be returned to the company unopened. The time of receipt shall be considered when a submission has been officially documented as received by the Agency's email system. NHLC accepts no responsibility for mislabeled email or email that is not delivered or is undeliverable for whatever reason. Any damage or corruption of the document that may occur during transmission shall be the company's responsibility.

B. Proposal Inquiries

All inquiries concerning this RFQ, including but not limited to, requests for clarifications, questions, and any changes to the RFQ, shall be submitted via email to the following RFQ designated Points of Contact:

TO: Valerie.A.King@lottery.nh.gov

CC: John.J.Conforti@lottery.nh.gov

Inquiries must be received by NHLC's RFQ Points of Contact no later than the conclusion of the Inquiry Period (see Schedule of Events section, herein). Inquiries received later than the conclusion of the Inquiry Period shall not be considered properly submitted and may not be considered.

NHLC intends to issue official responses to properly submitted inquiries on or before the date specified in the Schedule section, herein; however, this date is subject to change at NHLC's discretion. NHLC may consolidate and/or paraphrase questions for sufficiency and clarity. NHLC may, at its discretion, amend this RFQ on its own initiative or in response to issues raised by inquiries, as it deems appropriate. Oral statements, representations, clarifications, or modifications concerning the RFQ shall not be binding upon NHLC. Official responses by NHLC will be made only in writing by the process described above.

C. Restriction of Contact with Agency Employees

From the date of release of this RFQ until an award is made and announced regarding the selection of a contractor, all communication with personnel employed by or under contract with the Agency regarding this RFQ is forbidden unless first approved by the RFQ Points of Contact listed in the Inquiries section, herein. Agency employees have been directed not to hold conferences and/or discussions concerning this RFQ with any potential contractor during the selection process, unless otherwise authorized by the RFQ Points of Contact. Contractors may be disqualified for violating this restriction on communications.

SECTION 5 - Content and Requirements for a Submission

A. Format and Required Details

The RFQ shall follow the following format and provide the required information set forth below.

- (1) Copies of all ISO/IEC 17025 certification and accreditation materials;
- (2) Detailed descriptions of the testing facilities, equipment, and staff including education, training, experience and skill levels, particularly as it relates to HHR;
- (3) Detailed description of the company's background and experience as a testing laboratory for gaming devices and systems, including:
 - a. A list of jurisdictions where the company is authorized to provide testing or other professional services;
 - b. The description of the types of gaming devices and systems that the company is authorized to test in each jurisdiction;
 - c. Whether any administrative actions, such as fines and other penalties, has been taken against the company by any jurisdiction relative to its testing services.

- (4) Detailed description of the company's background and experience testing or evaluating HHR machines, game play, wagering pools, and pari-mutuel calculations including:
 - a. A list of jurisdictions where the company has provided testing or other professional services relating to HHR machines;
 - b. The detailed description of the type of HHR-related services the company has provided in each jurisdiction; and
 - c. Whether any administrative actions, such as fines and other penalties, have been taken against the company by any jurisdiction relative to its HHR services.
- (5) Information demonstrating that the laboratory, including its employees, management, directors, owners, compliance, committee members, and gaming regulatory advisors, acts independently, such that the laboratory, or such individuals:
 - a. Do not have any financial or other interest, direct or otherwise, in a manufacturer, distributor, or operator of any game, gaming device, associated equipment, cashless wagering system, inter-casino linked system, mobile gaming system or interactive gaming system, or any component thereof or modification thereto, regardless of whether or not the person or entity is licensed, registered, or otherwise does business in New Hampshire;
 - b. Do not participate, consult, or otherwise is involved in the design, development, programming, or manufacture of any game, gaming device, associated equipment, cashless wagering system, inter-casino linked system, mobile gaming system or interactive gaming system, or any component thereof or modification thereto;
 - c. Do not have any other interest in or involvement with a manufacturer, distributor, or operator that could cause the independent testing laboratory to act in a manner that is not impartial; and
 - d. Do not serve in any capacity with a manufacturer, distributor, or operator beyond the scope of the independent testing laboratory's engagement pursuant to these regulations.

B. Criteria for Evaluation and Scoring

Each submission will be evaluated and scored using the points assigned to that section:

- (1) Demonstrated probity; (10 points)
- (2) Experience and technical competence to evaluate gaming devices and systems, and test their compliance with applicable state statute, regulations, standards and policies; (35 points)
- (3) Experience and technical competence in testing, evaluating or providing other professional services relative to HHR machines, game play, wagering pools, and pari-mutuel calculations; and (55 points)
- (4) A standard hourly rate for technical reviews or training of NHLC staff relating to HHR operation and regulation of HHR machines. (Not scored)

C. Rights of the Agency in Accepting and Evaluating Submissions

The Agency reserves the right to:

- Make independent investigations in evaluating submissions;
- Request additional information to clarify elements of a submission;
- Waive minor or immaterial deviations from the RFQ requirements, if determined to be in the best interest of the NHLHC;
- At its sole discretion, reject any and all submissions at any time; and
- Open contract discussions with the second highest scoring company and so on, if the Agency is unable to reach an agreement on Contract terms with the higher scoring company/companies.

SECTION 6 – Terms and Conditions Related to the RFQ Process

A. RFQ Addendum

The Agency reserves the right to amend this RFQ at its discretion, prior to the submission deadline. In the event of an addendum/addenda to this RFQ, the Agency, at its sole discretion, may extend the submission deadline, as it deems appropriate.

B. Property of the Agency

All material received in response to this RFQ shall become the property of the State and will not be returned to the Company. Upon Contract award, the State reserves the right to use any information presented in any submission.

C. Confidentiality of a Proposal

Unless necessary for the approval of a Contract, the substance of a submission must remain confidential until the Effective Date of any Contract resulting from this RFQ. A Company's disclosure or distribution of submissions other than to the Agency will be grounds for disqualification.

D. Public Disclosure

Pursuant to RSA 21-G:37, all responses to this RFQ shall be considered confidential until the award of a Contract. At the time of receipt of submissions, the Agency will post the number of responses received with no further information. No later than five (5) business days prior to submission of a Contract to the Governor and Executive Council pursuant to this RFQ, the Agency will post the name and rank or score of each submitting company. In the event that the Contract does not require Governor and Executive Council approval, the Agency shall disclose the rank or score of the submitting companies at least five (5) business days before final approval of the Contract.

The content of each submission shall become public information upon the award of any resulting Contract. Any information submitted as part of a response to this Request for Qualifications (RFQ) may be subject to public disclosure under RSA 91-A. In addition, in accordance with RSA 9-F:1, any Contract entered into as a result of this RFQ will be made accessible to the public online via the website Transparent NH (<http://www.nh.gov/transparentnh/>). Accordingly, business financial information and proprietary information such as trade secrets, business and financials models and forecasts, and proprietary formulas may be exempt from public disclosure under RSA 91-A:5, IV.

If you believe any information being submitted in response to this Request for Qualifications should be kept confidential as financial or proprietary information; you must specifically identify that information in a letter to the agency, and must mark/stamp each page of the materials that you claim must be exempt from disclosure as "CONFIDENTIAL." A designation by the company of information it believes exempt does not have the effect of making such information exempt. The Agency will determine the information it believes is properly exempted from disclosure.

Marking of the entire Proposal or entire sections of the Proposal (e.g., pricing) as confidential will neither be accepted nor honored. Notwithstanding any provision of this RFQ to the contrary, Company pricing will be subject to disclosure upon approval of the Contract. The Agency will endeavor to maintain the confidentiality of portions of the Proposal that are clearly and properly marked confidential.

If a request is made to the Agency to view portions of a submission that the company has properly and clearly marked confidential, the Agency will notify the company of the request and of the date the Agency plans to release the records. By submitting a response to this RFQ, company agrees that unless the company obtains a court order, at its sole expense, enjoining the release of the requested information, the Agency may release the requested information on the date specified in the Agency's notice without any liability to the company.

E. Non-Commitment

Notwithstanding any other provision of this RFQ, this RFQ does not commit the Agency to award a Contract. The Agency reserves the right, at its sole discretion, to reject any and all submissions, or any portions thereof, at any time; to cancel this RFQ; and to solicit new submissions under a new acquisition process.

F. Proposal Preparation Cost

By submitting a response to this RFQ, company agrees that in no event shall the Agency be either responsible for or held liable for any costs incurred by a company in the preparation of, or in connection with the RFQ, or for Work performed prior to the Effective Date of a resulting Contract.

G. Ethical Requirements

From the time this RFQ is published until a contract is awarded, no bidder shall offer or give, directly or indirectly, any gift, expense reimbursement, or honorarium, as defined by RSA 15-B, to any elected official, public official, public employee, constitutional official, or family member of any such official or employee who will or has selected, evaluated, or awarded an RFQ, or similar submission. Any bidder that violates RSA 21-G:38 shall be subject to prosecution for an offense under RSA 640:2. Any bidder who has been convicted of an offense based on conduct in violation of this section, which has not been annulled, or who is subject to a pending criminal charge for such an offense, shall be disqualified from bidding on the RFQ or similar request for submission; and every such bidder shall be disqualified from bidding on any RFQ or similar request for submission issued by any state agency. A bidder that was disqualified under this section because of a pending criminal charge which is subsequently dismissed, results in an acquittal, or is annulled, may notify the Department of Administrative Services, which shall note that information on the list maintained on the State's internal intranet system, except in the case of annulment, the information shall be deleted from the list.

H. Challenges on Form or Process of the RFQ

Any challenges regarding the validity or legality of the form and procedures of this RFQ, including but not limited to the evaluation and scoring, shall be brought to the attention of the Agency at least ten (10) business days prior to the Proposal Submission Deadline. By submitting a response, the company is deemed to have waived any challenges to the form or procedures set forth in this RFQ.

SECTION 8 – Contract Terms and Award

A. Non-Exclusive Contract

Any resulting Contract from this RFQ will be a non-exclusive Contract. The State reserves the right, at its discretion, to retain other Contractors to provide any of the Services or Deliverables identified under this procurement or make an award by item, part or portion of an item, group of items, or total Proposal.

B. Award

If the State decides to award a Contract as a result of this RFQ process, any award is contingent upon and may require approval by the Governor and Executive Council.

C. Standard Contract Terms

The Agency will require the successful Company to execute a “Not to Exceed Contract” using terms and conditions acceptable to the State of New Hampshire.