

**STATE OF NEW HAMPSHIRE
CHARITABLE GAMING STUDY COMMITTEE**

RFP 2023-01- GAMING CONSULTANT SERVICES

SECTION 1 – Overview and Schedule

A. Executive Summary

The State of New Hampshire established a study commission to study the effects of changes made to the charitable gaming laws that enable and govern the activity known as charitable gaming, within New Hampshire. The Commission is comprised of:

- (1) Two members of the senate, appointed by the president of the senate.
- (2) Five members of the house of representatives, appointed by the speaker of the house of representatives.
- (3) The lottery executive director, or the executive director's designee.
- (4) One representative of the facility owners.
- (5) Two representatives of charitable gaming charities.
- (6) The attorney general, or the attorney general's designee.
- (7) One member of the public appointed by the Governor.

The enabling legislation is RSA 284:6-c, which contains in pertinent part, the focus of the study commission: the commission shall examine how charities are selected and whether a uniform process should exist; whether the state should implement a limit on the number of charitable gaming locations; and whether charging rent to the charities is necessary with historic horse racing. The commission shall bring together different stakeholders to address these questions, and ensure those involved in the process have a voice in the discussion that will result in recommendations benefitting all stakeholders. The commission also shall monitor the benefits of historical horse racing to charities to ascertain whether additional licenses for historical horse racing machines would increase or reduce revenues to charities. The commission shall examine whether host communities should share in proceeds of any charitable gaming establishment.

The commission is administratively tied to the New Hampshire Lottery but is an independent commission with the task of reporting its findings and any recommendations for proposed legislation to the president of the senate, the speaker of the house of representatives, the senate clerk, the house clerk, the governor, and the state library on or before November 1, 2024.

B. Schedule

The following table provides a Schedule of Events for this RFP 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
RFP Released to Proposers (Advertisement)	December 18, 2023	
Proposer Inquiry Period Ends	January 8, 2024	4:00 PM
Final Agency Responses to Proposer Inquiries	January 16, 2024	
Proposers Submit Proposals	January 31, 2024	4:00 PM
Vendor Presentations	Week of February 12 th , 2024	
Estimated Notification of Selection and Begin Contract Negotiations	February 23, 2024	
Estimated Date of Approval of Final Contract/Work Begins	April 1, 2024	

SECTION 2 -Description of Charitable Gaming

Charitable Gaming in New Hampshire is a general term that encompasses a series of gaming products operated directly by a licensed non-profit entity or in partnership with a licensed non-profit entity. Charitable gaming products are as follows:

- Games of Chance- Poker and casino style table games which are operated by a private gaming company who contracts with a licensed charitable entity. Charities receive 35% of gross gaming revenue in exchange for contracting with the gaming operator. While charities are technically permitted to operate games of chance on their own, only operator-based games are currently present in New Hampshire.
- Historic Horse Racing(HHR) – A terminal-based game where players wager into a pari-mutuel pool and the determination of the wager is based on the results of anonymized previously run horse races. The game themes on these terminals are similar or identical to

traditional Class III slot machines and players may choose to “auto handicap” their selections which transforms the play into a similar player experience to a slot machine. HHR machines differ from slot machines in that the house is paid out of a commission off the top of the pool, player winnings are drawn out of a common player pool, and the absence of an RNG in determination of the outcome.

- Bingo- A charity operated game where players mark cards with numbers randomly selected by a caller to complete a pre-determined pattern. Charities must operate the game directly through organization officers and volunteers but are permitted to contract with licensed consultants to assist in managing these games.
- Lucky 7- A form of instant win tickets sold either as traditional pull tab tickets that are manually distributed or through an electronic dispenser. Charities and fraternal groups are permitted to sell Lucky 7 tickets directly through their officers and volunteers but are permitted to contract with licensed consultants to assist in managing these sales.

Charitable gaming products may be operated in New Hampshire by duly licensed gaming providers. These charitable gaming products may be operated in a gaming location by operators who are also operating at the location certain non-charitable gaming products which may include sports books betting, simulcast live horse racing betting, and betting on traditional lottery products. The operation of all charitable gaming products and all non-charitable gaming products is subject to applicable NH gaming statutes and rules as administered by the NH Lottery Commission. Current NH gaming law also includes provisions and funding relating to certain responsible gaming practices and plans and establishes a NH Council for Responsible Gaming to promote prevention and treatment relating to gambling disorders as an integral part of a responsible gaming environment within the state.

SECTION 3 – Proposed Scope of Work

With the introduction of Historic Horse Racing machines to New Hampshire, an emphasis has been placed on analyzing if the state and the charities are receiving a fair and reasonable financial return for permitting the operators to conduct the activity in-state. Commensurate with the economic

analysis, the Commission would like a review conducted of the regulatory and operational structure of NH Charitable Gaming, to ensure that the activity is being conducted to the highest standards of gaming in the US.

Based on the foregoing, the study commission would like to contract with a consultant(s) to review two areas of charitable gaming within New Hampshire and compare them to other- gaming facilities within the United States: financial and oversight/regulatory. The report should include, at a minimum, the surrounding states and the HHR jurisdictions of Kentucky and Virginia. The consultant(s) will generate a report on each area, with ways for the state to improve the application of charitable gaming. It is expected that the consultant(s) will be able to conduct most work remotely and should expect to brief the members of the study commission up to three times, through electronic means, during the engagement.

SECTION 4 – Process for Submitting a Proposal

A. Proposal Submission, Deadline, and Location Instructions

Proposals submitted in response to this RFP must be received by the Study Committee no later than the time and date specified in the Schedule section herein. Proposals may be submitted by (U.S. Mail or delivery service, in person). Proposals must be addressed to:

State of New Hampshire
Charitable Gaming Study Committee c/o
The New Hampshire Lottery Commission
14 Integra Drive
Concord NH 03301
Attn: Charles McIntyre

Proposals must be clearly marked as follows:

STATE OF NEW HAMPSHIRE

RESPONSE TO RFP 2023-01
Gaming Consultant Services

Unless waived as a non-material deviation in accordance with Section 6B, late submissions will not be accepted and will be returned to the proposer unopened. Delivery of the Proposals shall be at the Proposer's expense. The time of receipt shall be considered when a Proposal has been officially documented by the Agency, in accordance with its established policies, as having been received at the location designated above. The Agency accepts no responsibility for mislabeled mail or mail that is not delivered or is undeliverable for whatever reason. Any damage that may occur due to shipping shall be the Proposer's responsibility.

All Proposals submitted in response to this RFP must consist of at least:

- a) One (1) original and Fifteen (15) clearly identified copies of the Proposal, including all required attachments;
- b) One (1) electronic copies of the Proposal, including all required attachments contained on digital media;
- c) One (1) electronic copy of the Proposal with all Confidential Information fully redacted, as provided for in Section 7E of this RFP.

B. Proposal Inquiries

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

TO: Charles McIntyre (Charles.R.McIntyre@lottery.nh.gov)

CC: Kelly Crockett (Kelly.A.Crockett@lottery.nh.gov)

Inquiries must be received by the Agency's RFP Points of Contact no later than the conclusion of the Proposer Inquiry Period (see Schedule of Events section, herein). Inquiries received later than the

conclusion of the Proposer Inquiry Period shall not be considered properly submitted and may not be considered.

The Agency 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 the Agency's discretion. The Agency may consolidate and/or paraphrase questions for sufficiency and clarity. The Agency may, at its discretion, amend this RFP on its own initiative or in response to issues raised by inquiries, as it deems appropriate. Oral statements, representations, clarifications, or modifications concerning the RFP shall not be binding upon the Agency. Official responses by the Agency 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 RFP until an award is made and announced regarding the selection of a Proposer, all communication with personnel employed by or under contract with the Agency regarding this RFP is forbidden unless first approved by the RFP Points of Contact listed in the Proposal Inquiries section, herein. Agency employees have been directed not to hold conferences and/or discussions concerning this RFP with any potential contractor during the selection process, unless otherwise authorized by the RFP Points of Contact. Proposers may be disqualified for violating this restriction on communications.

D. Validity of Proposal

Proposals must be valid for one hundred and eighty (180) days following the deadline for submission of Proposals in Schedule of Events, or until the Effective Date of any resulting Contract, whichever is later.

SECTION 5 - Content and Requirements for a Proposal

Proposals shall follow the following format and provide the required information set forth below:

1. Experience and Qualifications:

Please detail your experience in assisting other entities, especially state governments, in providing similar services. It is preferable that the vendor has done this type of work for state governments. Please also include CV's for all of the people that will work on this engagement, as well as a profile of the firm.

2. References:

Please list at least three (3) references for similar work.

3. Fees:

Please list all fees and expenses expected in this engagement, including travel. Please also list whether this will be an hourly engagement or a fixed fee. If it is an hourly engagement, please estimate the number of hours required, and the hourly rate of the proposed people.

SECTION 6 – Evaluation of Proposals

A. Criteria for Evaluation and Scoring

Each responsive Proposal will be evaluated and considered with regard to the following criteria:

Experience, Knowledge and Qualifications: 75 Points

Cost: 25 Points

If the Agency, determines to make an award, the Agency will issue an “intent to negotiate” notice to a Proposer based on these evaluations. Should the Agency be unable to reach agreement with the selected Proposer during Contract discussions, the Agency may then undertake Contract discussions with the second preferred Proposer and so on, or the Agency may reject all proposals, cancel this RFP, or solicit new Proposals under a new acquisition process.

B. Planned Evaluations

The Agency plans to use the following process:

- Initial screening to ensure that the Proposals are in compliance with submission requirements;
- Preliminary evaluation of the Proposals;
- Oral Presentations (if necessary);
- Final Evaluation of Proposals and scoring;
- Select the highest scoring Proposer and begin contract negotiation.

C. Initial Screening

The Agency will conduct an initial screening step to verify Proposer compliance with the technical submission requirements set forth in the RFP and the minimum content set forth in Section 5 of this RFP. The Agency may waive or offer a limited opportunity to cure immaterial deviations from the RFP requirements if it is determined to be in the best interest of the State.

D. Oral Presentations

If the Agency determines that it is appropriate, proposers may be invited to in person demonstrations including demonstrations. The Agency retains the sole discretion to determine whether to conduct oral interviews, with which proposers; and the number of interviews. Proposers are advised that the Agency may decide to conduct interviews with less than all responsive proposers.

The purpose of oral interviews is to clarify and expound upon information provided in the written Proposals. Proposers are prohibited from altering the basic substance of their Proposals during the oral interviews. The Agency may ask the Proposer to provide written clarifications of elements in their Technical Proposal regardless of whether it intends to conduct oral interviews.

Information gained from oral interviews and product demonstrations will be used to refine technical review scores assigned from the initial review of the Proposals.

E. Final Scoring of Proposals

Following review of Proposals, oral interviews, presentations, reference checks (if applicable/appropriate) and/or review of written clarifications of Proposals requested by the Agency, the evaluation team will determine a final score for each Proposal.

The Proposer's Price Proposal will be allocated a maximum potential score of 25 points. Proposers are advised that this **is not a low bid award** and that the scoring of the Price Proposal will be combined with the scoring of the Technical Proposal to determine the overall highest scoring Proposer.

The following formula will be used to assign points for costs:

$$\text{Proposer's Price Score} = (\text{Lowest Proposed Price} / \text{Proposer's Proposed Price}) \times \text{Number of Points for Score}$$

For the purpose of use of this formula, the lowest proposed price is defined as the lowest price proposed by a Proposer who has scored above the minimum necessary for consideration on the Technical Score.

F. Final Selection

The Agency will conduct a final selection based on the final score of the proposals.

G. Rights of the Agency in Accepting and Evaluating Proposals

The Agency reserves the right to:

- Make independent investigations in evaluating Proposals;
- Request additional information to clarify elements of a Proposal;
- Waive minor or immaterial deviations from the RFP requirements, if determined to be in the best interest of the State;
- Omit any planned evaluation step if, in the Agency's view, the step is not needed;
- At its sole discretion, reject any and all Proposals at any time; and
- Open contract discussions with the second highest scoring Proposer and so on, if the Agency is unable to reach an agreement on Contract terms with the higher scoring Proposer(s).

SECTION 7 – Terms and Conditions Related to the RFP Process

A. RFP Addendum

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

B. Non-Collusion

The Proposer's signature on a Proposal submitted in response to this RFP guarantees that the prices, terms and conditions, and Work quoted have been established without collusion with other Proposers and without effort to preclude the Agency from obtaining the best possible competitive Proposal.

C. Property of the Agency

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

D. Confidentiality of a Proposal

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

E. Public Disclosure

Pursuant to RSA 21-G:37, all responses to this RFP shall be considered confidential until the award of a Contract. At the time of receipt of Proposals, 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 & Executive Council pursuant to this RFP, the Agency will post the name

and rank or score of each Proposer. In the event that the Contract does not require Governor & Executive Council approval, the Agency shall disclose the rank or score of the Proposals at least 5 business days before final approval of the Contract.

The content of each Proposer's Proposal shall become public information upon the award of any resulting Contract. Any information submitted as part of a response to this Request for Proposal (RFP) 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 RFP 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 Proposal, Bid or Information 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 Proposer 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 RFP to the contrary, Proposer 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 Proposal that the Proposer has properly and clearly marked confidential, the Agency will notify the Proposer of the request and of the date the Agency plans to release the records. By submitting a Proposal, Proposers agree that unless the Proposer 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 Proposers.

F. Non-Commitment

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

G. Proposal Preparation Cost

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

H. Ethical Requirements

From the time this RFP 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 RFP, 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 RFP, or similar request for submission and every such bidder shall be disqualified from bidding on any RFP 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.

I. Challenges on Form or Process of the RFP

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

SECTION 8 – Contract Terms and Award

A. Non-Exclusive Contract

Any resulting Contract from this RFP 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 RFP process, any award is contingent upon approval of the Contract by the Governor and Executive Council of the State of New Hampshire and upon continued appropriation of funding for the Contract.

C. Standard Contract Terms

The Agency will require the successful Proposer to execute a Not to Exceed Contract using the Standard Terms and Conditions of the State of New Hampshire which is attached as Appendix A.

The Agency may consider modifications of this form during negotiations. To the extent that a Proposer believes that exceptions to the standard form contract will be necessary for the Proposer to enter into the Agreement, the Proposer should note those issues during the Proposer Inquiry Period. The Agency will review requested exceptions and accept, reject or note that it is open to negotiation of the proposed exception at its sole discretion. If the Agency accepts a Proposer's exception the Agency will, at the conclusion of the inquiry period, provide notice to all potential proposers of the exceptions which have been accepted and indicate that exception is available to all potential proposers. Any exceptions to the standard form contract that are not raised during the proposer inquiry period are waived. In no event is a Proposer to submit its own standard contract terms and conditions as a replacement for the State's terms in response to this solicitation.