

**STATE OF NEW HAMPSHIRE
 LOTTERY COMMISSION
 INVESTIGATION AND COMPLIANCE DIVISION
 HISTORIC HORSE RACING INTEGRITY AUDITOR
 RFP 2023-01**

SECTION 1 – Overview and Schedule

A. Executive Summary

The New Hampshire Lottery Commission is the regulator of legal gaming in New Hampshire. In 2021, the legislature legalized the operation of historic horse racing through revisions to RSA 284. The Lottery Commission has promulgated administrative rules related to the operation of historic horse racing under Lot 8200. These rules include a requirement that the Lottery Commission procure an integrity auditor to conduct periodic and regular tests on the validity of pari-mutuel wagers, deductions, and payouts for the applicable historic horse racing events, and provide monthly reporting relative to wagers, takeout, breakage, and patron payouts. These audits are the financial responsibility of the historic horse racing licensees.

As of March 2023, the New Hampshire Lottery Commission has issued eight historic horse racing facilities that are in operation. These eight facilities currently operate approximately 1,250 historical horse racing terminals. We anticipate approximately four more facilities and an additional 750-1000 terminals being placed into operation in the next 12-18 months.

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	April 10, 2023	
Proposer Inquiry Period Ends	May 1, 2023	4:00 PM
Final Agency Responses to Proposer Inquiries	May 15, 2023	
Proposers Submit Proposals	May 29, 2023	4:00 PM
Estimated Notification of Selection and Begin Contract Negotiations	June 12, 2023	
Estimated Date of Approval of Final Contract/Work Begins	July 1, 2023	

SECTION 2 -Description of Agency/Program Issuing the Request for Proposals

The New Hampshire Lottery Commission is seeking a partner to serve as an integrity auditor for the historic horse racing program in New Hampshire as outlined in Section 3 below. As of March 1, 2023, the following locations hold active historic horse racing licenses:

Name	Location	Number of Tote Providers	Approximate Number of HHR Terminals
Boston Billiards Club	Nashua	2	165
The Brook	Seabrook	3	510
Filotimo Dover	Rollinsford	2	150
Filotimo Manchester	Manchester	2	200
Wonder Casino	Keene	1	50
Lebanon Poker Room and Casino	Lebanon	1	35
Lucky Moose Casino	Nashua	3	65
Ocean Gaming	Hampton	2	88

SECTION 3 – Proposed Scope of Work

The Lottery Commission is seeking a qualified partner to perform annual audits of the active historic horse racing terminals. The audits should test whether the terminals in operation are in compliance with the applicable laws and regulations and have not been materially altered since the Lottery Commission’s approval to place the terminal in operation. Specifically, the audits should review that the display, denomination, race data, pari-mutuel pools, commission, breakage, and patron payouts are consistent with RSA 284 and New Hampshire Administrative Rule Lot 8200. In addition to reviewing individual terminals, the auditor will be expected to review the totalizer servers to ensure that they are also operating within the legal requirements and as approved by the Commission.

The audit may be conducted through a combination of on-site inspections and remote reviews. The Lottery Commission is open to considering any plan of operation or methodology that meets the basic requirements set forth in this chapter.

Payment for these services will be borne by the licensees, however, it is the Lottery Commission’s intent to select the best qualified candidate based on both qualifications and pricing.

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 New Hampshire Lottery Commission, no later than the time and date specified in the Schedule section herein. Proposals must be submitted electronically and addressed to the following individuals:

John Conforti, Chief Compliance Officer- John.J.Conforti@lottery.nh.gov

Valerie King, Director of Investigation and Compliance Valerie.A.King@lottery.nh.gov

The title of the email submitting the Proposal should include:

“Response to RFP 2023-01 Historic Horse Racing Integrity Auditor”

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’s email system. The Agency accepts no responsibility for mislabeled e-mail or e-mail that is not delivered or is undeliverable for whatever reason.

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

- a. One Proposal signed electronically by the proposing entity;
- b. One 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: John.J.Conforti@lottery.nh.gov

CC: Valerie.A.King@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:

A. Background and Qualifications (Maximum 7 Pages)

1. Provide a detailed description of the Proposer's business including but not limited to, how long Proposer has been in business, number of persons employed by proposer, type of work performed by Proposer, annual revenue produced by Proposer by business type.
2. Please describe any specialized expertise that the Proposer has with respect to historic horse racing terminals and tote servers.
3. Provide a description of the individuals who will provide the services identified in the Proposal and include resumes/CVs for each individual (Resumes and CVs do not count against page limitation)
4. Identify three similar projects performed by the Proposer, including a detailed description of the type of auditing/testing done and the client for whom the work was performed (if

Proposer cannot disclose the client name, please describe the client by industry type and size.)

5. Provide two references with contact information.

B. Audit Plan (Maximum 5 pages)

Please provide a detailed audit plan that meets the Commission's scope of work as set out in Section 3 including but not limited to:

1. A detailed description of the testing to be performed
2. How testing will be performed
3. If site visits are required, how and when they will be performed
4. For remote/server based reviews, identify how those reviews will be conducted
5. The reports that will be generated from these reviews.

C. Cost

Please propose a fee for the audit services described above. The fee must be expressed on a per terminal basis under the following format.

Proposer agrees to provide these services for an annual cost of \$_____ per historic horse racing terminal.

The per terminal cost will include the cost of reviewing the tote services attached to those terminals, including but not limited to server reviews.

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:

1. Background and Qualifications - 30 Points

Does the Proposer have the experience, resources and qualifications to perform the audit services.

2. Audit Plan – 40 Points

Does the Proposer identify a clear and efficient manner to perform the audit in a manner that will meet the requirements of the Lottery Commission

3. Cost – 30 Points

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

1. **Proposer's Price Score = (Lowest Proposed Price / Proposer's Proposed Price) x 30 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.

The Agency will select a Proposer based upon the criteria and standards contained in this RFP and from applying the weighting in this section. Oral interviews and reference checks, to the extent they are utilized by the Agency, will be used to refine and finalize scores.

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;
- 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. Final Selection

The Agency will conduct a final selection based on the evaluation and scoring of the proposals and begin contract negotiations with the selected Proposer.

E. 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, if applicable, and upon continued appropriation of funding for the Contract.

C. Standard Contract Terms

The Agency will require the successful Proposer to execute a Contract using the Standard Terms and Conditions of the State of New Hampshire which is attached as Appendix A.

The Term of the Contract will be for 3 years from the date of approval. The Contract term may be extended by an additional term of 2 years at the sole option of the State, subject to the parties' prior written agreement on terms and applicable fees for each extended term, contingent upon satisfactory vendor performance, continued funding and Governor and Executive Council approval, if applicable.

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.

D. Special Terms To Be Included In A Contract Resulting From This RFP

Payment for the services identified in this contact are the responsibility of the licensees pursuant to New Hampshire Administrative Rule Lot 8204.04(f). Invoices shall be sent directly to licensees with a cc: to the Lottery Commission.