**Section 1.8010 Selection Process**

a) *Notwithstanding any other law to the contrary, the Department* of the Lottery(Lottery) *shall select a private manager through a competitive request for qualifications process consistent with Section 20-35 of the Code.* [20 ILCS 1605/9.1(e)]

b) Contents. The Request for Qualifications (RFQ) shall be in the form specified by the Lottery and shall contain at least the following information:

1) The type of services required;

2) A description of the work involved;

3) An estimate of when and for how long the services will be required;

4) The type of contract to be used;

5) A date by which proposals for the performance of the services shall be submitted;

6) A statement of the minimum information that the proposal shall contain, which may, by way of example, include:

A) The name of the offeror, the location of the offeror's principal place of business and, if different, the place of performance of the proposed contract;

B) If deemed relevant, the age of the offeror's business and average number of employees over a previous period of time, as specified in the RFQ;

C) The abilities, qualifications and experience of all persons who would be assigned to provide the required services;

D) A listing of other contracts under which services similar in scope, size or discipline to the required services were performed or undertaken within a previous period of time, as specified in the RFQ;

E) A plan, giving as much detail as is practical, explaining how the services will be performed;

7) Price or other proposed form of compensation (to be submitted in a separate envelope in the proposal package and not mentioned elsewhere in the proposal package);

8) The factors to be used in the evaluation and selection process and their relative importance; and

9) A plan for post-performance review to be conducted by the Lottery after completion of services and before final payment and to be made part of the procurement file.

c) The RFQ may not require, stipulate, suggest or encourage a monetary or financial contribution, donation, incentive or economic investment as an explicit or implied term or condition for awarding the contract. The RFQ may not include a requirement that an individual or individuals employed by the Lottery or employed by Lottery advisors receive a consulting contract for professional services.

d) Prior to the publication of the RFQ in the Bulletin, the Lottery shall obtain written approval of the evaluation factors from the CPO-GS or a designee.

e) Evaluation. Proposals shall be evaluated only on the basis of evaluation factors stated in the RFQ. Price or other form of compensation will not be evaluated until ranking of all proposals and identification of the most qualified vendor. The minimum factors are:

1) *The offeror's ability to market the Lottery to those residents who are new, infrequent or lapsed players of the Lottery, especially those who are most likely to make regular purchases on the internet;*

2) *The offeror's ability to address the State's concern with the social effects of gambling on those who can least afford to do so;*

3) *The offeror's ability to provide the most successful management of the Lottery for the benefit of the people of the State based on current and past business practices or plans of the offeror;*

4) *The offeror's past performance in servicing, equipping, operating or managing a lottery on behalf of Illinois, another State or foreign government and attracting persons who are not currently regular players of a lottery* and maximizing revenue in an ethical and socially responsible manner [20 ILCS 1605/9.1(e)];

5) The plan for performing the required services;

6) Ability to perform the services as reflected by technical training and education, general experience, specific experience in providing the required services, and the qualifications and abilities of personnel proposed to be assigned to perform the services;

7) The personnel, equipment and facilities to perform the services currently available or demonstrated to be made available at the time of contracting; and

8) A record of past performance of similar work.

f) Delivery, Receipt and Handling of Proposals

1) Receipt. Each proposal and modification received shall be date- and time-stamped, recorded in a log and stored in a secure manner (e.g., locked file cabinet, safe, locked room or other secure location) by the person responsible for receiving the proposals. If a proposal is opened for identification purposes or opened in error, the file shall state the reason for the error.

2) The Lottery shall maintain the confidentiality of the proposals. No information within the proposals shall be disclosed to anyone prior to opening. Lottery personnel may confirm receipt of the proposal to the offeror.

3) If a proposal is opened for identification purposes or in error, the procurement file shall include a signed statement explaining the reason for the mistake or error, including the name of every person involved. The proposal shall be resealed until the time set for opening.

4) Proposals shall be submitted to and opened by the Lottery.

A) Proposals and modifications shall be opened publicly at the time, date and place designated in the RFQ.

B) Opening shall be witnessed by a State witness or by any other person present, but the person opening proposals shall not serve as witness. A record shall be prepared that shall include the name of each offeror and a description sufficient to identify the supply or service item offered. The record of proposals shall be open to public inspection after award of the contract.

C) Proposals and modifications shall be opened in a manner designed to avoid disclosing contents to competitors. Only State personnel and contractual agents authorized by the Lottery may review the proposals prior to award.

g) Evaluation Team. Evaluation Team members shall be determined by the Lottery, be tailored to the particular solicitation, and include, as appropriate, technical or other personnel with expertise to ensure a comprehensive evaluation of offers. The Evaluation Team members shall be subject to the approval of the Director or his or her designee and committee members may be removed by the Director or his or her designee for failure to comply with instructions or directions.

h) Discussions

1) Discussions Permissible. The Evaluation Team may conduct discussions with any offeror to:

A) Determine in greater detail the offeror's qualifications; and

B) Explore with the offeror the scope and nature of the required services, the offeror's proposed method of performance, and the relative utility of alternative methods of approach. The Lottery may allow changes to the proposal based on those discussions.

2) No Disclosure of Information. Discussions shall not disclose any information derived from proposals submitted by other offerors, and the Evaluation Team shall not disclose any information contained in any proposal with any other offeror or person or entity other than personnel authorized by the Director or his or her designee until after award of the proposed contract.

3) No discussions with offerors may occur unless the entire Evaluation Team is present.

i) Selection of the Best Qualified Offerors

After conclusion of validation of qualifications, evaluation and discussion, the Lottery initially shall rank the acceptable offerors in the order of their respective qualifications compared to the qualifications outlined in the RFQ and not considering price.

j) Evaluation of Pricing Data or Other Proposed Compensation

Pricing and other forms of proposed compensation submitted for all acceptable proposals timely submitted shall be opened and the offerors shall be ranked only after the initial ranking under subsection (i) has been completed.

k) Hearing

1) After evaluation of all offerors' proposals, the Lottery shall select offerors as finalists.

2) The Lottery shall hold a public hearing on the finalists' proposals.

3) At least 7 days prior to the public hearing, the Lottery must provide public notice that includes:

A) The date, time and place of the hearing;

B) The subject matter of the hearing;

C) A brief description of the private management agreement to be awarded;

D) The identity of the offerors selected as finalists; and

E) The address and telephone number of the Lottery.

4) At the public hearing, the Lottery shall:

A) Provide sufficient time to allow each of the finalists to present its proposal. Each finalist shall be afforded an identical, maximum amount of time for presentation, including any extensions of time that may be granted during the course of the hearing.

B) Allow comments from the public and offerors that were not selected as finalists.

l) Negotiation of Contract

1) General. The Lottery shall designate a negotiation committee to attempt to negotiate a contract with the best qualified offeror for the required services at fair and reasonable compensation. The Lottery may, in the interest of efficiency, negotiate with the next highest ranked vendor while negotiating with the best qualified vendor.

2) The Lottery shall conduct compensation negotiations with the vendor determined to be most qualified based upon the evaluation factors contained in the RFQ prior to the publication of any notice of award.

3) Elements of Negotiation. At a minimum, contract negotiations shall be directed toward:

A) Making certain that the offeror has a clear understanding of the scope of the work, specifically the essential requirements involved in providing the required services, and that the plan for service delivery is feasible;

B) Determining that the offeror will make available the necessary personnel and facilities to perform the services within the required time; and

C) Agreeing upon compensation that is fair and reasonable and based upon realistic revenue projections, taking into account the estimated value of the required services and the scope, complexity and nature of those services.

4) Successful Negotiation of Contract with Best Qualified Offeror

A) If compensation, contract requirements and contract documents can be agreed upon with the best qualified offeror, the contract shall be awarded to that offeror, unless the procurement is cancelled.

B) Compensation must be determined in writing to be fair and reasonable by the Director of the Lottery (Director). The negotiation committee shall prepare a compensation analysis and recommendation for consideration by the Director. The analysis shall be based on specifications contained in the RFQ and include, but not limited to, the nature of the services needed, qualifications of the offerors, consideration of range of prices received in the course of the procurement, other available pricing information and the Lottery's identified budget.

5) Failure to Successfully Negotiate Contract with Best Qualified Offeror

A) If compensation, contract requirements or contract documents cannot be agreed upon with the best qualified offeror, a written record stating the reasons shall be placed in the file. The Lottery shall advise the offeror of the termination of negotiations.

B) Upon failure to successfully negotiate a contract with the best qualified offeror, the Lottery may enter into negotiations with the next most qualified offeror.

(Source: Amended at 46 Ill. Reg. 10208, effective June 2, 2022)