



REQUEST FOR PROPOSAL

Multi-State Lottery Association Operational Security Assessment and Audit 2021

The Multi-State Lottery Association (MUSL) is seeking a qualified, responsible Bidder to provide a comprehensive risk-based Operational Security Assessment and Audit (OSAA) on the design and effectiveness of its operational security.

Bidder selection will be contingent upon the completion of background checks and MUSL's review and acceptance of the results of the background checks.

Proposals should address both the Bidder's ability to address the technical requirements, and the costs or fees Bidder will charge to provide the services. Proposals must be submitted on or before 3:00 p.m. Central Daylight Time July 19, 2021. Electronic bids are to be submitted to:

Procurement@MUSL.com

Bidders are encouraged to visit <https://www.musl.com> to review MUSL's organizational structure and mission.

SECTION 1 GENERAL INFORMATION

1.1 PURPOSE

The Multi-State Lottery Association (MUSL) is an unincorporated non-profit association owned and operated by thirty-eight (38) governmental lotteries (Member Lotteries). Each MUSL member lottery offers one or more multi-jurisdictional lottery games administered with the assistance of MUSL.

The purpose of this Request for Proposal (RFP) is to allow MUSL to evaluate the most qualified Bidder to conduct a comprehensive, risk-based, evaluation on the design and effectiveness of operational security, including but not limited to, a gap-analysis and realistic cost benefit recommendations for improvement.

It is anticipated that obligations under this contract will commence on September 21, 2021 and completed no later than December 31, 2021.

1.2 CONTENT OF THE REQUEST FOR PROPOSAL (RFP) AND PROPOSALS

This RFP is designed to provide bidders with the information necessary for the preparation of competitive Proposals. The RFP is not intended to be comprehensive, and each bidder is responsible for addressing all issues relevant to the RFP.

MUSL reserves the right to modify the RFP at any time. Notification of such changes will be conveyed in a manner deemed appropriate by MUSL.

In submitting a proposal, the bidder agrees that it will not bring any claim or have any cause of action against MUSL, or its members based on any misunderstanding concerning the information provided.

Bidders are encouraged to provide MUSL with information, evidence, and demonstrations (if any) that will make possible an award that best serves the stated interests of MUSL. Bidders are provided wide latitude in the degree of detail they offer or the extent to which they reveal plans, processes, and procedures. Bidders should prepare their Proposals simply and economically, providing a straightforward and concise description of their capabilities to satisfy the requirements of this RFP. Proposals that are excessive in length, or that contain a significant amount of boilerplate or advertising text, or redundancies are discouraged.

1.3 BIDDER QUESTIONS

A bidding conference will not be held. Bidders may submit written questions concerning this RFP by June 18, 2021. A compilation of questions and answers (Q&As) will be provided to all parties that submit questions, and on the websites where the RFP was posted. This request must be submitted before June 28, 2021. The questions and answers will not modify the RFP, unless MUSL specifically states that a modification is being made.

All written questions regarding this RFP shall be directed to:

Procurement@musl.com

Subject Line: Operational Security Assessment and Audit 2021

A Bidder may be disqualified for attempts to contact any MUSL staff member to request additional information about this RFP. MUSL will disqualify a Bidder for intentionally causing a material violation or circumvention of the requirements of this Section.

1.4 SUBMISSION OF PROPOSALS

Only one Proposal will be accepted from each Bidder, and must be sent in a PDF to Procurement@MUSL.com; and be accompanied by a signed Bidder's certification included with the RFP as Appendix A. **Bidders must identify and address each requirement in this RFP by section number and in order.**

1.5 TRANSMITTAL LETTER

A transmittal letter must be submitted as the first page of the Proposal. The transmittal letter must clearly indicate that it is the transmittal letter, identify the Bidder submitting the proposal, and indicate the name, title, address, and telephone number of the person in the Bidder's organization to be contacted concerning the proposal. The transmittal letter must also contain any requests for treatment of information submitted by the Bidder as confidential information as required by this RFP.

By signing and submitting the transmittal letter the Bidder is agreeing to the following:

1. The Bidder will provide the services requested in this RFP in accordance with this RFP and the Bidder's proposal;

2. The Bidder is warranting that it has not made any material misrepresentation or omission in connection with its Proposal;
3. The Bidder has not acted with other Bidders to restrict competition for this solicitation;
4. The Bidder has not agreed to pay any person or entity (other than a bona fide employee of the Bidder) a fee or commission conditioned on the award of this contract; and,
5. The person signing the transmittal letter has the power to make the above representations and bind the Bidder to the terms of the Bidder's Proposal.
6. The Bidder's Scope of Ownership as identified in Section 1.20 below.

THE TRANSMITTAL LETTER SHALL SPECIFICALLY RECITE THAT THE BIDDER HAS READ THIS PROVISION AND AGREES TO EACH OF THESE REQUIREMENTS.

1.6 SUBMISSION OF DISCLOSURE DOCUMENTS

The "Initial Bidder Disclosure" (Appendix B) must also be included with the proposal.

1.7 DATES RELEVANT TO THIS RFP

June 4, 2021	RFP released
June 18, 2021	Bidders' questions are due by 3:00 p.m. CDT in accordance with Section 1.3 above
July 2, 2021	MUSL responds to Bidders' questions (Q&As)
July 19, 2021	Proposals due by 3:00 p.m. CDT to Procurement@MUSL.com
July 20 – 30, 2021	MUSL clarifying/follow-up questions with Bidders
August 9-13, 2021	Potential Presentations to MUSL Evaluation Committee, Johnston, Iowa
No later than August 19, 2021	Bidder Selection, subject to successful Background Checks and Contract negotiation
August 20 – September 17, 2021	Begin Background Checks Process; Contract negotiation
September 21, 2021	Project Kick-off
November 10, 2021	Fieldwork Complete – Exit Meeting
November 18, 2021	Draft Report due
December 3, 2021	Report Draft 2 – Management responses provided
December 17, 2021	Final report with Managements comments.

All dates are subject to change by MUSL.

Proposals and disclosure documents must be received by Procurement@MUSL.com by no later than 3:00 p.m. Central Daylight Time on July 19, 2021. Late proposals will not be considered.

1.8 COST ACCEPTED BY BIDDERS

MUSL is not responsible for any costs incurred by a Bidder that are related to the preparation or delivery of the proposal, any on-site inspection or off-site presentation which may be required, or any other activities related to this RFP. MUSL will pay its own travel expenses that may be associated with this RFP.

1.9 CLARIFICATIONS TO PROPOSALS

Clarifications from Bidders may be requested by MUSL for the purpose of resolving ambiguities or questions about the information presented in the proposals. Clarification responses shall be in writing and shall address only the information requested. Clarifications of proposals will be issued by MUSL Procurement. Responses to clarifications shall be submitted within a reasonable time as specified by MUSL.

1.10 ALL PROPOSALS AND PRICING VALID FOR 180 DAYS

All proposals submitted shall remain valid for 180 calendar days following the date on which the proposals are opened. A Bidder's submission of a proposal shall constitute the Bidder's express agreement to this time limit. The pricing from the selected Bidder shall remain valid through successful contract negotiations.

1.11 SOURCES OF INFORMATION USED BY MUSL IN ADDITION TO THE PROPOSALS

MUSL reserves the right to contact individual Bidders after the submission of Bidder proposals for the purpose of clarifying a proposal to ensure mutual understanding. Bidders will not be permitted to modify or amend their proposals if contacted by MUSL for this reason.

Information obtained from or through the disclosure documents may be used in evaluating the proposals.

MUSL reserves the right to obtain information, from any and all sources concerning a Bidder or their services which MUSL deems pertinent to this RFP and to consider such information in evaluating the Bidder's proposal.

1.12 STANDARDS APPLICABLE TO THE AWARD

MUSL shall award the contract to the Bidder submitting the best proposal. MUSL shall consider and evaluate each bid based on these factors: ability to perform the work as required by the RFP, experience of staff assigned to the project; ability to meet the project schedule; previous experience with contractor; references; overall approach; and costs.

THE SUCCESSFUL BIDDER MUST PASS A SECURITY BACKGROUND CHECK PERFORMED BY LOTTERY OFFICIALS OR LAW ENFORCEMENT OFFICIALS.

All Proposals received from Bidders will be reviewed and evaluated by an Evaluation Committee, comprised of MUSL personnel as appointed by MUSL's Executive Director or designee. The Evaluation Committee will evaluate each Bid and determine which Proposal best addresses the applicable provisions of the RFP, offers the best overall range of benefits and is considered most advantageous to MUSL. The Evaluation Committee will report its recommendation to the Executive Director, who will determine whether to seek clarification, request additional information, or proceed with an award of the Contract.

1.13 WAIVER OF INFORMALITIES AND REJECTION FOR NONCOMPLIANCE

MUSL reserves the right to waive minor deficiencies in a proposal. The decision as to whether a deficiency will be waived or will require the rejection of a proposal will be solely within the discretion of the Evaluation Committee. **Bidders are advised that the failure to comply with or respond to any part of this RFP that requires a response may result in rejection of their proposal.** MUSL reserves the right to reject any and all proposals in response to this RFP at any time during the solicitation process for any reason. MUSL reserves the right to refuse to meet with any or all Bidders responding to this RFP during the RFP process, which concludes when a contract for the work has been signed by both parties.

1.14 PROPOSAL REJECTION

MUSL reserves the right to reject any and all proposals in response to this RFP. Bidders whose proposals are not selected for further negotiations or contract award will be notified in writing at the email provided in the proposal.

1.15 REQUESTS FOR CONFIDENTIALITY

Proposals will not be opened publicly so that MUSL may evaluate requests for confidentiality. Proposals will be shown only to the MUSL Evaluation Team, personnel with technical or experiential insight and, if requested, members of the Audit Committee.

Any request for confidential treatment of information must be included in the transmittal letter described in this RFP. The request must also include the name, address, and telephone number of the person authorized by the Bidder to respond to any inquiries by MUSL concerning the confidential status of the materials. The Bidder must also state in the transmittal letter the reasons such confidentiality is necessary. Any documents submitted which contain confidential information must be marked on the outside as containing confidential information, and each page upon which confidential information appears must be marked as containing confidential information. The confidential information must be clearly identifiable to the reader wherever it appears. All copies of the proposal submitted, as well as the original proposal, must be marked in this manner.

In addition to marking the material as confidential material where it appears, the Bidder must submit one copy of the relevant pages of the proposal from which the confidential information has been excised. The confidential material must be excised in such a way as to allow the public to determine the general nature of the material removed and to retain as much of the document as possible. These pages must be submitted with the transmittal letter.

The Bidder's failure to request confidential treatment of material pursuant to this section will be deemed by MUSL as a waiver of any right to confidentiality which the Bidder may have had. Under no circumstance will MUSL be liable to any Bidder or to any person or entity for any disclosure of any materials not claimed as confidential by the Bidder or for materials MUSL reasonably believes should not be considered trade secret or confidential information.

Identification of the entire Proposal as confidential may be deemed non-responsive and disqualify the Bidder.

1.16 COPYRIGHTS

By submitting a proposal, the Bidder agrees that MUSL may copy the proposal for purposes of facilitating the evaluation or to respond to requests for public records. By submitting a response to the RFP, the Bidder represents that such copying will not violate any copyrights in the materials submitted.

1.17 PROPOSALS PROPERTY OF MUSL

All proposals will become the property of MUSL and will not be returned to the Bidders.

MUSL reserves the right to use any and all information contained in a proposal to the extent permitted by law.

1.18 CONTRACT PROVISIONS

The contract that MUSL expects to award as a result of this RFP will be based upon the proposal submitted by the successful Bidder(s) and all requirements as presented in this RFP. MUSL reserves the right to either award a contract without further negotiation with the successful Bidder, or to negotiate terms with the selected Bidder if the best interests of MUSL would be served by so doing.

The selected Bidder may be required to reduce the Costs submitted if MUSL reduces the requirements placed upon the Bidder, or if MUSL assumes some of the requirements contained in the RFP, and/or assumes some of the Bidder's responsibilities.

The contract terms included in Appendix C are not intended to be a complete listing of all contract terms but are provided to enable the Bidder to better evaluate the Bidder's costs associated with the provision of services to MUSL.

When submitting proposals, Bidders should expect to enter into a contract with the terms and conditions indicated in Appendix C.

1.19 SCOPE OF OWNERSHIP

The Bidder agrees that no ideas or materials developed to address the requirements of this project and requirements as set forth in the RFP shall be used by the Bidder, or its subcontractors.

If the agreement is terminated for any reason, the Bidder shall agree to deliver to MUSL any and all products, materials or other items specified herein which MUSL might request, within thirty (30) days of request.

MUSL retains the right to inspect any phase of services to be provided either on a continuing or a spot-check basis.

The Bidder shall assure that details of MUSL’s operations, security or other related matters or results of their services are not disclosed to persons or organizations other than the personnel and/or subcontractors of the Bidder whose assistance has been approved in advance by MUSL.

1.20 CONTRACTOR WARRANTIES

Warranties expressed in the Agreement will be intended to modify the warranties implied by law only to the extent that they expand the warranties applicable to the services provided by the successful Bidder.

The successful Bidder will represent and warrant that in the performance of the Contract, that all work product and the information, data, designs, processes, inventions, techniques, and other such intellectual property furnished, used, or relied upon by the Bidder will not infringe on any copyright, patent, trademark, trade dress or other intellectual property rights held by a third-party.

In the event that a third party asserts that MUSL’s use of the product(s) is in violation of such party’s rights, the successful Bidder shall indemnify and hold harmless MUSL and its Member Lotteries.

The successful Bidder must represent and warrant that all services provided shall be performed in a prompt, competent and skillful manner by properly trained individuals in accordance with the highest standards in the Bidder’s profession, and that all goods and services will be free and clear of any lien or claim by any part at the time of delivery, and that no misrepresentations have been made including material omissions. Key personnel submitted in the Proposal shall be the Personnel assigned to the Project, unless substitutions are approved by MUSL, which said approval shall not be unreasonably withheld and does not apply to Key personnel who leave employment with the Bidder.

1.21 LIQUIDATED DAMAGES

Due to the nature of the work required by this Project, MUSL reserves the right to require that the successful Bidder agree to a liquidated damages clause in the Agreement. Examples of liquidated damages may include but are not limited to breach of any Confidentiality of information and use of MUSL trademarks or information related to this project in sales, advertising and other presentations given by the successful Bidder.

Assessment of liquidated damages are not considered penalties, and shall be in addition to, and not in lieu of, such other remedies as may be available to MUSL.

SECTION 2 DISCLOSURE REQUIREMENTS

2.1 NOTICE OF DISCLOSURE REQUIREMENTS

All Bidders submitting a proposal must provide a completed response to the "Initial Bidder Disclosure" document (Appendix B). This document must be included with the Bidder's proposal.

The Bidder must provide complete background information, upon notification of contract award, on all control persons of the Bidder and any person(s) involved in this project deemed pertinent by MUSL. Bidder must pass background checks prior to contract signing.

A "Control Person" means any person who owns five percent or more of the Bidder, a parent company, a subsidiary company, and all officers and directors of the Bidder, parent or subsidiary company of the Bidder, or any other business entity directly associated with the Bidder.

All parties contracting with MUSL must pass security background checks performed by lottery security officials or law enforcement officials.

MUSL will not award a contract to a Bidder if a Control Person of the Bidder, or a person assigned by the Bidder to perform services for MUSL, has been convicted of a felony or any gambling related offense that are discovered during the background check process.

2.2 USE OF INFORMATION

Any information provided to MUSL in the disclosure form or obtained by MUSL through the use of these documents, and information obtained during a background check may be used by MUSL to determine the successful Bidder or to disqualify a Bidder. Law enforcement or Lottery security officials may confer with Bidders.

SECTION 3 PROJECT SCOPE

3.1 GOALS

MUSL’s Audit Committee is charged with assuring the adequacy and effectiveness of the Association’s operational policies, procedures, standards, and practices. It is a requirement to engage an independent third party to perform a risk-based assessment on the design and effectiveness of its operational security and provide a gap analysis identifying areas for potential improvement.

MUSL seeks to engage an independent firm to perform an operational security risk assessment. The assessment will be based on professionally recognized framework(s) and rating methodology (see section 3.2.1) and will include an evaluation on the adequacy and effectiveness of 2019 remediation efforts.

- 3.1.1** A detailed report of findings and recommendations will be provided to MUSL’s Executive Director and coordinated through the Chief Audit Executive.
- 3.1.2** Management will provide a formal response to Contractor’s findings and recommendations.
- 3.1.3** Contractor’s firm will produce a final report with management’s responses and provide comments on the reasonableness of those responses.
- 3.1.4** The final report will be presented to the Audit Committee.
- 3.1.5** An executive summary will be required for the Executive Committee.
- 3.1.6** Contractor’s firm may be called upon to present or discuss Contractor’s findings with MUSL.

All work product and deliverables including but not limited to the draft and final reports shall remain confidential and may not be released to any third party without explicit written authorization from MUSL’s Executive Director.

3.2 REQUIRED SERVICES

- 3.2.1** Contractor shall conduct a comprehensive operational security risk assessment and audit in accordance with professional and industry standards as agreed upon with MUSL, including but not limited to, the Center for Internet Security (CIS) World Lottery Association Security Controls Standard (WLA-SCS:2020 Section L.2), Committee of Sponsoring Organizations (COSO) or others, as agreed in advance with MUSL. Applicable Standards will be referenced as the basis for key observations, gap analysis and recommendations, as applicable.

- 3.2.2 Contractor shall ensure at all times that Contractor’s key personnel on Contractor’s project team possess the necessary skills, abilities and experience to perform the following in accordance with the highest professional and industry standards.
- 3.2.3 MUSL may request the Contractor to perform additional services related to, but not contemplated by the Agreement. Should this occur, Contractor shall communicate to MUSL the scope of the additional services and any corresponding fees. Contractor and MUSL must mutually agree to the scope of services, including fees and estimated hours, in writing prior to commencing the additional services.
- 3.2.4 Contractor shall work under the direction of MUSL’s Chief Audit Executive.

3.3 SCOPE

Contractor shall include, but is not limited to, the following areas of focus:

- 3.3.1 OSAA 2019 Remediation Follow-up – evaluate and test the adequacy and effectiveness of 2019 remediation efforts.
- 3.3.2 Draw control activities - adequacy and effectiveness of draw procedures to ensure the accuracy and integrity of draw events (World Lottery Association Security Control Standard (WLA-SCS) Section L.2).
- 3.3.3 Access management, internal and external – least privilege role alignment, segregation of duties, active directory, password management, other (CIS).
- 3.3.4 Software development life cycle – adequacy of the processes, procedures and controls used in the development of systems/software.
- 3.3.5 System configuration – standardization, change management, patch management, web server and database specific configurations and hardening (CIS).
- 3.3.6 Integrity of reported draw results - MUSL draw machine controls, procedures, independent draw result verification (digital signature verification systems) and draw data processing and reporting systems.
- 3.3.7 Draw contingency plan(s).

- 3.3.8 Data security – network access, data loss prevention, encryption methodologies, wireless security, router, switches, firewalls, and IDS/IPS.
- 3.3.9 Network architecture – existence and accuracy of network diagrams and adequacy of design.
- 3.3.10 Physical architecture – existence and accuracy of diagrams, rack and system positions, physical cabling and connections and physical operating environment.
- 3.3.11 Information Security - adequacy and effectiveness of vulnerability management, data protection and privacy, systems development, monitoring controls, security tools, processes, and operational oversight.
- 3.3.12 Gap analysis on the “as is” state of MUSL’s operational security and identify opportunities for improvement.
- 3.3.13 MUSL’s conformity to internal policies, documented procedures, and third-party control frameworks (CIS Benchmarks, WLA SCS, etc.).
- 3.3.14 Other aspects of operational security as agreed with MUSL.

Out-of-scope – the following areas are being evaluated and addressed through MUSL internal initiatives and/or not in scope for the 2021 OSAA.

- 3.3.15 Control Environment (integrity, ethical values, structure, governance, human resources, training, etc.) is included in the annual integrated financial audit.
- 3.3.16 Procedures related to Rule 2 – These standards are not directly applicable to MUSL’s internal operations.
- 3.3.17 Network penetration tests and vulnerability assessment and scans – Pen tests and scans are performed by a specialized independent firm. While the performance of such tests are not in scope, the respective reports will be available for review.
- 3.3.17 Business Continuity Plan

3.4 WORK PHASES

Contractor shall deliver Services in accordance with the following work plan which is comprised of four phases: **(1) project planning and management, (2) fieldwork and fact finding, (3) analysis and (4) report development and delivery.**

3.4.1 PHASE 1 – PROJECT PLANNING AND MANAGEMENT

Contractor shall:

1. Confirm start date, scope, objectives, work plan, schedule, and logistics with the Chief Audit Executive.
2. Obtain and review applicable policies, procedures and system architecture documentation. Schedule kick-off meeting to initiate project.
3. Schedule walk-through interviews with key process owners.
4. Conduct contract quality assurance assessments on major tasks and deliverables through the term of the Contract and any extensions.
5. Provide weekly progress updates to the Chief Audit Executive including a summary of key encumbrances or delays.
6. Method of communication will be mutually agreed between contractor and MUSL.

3.4.2 PHASE 2 – FIELDWORK AND FACT FINDING

1. Conduct a kick-off meeting with the applicable MUSL staff describing the goals, objectives, approach, and estimated timelines.
2. Perform a comprehensive risk assessment based on professionally recognized standards; see paragraph 3.2.1.
3. Evaluate the adequacy and completeness of technology, security and operational documents.
4. Develop an interview schedule to help assure the appropriate staff are available for the area under review.
5. Fieldwork will principally be performed at MUSL’s headquarters in Johnston, IA and a co-located draw facility in Tallahassee, Florida. Additional locations may be necessary based on the outcome of the comprehensive risk assessment.
6. Test the effectiveness of operational, physical and logical controls.
7. Perform a gap analysis on the existing design of controls.
8. Report any significant risks or events immediately upon identification.

3.4.3 PHASE 3 – ANALYSIS

Contractor shall:

1. Perform supplemental inquiries, observations and inspections, as necessary.
2. Evaluate the effectiveness of existing controls.
3. Identify potential gaps and recommend opportunities for improvements.
4. Summarize risks and recommendations as findings.

3.4.4 PHASE 4 – REPORT DELIVERY AND DEVELOPMENT

Contractor shall:

1. Develop a Draft Report which shall include a detailed operational security risk assessment, design and structure gap analysis, test results on the effectiveness of policies, procedures and controls and recommendations for improvement and other issues that come to the Contractors attention during the course of Contractor's review.
2. Contractor will conduct a closing meeting with MUSL's Executive Director and other personnel, as appropriate.
3. The initial draft report should be delivered to MUSL's Chief Audit Executive on or before by November 18, 2021. Such report shall include an issues matrix ("Findings Matrix") to identify high, medium and low risk areas and recommendations. The Chief Audit Executive will perform an initial review and convey the draft report to MUSL's Executive Director and relevant staff for further comment.
4. Incorporate MUSL staff's input, clarifications, and management responses in a second draft including comments on the reasonableness of management's responses and/or remediation plans.
5. A second draft report will be submitted to the Chief Audit Executive no later than nine (9) business days after receipt of management responses. The Chief Audit Executive will review the second draft and convey it to MUSL's Executive Director and staff for review.
6. A final report should be delivered to the Chief Audit Executive on or before December 17, 2021. The Chief Audit Executive will submit the final report to MUSL's Executive Director for review and approval.

7. Contractor shall be prepared to present their findings to the Audit Committee, Executive Committee and the full Board of Directors. Times and dates will be coordinated between MUSL and the Contractor.

3.5. RESPONSIBILITIES AND OPERATIONAL CONDUCT OF THE SUCCESSFUL CONTRACTOR AND MUSL

3.5.1 PERSONNEL

1. Contractor and the Chief Audit Executive shall each mutually coordinate and facilitate interviews, discussion and follow-up questions with MUSL personnel.
2. Delays or unavailability of MUSL personnel should be immediately conveyed to the Chief Audit Executive for resolution.
3. Under no circumstances shall the Contractor or Contractor's staff have, or presume to have, the authority to direct MUSL's personnel to change or modify any MUSL's practice, procedure, or policy.

3.5.2 ACCESS

1. Contractor and MUSL shall mutually coordinate and facilitate access to all documents, records, information, sites, networks and systems as reasonably required for Contractor's services under this contract.
2. MUSL will provide Contractor access to all personnel required to fulfill this audit during the time period referenced.
3. Physical and logical access will be provided in accordance with MUSL Security policies, procedures and protocols.
4. Internet access will be provided in accordance MUSL's policies and procedures.
5. Access to a photocopier and scanner will be provided by MUSL.

3.5.3 WORKSPACE ACCOMMODATIONS

1. Workspace will be provided for Contractor including a lockable cabinet.
2. Other physical requirements should be identified in the Contractors proposal.
3. COVID-19 protocols as required by MUSL shall be adhered to by Contractor.

3.5.4 DOCUMENTATION

1. *On-site:* MUSL shall provide Contractor reasonable on-site access to required documentation for various network components, hardware, and proprietary systems/applications as required to perform the Services. MUSL reserves the right to limit such on-site access for security or confidentiality purposes.

2. *Off-site*: MUSL shall provide Contractor reasonable off-site access to documentation upon successful completion of the respective background checks have been reviewed and accepted, and Contract negotiations have been completed.

3.6 USE OF ELECTRONIC COMMUNICATION

In the interest of facilitating Services to MUSL, Contractor may communicate by electronic mail (e-mail) over the Internet. Such communications must not include information that is confidential. While MUSL recognizes and accepts that Contractor has no control over the possibility of unauthorized interception of these communications once they have been sent, Contractor shall use the most stringent industry protocols to keep all such communications secure. Confidential information must be uploaded to secure web portal or Contractor’s web portal with equivalent security. MUSL is unable to directly accept encrypted email attachments.

3.7 MUSL RESPONSIBILITIES

During the term of this Contract, MUSL will:

1. Make all management decisions and perform all management functions in connection with all Services resulting from this engagement, as deemed necessary and appropriate by MUSL’s Executive Director or as directed by the Chair of the Audit Committee and/or Board President; and
2. Establish or maintain internal controls, including ongoing monitoring activities.

3.8 DELIVERABLES AND PROJECT SCHEDULE

Contractor shall complete all Services and provide all deliverables in accordance with the specifications and requirements set forth in this RFP by no later than the date or dates set forth herein. MUSL reserves the right to extend the deliverables dates; any other changes to the deliverable dates will be by mutual written agreement of MUSL and the Contractor.

3.9 COMMUNICATIONS

Contractor shall communicate with the Chief Audit Executive whenever requested, and whenever Contractor encounters major issues that impact the project (e.g., potential delays, inability to obtain necessary information, breaches in security, etc.). Additionally, Contractor shall provide weekly status reports to the Chief Audit Executive throughout the term of this Contract.

3.10 REPORTING

Contractor shall create and deliver to the Chief Audit Executive a preliminary Operational Security Assessment and Audit draft report (“Preliminary Draft”), a

secondary Security Audit draft report (“Secondary Draft”) and a final report (“Final Report”) in confidential formats.

3.11 PROJECT SCHEDULES

The anticipated key scheduling milestones for Services are:

1. Engagement Commencement on September 21, 2021
2. Initial Planning date completion TBD
3. On-site Fieldwork date completion ca November 10, 2021
4. Preliminary Draft Report due to MUSL November 18, 2021
5. Secondary Draft Report due to MUSL approximately December 3, 2021
6. Final Report due to MUSL approximately December 17, 2021

Note – refinement of these key dates shall be as determined in the Contract or as mutually agreed by MUSL and the selected contractor.

3.12 CONFIDENTIALITY

Any information, whether proprietary or not, made known to or discovered by Contractor during the performance of or in connection with an Agreement resulting from this RFP shall be kept confidential and not be disclosed to any person other than MUSL. The selected Bidder shall immediately notify MUSL in writing if it is requested to disclose any information made known to or discovered by it during the performance of the Contract or at any time thereafter.

Except as may be required by law, all work product and deliverables including but not limited to the draft and final reports shall remain confidential and may not be released to any third party not explicitly authorized in writing by MUSL. **Any unauthorized release of information, findings, or use of MUSL information in sales, marketing and other types of presentations shall be subject to payment of liquidated damages as defined in the Agreement.**

If Contractor is ever required or requested to provide information or documents regarding the Services under this RFP to any party other than MUSL or a Member Lottery in connection with governmental regulations or activities, or a legal, arbitration or administrative proceeding (including a grand jury investigation), in which Contractor is not a party. Contractor shall immediately advise MUSL of any such requests or requirements and MUSL may initiate such legal action as MUSL deems appropriate to protect information from discovery.

SECTION 4 MANDATORY REQUIREMENTS

- 4.1 GENERAL REQUIREMENTS.** In providing the following information and disclosures, Bidder shall respond with as much detail as would be helpful to MUSL in determining Bidder’s ability to provide the necessary goods and services.

Bidder must specifically address each requirement below and reference the requirement with each response.

A. ORGANIZATION

1. Provide the name and address of its principal place of business.
2. Provide the name of owners and officers as follows:
 - a. If a corporation, the names of all corporate officers, directors, and stockholders having five percent (5%) or more in equity or securities of the corporation.
 - b. If a company or other association, the names of all the members, officers, and directors.
 - c. If a partnership or joint venture, the names of all of the general partners, limited partners, or joint venturers.
 - d. If a sole proprietorship, the name of the owner.
3. Provide an organization chart highlighting the names and positions of those key individuals who will perform work in relation to this RFP. Include the project manager and the key representative for service-related issues once the machines have been delivered.
4. If subcontractors will be used to perform the work, disclose the same information required of the Bidder herein regarding the subcontractors.
5. Disclose to the best of Bidder’s knowledge and belief, any Lottery employee or Commissioner or their respective family members who hold any interest, financial or otherwise, in the Bidder’s organization, or if such a person is an officer or director of Bidder.

B. EXPERIENCE

Bidder Qualifications

1. Provide resumes for all persons to be assigned to this project.

2. State the experience which the Bidder, the Bidder's key personnel, and the personnel which will be assigned to the MUSL contract have had in providing services similar to those described in this RFP.

C. LITIGATION

1. Provide a description of any contracts which Bidder was awarded but was unable to honor.
2. Provide a description of any pending and/or threatened litigation involving Bidder.
3. Describe any past litigation involving Bidder, and the outcome of the same.
4. List any US lotteries to which you have supplied similar operational security assessments or audits in the past 10 years.

D. FINANCIAL STABILITY

List all bankruptcy, reorganization, insolvency or default on any bond or loan obligation experienced by Bidder in the past 10 years.

E. REFERENCES

1. List all lotteries to which Bidder has provided services and describe in detail the nature of those services.
2. Provide five (5) business references that are currently using goods and services similar to those being proposed in this RFP and include: the contact name; email address; telephone number; and, address.

F. TITLE TO, USE OF, AND COMPENSATION FOR INTELLECTUAL PROPERTY

To the extent a successful Bidder uses or relies upon third-party intellectual property rights in fulfilling its obligations under the Agreement, the successful Bidder represents and warrants that it has the valid right to use such intellectual property right. In the event of failure to perform, or breach of the Agreement, the successful Bidder must ensure continued right of use of licenses intellectual property by MUSL.

G. INABILITY TO PLAY LOTTERY

Restrictions apply to the purchase of tickets and payment of prizes regarding individuals related to successful Bidder's and its subcontractors. No ticket or share issued by a lottery shall be purchased by and no prize shall be paid to any officer, employee, agent, or subcontractor of any vendor or to any spouse, child, brother, sister, or parent residing as a member of the same household in the principal place of residence of any such person if such officer, employee, agent, or subcontractor has access to confidential information which may compromise the integrity of MUSL, its members, and any and all games that are sold by its member and other lotteries until the services are fully accepted by MUSL.

SECTION 5 INSURANCE REQUIREMENTS

The successful Bidder, within 15 days following notification of their selection, shall provide MUSL with evidence of insurance as defined in Appendix C.

The successful Bidder must maintain in effect insurance policies in full force and effect from the execution of the Agreement and must continue in full force and effect throughout the term of the Agreement. MUSL must receive thirty (30) days advance written notice of cancellation, termination, or failure to renew any policy.

Professional Liability and Errors and Omissions insurance must indemnify MUSL, its directors, officers and employees, and its member lotteries for direct or indirect loss due to any error or omission caused by the successful Bidder and coverage must continue until one (1) year past the term of the Agreement.

SECTION 6 FINANCIAL INFORMATION

MUSL may request audited financial statements and/or financial records during the evaluation of submitted proposals.

SECTION 7 COSTS

Preference will be given to Bidders submitting a firm fixed price proposal.

Appendix A

BIDDER CERTIFICATION

I certify that I have the authority to bind the Bidder indicated below to the specific terms and conditions imposed in the RFP, and that by my signature on this document, the Bidder specifically agrees to all of the waivers, restrictions, and requirements of the RFP as conditions precedent to submitting this proposal.

I further state that in making this proposal the indicated Bidder has not consulted with others for the purpose of restricting competition and that the Bidder has not made any knowingly false statements in its proposal or background statement.

Name

Title

Entity submitting proposal

Date

Appendix B

INITIAL BIDDER DISCLOSURE

Each Bidder shall provide the following information on a separate sheet entitled “Bidder Disclosure”:

1. Name, website address, mailing address and physical address of company (or other business entity) submitting the proposal.
2. Type of business entity (e.g., corporation, partnership).
3. Place of incorporation, if applicable.
4. Name and location(s) of major offices and other facilities that relate to the Bidder’s performance under the terms of this RFP.
5. Name(s), address(es), and function(s) of any and all subcontractors, associated companies, or consultants to be involved in any phase of this project.
6. Name, address, voice telephone number, email address, and fax number of Bidder’s representative to contact regarding all contractual matters concerning this proposal.
7. Name, address, voice telephone number, email address, and fax number of Bidder’s representative to contact regarding all technical matters concerning this proposal.
8. Name, address, voice telephone number, email address, and fax number of Bidder’s representative to contact regarding scheduling and other arrangements, if necessary.
9. Names of all attorneys and law firms representing the Bidder.
10. Bidder’s federal employer identification number.
11. The name, address and telephone number of all persons, consultants, sales agents, or other entities involved in aiding the bidder’s efforts to obtain this contract or otherwise assisting the Bidder.
12. The Bidder must state whether, for each controlling person of the Bidder or employee assigned to do the work, during the last five (5) years, any of the following events occurred:

- a. A petition under the Bankruptcy Act or any state insolvency law was filed by or against, or a receiver, fiscal agent or similar officer appointed by a court for the business or property of such person, or any partnership in which such person was a general partner at or within two (2) years before the time of such filing, or any corporation or business association of which he was an executive officer at or within two (2) years before the time of such filing.
 - b. Such person was indicted, accused or convicted of a crime or was a subject of a grand jury or criminal investigation (excluding traffic violations and other minor offenses).
 - c. Such person was the subject of any order, judgment or decree of any court of competent jurisdiction permanently or temporarily enjoining him from, or otherwise limiting his participating in any type of professional or business practice or activity (i.e., licenses, suspension and/or revocation of same).
 - d. Such person was the subject of any order, judgment or decree of any federal or state authority barring, suspending or otherwise limiting the right of such person to engage in any professional or business practice or activity.
- 13.** A Bidder must provide the name, and current duties and responsibilities of all individuals who will be assigned to work on any contract awarded pursuant to this RFP. This requirement is met if the information requested here is included in the resumes provided with the bid.
 - 14.** If any part of the Bidder's work on any contract awarded pursuant to this RFP is to be performed by subcontractors, partners, or consultants, the Bidder must identify such parties and describe their functions, as well as the contractual agreements with said parties. The Bidder should also include resumes of the officers and key employees of such parties.
 - 15.** Bidders who employ or have on their governing boards as of the date of their proposals, employees or former employees of MUSL or its members shall identify each such person and their position and responsibilities within the Bidder's organization. If, following a review of this information, MUSL determines that a conflict of interest may exist, the Bidder may be disqualified from further consideration for the award of a contract.

- 16.** If any control person of the Bidder, or subcontractor of the Bidder, or any employee of either assigned to this project, is a member of the immediate family of any employee of MUSL or its members or has a close personal relationship to any employee of MUSL or its members, indicate each person and employee.
- 17.** The Bidder must state whether any of the following has occurred:
- a. During the last five (5) years, the Bidder has had a contract terminated for any reason.
 - b. During the last two (2) years, the Bidder has been assessed penalties under any of its existing or past contracts. If so, indicate the public jurisdiction, the reason for the penalty, and the penalty amount of each incident.
 - c. During the last two (2) years, the Bidder, a subsidiary of intermediary company, parent company or holding company was the subject of any order, judgment or decree of any federal or state authority barring, suspending or otherwise limiting the right of the bidder to engage in any business, practice or activity.
- 18.** Bidders must disclose any engagement that may cause a conflict of interest with this project, including whether the company has, is, or reasonably expects to enter into an agreement to provide services with companies or other entities engaged in the gaming industry, including but not limited to companies and entities offering any type of lottery services and courier services; casinos and other gaming or gambling establishments; synthetic lotteries and betting services; etc. Bidders must disclose specific information about the engagement, and provide how Bidder would protect, and prevent any and all disclosures of confidential information related to MUSL and this project.

Disclosure does not automatically deem the Bidder(s) disqualified from this RFP process; rather, MUSL will review the information and if necessary, seek clarification from the Bidder(s) submitting the information for further regarding conflicts of interest.

MUSL reserves the right to pursue remedies against Bidders that fail to disclose this information.

Appendix C

AGREEMENT FOR THE OPERATIONAL SECURITY ASSESSMENT AND AUDIT

This agreement is made by and between the Multi-State Lottery Association (MUSL), an unincorporated government benefit association, and CONTRACTOR (Contractor), located at ADDRESS.

1. **Incorporation of Documents.** MUSL's Request for Proposal (RFP) for a comprehensive, risk-based operational security assessment and audit and the Contractor's response to the Request for Proposal (Contractor's Proposal) are incorporated by reference into this agreement as though fully set forth.

In the event of a conflict in language between the RFP, RFP amendments, and the proposal, the provisions set forth in the RFP and its amendments shall govern. In the event that an issue is addressed in the proposal that is not addressed in the RFP or its amendments, no conflict in language shall be deemed to occur.

In the event of a conflict in language between any of the above-mentioned documents and the contract, the provisions set forth in the contract shall govern. In the event that an issue is not addressed in the contract, no conflict in language shall be deemed to occur.

Any alterations, variations, changes, modifications or waivers of or to provisions of the contract shall only be valid when they have been reduced to writing and duly executed and approved by each of the parties.

2. **Term.** The initial contract term will not exceed a duration of twelve (12) months from the dating of signing.
3. **Contractor's Duties.** The Contractor shall perform as set forth in this agreement, the Contractor's Proposal, and as required by the RFP. In the event that any of the employees specified in the Contractor's Proposal become unavailable to the Contractor, the Contractor shall replace them with employees with comparable expertise.

The purpose of this agreement is to provide MUSL with an operational security assessment and audit, as more fully set forth in Exhibit A to this Agreement. Contractor and MUSL agree that the following terms and conditions shall govern the provision of these services.

4. **Payments to Contractor.** The Contractor agrees to submit an invoice to MUSL requesting payment for the services rendered based on the prices set forth in this

agreement. This fee shall include all costs incurred by the Contractor in providing services as set forth in this agreement, the RFP, and the Contractor's Proposal. Invoices shall be submitted to the Director of Finance, Multi-State Lottery Association, 8101 Birchwood Court, Suite R, Johnston, IA 50131 or to ap@musl.com, and undisputed amounts will be paid within 45 days of receipt.

- 5. Termination for Cause.** MUSL may terminate this Agreement upon written notice for the breach by the Contractor, if such breach is not cured, provided that a cure if feasible, within the timeframe for cure set forth in the written notice of breach by MUSL. Breach events include, but are not limited to, Contractor's failure (including its subcontractors) to adhere to confidentiality clauses in this Agreement, failure to perform as set forth by this Agreement or Contractor's failure to provide equipment, goods, and services that meet the specifications and requirements set forth in this Agreement, without limitation the representations and warranties set forth in this Agreement.

The Contractor may terminate this Agreement upon written notice for the breach by MUSL if such breach is not cured, provided that a cure is feasible, within the timeframe for cure set forth in the written notice of breach by the Contractor. Breach events include MUSL's breach of this Agreement or MUSL's failure to pay as set forth in this Agreement.

- 6. Termination for Convenience.** MUSL may terminate the contract upon issuing a 30-day notice, paying compensation only for good and valuable product and services received, as determined by MUSL.

Further, if the contract is terminated, compensation, if any, shall be limited to reasonable expenses for products, materials, supplies, and services rendered, for which Contractor has not yet been compensated. MUSL will make no payments for unfinished work, work in progress, or materials acquired unnecessarily in advance, in excess of MUSL's delivery requirements, or initiated after receipt of notice of termination.

6.1. Immediate Termination. MUSL may terminate this Agreement, effective immediately without advance notice, allowance for cure, and without penalty or legal liability to MUSL for any of the following reasons:

- a. if the Contractor furnished any statement, representation, warranty or certification in connection with this Agreement, which is materially false, deceptive, incorrect or incomplete; or

- b. if the Contractor becomes subject to any bankruptcy or insolvency proceeding under federal or state law to the extent allows by applicable state or federal law including bankruptcy laws; or
- c. if the Contractor terminates or suspends its business, or lets its insurance lapse or be cancelled; or
- d. if MUSL reasonably believes that the Contractor has become insolvent or unable to pay or perform its obligations consistent with applicable federal or state law; or
- e. if an officer, director or employee of Contractor in contract with MUSL's project is or has been convicted of a felony, any gambling-related offense whether a misdemeanor or felony, or of any state or federal ongoing criminal conduct or Racketeer Influenced or Corrupt Organization Act (RICO) offenses by a court of competent jurisdictions; or
- f. if a lawsuit is filed against Contractor claiming that the Contractor's processes or materials violate any valid patent, trademark, copyright, intellectual property right or contract, and MUSL reasonably believes that the lawsuit may impair the Contractor's performance of this Agreement; or,
- g. if during the course of this Agreement the Contractor or any employee, contractor, or agent of Contractor seeks to sell or pass any Lottery ticket, play any lottery game or claim any lottery prize, or
- h. if during the course of this Agreement any action by the Contractor interferes with MUSL's relationship with its membership or any multi-jurisdictional game it supports.

If cancellation occurs for any of the causes set forth above, MUSL shall have no further obligation to the Contractor other than payment for services rendered and materials provided prior to cancellation. Payment will be made only upon submission of invoices and proper proof of the Contractor's claim. This provision in no way limits the remedies available to MUSL in the event of a termination under this provision.

7. No Release of Obligation. The expiration or termination of this Agreement for any cause shall not release Contractor from:

- a. Any obligations and duties remaining under any order accepted by the Contractor prior to such expiration or termination; or

b. Any liability which at the time of expiration or termination has already accrued to the other party, or, which thereafter may accrue in respect to any event prior to expiration or termination; or

c. Any liability from any obligation that survives expiration or termination.

8. Non-Exclusive. The contract will not be exclusive as related to this projects.

9. Indemnification.

a. **General Indemnification.** Contractor shall indemnify, defend and hold harmless MUSL, its Members and their jurisdictions, and their departments, divisions, agencies, sections, commissions, officers, employees and agents from and against all losses, liabilities, penalties, fines, damages and claims (including taxes), and all related costs and expenses (including reasonable attorneys' fees and disbursements and costs of investigation, litigation, settlement, judgments, interest and penalties), arising from or in connection with any of the following:

- i. Any claim, demand, action, citation or legal proceeding arising out of or resulting from (i) the products provided or (ii) performance of the work, duties, responsibilities, actions or omissions of Contractor or any of its subcontractors under this contract, or (iii) a breach of any representation or warranty made by Contractor in the contract.
- ii. Any claim, demand, action, citation or legal proceeding arising out of or related to occurrences that Contractor is required to insure against as provided for under the contract.
- iii. Any claim, demand, action, citation or legal proceeding arising out of or resulting from the death or bodily injury of any person, or the damage, loss or destruction of any real or tangible personal property, in connection with the performance of services by Contractor, by any of its subcontractors, by anyone directly or indirectly employed by any of them, or by anyone for whose acts any of them may be liable.
- iv. Any claim, demand, action, citation or legal proceeding resulting from an act or omission of Contractor or any of its subcontractors in its or their capacity as an employer of a person.

These indemnification clauses shall not apply to the extent, if any, that such death, bodily injury, property damage, or other damages are caused by the gross negligence or reckless or intentional wrongful conduct of MUSL.

b. Patent / Copyright / Trademark / License Infringement Indemnification

Contractor shall indemnify, defend and hold harmless MUSL, its Members and their jurisdictions, and their departments, divisions, agencies, sections, commissions, officers, employees and agents from and against all losses, liabilities, damages (including taxes), and all related costs and expenses (including reasonable attorneys' fees and disbursements and costs of investigation, litigation, settlement, judgments, interest and penalties) incurred in connection with any action or proceeding threatened or brought to the extent that such action or proceeding is based on a claim that any piece of equipment, software, commodity or service supplied by Contractor or its subcontractors, or the operation of such equipment, software, commodity or service, or the use or reproduction of any documentation provided with such equipment, software, commodity or service infringes any United States or foreign patent, copyright, trademark, license, trade secret or other proprietary right of any person or entity, which right is enforceable under the laws of the United States.

In addition, should the equipment, software, commodity, or service, or the operation thereof, become or in Contractor's opinion be likely to become the subject of a claim of infringement, Contractor shall at Contractor's sole expense (i) procure for MUSL the right to continue using the equipment, software, commodity or service or, if such option is not reasonably available to Contractor, (ii) replace or modify the same with equipment, software, commodity or service of equivalent function and performance so that it becomes non-infringing.

MUSL will not agree to indemnify the Contractor for any reason.

10. Compliance with Laws. Contractor shall comply with all applicable laws and rules when performing. This also requires that the Contractor pay all taxes, fees, and assessments, however designated, levied, or based upon the goods and services supplied by the Contractor.

11. Insurance. Contractor shall maintain adequate insurance for the performance of the contract and, by submission of a bid, agrees to indemnify and save harmless and to defend all legal or equitable actions brought against MUSL, its Members and their

individual jurisdictions, and any agency, officer and/or employee or agent of them, for and from all claims of liability which is or may be the result of Contractor's actions during the performance of the contract. The purchase or non-purchase of such insurance or the involvement of Contractor in any legal or equitable defense of any action brought against Contractor based upon work performed pursuant to the contract will not waive any defense which MUSL, its Members and their individual jurisdictions, and any agency, officer and/or employee or agent might otherwise have against such claims, specifically including the defense of sovereign immunity where applicable, and MUSL, its Members and their individual jurisdictions, and any agency, officer and/or employee or agent thereof shall not be financially responsible for the consequences of work performed, pursuant to said contract.

- b. **General Liability Insurance** coverage with limits of not less than \$2,000,000 for injury to any one person, \$2,000,000 for any one occurrence of personal injury and \$2,000,000 for any one occurrence of property damage.
- c. **Property Insurance** on all buildings, furniture, fixtures, computer and communications equipment used in fulfilling the requirements of this Agreement. Coverage shall insure personal property including contents, equipment, and mobile items against fire, theft, collision, and flood. MUSL and the individual Members of MUSL will not be responsible for insuring any equipment or facilities included in or associated with the contract.
- d. **Automotive Liability Insurance** covering drivers and vehicles employed in connection with the operation of the contract with limits of not less than \$1,000,000 for personal injury to each person and \$250,000 for property damage.
- e. **Errors and Omissions Insurance** with limits of not less than \$1,000,000 per claim, to be in force and effect at all times which will indemnify Contractor and MUSL and the individual Members of MUSL and their jurisdictions for direct loss which may be incurred due to any error caused by Contractor, its officers, employees, agents, subcontractors or assigns regardless of negligence. MUSL shall be named as an additional insured on this policy.
- f. **Workers' Compensation Insurance** as required by law.
- g. Errors and Omissions Insurance must continue until one year past the term of the contract. All other insurances covered by this section must be effective when

performance commences under the contract and continue through the life of the contract and any authorized extensions.

- h. Certificates of insurance must be furnished to MUSL on date of contract execution, with the exception of the certificate for Errors and Omissions Insurance, which must be furnished to MUSL prior to installation of the first system.
- i. The required insurance coverages shall be written for not less than any limits of liability as required by the contract, and shall include contractual liability as applicable to Contractor's obligations under the Indemnification clause of the contract. Self-insurance coverage will not be acceptable.

12. No Assignment. Assignment of the contract will not be allowed without the written consent of MUSL.

13. No News Releases. Contractor shall not issue any news releases pertaining to this procurement process nor during the performance of the contract without prior written approval by MUSL.

14. No use of MUSL or member Intellectual Property. Contractor agrees not to use MUSL's or any member lottery's name, logos, images, nor any data or results arising from this procurement process or contract as a part of any commercial advertising without prior written approval by MUSL.

15. Sensitive Operation.

15.1 MUSL is an extremely sensitive enterprise because of the nature of the business and because it is government operated. Therefore, it is essential that its operation, and the operation of other enterprises that would be linked to it in the public mind, avoid not only impropriety but also the appearance of impropriety. Because of these concerns, Contractor is expected to:

- a. Offer goods and services only of the highest standards.
- b. Use its best efforts to uphold the integrity of MUSL and its member lotteries and prevent the Lottery industry from becoming embroiled in unfavorable publicity.
- c. Avoid promotional activities which could be interpreted as improper and produce embarrassment to MUSL and its member lotteries.

e. Report discovered security problems only to MUSL.

15.2 Security Reporting. Contractor and Contractor's employees and any subcontractors or subcontractor employees must comply with any and all confidentiality and security requirements of the RFP, its response, this Agreement, and those implemented at MUSL sites.

Except as required by law, Contractor shall immediately report all suspected or known security incidents or concerns directly to MUSL's Chief Audit Executive (CAE). The CAE will evaluate and act on such matters in accordance with MUSL's incident reporting policy and procedures.

Failure to follow these requirements may constitute cause for termination of this Agreement at the sole determination of MUSL and as per the Indemnification provisions, Contractor shall be liable for any actual damages caused by failure to follow these requirements. Contractor is responsible for assuring their respective personnel are in compliance with these requirements.

Contractor may must submit the Code of Conduct and/or Code of Ethics it requires of its employees for review by MUSL. If acceptable, adherence to the same by Contractor, and subcontractors (if any) shall be required. Contractor's employment handbook and are sufficient to comply with MUSL's security requirements and by reference are made a part of this Agreement.

16. Liquidated Damages. Contractor and the MUSL hereby acknowledge and agree to the following:

- 1) if Contractor does not provide or perform the requirements referred to or listed in this Agreement, damage to MUSL will result;
- 2) establishing the precise measure of MUSL's damages in the event of default by Contractor may be costly, time consuming, or difficult or impossible to accurately estimate or calculate;
- 3) the liquidated damages amounts set forth in this section represent a good faith effort to quantify the damages that could reasonably be anticipated at the time of execution of this Agreement;
- 4) the damages set forth herein are just and reasonable;
- 5) nothing contained in this section shall be construed as relieving Contractor from performing all contractual requirements as set forth in its Proposal and as required by this Agreement and the RFP, whether or not the requirements are set forth herein;

6) it is the Parties' mutual intention that this section provide for liquidated damages to compensate the MUSL upon the occurrence of such an event, rather than penalties to deter Contractor from breaching this Agreement and/or to punish Contractor upon the occurrence of such an event; and,

7) MUSL may therefore in its sole discretion, deduct damages from the compensation otherwise due to Contractor. All assessments of damages shall be within the sole discretion of the MUSL.

(a) Liquidated Damages Assessment. Once MUSL has determined that liquidated damages are to be assessed, MUSL shall notify Contractor of the assessment(s). Failure to notify does not impact MUSL's assessment of damage and is not a condition precedent thereto. MUSL will withhold liquidated damages from payments to Contractor, or, if no payments have been made, MUSL will make demand of payment of liquidated damages. The Contractor must make payment within thirty (30) days of MUSL's demand.

In the event the Contractor fails to pay within the thirty (30) day period, MUSL may make a claim for payment from the bonds, insurance or lines of credit proffered by Contractor under this Agreement, or MUSL may seek payment directly from Contractor in the event such bonds, insurance or lines of credit are insufficient or no longer available.

(b) Failure to Assess Liquidated Damages. The failure of MUSL to assess liquidated damages in any instance where the MUSL is entitled to liquidated damages pursuant to the terms of this Agreement shall not constitute waiver in any fashion of the MUSL's rights to assessment of liquidated damages.

16.1 Severability of Individual Liquidated Damages Clauses.

If any portion of this liquidated damages provision is determined to be unenforceable, the other portions of this provision shall remain in full force and effect.

16.2 Specific Liquidated Damages.

(a) Failure to Maintain Confidentiality. Should Contractor fail to adhere to the Confidentiality provisions of this Agreement at any time, whether prior to the completion of Contractor services and deliverables under this Agreement or at any time thereafter, Contractor may be assessed liquidated damages in an amount up to \$100,000 per incident.

(b) Failure to Return Confidential Information. Should Contractor fail to return all documents and things pertaining to the Project or confidential information provided by

MUSL at the termination of this Agreement, Contractor may be assessed liquidated damages in an amount up to \$50,000 per incident.

17. Approvals Required. MUSL must approve all employees, subcontractors or agents involved with performance of the contract.

18. Notification of Substantial Change Required. If Contractor experiences a substantial change in financial condition during the term of a contract with MUSL, then MUSL must be notified in writing at the time the change occurs or is identified. A "substantial change" in financial condition is defined as any event that, following generally accepted accounting practices, would require a notation in the audited annual report. Failure to notify MUSL of such a change may result in termination of the contract.

19. Force Majeure. A Force Majeure occurrence is an event or effect that cannot be reasonably anticipated or controlled. As herein used, Force Majeure means acts of war; terrorism; 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 Contractor nor MUSL shall be liable to the other for any delay in or failure of performance under the contract of Contractor due to a Force Majeure occurrence. Any such delay in or failure of performance shall not constitute 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 MUSL to be necessary to enable complete performance by Contractor if reasonable diligence is exercised after the cause of delay or failure has been removed.

If Force Majeure conditions shall be expected to continue unabated for an indefinite period and Contractor cannot service the contract, MUSL retains the right to operate the System and/or to terminate the contract so that business continuity can be restored.

20. Contractor Not Employee or Agent of MUSL. The Contractor, its employees, agents, or subcontractors performing under this agreement are not employees or agents of MUSL or MUSL members, but is an independent contractor performing pursuant to the terms of this agreement.

21. Choice of Forum. The laws of the State of Iowa shall govern and determine all matters arising out of or in connection with this agreement. In the event that any proceeding of a quasi-judicial or judicial nature is brought to determine any matter arising out of or in connection with this agreement, such proceeding must be brought in Polk County District Court for the State of Iowa or in Federal District Court for the Southern District of Iowa in Polk County, Iowa.

22. Severance. If any provision of this agreement is held to be invalid or unenforceable, the remainder shall remain valid and enforceable.

23. Amendment. This Contract may be amended by mutual agreement of the parties. Any such amendment must be in writing and signed by an authorized representative of the parties.

24. Notices. All written notices and communications required by this agreement shall be sent in writing and via email to the following addresses:

Legal Department
Multi-State Lottery Association
8101 Birchwood Court, Suite R
Johnston IA 50131
Legal@musl.com

CONTRACTOR NAME
Contact name and email
CONTRACTOR ADDRESS

25. Agreement. Any Scope of Work is incorporated by reference in the terms and conditions of this Agreement.

The above Agreement entered into on the below dates:

Multi-State Lottery Association

Contractor

Signature

Signature

Name and Title

Name and Title

Date

Date