



## **TEXAS WORKFORCE COMMISSION**

**REQUEST FOR PROPOSALS (RFP)  
RFP# 3202200242**

**Beverage and Snack Vending Machine Services  
for 'Victoria' TX area**

**Date of Release: April 5, 2022**

**Proposal Due Date/Time: May 10, 3 p.m. (CT)**

**NIGP Class/Item Codes:**

**961-15 Concessions, Catering, Vending: Mobile & Stationary  
931-88 Vending Machine Maintenance, Repair, Installation or Removal**

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## 1. General Information

### 1.1 Purpose

TWC is interested in establishing a contract, in the **Victoria, Texas** area, with qualified Respondents capable of furnishing all labor, equipment, materials, and services required to provide Beverage and Snack Vending Machine Services in support of the TWC Business Enterprises of Texas (TWC-BET) program.

### 1.2 TWC Point of Contact

The sole point of contact for inquiries concerning this RFP is:

**Texas Workforce Commission**  
**Rachel Dean CTCD**  
**Procurement & HUB Services**  
[VendorProposals@twc.texas.gov](mailto:VendorProposals@twc.texas.gov)

All communications relating to this RFP must be directed to the TWC point of contact. All communications between Respondents and other TWC staff members concerning this RFP are strictly prohibited.

**Failure to comply with these requirements may result in proposal disqualification.**

- 1.3 Procurement schedule the following table represents the RFP procurement schedule. All dates are subject to change at the discretion of TWC.

<b>Procurement Schedule</b>	
RFP release date	April 5, 2022
Vendor questions due	April 14, 2022 3p.m. (CT)
TWC posts responses to vendor questions	April 25, 2022
Proposals due	May 10, 2022, 3p.m. (CT)
Anticipated contract start date:	July 5, 2022

- 1.4 Respondent questions regarding this RFP: Submit questions using Attachment 1 - Respondent Questions & Answers Template, no later than April 14, 2022 by 3:00 p.m. (CT). Include the RFP Section and Page for each question. TWC will post all Questions & Answers and, if appropriate, an Amended RFP to the Electronic State Business Daily (ESBD) by April 25, 2022.

### 1.5 Contract Type and Term

TWC intends to award a single revenue-generating contract in the Victoria, Texas area to a successful Respondent based on the Scope of Work contained herein. The initial contract term for any contract resulting from this RFP will be for two (2) years commencing the date that the Notice of Award is issued by TWC and is executed by both parties. TWC may, at its option, amend the contract for purposes of renewing the contract term for one (1) additional two (2) year period. Prior to the onset of any renewal period, Contractor shall be required to provide evidence that all required insurance and sureties are current and will remain in force throughout the contract term.

Any contract resulting from this RFP may also be extended for up to three (3) months during any changeover period as defined herein.

## 1.6 Addenda to the RFP

TWC will post all addenda to the RFP on the Electronic State Business Daily (ESBD) website at <http://www.txsmartbuy.com/esbd>. TWC reserves the right to amend the RFP at any time. It is the responsibility of prospective Respondents to periodically check the ESBD for updates regarding the RFP prior to submitting a proposal. A Respondent's failure to rely on information contained in any addendum issued by TWC will not release the Successful Respondent from performing all services in accordance with the RFP.

## 1.7 Certifications

By signing and submitting the Execution of Offer form, Respondent attests to its compliance with the statements contained in the Respondent Certifications embedded below.



Respondent  
Certifications

## 1.8 TWC Standard Terms and Conditions

Contracts resulting from this solicitation will include the TWC Standard Terms and Conditions embedded below.



Terms and  
Conditions\_11.04.2021

## 1.9 Costs Incurred

Respondents understand that issuance of this RFP in no way constitutes a commitment by TWC to award a contract or to pay any costs incurred by a Respondent in the preparation of a response to this RFP. TWC is not liable for any costs incurred by a Respondent prior to issuance of or entering into a formal agreement, contract, or purchase order. Costs of developing proposals, preparing for or participating in oral presentations and site visits, or any other similar expenses incurred by a Respondent shall be borne by the Respondent, and will not be reimbursed in any manner by TWC.

## 1.10 Definitions

Whenever the following terms are used in any part of this RFP the intent and meaning shall be interpreted as follows:

- A. **Addendum** means an amendment or modification of the specifications issued by TWC and made available to prospective Respondents on the ESBD.
- B. **BET** means the TWC Business Enterprise of Texas.
- C. **Contract** means the contract consisting of the RFP issued by TWC and any addenda thereto, the Respondent's proposal, and any revised proposal or best and final offer requested and accepted by TWC.

- D. **Contractor** means the individual; partnership or corporation awarded a contract resulting from this RFP.
- E. **RFP** means Request for Proposals, the written notice inviting the submission of proposals for the specified requirements.
- F. **Respondent** means the individual, partnership, corporation, or other entity that submits a proposal in response to this RFP.
- G. **TWC** means Texas Workforce Commission.

## 2. Proposal Instructions and Requirements

### 2.1 Questions and Comments

All questions and comments regarding this RFP must be submitted to the TWC Point of Contact indicated in Section 1.2. Questions must reference the appropriate RFP page and section number and must be submitted by the deadline set forth in Section 1.3. TWC may elect not to respond to questions received after the deadline. At TWC's discretion, responses to vendor questions will be posted to the ESBD at <http://www.txsmartbuy.com/esbd>. TWC reserves the right to amend answers prior to the due date/time for proposals.

Respondents must notify TWC of any ambiguity, conflict, discrepancy, exclusionary specification, omission, or other error in the RFP by the deadline for submitting questions and comments. If a Respondent fails to notify TWC of these issues, it will submit a proposal at its own risk, and if awarded a contract: (1) shall have waived any claim of error or ambiguity in the RFP or resulting contract, (2) shall not contest TWC's interpretation of such provision(s), and (3) shall not be entitled to additional compensation, relief or time by reason of the ambiguity, error, or its later correction.

### 2.2 Proposal Due Date/Time and Location

Submit the proposal to TWC no later than **3:00 p.m. (CT)** on **May 10, 2022**. to the following email addresses:

- TO: [vendorproposals@twc.texas.gov](mailto:vendorproposals@twc.texas.gov)
- Subject Line: **RFP BET Vending Machine Services Victoria, TX 3202200242**

**TWC is not responsible for Offers received late, illegible, incomplete, or otherwise considered disqualified due to failure of electronic equipment or operator error.**

**TWC will accept email submissions ONLY.**

### 2.3 Proposal Form, Contents, and Organization

Respondents are required to complete the applicable Proposal Forms, Tabs A and B. Use the Proposal Forms A and B located with this solicitation on the ESBD for the Victoria, TX Service Area.

Please note the following regarding the contents and organization of your proposal:

The proposal shall be organized as follows:

<b>TAB A</b>	Completed Proposal Form
<b>TAB B</b>	Include a list of machines available for use under the contract that shows each machine's serial and/or machine number and place behind this TAB B. Also, include a brochure(s) identifying each vending machine type that will be supplied.

## 2.4 Modification or Withdrawal of Proposal

Prior to the proposal submission deadline set forth in Section 1.3 and 2.2, a Respondent may: (1) withdraw its proposal by submitting a written request to the TWC Point of Contact prior to submission deadline; or (2) modify its proposal by submitting a written amendment to the TWC Point of Contact prior to the submission deadline. TWC may request proposal modifications at any time.

TWC reserves the right to waive minor informalities in a proposal and award a contract that is in the best interest of the State of Texas. A "minor informality" is an omission or error that, in TWC's determination, if waived or modified when evaluating proposals, would not give a Respondent an unfair advantage over other Respondents or result in a material change in the proposal or RFP requirements. When TWC determines that a proposal contains a minor informality, it may at its discretion provide the Respondent with the opportunity to correct.

## 2.5 Right to Reject Proposals

TWC may reject without further consideration a proposal that does not include a complete, comprehensive, or total solution as requested by the RFP. TWC may reject any, and all proposals or portions thereof.

## 2.6 Additional Information

By submitting a proposal, the Respondent grants TWC the right to obtain information from any lawful source regarding the Respondent's and its director's, officer's, and employees: (1) past business history, practices, and conduct; (2) ability to supply the goods and services; and (3) ability to comply with contract requirements. By submitting a proposal, a Respondent generally releases from liability and waives all claims against any party providing TWC information about the Respondent. TWC may take such information into consideration in evaluating proposals.

## 2.7 Use of Subcontractors

Subcontractors providing services under the contract shall meet the same requirements and level of experience as required of the Respondent. No subcontract under the contract shall relieve the Respondent of the responsibility for ensuring the requested services are provided. Respondents planning to subcontract all or a portion of the work to be performed shall identify proposed subcontractors where indicated in the Proposal Form (see 2.4 above).

During the contract term Contractor, may add subcontractors with the prior written approval of TWC. The Contractor is responsible for the performance of any subcontractor, including services as specified in the scope of work, terms and conditions, submission of the Sales and Commissions Reports, and insurance requirements. The Contractor must provide to the TWC-BET a copy of any subcontracting agreements upon request.

### 3. Proposal Evaluation and Award

3.1 TWC will use a formal evaluation process to select the successful Respondents. TWC will consider capabilities or advantages that are clearly described in the proposal, which may be confirmed by through technical discussions with qualified Respondents. TWC may determine that certain proposals receiving the highest or most satisfactory evaluations are within the competitive range for further consideration. Discussions may be carried out with Respondents that are within the competitive range, after which revised proposals may be requested. Discussions may be conducted for purposes of:

- a. Clarifying and discussing any aspect of a proposal.
- b. Obtaining clarification of proposal ambiguities.
- c. Requesting modifications to a proposal.
- d. Providing instructions for submitting a revised proposal.

TWC may select a proposal for award without any discussions or may elect to hold discussions with only the single most highly qualified Respondent. TWC may but is not required; to permit Respondents to prepare one or more revised offers therefore Respondents are encouraged to treat their original proposals as Best and Final Offers (BAFO).

#### 3.2 Evaluation Criteria

Evaluation of proposals will be based on the following criteria and corresponding relative weights.

Commission Percentage	50%
Technical Approach	40%
Vendor Performance	<u>10%</u>
	100%

#### 3.3 Bonds and Insurance Submittal

The Successful Respondent will be responsible for providing the following documents to TWC within thirty (30) calendar days after receipt of the fully executed Notice of Award issued by TWC.

1. Performance bond (or approved equivalent) as specified in Section 6 of this RFP.
2. Insurance Certificate meeting all requirements as specified in Section 7 of this RFP.

Failure to submit official copies of the required documents may result in disqualification of the proposal.

#### 3.4 Delivery and Pre-work Instructions

Delivery and Pre-work Instructions: After award and prior to delivery and work, pre-work instructions will be given to the Contractor at a time and place designated by the TWC-BET Vending Specialist. Instructions may be provided in person or telephonically and will include a discussion of contract documents, submittal procedures, and contract administration. The Contractor's representative(s) must discuss, plan, and schedule the required service delivery with the TWC-BET Vending Specialist and/or other designated TWC-BET staff.

**Nancy Greely, TWC-BET Vending Specialist**  
**Texas Workforce Commission**  
**4800 North Lamar Blvd**  
**#111**  
**Austin TX 78723**  
**Telephone: (512) 533-7132**

## **4. Scope of Work**

### 4.1 Contractor Responsibilities:

- 4.1.1 The Contractor must install, service, and maintain all vending machines in a first-class operating condition with respect to cleanliness and mechanical or electrical operations.
- 4.1.2 The Contractor must correct any defects, problems, violations, or conditions relative to the vending machines that may prove hazardous or detrimental to the health and safety of the public. TWC-BET OR SERVICE SITE RESERVES THE RIGHT TO DISCONNECT FROM ITS POWER SOURCE ANY MACHINE DEEMED BY THE TWC-BET OR SERVICE SITE TO REPRESENT A SAFETY OR HEALTH VIOLATION OR HAZARD, UNTIL THE NECESSARY CORRECTIONS ARE MADE BY THE CONTRACTOR.
- 4.1.3 CONTRACTOR'S TITLE TO VENDING MACHINES AND EQUIPMENT: All equipment and automatic vending machines installed, and all products offered for sale by the Contractor are the property of the Contractor. TWC will have no interest in said products, vending machines, and/or other Contractor equipment.
- 4.1.4 The Contractor must establish a reimbursement system for each service site and provide to the TWC-BET a copy of its refund and/or reimbursement system for each service site. Signs indicating that the Vendor is not responsible for refunds are not acceptable. Refunds must be made each time the machine is serviced.
- 4.1.5 The Contractor must state the method for making refunds available in person or by mail.
- 4.1.6 The Contractor must maintain a refund log.
- 4.1.7 The Contractor must submit the TWC-BET Vending Specialist and the service site with the service schedule for each machine within 90 calendar days after the beginning date for the contract.
- 4.1.8 The Contractor is responsible for maintaining meter readings and accurate dollar sales data.
- 4.1.9 The Contractor must allow the TWC-BET access to all machine meters during regular business hours.
- 4.1.10 The Contractor must permit authorized representatives of the TWC-BET to accompany the Contractor's employees during cash collection and counting and to randomly examine the receipts of the vending machines operated by the Contractor.
- 4.1.11 The Contractor must schedule and conduct regular inspections of service sites, as proposed in the Contractor's proposal.
- 4.1.12 The Contractor's inspections must include a review of meter sales trends versus dollars collected.
- 4.1.13 The Contractor must provide the TWC-BET Vending Specialist with the dates of all machine installations, removals, and machine type changes. If the service site requests that the Contractor remove machines due to the service site moving or no longer needing machines, the Contractor must notify the TWC-BET immediately or a penalty equal to the estimated monthly gross sales average shown in the Area Site Locations listing on the due date for proposals and on each subsequent contract renewal date may be assessed.

- 4.1.14 The Contractor must pay all State, federal, and local taxes, including sales taxes on vended products, that may be assessed against its equipment or merchandise while in or upon the service site premises, as well as all State, federal, and local taxes assessed in connection with the operation of its vending services upon the service site premises. Sales taxes deducted must conform to the rules of the Texas Comptroller of Public Accounts regarding food sales, which require only 50% sales tax payment on perishable food items. The Contractor must not deduct taxes greater than 50% of the total sales tax rate on perishable items (Title 34 Texas Administrative Code (TAC) §3.293, Food; Food Products; Meals; Food Service and Texas Tax Code, §§151.007, 151.314, 151.315). The Contractor must comply with all State, federal, and local laws and regulations governing the preparation, handling and serving of food, and to procure and keep in effect all necessary licenses, permits, and food handler's cards required by law.
- 4.1.15 The Contractor must provide adequate vending services to achieve customer satisfaction.
- 4.1.16 The Contractor must hire all employees necessary for the performance of the requirements of this RFP. Upon being hired, such employees must be subject to such health examination as city, State, or federal authority may require in connection with their employment. The Contractor must maintain a staff of properly trained and experienced personnel to ensure satisfactory performance of the contract. The Contractor, in performing the requirements of this RFP, must not discriminate against any employee or applicant for employment based on race, color, religion, sex, national origin, age, disability, or veteran status (i.e., protected class).
- 4.1.17 The Contractor must comply with all applicable State, federal and local laws and regulations pertaining to the wages and hours of employment of its employees.
- 4.1.18 All Contractor employees must abide by any dress code rules of the service site where the vending machines are located. All Contractor employees must be clean and present a professional appearance at all times.
- 4.1.19 The Contractor must observe and comply with all regulations of the service sites, including but not limited to those regarding smoking, parking, and security.
- 4.1.20 When applicable the Contractor must submit and comply with service site regulations pertaining to background checks to install and service machines.
- 4.1.21 The Contractor must keep all records on file for a period of three (3) years from the end date of the contract. The Contractor must, upon reasonable notice, give TWC staff the right to inspect, examine, and audit, during normal business hours, such Contractor's business records as are directly or indirectly relevant to the financial arrangements set forth in this RFP.
- 4.1.22 The Contractor is responsible for the rotation and adequate supply of products.
- 4.1.23 The Contractor must keep its machines and all adjacent areas neat and sanitary. The Contractor must clean spills that occur while filling or cleaning its machines, clean the front of its machines each time the Contractor restocks or services them, and remove packaging and waste from affected areas following each service call.
- 4.1.24 The Contractor must maintain its service sites, where the vending services are performed, in a safe operating condition such that no employee of the Contractor or customer is exposed to or subjected to any unsafe situation that would violate Title 29 U.S.C., Chapter 15, Occupational Safety and Health Act, including but not limited to the general duty and the specific duty clauses thereof, or any similar federal, State, or local law or regulation.
- 4.1.25 The Contractor may not add or remove machines without the express written approval of TWC-BET. All additions or deletions will be made in writing by TWC through written notice with a revised Area Site Locations listing. The Contractor must provide the TWC-BET Vending Specialist with the installation or removal dates of all machines.

- 4.1.26 Price adjustments, changes in the commission rates reflected in the RFP document, service site additions or deletions, and changes in the number or type of vending machines must be approved in writing by the TWC-BET Director or the TWC-BET Vending Specialist.
- 4.1.27 COMPLIANCE: In performing the requirements of this RFP, the Contractor must comply with any and all applicable State, federal, and local laws, including but not limited to occupational safety and health, employment opportunity, immigration and naturalization, the Americans with Disabilities Act, State tax law, and State insurance law.
- 4.1.28 The Contractor may request an evaluation of the sales volume of a specific machine to determine profitability and possible removal. This evaluation must be for a minimum of 90 calendar days but may be longer at the option of TWC-BET. The sales figures used to determine profitability will come from the Sales and Commissions Reports. TWC-BET will notify the service site if the Contractor has requested removal of a specific machine and that sales of the machine have been evaluated. TWC-BET will determine if a machine must be removed and will inform the Contractor.
- 4.1.29 In no case may vending machines/security cages/etc., be located where they may restrict vehicle or pedestrian traffic. Vending machines/security cages/etc., must be accessible as prescribed in the Texas Accessibility Standards (TAS) and the Americans with Disabilities Act Accessibility Guidelines (ADAAG) and must conform to all requirements of Vernon's Texas Civil Statutes, Article 601(b). The Contractor must obtain all locks necessary to secure vending machines/security cages/etc.

## 4.2 Products

- 4.2.1 All product types must be offered year-round, including products containing chocolate. The Contractor must maintain fresh products in its vending machines and must comply with any State, federal and local laws and regulations concerning the storage and transport of candy and snacks.
- 4.2.2 Products not listed in the Proposal Requirement section of this RFP must be approved, in writing, by the TWC-BET Director or the TWC-BET Vending specialists before they are placed in any vending machine.
- 4.2.3 TWC-BET may add new products and/or new categories of products to the contract at any time.
- 4.2.4 Lower vend prices on drink machines are only permitted with prior written approval of the TWC BET Director or the TWC-BET Vending Specialist.
- 4.2.5 If the Contractor or subcontractor is a national brand vendor, they must provide up to two (2) items of a competing brand, should there be customer demand.
- 4.2.6 Any additional items or machines requested by the contractor must be made in writing and approved by the TWC-BET Director or TWC-BET Vending Specialist prior to implementation.

## 4.3 Vending Machines

- 4.3.1 Must contain only products that provide expiration dates on each package and no products will be sold beyond these dates.
- 4.3.2 Must contain only prepackaged, standard vending machine products. Products not listed in Proposal Requirement section of this RFP must be approved, in writing, by the TWC-BET Director or the TWC-BET Vending Specialist before they are placed in the vending machine.
- 4.3.3 Must be furnished new or refurbished, and each machine must be refinished or refurbished as necessary to keep units in working order, exteriors free of rust and major dents, all knobs

- and labels present, with no scratched or stained glass. TWC-BET and service sites will be the sole judges of the appearance of the machines. Machines must be replaced upon request of TWC-BET;
- 4.3.4 Must be equipped with coin change makers and dollar bill validators. Cashless options such as card readers, mobile wallets, etc., are also acceptable;
  - 4.3.5 Must meet the specifications established by State, federal and local laws as well as those established by the National Automatic Merchandising Association (NAMA) and the National Sanitation Foundation (NSF). All electrically operated equipment must be installed in accordance with the standards of the National Electrical Code (NEC). All electrical items must meet all applicable Occupational Safety and Health Administration (OSHA) standards and regulations and bear the appropriate listing from Underwriters Laboratories (UL), Factory Mutual Research Corporation (FMRC), National Electrical Manufacturers Association (NEMA), and/or the Federal Communications Commission (FCC);
  - 4.3.6 Must be in compliance with Texas Government Code, Title 10, Subtitle D, §2165.058, Energy-Saving Management: Vending Machines; Energy-Saving Device Required, as follows:
    - 4.3.6.1 Exception: This section does not apply to a vending machine that contains a perishable food product, as defined by Texas Civil Practice and Remedies Code, §96.001.
    - 4.3.6.2 An entity that owns or operates a vending machine located in a building owned or leased by the State must activate and maintain any internal energy-saving or energy-management device or option that is already part of the machine or contained in the machine.
    - 4.3.6.3 An external energy-saving or energy-management device must be used for each vending machine that:
      - A. Is located in a building owned or leased by the State;
      - B. Operates with a compressor; and
      - C. Does not have an activated and operational internal energy-saving or energy-management device or option.
    - 4.3.6.4 An entity that owns or operates a vending machine subject to this section will be responsible for any expenses associated with the acquisition, installation, or maintenance of an energy-saving device required by this section.
    - 4.3.6.5 The State may impose an administrative fine on an entity that operates a vending machine subject to this section in an amount not to exceed \$250 per year for each machine found to be in violation of this section or rules adopted by the State under this section.
    - 4.3.6.6 The State may adopt and enforce additional rules relating to the specifications for and regulation of energy-saving devices required by this section.
  - 4.3.7 Not allow force vend (e.g., if an item is sold out, the customer must be able to get his or her money back by depressing the coin return instead of having to select another product);
  - 4.3.8 Not display advertising except such identification signs as approved by the TWC-BET Director or the TWC-BET Vending Specialist.
  - 4.3.9 Must be equipped with a conspicuous professional-looking sign or decal (handwritten signs or decals are NOT acceptable) prominently placed on the front of the machine, displaying the Vendor name, telephone number, and customer refund procedural information for lost money or receipt of inferior product from the vending machine.
  - 4.3.10 Must be equipped with professional-looking labels or tags for each product selection and vend price (handwritten labels or tags are NOT acceptable):

- 4.3.11 Must be repaired or serviced as needed and when requested by the TWC-BET or service site. Some service sites may require service five (5) to seven (7) days per week. All repair, service, or customer complaint responses must be made within 24 hours of notice to the Contractor. If for any reason the repair or service cannot be made within 24 hours, the Contractor must contact the TWC-BET Vending Specialist immediately. The Contractor must notify the TWC-BET Vending Specialist if consistent complaint issues are experienced;
- 4.3.12 Combination machines maybe utilized. The contractor must notify the TWC-BET in writing as to the type of machine combination prior to installation. Meter readings must still be submitted.
- 4.3.13 Must be provided and serviced at all locations on Service Site Listing.
- 4.3.14 May not be removed without prior authorization from the TWC-BET Director or TWC-BET Vending Specialist. If a machine is removed without prior authorization from the TWC-BET, it must be reinstalled and a penalty equal to the estimated monthly gross sales average listed on Service Site Listing on the due date for proposals and on each subsequent contract renewal date may be assessed. A penalty may be assessed for each month the equipment is not at the service site;
- 4.3.15 Must be equipped with non-resettable counters (meters) that monitor the number of vends and/or dollar sales. The readings from these counters must be sufficient for a TWC-BET audit of the dollar amount of sales. These amounts will be verified by TWC-BET.
- 4.3.16 Must be equipped with non-resettable vend meters for single-price machines, wherein Ending Meter Reading less Beginning Meter Reading less Test Vends yields Units Sold; Gross Sales divided by Sales Tax Rate yields Net Sales; and Gross Sales less Net Sales equals Sales Tax Dollars (e.g., Gross Sales \$300.00. Sales Tax Rate 8.25%. Convert 8.25% to decimal [0.0825] and add 1 [1.0825]. Divide Gross Sales [\$300.00] by Sales Tax Rate factor [1.0825], resulting in Net Sales [\$277.14]). To calculate Sales Tax, subtract Net Sales [\$277.14] from Gross Sales [\$300.00], resulting in \$22.86 Sales Tax collected). Net Sales is the figure on which commissions must be paid; and
- 4.3.17 Must be equipped with non-resettable dollars sold meters for multiple-price machines, wherein Ending Dollars Sold less Beginning Dollars Sold less Test Vends equals Gross Sales; Gross Sales divided by Sales Tax Rate yields Net Sales; and Gross Sales less Net Sales equals Sales Tax Dollars (e.g., Gross Sales \$300.00 Sales Tax Rate 8.25%. Convert 8.25% to decimal [0.0825] and add 1 [1.0825]. Divide Gross Sales [\$300.00] by Sales Tax Rate factor [1.0825], resulting in Net Sales [\$277.14]. To calculate Sales Tax, subtract Net Sales [\$277.14] from Gross Sales [\$300.00], resulting in \$22.86 Sales Tax collected). Net Sales is the figure on which commissions must be paid.

#### 4.4 Special Locations

- 4.4.1 TDCJ PRISONS: All prisons must be serviced twice per week and may require servicing on weekends. The visitation areas must be serviced on either Thursdays or Fridays, and the employee areas must be serviced on either Mondays or Tuesdays.
  - A. Delivery/service technicians must wait for an escort for 15 minutes only; after 15 minutes, the Contractor must notify the TWC-BET Vending Specialist.
  - B. The TWC-BET Vending Specialist will contact the prison administration office to inquire as to the delay and determine if an escort may be secured or if the delivery/service technician(s) must depart.
  - C. The Contractor must notify the prison warden's office prior to moving any vending equipment within a prison or removing any vending equipment from a prison.

#### 4.5 TWC-BET Responsibilities

- 4.5.1 TWC-BET assumes no responsibility for protection of machines against damage or the unauthorized removal of machines or any parts or contents thereof.
- 4.5.2 Unless otherwise stipulated in this RFP, TWC-BET may, without cost to the Contractor, provide the Contractor with the necessary space for the operation of the services required in this RFP and will furnish, without cost to the Contractor, all service sites and utilities as are reasonable and necessary for the efficient performance of the contract.
- 4.5.3 The TWC-BET will grant to the Contractor the exclusive right to operate Vending Machine Services listed on or added to Service Site Listing, pursuant to this RFP.
- 4.5.4 The TWC-BET will grant to the Contractor the exclusive right to sell to employees, guests, and other persons at the service sites, food products, nonalcoholic beverages, and other such products as approved by TWC-BET. Products to be sold, selling prices, and commissions are specified in this RFP. All products listed in this RFP must be made available upon customer demand. The Contractor must pay the TWC-BET all commissions as proposed per this RFP.

#### 4.6 Adding or Deleting Service Sites

- 4.6.1 The TWC-BET reserves the right to amend the contract by adding or deleting service sites listed in the Service Site Listing. If service site(s) are deleted, the Contractor must continue to service all other service sites. All additions or deletions will be made in writing by the TWC through an amendment to the contract with a revised Service Site Listing. The Contractor must provide to the TWC-BET Vending Specialist the installation or removal dates of all machines.
- 4.6.2 TWC-BET reserves the right to add service sites within 30 miles of any service site listed in the Service Site Listing. In the event site(s) are added, TWC will notify the contractor and provide an updated service site listing. The Contractor must provide the additional services within thirty (30) calendar days of notice under the same terms and conditions as specified in this RFP.
- 4.6.3 Service sites may request additional services. After completion of a feasibility study and discussion, the Contractor must provide the additional vending equipment within thirty (30) calendar days of notice, at the same prices and percentages in the current contract, under the same terms and conditions as specified in this RFP.

#### 4.7 Changeover Period

- 4.7.1 All machines must be delivered and installed no later than thirty (30) calendar days after the beginning date of the contract.
- 4.7.2 The Contractor must coordinate the exact delivery schedule with the outgoing vendor, service site, and BET Vending Specialist; the new incoming Contractor must submit the TWC-BET Vending Specialist with the proposed plan to execute coordination, including service site survey.
- 4.7.3 The Contractor must provide the TWC-BET Vending Specialist with the final changeover schedule for all machines not less than (thirty) 30 calendar days prior to the beginning date of the contract. The TWC-BET Vending Specialist will assist the Contractor in resolving any disputes.
- 4.7.4 The outgoing Contractor must provide to the TWC-BET Vending Specialist the proposed changeover schedule no less than forty-five (45) calendar days prior to the expiration date of the current contract term.

Outgoing contractor submits machine removal schedule no later than	April 15th
Incoming contractor submits machine installation schedule no later than	May 1st
Contract begins	June 1st
Incoming contractor must deliver & install all machines no later than 30 days after the beginning date of the contract	June 30th
Incoming contractor must submit a service schedule for each machine no later than	September 1st

**(Dates above are for reference only)**

## 5. Reports, Commissions, and Penalties

- 5.1 Sales and Commissions Report: This report must document meter readings and other sales and commissions information for all machines by service site. The Contractor must submit this report on a monthly basis to [https://webp.twc.state.tx.us/bep\\_sac/sac/login.asp](https://webp.twc.state.tx.us/bep_sac/sac/login.asp) no later than the first day of the second following month (i.e., if the reporting period ends on the last day of February, reports are due April 1) If the first day of the second following month falls on a weekend or a postal holiday, reports are due on the following TWC-BET workday. The report must be submitted prior to submitting commission payments. Sales and Commissions Report information must reflect a calendar month, with meter readings submitted for the beginning and end of that calendar month, only vending information reported in this manner will be accepted by TWC. Failure to provide the information in the requested manner may result in penalties being assessed.
- 5.2 All transactions are the sole responsibility of the Contractor. If the Contractor subcontracts any portion of the contract, the Contractor must submit the Sales and Commissions Report(s). TWC-BET WILL NOT ACCEPT THE SALES AND COMMISSIONS REPORT(S) FROM ANY SUBCONTRACTOR(S). Failure to comply will result in penalties being assessed (reference Section 5.4).
- 5.3 During the contract term, if for any reason the Contractor does not report sales and commissions by the due dates, TWC-BET will compute an average sales figure based on reported sales for the past six (6) months, and the Contractor will be required to pay commissions based on that average. When the Contractor obtains the unreported sales and commissions, and if they are more or less than the computed six (6)-month average, the Contractor must adjust the next month's Sales and Commissions Report accordingly.

**IF THE CONTRACTOR DOES NOT FOLLOW THESE REPORTING INSTRUCTIONS  
TWC-BET RESERVES THE RIGHT TO ASSESS THE FOLLOWING PENALTIES:**

- 5.3.1 Failure to accurately report any of the following information on the Sales and Commissions Report may result in assessment of a penalty equal to the estimated monthly gross sales average listed in Part 5 of the Proposal Form, Service Site Listing on the due date for proposals and on each subsequent contract renewal date per service site per machine:
- a. Machine number
  - b. Machine type
  - c. Beginning meter reading
  - d. Ending meter reading
  - e. Gross sales
  - f. Sales tax dollars
  - g. Commission percentage
  - h. Commission paid

- 5.3.2 If a meter malfunctions and meter readings are not reported using money collected, sales must still be reported. Failure to report sales may result in assessment of penalties equal to the estimated monthly gross sales average listed on the Service Site Listing on the due date for proposals and on each subsequent contract renewal date per service site per machine.
- 5.3.3 If sales and commissions are not being reported on a machine, the Contractor must provide justification in the Comments section of the report, or a penalty may be assessed equal to the estimated monthly gross sales average listed on the Service Site Listing on the due date for proposals and on each subsequent contract renewal date per machine.
- 5.4 All penalties are due ten (10) calendar days after notice and are payable to the TWC-BET by separate check per penalty. If penalties are not received within ten (10) calendar days, an additional \$20.00 penalty will be assessed
- 5.5 Submit commission payment check(s) to TWC Accounts Payable at the following address:

**TEXAS WORKFORCE COMMISSION**  
**Accounts Payable**  
**101 East 15th St. Room 446**  
**Austin TX 78778**

Attach documentation that includes the **Contractor name, sales and commission month and year for which payment is being submitted, the service area, contract number, and the amount of the check.** Separate commission payments must be sent for each contract area.

- 5.6 Commission payments must be received by TWC-BET no later than the fifth day of the second following month (i.e., if the reporting period ends on the last day of February, commission payments are due no later than April 5). If the fifth day of the second following month falls on a weekend or a postal holiday, payments are due on the following TWC-BET workday. The monthly Sales and Commissions report must be submitted prior to submitting the commission payments. If either Sales and Commissions Report or a commission payment is received after its due date, the Contractor is subject to a late penalty of 3% of that month's gross sales. If the payment received does not equal the amount on the Sales and Commissions Report, the Contractor is subject to a late penalty of 3% of that month's gross sales. This penalty must be paid by separate check within 10 calendar days of notice by TWC-BET and must be accompanied by the delinquent commission payment and/or Sales and Commission Report, if not previously submitted. If commission payments and penalties are not received by the end of the calendar month in which the report was due, an additional penalty of 3% of that month's gross sales plus \$20.00 will be assessed to the Contractor. If these commission payments and penalties are not paid by the end of the month following the month in which the report was due, the TWC-BET may cancel the contract in its entirety and exercise the performance bond.
- 5.7 After the expiration date of its Contract, the Contractor must submit payment(s) per the procedures established above. TWC-BET may exercise the performance bond if payments are not submitted on time under the terms and conditions of the Contract.
- 5.8 TWC-BET will notify the Contractor of any payment returned by a financial institution. Payment must then be made by cashier's check or money order within ten (10) calendar days from date of notification. All future payments must be in the form of a cashier's check or money order

## 6. Performance Bond

- 6.1 The Contractor must procure and maintain enforce a performance bond in the amount which is equal to one (1) month's average sales for the service sites at the time of proposal due date. The purpose of the performance bond is to ensure that all performance responsibilities, monetary or otherwise, of the Contractor and its agents that are expressed in the contract will be satisfactorily fulfilled. This includes the Contractor's defaulting on the contract. **The original bond must be delivered to the TWC-BET Vending Specialist prior to the installation of any machines or the commencement of any services.** Subcontractors are not responsible for providing bonds to TWC.
- 6.2 The following instruments may be submitted to TWC in lieu of a performance bond:
  - a. Surety or blanket bond from a company chartered or authorized to do business in Texas;
  - b. Irrevocable letter of credit issued by a financial institution subject to the laws of Texas;
  - c. Certificate of deposit;
  - d. Certified check; or
  - e. Cashier's check.
- 6.3 Performance bond submitted must be effective on the beginning date of the contract and must not expire until six (6) months after the expiration date of the contract (e.g., if the initial contract term is 6/1/2017-5/31/2019, the bond/surety term must be 6/1/2017-11/30/2019. This applies to any renewal periods exercised by TWC and ensures that all monthly sales, commissions, and commission reports have been submitted and paid in full.
- 6.4 Performance bonds completed (signed) by an out-of-Texas surety require a countersignature and a 7-digit license number by a Texas resident agent of a company chartered or authorized to do business in Texas or a copy of a reciprocal agreement between states.
- 6.5 A separate performance bond must be provided for each contract awarded and must reference the contract number for which the bond is provided.
- 6.6 All references to the performance bond by the Contractor must reference the effective dates of the contract and the RFP number or contract number in lieu of or in addition to the bonding company's number.
- 6.7 Performance bonds must be made payable to TWC. TWC may delay the installation of vending equipment if a bond or an approved alternative surety is not received.
- 6.8 Any default or breach of the contract may result in exercise of the performance bond by TWC.

## 7. Insurance Requirements

- 7.1 The Contractor represents and warrants that it will, within seven (7) calendar days of notification by TWC, or by a time otherwise indicated by TWC, provide TWC with evidence of insurance as required herein which shall remain enforce throughout the term of the contract.
- 7.2 If the required insurance coverage policies expire during the term of the Contract, to include any subsequent contract extensions, the Contractor must provide TWC's contract manager with a new insurance certificate at least ten (10) business days prior to the expiration of the existing insurance coverage. The certificate must show that the terms and financial amounts of the insurance coverage comply with the Contract requirements and will become effective as of the expiration date and time for the existing coverage.
- 7.3 The Contractor is responsible for notifying the TWC contract manager within five business days about any cancellation, non-renewal, or material change in insurance terms that affects required

insurance coverage. In the event, that the Contractor fails to keep in effect at all times the required insurance coverage,

7.4 TWC may, in addition to any other remedies it may have, terminate the Contract, subject to the provisions of the Contract. The Contractor is responsible for any deductible or self-insured retention requirements in the required insurance coverage.

7.5 Minimum Insurance Coverage:

7.5.1 **Commercial Automobile Liability:** Includes any automobile, including hired and non-owned automobile liability of \$1,000,000 combined single limit for each accident

7.5.2 **Commercial General Liability Insurance**, covering all operations by or on behalf of the Contractor:

Occurrence based: Bodily Injury & Property Damage

Each Occurrence Limit: \$1,000,000

Aggregate Limit: \$2,000,000

Medical Expense Each Person: \$5,000

Personal Injury & Advertising Liability: \$1,000,000

Products/Completed Operations Aggregate Limit: \$2,000,000

Damage to Premises Rented to You: \$50,000

7.5.3 **Workers Compensation & Employers Liability**

Workers Compensation: Statutory Limits

Employers Liability: Each Accident \$1,000,000

Disease: Each Employee \$1,000,000

Disease: Policy Limit \$1,000,000

7.6 All policies must:

7.6.1 Be issued by companies authorized to do business in Texas with an A.M. Best Company rating of A VII or higher

7.6.2 Be written on a primary and non-contributory basis with any other insurance coverage

7.6.3 Include a Waiver of Subrogation Clause;

7.6.4 Provide 30 calendar days' advance written notice to the TWC-BET Vending Specialist in the event any policy is canceled, non-renewed or materially changed, including the following language: "It is a condition of this policy that the Contractor must furnish written notice to TWC-BET Vending Specialist, 101 E. 15<sup>th</sup> St., Austin TX 78778, thirty (30) calendar days in advance of the effective date of any reduction in or cancellation of this policy.

7.6.5 Name TWC as an Additional Insured (except Worker's Compensation Insurance);

7.6.6 Name TWC as a Certificate Holder

7.7 The Contractor must provide a certificate of insurance or binder to TWC **within fourteen (14) calendar days after the date of notice of award. The RFP number or contract number must appear on the certificate.**

7.8 The Contractor must furnish TWC with Original Copies of all required certificates of Insurance prior to the installation of any machines or the commencement of any operations.

7.8 Renewal policies must be furnished no less than thirty (30) calendar days prior to the expiration of any changes thereto. The Contractor must submit certified copies of said policies or certifications evidencing such insurance and waiver to TWC before services begin.

7.10 Failure to maintain the required insurance may result in cancellation of the contract.

- 7.11 SUBCONTRACTOR INSURANCE REQUIREMENTS: If the Contractor uses a subcontractor, the Contractor is responsible for ensuring that all subcontractors maintain the above insurance, as well. The Contractor is required to have certified copies of its subcontractors' policies available for review by TWC-BET, upon request. **Do not send subcontractors' policies to TWC.**

## 8. Termination of Contract

- 8.1 If the Contractor fails to perform in accordance with the provisions of the contract, TWC may, upon written notice to the Contractor, take adverse action against the Contractor, up to and including terminating the contract in whole or in part. If notice of termination is given, all work by the Contractor must cease on the effective date of the termination. Such termination will not be an exclusive remedy but rather an addition to any other rights and remedies of the State provided by law or under this contract. Adverse action, including termination, may result from, but is not limited to:
- 8.1.1 without notice, any unsatisfactory performance, as deemed by TWC;
  - 8.1.2 without cause, with thirty (30) calendar days of written notice. Any monies that may be due to the TWC-BET must be paid in full within five (5) business days of termination of this contract; and
  - 8.1.3 without notice, failure to comply with applicable safety and health requirements during the contract term.
- 8.2 Upon written notice of contract termination from TWC, the Contractor must:
- 8.2.1 Remove all vending equipment within thirty (30) calendar days after the date specified on the notification letter for all service sites in the contract area or service sites specified by TWC; and
  - 8.2.2 Provide written notice of removal dates for all equipment before any machine is removed. If a machine is removed prior to the written removal date, TWC may exercise the performance bond.
- 8.3 The TWC-BET reserves the right to remove, store, and sell any equipment not removed at the end of the thirty (30) calendar day notice. The Contractor is responsible for removal and storage costs of all equipment. In the event equipment is not removed, the TWC-BET will remove equipment to storage for a maximum of thirty (30) calendar days. The Contractor will be notified of equipment's removal and storage. At the end of the storage period, machines will be prepared for sale according to State procedures. Following vending equipment sale, TWC will issue a check to the Contractor in the amount of sale proceeds, less the removal, storage, and sale cost.
- 8.4 Upon termination or expiration of the contract, the Contractor must vacate, within 30 calendar days, all parts of the premises occupied by the Contractor, remove its vending machines and equipment, and return the premises to the TWC-BET, together with any equipment furnished by the TWC-BET pursuant to this contract, in the same condition as when originally made available to the Contractor, excepting reasonable wear and tear. First priority for removal of equipment should be given to service sites with security concerns and services sites with numerous vending machines.
- 8.5 The Contractor must supply the TWC-BET Vending Specialist the proposed removal schedule within seven (7) calendar days of a termination notification and prior to the removal of equipment.
- 8.6 If for any reason the Contractor defaults on the contract, TWC may exercise the performance bond.

8.7 The contract may be terminated by the Contractor with one hundred twenty (120) calendar days of written notice to TWC.

**ATTACHMENT 1 – Respondent Questions & Answers**  
**Texas Workforce Commission - RFP NO. 3202200242**

Respondents must submit their questions via email to the following address: **mary.kurylowicz@twc.texas.gov** using this template, including the specific RFP Section and Page number related to each question. TWC will respond in the same format and will include an Amended RFP if needed. The answers refer to a specific location in the RFP whenever possible. If similar questions are asked, TWC may reference a response to another question. If TWC modifies the RFP in response to a Respondent’s question, then TWC notes “Yes” in the last column on the right, RFP Modified to Clarify?

No.	RFP Section	Page	Question	Answer	RFP Modified to Clarify?
1.					
2.					
3.					
4.					
5.					
6.					
7.					
8.					
9.					
10.					