

Andrew M. Cuomo
Governor



Robert Williams
Acting Executive Director

Mark D. Gearan, Chair
John A. Crotty
John J. Poklemba
Barry C. Sample
Todd R. Snyder
Commissioners

Edmund C. Burns
General Counsel

DIVISION OF LOTTERY

REQUEST FOR PROPOSALS

FOR

**C140008 – CREATIVE & MARKETING
COMMUNICATIONS SERVICES**

AND

C140009 – MEDIA PLANNING & BUYING SERVICES

MAY 12, 2014

P.O. Box 7500, Schenectady, NY 12301-7500
www.gaming.ny.gov

When New Yorkers Play Responsibly, We All Win.

PART 1 – GENERAL INFORMATION

1.1 INTRODUCTION

The New York State Gaming Commission (the “Commission”), Division of Lottery (the “Lottery”), on behalf of the State of New York is issuing this Request for Proposals (“RFP”) to solicit separate Proposals from vendors seeking the awards of Creative & Marketing Communications services and Media Planning & Buying services for traditional Lottery products. Two separate contracts will be awarded under this RFP: one for Creative & Marketing Communications services, hereinafter referred to as “LOT 1” and one for Media Planning & Buying services, hereinafter referred to as “LOT 2”.

The firms awarded a five-year contract, hereinafter referred to as the “Agency” or “Agencies”, will assist in the development, execution and optimization of an approximate \$92.25MM state-wide, integrated marketing and advertising program targeting current players and prospective players of all traditional Lottery games. The Lottery’s marketing plan also encompasses communications with the existing retailer network, as well as prospective retailers. The annual marketing budget will be split between the two Agencies: \$22.25MM for creative and marketing-related services (LOT 1), and \$70MM for media-related services (LOT 2).

NOTE: This RFP encompasses all marketing activities pertaining to existing and new traditional Lottery products including, but not limited to, Draw Games, Jackpot Games, Instant Scratch-off Games, and Raffle Games, and all current and potential sales channels. Marketing activities pertaining to Video Lottery Terminals (VLTs), Racinos, and Casinos are not part of the services covered under this RFP.

The range of services that falls within the scope of this RFP include but are not limited to the following:

LOT 1 – CREATIVE & MARKETING COMMUNICATION SERVICES

- A. Business Partnership
- B. Account Management
- C. Strategic Account Planning / Market Research / Brand Metric and Advertising Communication Tracking
- D. Creative development, production and distribution of all advertising, marketing communications, and point-of-sale (POS) materials
- E. Advertising Effectiveness Analysis / Optimization
- F. Hispanic and Multi-cultural Marketing
- G. Digital Marketing & Advertising
- H. Social Media Management
 - I. State & Local Marketing Programs
- J. Sweepstakes / Promotion Management
- K. Direct Marketing / Database Management / Customer Relationship Marketing
- L. Creative Development & Content Management of Lottery Websites
- M. Budget / Billing Management

N. Annual Agency Review

LOT 2 – MEDIA PLANNING & BUYING SERVICES

- A. Business Partnership
- B. Account Management
- C. Media Research & Strategy Development
- D. Media Planning, Buying and Placement
- E. Hispanic and Multi-cultural media programs
- F. Media Plan Return-on-Investment Performance Analysis
- G. State & Local Marketing Programs
- H. Budget / Billing Management
- I. Annual Agency Review

The Detailed Scope of Work for each Lot is provided in Part 3 of this RFP in their respective sections.

This RFP process will consist of two distinct phases for Lots 1 and 2 and each phase will include written submissions and oral presentations (detailed instructions regarding submission of the Proposal parts is provided in this Part 1 under Proposal Format).

Phase One will provide all bidders the opportunity to present agency credentials to the Lottery. This will be done with an oral presentation at the bidder's New York office as well as a written submission, which is due in advance of the oral presentation. Specific information to be included in this phase of the process is listed in Part 4 of the RFP. The Pricing Proposal is also due in writing during Phase One. It will be held for review at the conclusion of Phase Two. Those bidders who meet the minimum qualifying score defined in Part 5 of this RFP, will be deemed the "finalists" and will proceed to Phase Two.

During Phase Two, the bidders will prepare RFP responses to the assignments in the Technical portion of the document as described in Part 4. The responses will be provided in written form, as well as presented orally at the bidder's office. Data required for completion of the Assignments under Lots 1 and 2 will be provided to finalists at the beginning of Phase Two. Such data is specified in Part 4 for Lots 1 and 2 of this RFP. The award for each Lot will be determined at the conclusion of Phase Two, according to the evaluation and scoring criteria provided in Part 5 for Lots 1 and 2 of this RFP.

Agencies may bid on one or both LOTs. If bidding on both LOTs, bids must be submitted independent of one another. Proposals will be scored individually by LOT, and award will be made to the Agency offering the Best Value for each LOT.

The Lottery is the only office authorized to clarify, modify, amend, alter or withdraw the provisions of this RFP. Every vendor responding to this RFP must include in its Proposal a signed Contract in the form attached as **Appendix B** of this RFP. This agreement will become binding and effective after approval by the Lottery, The New York State Gaming Commission, the New York State Offices of the Attorney General and State Comptroller.

In the RFP the Lottery has defined a series of objectives, requirements, and a proposal evaluation approach that will represent its best interests in conformance with Lottery policies, State regulations and New York State statutes. The contents of this RFP, any modifications, and the Proposal will become contractual obligations if a contract ensues. Failure of the successful vendor to accept these obligations may result in cancellation of the award.

For the convenience of bidders, the Parts of this RFP have been divided as provided herein. Part 1 – Introduction, and Part 2 – Contractual Provisions, of this RFP pertain to all bidders. Whereas, Part 3 – Scope of Work, Part 4 – Information Required from Bidders, and Part 5 – Evaluation & Selection are grouped by LOT (Lot 1 – Parts 3 through 5 and Lot 2 – Parts 3 through 5). If you are bidding on only one LOT, you may remove and/or disregard Parts 3 through 5 of the LOT you are not bidding on.

1.2 BACKGROUND INFORMATION

The Lottery was enacted into the New York State Constitution by voters as a result of a referendum in 1966. The Lottery's sole mission is to earn revenue for education. Fundamentally, the Lottery is run as an entertainment business. A dedicated team of nearly 200 Lottery employees, and a host of supporting staff in the Gaming Commission, work with business partners and approximately 18,000 retailers statewide to provide innovative, fun, and entertaining games for our Lottery customers. Games include drawings like *Numbers*, *Mega Millions* and *Powerball* as well as some 35-50 instant scratch-offs.

By selling its traditional Lottery games through an extensive state-wide retail network and by subscriptions over the internet through its website (nylottery.ny.gov), the Lottery generates traditional Lottery sales in excess of \$7 billion annually. The Lottery continues to be North America's largest and most profitable Lottery, earning over \$48.43 billion in education support statewide since its founding over 45 years ago. In the fiscal year 2012-13 alone, the New York Lottery contributed \$3.04 billion to help support education in New York State, which is nearly 15 percent of total state education funding to local school districts. Even in these challenging economic times, sales of Lottery games are up and are predicted to continue to increase. Traditional Lottery Sales were up 1.6% in FY 2013-14 to \$7.29 billion.

The Agencies awarded a contract through this RFP process will become strategic partners with the Lottery's Marketing Unit to help develop and implement impactful, innovative and effective programs that will drive business and achieve the Lottery's objectives. Due to the far-reaching effects of advertising and marketing communications, the Agencies awarded these contracts will have a vital role in establishing the future of the Lottery and maximizing aid to education. As such, the selection, performance and management of the marketing agencies is critical in helping to deliver the Lottery's business and brand goals.

The Lottery plans to implement more intensive marketing and advertising efforts to face

the competition for discretionary and gaming spending. While each individual Lottery game has its own unique business goals, the overarching objectives of the Lottery's total advertising and marketing program are as follows:

- Generate revenues from sales of traditional Lottery games across all distribution channels to maximize contributions to aid state education;
- Expand front-of-mind awareness of existing and new traditional Lottery products, as well as the Lottery's Mission for Education;
- Maintain equity of the Lottery brand and build comprehension and appeal of the distinct benefits of the individual games;
- Expand customer loyalty; and
- Retain weekly players and attract occasional players more frequently by facilitating their play and stimulating their interest in the portfolio offerings.

The Lottery is a continuously active, labor-intensive account with multiple marketing, communications, creative, media, and research projects requiring attention and service simultaneously on a week to week, draw to draw basis. As many as 50 advertising, marketing and retail projects can be in progress at the same time. In FY 2013/14, more than 13 distinct multi-media advertising campaigns were produced in support of the Lottery's Draw and Instant Games, and over 100 individual POS and promotional items were produced for distribution to the statewide retailer network and at local events. In total, \$5.5 million is the projected annual expenditure for creating and distributing unique POS materials, including signage, ticket dispensers, and other merchandising components to ensure an effective retail presence. In addition, the Lottery creates a range of branded merchandise that is given to consumers as premiums at local events or as contest prizes. In conjunction with the general marketing efforts, alternative language communication needs and programs require ongoing management. Research projects to gain consumer insights and track brand developments are ongoing throughout the year. Additionally, reactive and dynamic efforts to advertise high jackpots for *Powerball* and *Mega Millions* require priority attention from the media, traffic and account teams when the jackpot exceeds predetermined levels.

1.3 MINIMUM QUALIFICATIONS

Any bidder submitting a Proposal in response to this RFP must meet the minimum qualifications listed below for each LOT. Information demonstrating the qualifications defined below must be incorporated into the Technical Proposal as provided in Part 4 of this RFP, Information Required from Bidders, and must be included in the Phase 1 Credentials Presentation.

LOT 1 – CREATIVE & MARKETING COMMUNICATION SERVICES

Respondents to this RFP must demonstrate through written response that they meet or exceed the following requirements:

1. Agency must have at least one established New York State office, which must be the primary office for staff assigned to the Lottery account.

2. Agency must have annual US-only revenues of at least \$40 million for combined services offered in the calendar year 2013 or the company's most recent fiscal year within the past 24 months for which their latest audited financial statement is available.
3. Agency must be an established firm with at least two (2) years demonstrated experience in the scope of work required under this RFP for LOT 1, as outlined in Part 3. The Agency must indicate in its response whether any of the functions required under this contract have been handled by sub-contractors or partner agencies on previous accounts.
4. Agency must be able to demonstrate a diversified account/client list with a minimum of ten (10) active accounts, with at least two (2) accounts having annual billings exceeding \$12 million.

LOT 2 – MEDIA SERVICES

Respondents to this RFP must demonstrate through written response that they meet or exceed the following requirements:

1. Agency must have at least one established New York State office, which must be the primary office for staff assigned to the Lottery account.
2. Agency must have annual US-only revenues of at least \$100 million for combined services offered in the calendar year 2013 or the company's most recent fiscal year within the past 24 months for which their latest audited financial statement is available.
3. Agency must be an established firm with at least five (5) years demonstrated experience in the scope of work required under this RFP for LOT 2, as outlined in Part 3. The bidder must indicate in its response whether any of the functions required under this contract have been handled by sub-contractors or partner agencies on previous accounts.
4. Agency must be able to demonstrate a diversified account/client list with a minimum of ten (10) active accounts, with at least three (3) accounts having annual billings exceeding \$50 million.

1.4 SCHEDULE

The following dates are established for informational and planning purposes. The Lottery reserves the right to make adjustments to this schedule.

RFP Issued	May 12, 2014
First Vendors' Questions Due by 3:00 pm	May 23, 2014
Lottery Responses to First Questions	May 29, 2014
Phase One Vendor Proposals Due by 3:00 pm	June 6, 2014

Scheduling of Phase One Oral Presentations	June 9, 2014 – June 10, 2014
Phase One Oral Presentations	June 11, 2014 – July 15, 2014
Finalists Notified	July 16, 2014
Second Vendors' Questions Due by 3:00 p.m.	July 25, 2014
Lottery Responses to Second Questions	July 31, 2014
Phase Two Vendor Proposals Due by 3:00pm	August 13, 2014
Phase Two Oral Presentations	August 14, 2014 – September 12, 2014
Apparent Winning Proposal Designated	September 30, 2014

1.5 RFP EXHIBITS, APPENDICES AND ATTACHMENTS

The following documents are incorporated into this RFP:

Appendix A: Standard Clauses for New York State Contracts
Appendix B: Contract Form (incorporates Appendix A)
Appendix C: Bidder Disclosure/Certification Form (Procurement Lobbying)
Appendix D: Non-Collusive Bidding Certification Form
Appendix E: New York State Vendor Responsibility Questionnaire
Appendix F: Substitute Form W-9 (Vendor Identification Number)
Appendix G: Electronic Payment Authorization Form
Appendix H: Contractor Certification Forms (Tax Law Section 5-a)
Appendix I: EEO and M/WBE Program
Appendix J: New York State Subcontractors and Suppliers

Attachment 1: Vendor Acknowledgement of Addendum
Attachment 2: Pricing Proposal Form – LOT 1
Attachment 2: Pricing Proposal Form – LOT 2
Attachment 3: Rate Card
Attachment 4: Technical Proposal Submittal Checklist

Exhibit A: Agency Evaluation Forms – LOT 1
Agency Evaluation Forms – LOT 2
Exhibit B: List of OGS Media Service Center Capabilities

1.6 VENDOR/CONTRACTOR DIFFERENTIATION

Throughout this RFP the terms "bidder", "vendor", "proposer", "offeror" and "agency" may be used interchangeably in reference to the preparation and submission of the Proposal and any requirements preceding the award of the final Contract. In describing post-contract award requirements, an effort is made to use the terms "successful bidder", "contractor" or "agency".

1.7 HEADINGS

The headings used in this RFP are for convenience only and shall not affect the interpretation of any of the terms and conditions of this RFP.

1.8 PERMISSIBLE CONTACTS

Consistent with the public policy established by the Procurement Lobbying Law, described below, the Supervisor, Contract Administration or Contract Management Specialist designated below are the only points of contact with regard to matters relating to this RFP, unless additional points of contact are designated by them.

ALL BIDDERS RESPONDING TO THIS RFP AND ALL COMMUNICATIONS CONCERNING THIS PROCUREMENT MUST BE ADDRESSED IN WRITING TO THE SUPERVISOR OF CONTRACT ADMINISTRATION OR CONTRACT MANAGEMENT SPECIALIST AS NOTED BELOW:

New York State Gaming Commission
Contracts Office, 5th Floor
One Broadway Center
Schenectady, NY 12301-7500

Gail P. Thorpe, Supervisor of Contract Administration
gail.thorpe@gaming.ny.gov

or

Stacey Relation, Contract Management Specialist
Stacey.relation@gaming.ny.gov

1.9 PROCUREMENT LOBBYING RESTRICTIONS

As required by the Procurement Lobbying Law (State Finance Law Sections 139-j and 139-k), this RFP includes and imposes certain restrictions on communications between the Lottery and a bidder during the procurement process. A bidder is restricted from making contacts from the earliest solicitation of offers through final award and approval of the resulting Contract by the Commission and the Office of the State Comptroller (“restricted period”) to other than designated staff members unless the contact is permitted by the statutory exceptions set forth in New York State Finance Law Section 139-j (3)(a). Designated staff members are identified in Part 1 of this RFP.

Commission employees are permitted to communicate with bidders concerning this RFP only under circumstances described in the New York State Procurement Lobbying Law. Any bidder causing or attempting to cause a violation or circumvention of those requirements may be disqualified from further consideration for selection.

Commission employees are required to obtain certain information when contacted during the “restricted period” and to make a determination of the responsibility of the bidder/bidder pursuant to Sections 139-j and 139-k. A violation can result in a determination of non-responsibility, which can result in disqualification for a Contract

award. In the event of two determinations within a four-year period, a bidder will be debarred for a period of four years from obtaining a governmental procurement Contract award. Further information about these requirements can be found at:

<http://www.ogs.state.ny.us/aboutOgs/regulations/defaultAdvisoryCouncil.html>.

The Commission reserves the right, in its sole discretion, to terminate the Contract in the event that the Commission determines that the certification filed by the bidder in accordance with New York State Finance Law 139-k was intentionally false or intentionally incomplete. Upon such determination, the Commission may exercise its termination right by providing written notification to the bidder in accordance with the written notification terms of this Contract.

The BIDDER DISCLOSURE/CERTIFICATION FORM, included with this RFP as Appendix C, must be completed and submitted with the Proposal.

1.10 BIDDER ORAL PRESENTATIONS

Phase One: All bidders are required to hold an onsite Credentials Presentation at their New York State Office. Presentations will be scheduled after the Phase One written Technical Proposal due date.

Phase Two: Bidders who are notified that they are a finalist will be required to hold an on-site Assignment / Pitch Presentation at their New York State Office. Presentations will be scheduled after the Phase Two written Technical Proposal due date.

1.11 QUESTIONS AND INQUIRIES

Questions from bidders regarding this RFP must be submitted via electronic mail no later than the date and time specified in the Schedule in Part 1 of this RFP. If questions are provided via an attachment to electronic mail, the questions must be provided in Microsoft Word format. **Neither faxed nor telephone questions are acceptable.**

Bidders are cautioned that an RFP inquiry must be written in generic terms and must not contain pricing information. The inclusion of specific information about a bidder's Pricing Proposal in an inquiry may result in the bidder's disqualification.

Responses to all questions and any changes to the RFP resulting from such questions will be communicated via published addenda, which will be posted on the Commission's website. An Acknowledgement Form, incorporated into this RFP as **Attachment 1**, will be provided with each addendum. Vendors are required to include a signed Acknowledgement Form for each addendum with their respective Proposals.

Bidders are responsible for checking the Commission's website for updated information relative to the procurement process and the RFP. The Commission will not be responsible for a bidder's failure to obtain updated information.

1.12 FORM OF CONTRACTUAL AGREEMENT

The successful bidder will be expected to sign an agreement with the Commission in the form attached to this RFP as **Appendix B** (the "Contract"). **Appendix A**, Standard Terms for New York State Contracts, is incorporated into the Contract.

The Commission does not intend to negotiate any changes in the provisions of the Contract form subsequent to the award. Any exception to the Contract form must be raised in a bidder question submitted to the Commission pursuant to the Schedule and in accordance with the Question and Answer process set forth in Part 1 of this RFP. Failure to include the signed Contract in the bidder's Proposal, in the form provided, will deem the Proposal non-responsive.

1.13 NON-COLLUSIVE BIDDING REQUIREMENT

In accordance with Section 139-d of the New York State Finance Law, if the Contract is awarded based upon the submission of bids, the bidder must warrant, under penalty of perjury, that its Proposal was arrived at independently and without collusion aimed at restricting competition. Each bidder must further warrant that, at the time the bidder submitted its Proposal, an authorized and responsible person executed and delivered to the Commission a Non-Collusive Bidding Certification on bidder's behalf.

The Non-Collusive Bidding Certification Form, included in this RFP as Appendix D, must be completed and submitted with the Proposal.

1.14 NEW YORK STATE STANDARD VENDOR RESPONSIBILITY QUESTIONNAIRE

Vendor agrees to fully and accurately complete the NYS Standard Vendor Responsibility Questionnaire (hereinafter the "Questionnaire"), which is available online at <http://www.osc.state.ny.us/vendrep/documents/welcomepkg.pdf>. Contractors are encouraged to complete the online form, as it will expedite Contract approval. If you do not have an online questionnaire that is current and certified, you must complete the hardcopy questionnaire attached as Appendix E. The bidder acknowledges that the State's execution of the Contract will be contingent upon the Commission's determination that the bidder is responsible, and that the Commission will be relying upon the bidder's responses to the Questionnaire in making that determination. The bidder agrees that if it is determined by the Commission that the bidder's responses to the Questionnaire were intentionally false or intentionally incomplete, on such determination, the Commission may terminate the Contract by providing ten (10) days written notification to the contractor. In no case shall such termination of the Contract by the Commission be deemed a breach thereof, nor shall the Commission be liable for any damages for lost profits or otherwise, which may be sustained by the contractor as a result of such termination.

Unless the Questionnaire has been filed on-line, the QUESTIONNAIRE, included in this RFP as Appendix E, must be completed and submitted with the proposal.

1.15 VENDOR IDENTIFICATION NUMBER

Substitute Form W-9: In order to do business with the State of New York, each bidder is required to obtain a NYS bidder Identification number for use in the Statewide Financial System (SFS). The Substitute Form W-9 must be completed and submitted directly to the Commission with the proposal. The purpose of the Substitute Form W-9, which will capture the contractor's taxpayer identification number, business name, and business contact person, is to allow the State to establish a bidder file in the State Financial System. Note: IRS Form W-9 is not acceptable for this purpose.

The Substitute Form W-9 is included in this RFP as Appendix F.

1.16 FREEDOM OF INFORMATION LAW

During the evaluation process, the content of each Proposal will be held in confidence and details of any Proposal will not be revealed (except as may be required under the New York State Freedom of Information Law ("FOIL") or other State law). The Freedom of Information Law provides for an exemption from disclosure for trade secrets or information the disclosure of which would cause substantial injury to the competitive position of a commercial enterprise. This exception applies both during and after the evaluation process. **If you believe your firm's Proposal contains any such trade secrets or other confidential or information, you must submit a request with your Proposal to exempt such information from disclosure. Such request must be in writing, must state the reasons why the information should be exempted from disclosure and must be provided at the time of submission of the subject information.** Requests for exemption of the entire contents of a Proposal from disclosure have generally not been found to be meritorious and are discouraged. Please limit any requests for exemption of information from disclosure to bona fide trade secrets or specific information, the disclosure of which would cause a substantial injury to the competitive position of your firm. **Pricing information may not be designated as proprietary or confidential.**

1.17 PROPOSALS

Bidders must submit a complete Proposal as outlined below under Proposal Format and as defined in Part 4 of this RFP – Information Required from Bidders. A Proposal that does not comply with these requirements may be deemed non-responsive.

Material requirements of the RFP are those designated as mandatory, without which an adequate analysis and comparison of Proposals is compromised, or those that affect the competitiveness of Proposals, or the cost to the Commission. A Proposal that does not meet all material requirements of this RFP or that fails to provide all required and mandatory information, documents, or supporting materials, or includes language that is conditional or contrary to the requirements of this RFP may be rejected as non-responsive. The Commission, in its sole discretion, reserves the right to determine whether a Proposal meets the material requirements of the RFP.

A. Proposal Contents:

Each bidder is expected to provide the Commission with information, evidence and demonstrations that will make possible a Contract award that best serves the stated interests of the Lottery and the State of New York. Bidders are given wide latitude in the degree of detail they offer or the extent to which they reveal plans, designs, systems, processes, and procedures.

There is no limit on the number of pages in each Proposal; however, bidders should prepare their Proposals simply and economically, providing a straightforward and concise description of their abilities to satisfy the requirements of this RFP. Proposals that are of excessive length, or containing preponderance of boilerplate text, are discouraged. Special bindings, colored displays, promotional material, etc., will receive no evaluation credit. Emphasis in each Proposal should be on completeness and clarity of content.

Failure by a bidder to provide the appropriate information or materials in response to each stated requirement or request for information may result in lower scores during the evaluation or determination of a non-responsive Proposal. Responses to complex RFP requirements that are stated in a form semantically equivalent to “bidder agrees to comply” may be rejected for non-responsiveness at the discretion of the Commission.

B. Proposal Format:

Each bidder must submit a complete Technical and Pricing Proposal in the format described below and in response to the Scope of Work defined in Part 3 and Information Required from bidders – Part 4.

Each written Proposal must be submitted in three (3) separate volumes (**Technical Proposal – Phase One, Technical Proposal – Phase Two, and Pricing Proposal**) as defined below. Each Technical Proposal must be signed in ink by an official authorized to bind the bidder to its provisions and must include a statement as to the period during which the entire Proposal remains valid. This period must be at least 180 days from the Phase Two Technical Proposal due date for responses to this RFP.

PHASE ONE

Volume I – Technical (non-price) Proposal - Credentials:

Each Technical Proposal shall include descriptive and technical matter only and must be appropriately labeled on the outside of the enclosure with the bidder’s name and address and title of the RFP: Advertising Services, and identify whether the submission is for LOT 1 - Creative & Marketing Communications services or

LOT 2 – Media Planning & Buying services. **No pricing information shall be contained in the Technical Proposal.**

Except where required, there shall be no attachments, enclosures, or exhibits other than those essential to providing a complete understanding of each Proposal. Each section of the Proposal must be clearly identified with appropriate headings and responses should be separated by tabs and in the order presented in this RFP. A bidder should ensure that its Proposal submittal is complete, including signatures and attachments as required by this RFP.

Both hard copy and digital versions of the entire Technical Proposal must be submitted as noted below and must be marked clearly to differentiate.

Hard copy: Two originals and Six copies.
Digital: Six USB memory sticks containing a PDF file.
Digital: One redacted version, consistent with Proprietary Designation provided in response to Section 1.16 of this RFP.

The digital versions must include all Proposal sections within a single file to facilitate searches for terms across the breadth of the Proposal. The (non) redacted digital version must mirror the full Technical Proposal. The redacted version, if any, will be used to facilitate FOIL requests.

Note: If there are any differences between the hard copy and digital versions of the Technical Proposal, the hard copy version will be deemed to be the Proposal considered.

The contents of the Technical (non-price) Proposal (Volume 1) must follow the outline below, employing divider pages with tabs to separate the response sections. To assist bidders in completion and submittal of the required documents, a **Technical Proposal Submittal Checklist** is incorporated into this RFP as **Attachment 4**. This Checklist must be completed and included with the bidder's Technical Proposal.

1. Transmittal Letter: The transmittal letter must be signed and shall contain names, addresses (including e-mail), and telephone numbers of individuals who are authorized by the bidder to address matters related to the Proposal including, but not limited to, contractual, technical, site visit, and background investigation.

The transmittal letter must also contain explicit formal agreement by the bidder to comply with all contractual provisions and contain a statement that the Proposal will remain valid at least 180 days from due date of the Phase Two Technical Proposals.

2. Technical Proposal Submittal Checklist – Attachment 4.

3. Acknowledgement Form (Attachment 1) of all RFP addenda.
4. Signed Contract (Appendix B).
5. Designation of proprietary information in the form described in this RFP (Section 1.16).
6. Litigation Bond (Section 1.20)
7. Fidelity Bond (Section 1.21).
8. Disclosure of Litigation and Other Information (Section 1.23).
9. Certifications and representations as required by this RFP and addressed throughout.
10. Response to specifications and in the order provided for in Part 4 – Information Required from Bidders, including technical documentation as appendices.

Volume II – Pricing Proposal

Pricing Proposal must be submitted with Phase One and will be evaluated at the conclusion of Phase Two.

The Pricing Proposal must be prepared as provided in Part 4 of this RFP and in the form provided as **Attachment 2** and **Attachment 3** of this RFP. Bidders should carefully review the basis and terms of compensation set forth. Any deviation from this format may cause the Proposal to be deemed non-responsive.

Both hardcopy and digital versions of the entire Pricing Proposal must be submitted as noted below and must be marked clearly to differentiate.

Hard copy: Two originals and six copies.

Digital: Two USB Memory Sticks containing a PDF file.

Note: If there are any differences between the hard copy and digital version of the Pricing Proposal, the hard copy version will be given priority.

- The contents of the Pricing Proposal volume must follow this outline:
 1. Transmittal letter.
 2. Pricing in the format provided as Attachment 2.
 3. Pricing in the format provided as Attachment 3.

PHASE TWO

Volume III – Technical (non-price) Proposal - Assignment:

Each Technical Proposal shall include descriptive and technical matter only and must be appropriately labeled on the outside of the enclosure with the bidder's name and address and title of the RFP: Advertising Services, and note whether the bidder is submitting for LOT 1 or LOT 2. **No pricing information shall be contained in the Technical Proposal.**

Except where required, there shall be no attachments, enclosures, or exhibits other than those essential to providing a complete understanding of each Proposal. Each section of the proposal must be clearly identified with appropriate headings and responses should be separated by tabs and in the order presented in this RFP. A bidder should ensure that its Proposal submittal is complete, including signatures and attachments as required by this RFP.

Both hardcopy and electronic versions of the entire Technical Proposal must be submitted as noted below and must be marked clearly to differentiate.

Hard copy: Two originals and Six copies.

Digital: Six USB memory sticks containing a PDF file.

Digital: One redacted version, consistent with Proprietary Designation provided in response to Section 1.16 of this RFP.

The digital versions must include all Proposal sections within a single file to facilitate searches for terms across the breadth of the Proposal. The (non) redacted digital version must mirror the full Technical Proposal. The redacted version, if any, will be used to facilitate FOIL requests.

Note: If there are any differences between the hardcopy and digital versions of the Technical Proposal, the hard copy version will be deemed to be the Proposal considered.

- The contents of the Technical Proposal Volume 3 must follow this outline:
 1. Signed transmittal letter.
 2. Response to Assignments described in Part 4 – Phase Two.

C. Proposal Submission:

All volumes of each Proposal must be submitted to the Commission as set forth below, and must be received by the dates and times set forth in the Schedule in Part 1 of this RFP. Originals should be clearly marked so as to differentiate from the copies.

Bidders are responsible for assuring that the following identifying information appears on the outside of each envelope:

“Sealed Proposal” label, RFP Contract number, company or organization name, LOT number, due date and time. If a delivery service is used which prohibits such markings on the envelope or package, this information must be placed on the outside of a sealed interior envelope or package.

The address for Proposals submitted by Contract carrier, courier delivery, in person delivery, or by U. S. Postal Service is:

Gail P. Thorpe
Supervisor of Contract Administration
New York State Gaming Commission
Contracts Office – 5th Floor
One Broadway Center
Schenectady, NY 12301-7500

If a Proposal is to be delivered by a method other than U.S. Postal Service, the bidder should contact the Supervisor of Contract Administration or the Contract Management Specialist, identified in this RFP, prior to delivery to assure proper receipt of the Proposal. **Fax or e-mail submissions are not acceptable and will not be considered.**

D. Proposal Receipt:

If hand delivered, an individual from the Commission’s Contracts Office will provide a time stamped receipt indicating when the Proposal is received at the Security Desk in the Commission’s Lobby on the ground floor of One Broadway Center. This time indicated on the receipt will be the official time of receipt. In addition, whether hand delivered or delivered by any other method, the Commission will confirm receipt by electronic mail.

Phase One Technical Proposals (**Volume I**) will remain with the Commission’s Contracts unit for initial review of document submission as provided in this RFP and subsequently distributed to the Evaluation Committee members at the start of the Phase One evaluation process.

Upon receipt of the Phase One bidder Proposal, the Pricing Proposal (**Volume II**) will be secured by the Commission’s Finance Office and will not be opened (or accessible) until after the Phase Two Technical Evaluation process is complete.

Phase Two Technical Proposals (**Volume III**) will remain with the Commission’s Contracts unit for initial review of document submission as provided in this RFP and subsequently distributed to the Evaluation Committee members at the start of the Phase Two evaluation process.

E. Late Proposal:

A Proposal must be received by the Commission on or before the due date and time specified in the Schedule – Part 1 of this RFP. The bidder is responsible for timely receipt of its Proposals and should plan for delivery accordingly. Failure of a bidder to submit a Proposal by the specified time may result in rejection or disqualification of the Proposal. Proposals rejected or disqualified for lateness may be returned unopened to the bidder.

F. Joint Proposals:

Two or more firms may join together to submit a Proposal in response to either this RFP. If a joint Proposal is submitted, the Proposal shall define the responsibilities that each firm is proposing to undertake. Of the firms submitting a joint Proposal, one must be designated as the primary bidder. Any Contract award issued as a result of such a submission will be made exclusively to the primary bidder. A joint Proposal must designate a single authorized official from one of the firms participating in such joint Proposal to serve as the sole point of contact between the Commission and the firms that are responding together.

G. Multiple Proposals from One Bidder Prohibited:

A bidder shall submit a single Proposal only for each LOT. Within the single Proposal, and separate from the response to the requirements of this RFP, the bidder may identify options, including solicited and unsolicited products, services, and features, absent of price, which the bidder believes may be appealing and useful to the Lottery. The inclusion of options accommodates the purpose of defining alternatives through multiple Proposals.

H. Costs Associated with Preparation of Proposals:

The Commission and State shall not be liable for any of the costs incurred by a bidder in preparing or submitting a Proposal, and, therefore, the Commission or State will not assume any responsibility or liability for any costs incurred by a bidder prior to the award and approval of a Contract. The responsibilities and liabilities of the Commission and State shall be limited to those set forth in the Contract.

1.18 CLARIFICATION PROCESS

The Commission may request clarification from a bidder for the purpose of resolving any ambiguity or questioning information presented in the Proposal. Clarifications are an opportunity to explain, but not to enhance, a Proposal. Requests for clarification may occur throughout the Proposal submission review and/or the Technical Proposal evaluation process. Clarification responses must be in writing and must address only the information requested. Responses must be submitted to the Commission within the time

stipulated at the time of the request. As applicable, clarifications will be treated as addendums to the bidder's Proposal.

1.19 SITE VISITS

The Commission may visit any site where the bidder conducts, or has conducted, operations similar to the services required in this RFP. The bidder shall cooperate in arranging and coordinating such site visits, but the bidder shall not be permitted to pay Gaming Commission costs for any travel, accommodations, or other expenses of such site visits.

1.20 LITIGATION BOND

Each bidder must submit with its Proposal a litigation bond in the amount of one million dollars (\$1,000,000). A claim upon such litigation bond may be made by the Commission if:

1. The respondent sues the Commission, the State of New York, or any of their officers, employees, representatives, agents, other contractors, or licensees with regard to any matter relating to this RFP, including without limitation the determination of the responsiveness of any Proposal or the award of a Contract pursuant to this RFP; and
2. The Commission or other defendant is the prevailing party in such suit.

The purpose of the litigation bond is to permit the Commission or other defendants to recover damages and reasonable attorneys' fees, expenses and court costs resulting from such litigation. The litigation bond shall remain in effect for a period of two years from the date of approval of the Contract.

In lieu of a bond, the contractor may provide an irrevocable letter of credit naming the Commission as beneficiary as described in section 2.13.

1.21 FIDELITY BOND

Upon notification of award and prior to contract approval, the successful bidder must obtain a fidelity bond in the amount of one million dollars (\$1,000,000) covering any loss to the Commission due to any fraudulent or dishonest act on the part of the successful bidder's officers, employees, agents or subcontractors. Such an event, in the sole discretion of the Commission, could be grounds for termination of the contract, whether or not the losses arising as a result thereof were paid under the fidelity bond.

In lieu of a bond, the contractor may provide an irrevocable letter of credit naming the Commission as beneficiary as described in section 2.13.

1.22 DISCLOSURE AND INVESTIGATIONS DURING PROPOSAL EVALUATION

Subsequent to Proposal submission, the Commission may initiate investigations into the backgrounds of the bidder and individuals or entities related to any officers, directors, members, principals, investors, owners, subcontractors, employees, or any other individuals or entities related to the bidder, as the Commission may deem appropriate, in the discretion of the Commission. Such background investigations may include fingerprint identification by the New York State Division of Criminal Justice Services and the Federal Bureau of Investigation, and such additional investigation as may be required.

The Commission may reject a Proposal based upon the results of these background checks. Each bidder is advised that any bidder who knowingly provides false or intentionally misleading information in connection with any investigation by the Commission may cause the Proposal of such bidder to be rejected, or a Contract to be canceled by the Commission, in the sole discretion of the Commission.

If a bidder or a substantial subcontractor is a subsidiary of a parent entity, the Commission may request the above disclosures from the parent entity as the Commission may require in its sole discretion.

1.23 DISCLOSURE OF LITIGATION AND OTHER INFORMATION

Because the Commission has a strong interest in the successful bidder's integrity, and continuing ability to offer high quality products and services, the Commission requires that a bidder list and summarize pending or threatened litigation, administrative or regulatory proceedings or similar matters that could materially affect the bidder. As part of its disclosure requirement, a bidder must state whether the bidder or any of the owners, officers, directors, or partners of such bidder have ever been convicted of a felony. Failure to disclose any such matter may result in rejection of the Proposal or termination of a Contract. Such disclosures must be included in the Proposal.

This disclosure obligation is a continuing requirement. Any such matter commencing after submission of a Proposal and, with respect to the successful bidder after the approval of a Contract, must be disclosed to the Commission in a timely manner in a written statement to the Commission.

1.24 CHANGE IN FINANCIAL CONDITION

If a bidder who has submitted a Proposal in response to this RFP experiences a substantial change in financial condition prior to the award of a Contract pursuant to this RFP, or if a successful bidder experiences a substantial change in financial condition during the term of the Contract with the Commission, the bidder is required to notify in writing the Commission or its designee, at the time the change occurs or is identified. Failure to notify the Commission or its designee, of such a change may result in rejection of bidder's Proposal or termination of the Contract, in the sole discretion of the

Commission. For each contract year, successful Bidders must submit to the Commission audited financial statements within 120 days of the end of their fiscal year.

1.25 CHANGE IN OWNERSHIP

If a bidder experiences a material change in ownership prior to the award of a Contract or during the term of a Contract with the Commission, the bidder is required to notify in writing the Director of the Commission at the time the change occurs or is identified. "Material change in ownership" is defined as any merger, acquisition, assignment or change in parties who, in the aggregate, own greater than 5% of the bidder or the parent company of the bidder. Failure to notify the Commission of such a change may result in the rejection of a bidder's Proposal or termination of the Contract. The Commission reserves the right, based on its assessment of a material change in ownership, to reject a bidder's Proposal or terminate a Contract.

1.26 MEDIA RELEASES

A media release pertaining to this RFP or the services, evaluation, or project to which this RFP relates may not be made without prior written Commission approval, and then only in accordance with express written instructions from the Commission. No results of the Contract may be released without prior approval by the Commission and then only to persons designated by the Commission.

1.27 ADVERTISING

Each respondent agrees not to use the Lottery's name, logos, images, nor any data or results arising from this procurement or Contract as part of any commercial advertising without prior written approval by the Lottery, and then only in consultation and cooperation with the Lottery.

1.28 METHOD OF AWARD

The method of award under this RFP will be "Best Value," the evaluation method for awarding a Contract to the bidder whose Proposal optimizes quality, cost, and efficiency among responsible offers. The determination of Best Value will be based on a scoring of Technical and Pricing Proposals in response to the RFP specifications and as defined in Part 5 of this RFP.

1.29 STATE'S RESERVED AUTHORITY

In addition to any authority set forth elsewhere in this RFP, the Commission reserves the authority to:

- A. Award a Contract for all, part or none of the services requested by this RFP;

- B. Waive any informality or technical defect if, in the judgment of the Commission the best interest of the Commission will be so served;
- C. Eliminate any non-material mandatory specification(s) that cannot be complied with by any of the prospective bidders;
- D. Amend the RFP and direct bidders to submit Proposal modifications accordingly;
- E. Change any of the scheduled dates stated herein;
- F. Reject any or all Proposals received in response to this RFP, and reissue a modified version of this RFP;
- G. Withdraw the RFP at any time, at the sole discretion of the Commission;
- H. Seek clarifications and revisions to Proposals;
- I. Use Proposal information obtained through site visits, management interviews and the State's investigation of a bidder's qualifications, experience, ability or financial standing, and any material or information submitted by the bidder in response to the request by the Commission for clarifying information in the course of evaluation and/or selection under this RFP;
- J. Disqualify any bidder whose conduct and/or Proposal fails to conform to the requirements of this RFP;
- K. Negotiate with the successful bidder within the scope of the RFP in the best interests of the State;
- L. Set aside the original successful bidder if the Commission determines that the bidder is non-responsible. The Commission may then award a Contract to the responsible bidder with the next highest total combined score.

1.30 PROTEST OR APPEAL

In the event that a bidder decides to protest the award decision, the following protest procedures will be followed:

- Any protest of the award decision must be filed with the Commission, no later than ten business days following the date of written Notification of Award to the unsuccessful bidder.
- The protest must clearly state the basis for the protest and include all relevant documentation supporting such protest.
- The Commission will conduct a review of the protest and will issue a written determination to the protesting party within 15 business days of receipt of the protest. If additional time for issuance of the determination is necessary, the

Commission will inform the bidder of the delay and of the time frame within which a determination may be expected. The final written determination provided to the bidder will constitute the Commission's final administrative determination of the protest.

- If an unsuccessful bidder decides to appeal the Commission's protest determination, the unsuccessful bidder must submit such an appeal to the New York State Office of the State Comptroller (OSC), Bureau of Contracts ("BOC"), within ten business days of receipt of the Commission's final written determination. The protest appeal must be in writing and must contain specific factual and/or legal allegations setting forth the basis on which the protesting party challenges the Contract award by the Commission. A copy of the appeal must be served on the Commission, the successful bidder(s), and any other party that participated in the review of the protest conducted by the Commission. The unsuccessful bidder's appeal must contain written affirmation that a copy of the appeal has been served as required by this paragraph.
- The appeal must be filed with: Charlotte Breeyear, Director, Bureau of Contracts – 11th Floor, New York State Office of the State Comptroller, 110 State Street, Albany, NY 12236.
- The Commission will submit an answer to the appeal to the OSC BOC simultaneously with the delivery of the Contract to the OSC BOC for its review, or within seven business days of the submission of the appeal, whichever is later. The Commission's answer to the appeal must include written affirmation that, simultaneous with the submission to OSC, the answer was transmitted to the protestor and the successful bidder(s).
- A successful bidder may, but is not required to, submit an answer to the appeal with the OSC BOC. Such answer must include written affirmation that the answer was simultaneously delivered to the Commission and the protestor and must meet the submission requirements as noted above for the Commission.
- The OSC BOC shall evaluate the merits of the protest, the Commission's determination and any response submitted by an interested party. In its review, the OSC BOC may require the Commission, the protesting party, the successful bidder, or any other interested party to address additional issues raised; may obtain information from an outside source; or may determine whether it deems it necessary to conduct a fact-finding hearing, and the level of formality of any hearing conducted.
- The OSC BOC shall issue a written determination addressing the issues raised by the appeal. All interested parties shall be provided with a copy of the determination. The determination shall be made part of the procurement record.

PART 2 – CONTRACTUAL PROVISIONS

2.1 GOVERNING LAW

The Proposal submission process, the evaluation of Proposals, the award procedure, and any Contract resulting from this RFP shall be governed by the laws of the State of New York and shall be interpreted according to New York State law. Any and all disputes of claims arising under this RFP or any Contract resulting from this RFP, other than as specifically set forth in this RFP, shall be brought exclusively in the appropriate court of the State of New York; and, by submitting a Proposal, a bidder waives access to any other court or forum that may have concurrent jurisdiction within or outside New York State to hear or resolve any such dispute or claim.

2.2 STANDARD CLAUSES FOR NEW YORK STATE CONTRACTS

Appendix A - Standard Contract Clauses for New York State contracts is attached. **Appendix A** becomes part of all New York State contracts and is incorporated in the Contract form – Appendix B of this RFP.

2.3 CONTRACT ELEMENTS

The Contract resulting from this RFP will include the following parts:

- Appendix A – Standard Clauses for New York State Contracts
- Addendums to the Contract
- Contract
- Clarifications and Addendums to the RFP
- RFP
- Clarifications to the Vendor's Proposal
- Vendor's Proposal

In the event of a conflict in any provisions of these documents, the order of precedence shall be as listed above from the highest to the lowest.

2.4 COMPETITIVE BIDDING PURCHASING REQUIREMENT

No payment shall be made for service and/or properties, including, but not limited to; typography, composition, printing, broadcast production, retail display production, special events production, and research, which are in excess of \$50,000 unless the Agency shall have obtained competitive bids. Requests for such bids must be confirmed in writing, and at least three (3) written bids must be solicited in order to achieve the best price.

Specifications for projects to be competitively bid must be provided in as complete written detail as possible to the bidders and approved in advance by the Commission.

This requirement does not apply to Media Planning & Buying Services.

2.5 SEVERABILITY

If a court of competent jurisdiction determines any portion of a Contract to be invalid, it shall be severed and the remaining portion of a Contract shall remain in effect.

2.6 TERM OF CONTRACT AND CONTRACT EXTENSIONS

The term of the contract will begin on January 15, 2015 and end on March 31, 2020.

2.7 CONTRACT TRANSITION

It is contemplated that the Commission, approximately six (6) months prior to the expiration of the contract resulting from this RFP, will award new contracts for Creative & Marketing Communications services and Media Planning & Buying services. The parties understand and agree that the Commission may utilize part of the last year of the contract resulting from this RFP or any renewal or extension thereof for transition to the replacement agency(ies). The vendor agrees to cooperate fully and in good faith in such transition. Any transition to another vendor shall not interfere with vendor's ability to fulfill the contract and shall not reduce or diminish the vendor's compensation pursuant to the contract.

2.8 COMPENSATION

The Agencies awarded the Lottery contracts (LOTs 1 and 2) will be compensated based on a two-tiered structure.

- A. **Labor-Based Fee** - First, there will be a labor-based fee arrangement to compensate the Agencies for direct and indirect labor costs, plus a profit margin. The fee shall be calculated on an annual basis and will be billed out monthly following the completion of services satisfactory to the Lottery. The Agency shall develop the annual fee based on the staffing plan proposed by the Agency to effectively and efficiently deliver against the scopes of work specified in LOTs 1 and 2 of this RFP. The staffing plan will be evaluated by both parties at the Annual Agency Review to determine if any staffing needs to be adjusted based on changing business dynamics or planned activity level on the account.

The annual fee will be evaluated in the Pricing Proposal in this RFP submission, along with the components that contribute to the formulation of that fee. The fundamental structure of the fee and its component parts (i.e., labor rates, indirect costs and profit margin) will remain constant for the 5-year contract period. The annual fee provided in the Pricing Proposal will be in effect for Year 1 of the contract. If there are staffing plan changes agreed to by the Lottery for Years 2-5 of the contract, the annual fee will be adjusted according to the established fundamentals in place for the term of the contract (e.g., fee structure, fixed labor rates, fixed indirect cost percentage and profit margin, as provided in the Pricing Proposal). The specific guidelines for how such fundamentals must be structured

are provided in Attachment 2 – Pricing Proposal.

B. Performance-Based Bonus – Second, there will be a performance-based incentive component to the remuneration package which will be paid as an annual bonus at the end of the Lottery’s Fiscal Year. The Agency’s performance will be measured against the predetermined goals set forth by the Lottery. The Agency’s performance as it relates to the established qualitative and quantitative goals will be evaluated during the Annual Agency Review process to be held prior to the end of the Lottery’s Fiscal Year. The results of the Annual Agency Review will determine the amount of financial bonus the Agency will earn. The determination of bonus amount will be based on the following three areas of the Annual Agency Review:

- a. **Agency Performance Evaluation (35 points)** – Based on written qualitative evaluation by the Lottery staff working directly with the Agency, the performance of the Agency will be reviewed at the Annual Agency Review based on the Agency’s ability to meet established client expectations. The Agency will be scored on a variety of subject matters based on a 5-point scale, and a total composite score of up to 35 points will be generated. The Agency Review Questionnaire that will be used in the Annual Agency Review process is included in Exhibit A for reference. It indicates how the scores will be calculated.

- b. **Agency Metrics (50 points)** – As the second component of the Annual Agency Review process, the Agency will be evaluated on their ability to drive consumer attitudes and behaviors that can be attributed to marketing. Specific metrics / KPI’s to be achieved will be established up front for each project initiative to be carried out by the Agency during each Fiscal Year. At the Annual Agency Review, the Lottery will determine if the specific predetermined KPI’s were met for each project initiative completed during the year. The Agency will be scored on a 5-point scale for each project initiative completed during the Fiscal Year, and it will be determined how many points were earned against the total possible points. A copy of the Agency Metrics Evaluation Form is attached for reference as Exhibit A. Metrics to be evaluated could include, but are not limited to, the following:

CREATIVE

- i. Consumer Attitudes
- ii. Brand Linkage
- iii. Product Usage Habits
- iv. Advertising Awareness
- v. Brand Perceptions

MEDIA

- i. Media Cost Savings
- ii. Media Buying Goals
- iii. Cost per Fan
- iv. Click through Rates
- v. Website Traffic

- c. **Business Metrics (15 points)** – The final component of the Annual Agency Review measures the Agency’s ability to deliver against pre-established sales goals for each game within the traditional Lottery portfolio. This will ensure that the Agency and the Lottery have the shared business objective of growing sales in order to provide more aid to education. The Agency will receive points for sales achieved for each traditional Lottery Game and the Instant Scratch-off Game category as a whole. Points will be earned depending upon the percentage of the goal that is reached for each game. A copy of the Business Metrics Evaluation Form is included for reference within Exhibit A.

The Bonus resulting from the Annual Agency Review process is a maximum of \$500,000 for LOT 1 and another \$500,000 for LOT 2. Based on the scores accumulated for Agency Performance, Agency Metrics and Business Metrics as defined above, the Agency will earn a percentage of the Bonus ranging from 0-100%. A copy of the Bonus Calculation Summary Form is included for reference within Exhibit A.

- C. **Direct Unbillable Expenses** - The Contractor will not be compensated for Direct Unbillable Expenses, such as travel and other out-of-pocket expenses that are required as a regular course of business as defined in the Scope of Work for LOTs 1 & 2. Exceptions can occur only with prior notification and approval by the Lottery. Such travel would be reimbursed according to the following guidelines:

- a. **Travel Expenses** – The Agency will only be reimbursed for reasonable travel expenses needed in the performance of the work outside the specified Scope of Work detailed in Section 3 of this RFP. Such travel expenses require prior approval from the Lottery. Reimbursement will be based on proper, supported receipts and in accordance with the prevailing allowances established by the State of New York for Management/Confidential Employees. For more information please refer to the New York State Travel Manual at: <http://www.osc.state.ny.us/agencies/travel/manual.pdf>.

For current mileage reimbursement rates please visit: <http://www.gsa.gov/portal/content/104877>.

The hourly rate to be paid for the bidder while in travel status will be 50% of the hourly rate provided in the Pricing Proposal.

- D. **Third-Party Expenses** – Any third-party expenses incurred by authorized sub-contractors, such as pre-approved research and production expenses, will be paid based upon prior approval by the Lottery in accordance with the guidelines set forth in Part 4. Such expenses are to be billed on a pass-through basis without mark-up. Any administrative duties required to handle such billings will be factored into the Agency Fee by accounting for the staff hours required to do so.

Payments to sub-contractors must be made in a timely manner irrespective of when the Agency receives payment from the State.

2.9 CONTRACT INVOICING AND PAYMENT

Payment under the Contract will be in accordance with New York State Prompt Payment Law (Article 11-A of the New York State Finance Law). Payment for services will be made upon completion of services and upon receipt by the Commission of a proper invoice. Payment for services rendered on an hourly rate basis will be made upon submission by the contractor of monthly, itemized invoices. All invoices must be directed by the contractor to the Commission's Finance Office. The Commission shall promptly process all payments due to the contractor that conform to the provisions of this RFP and are approved by the Commission's Contract administrator and Finance Officer.

2.10 ELECTRONIC PAYMENT (EPAY) PROGRAM

In accordance with a directive by the New York State Division of the Budget, if awarded a Contract under this RFP the contractor will be required to enroll in the Electronic Payment ("epay") Program through the OSC. Upon execution of the Contract the contractor will need to submit an Electronic Payment Authorization Form. Additional information and procedures for enrollment into the epay program can be found at OSC's website: <http://www.osc.state.ny.us/epay>.

The Electronic Payment Authorization Form, Appendix G is included with this RFP for reference and convenience.

2.11 TAX LAW SECTION 5-A

The bidder awarded a Contract pursuant to this RFP must comply with the requirements of Tax Law Section 5-a, which requires persons awarded contracts valued at more than \$100,000 with state agencies, public authorities or public benefit corporations to certify that they, their affiliates, their subcontractors, and the affiliates of their subcontractors have a valid certificate of authority to collect New York State and local sales and compensating use taxes. A contractor, affiliate, subcontractor, or affiliate of a subcontractor must be certified as having a valid certificate of authority if such person has made sales delivered within New York State of more than \$300,000 during the relevant period. The OSC or other responsible approver cannot approve the Contract unless the contractor is registered with the New York State Tax Department to collect sales and compensating use taxes.

The Contractor Certification forms, included in this RFP as Appendix I – ST-220-TD and Appendix I – ST-220-CA, must be filed in compliance with Tax Law Section 5-a. Any bidder awarded under this RFP will, within seven calendar days of notification of award, file ST-220-TD directly with the Tax Department at the address provided on the form and ST-220-CA with the Commission.

Vendors can visit the New York State Department of Taxation and Finance website to obtain more information:

http://www.tax.state.ny.us/pdf/publications/sales/pub223_606.pdf

Appendix I – ST-220-TD

http://www.tax.state.ny.us/pdf/2006/fillin/st/st220td_606_fill_in.pdf

Appendix I – ST-220-CA

http://www.tax.state.ny.us/pdf/2006/fillin/st/st220ca_606_fill_in.pdf

2.12 SURETY AND INSURER QUALIFICATIONS

All required bonds and insurance must be written by company rating of “A-” or better rated by A.M. Best & Co., have a record of successful continuous operation, are licensed, admitted, and authorized to do business in the State of New York, and are approved by the Commission. Required coverage and limits must be put into effect as of the effective date of the Contract and must remain in effect throughout the term of the Contract, as determined by the Commission. The successful bidder must submit copies of each required insurance Contract, and any renewals thereof, to the Commission upon the Commission’s request. The insurance policies must provide thirty (30) days’ advance written notice to the Commission of cancellation, termination or failure to renew any policy.

In lieu of a bond, the contractor may provide an irrevocable letter of credit naming the Commission as beneficiary. The irrevocable letter of credit must be in the amount specified for the bond and in the format required by the Commission. Bond/irrevocable letter of credit must be furnished by a company licensed to do business in the State of New York.

The bond/irrevocable letter of credit must be for the entire contract period. The performance bond/letter of credit must provide that in the event of non-renewal, the Commission be notified in writing by the issuer.

2.13 INSURANCE REQUIREMENTS

Prior to the start of work the Contractor shall procure at its sole cost and expense, and shall maintain in force at all times during the term of the Contract, policies of insurance as herein below set forth, written by companies authorized by the New York State Insurance Department to issue insurance in the State of New York (Admitted Carriers). The Commission may, at its sole discretion, accept policies of insurance written by a non-authorized carrier or carriers when Certificates and/or other policy documentation is accompanied by a completed Excess Lines Association of New York (ELANY) Affidavit; provided that nothing herein shall be construed to require the Commission to accept insurance placed with a non-authorized carrier under any circumstances. The Contractor shall deliver to the Commission evidence of such policies in a form acceptable to the

Commission. These policies must be written in accordance with the requirements of the paragraphs below, as applicable.

General Conditions

A. Conditions Applicable to Insurance. All policies of insurance required by this agreement must meet the following requirements:

1. Coverage Types and Policy Limits. The types of coverage and policy limits required from the Contractor are specified in Paragraph B below – Specific Coverages and Limits.

2. Policy Forms. Policies must be written on an **occurrence** basis, except as may be otherwise specifically provided herein, or agreed in writing by the Commission. Under certain circumstances, the Commission may elect to accept policies written on a claims-made basis provided that, at a minimum, the policy remains in force throughout the performance of the services and for three (3) years after completion of the Contract. If the policy is cancelled or not renewed during that time, the Contractor must purchase at its sole expense Discovery Clause coverage sufficient to complete the 3-year period after completion of the Contract. Written proof of this extended reporting period must be provided to the Commission prior to the expiration or cancellation of the policy.

3. Certificates of Insurance/Notices. Contractor shall provide a Certificate or Certificates of Insurance, in a form satisfactory to the Commission, before commencing any work under this Contract. Certificates shall be mailed using the contact information provided in Part 1 of this RFP.

Unless otherwise agreed, policies shall be written so as to include a provision that the policy will not be canceled, materially changed, or not renewed without at least thirty (30) days prior written notice except for non-payment as required by law to the Commission.

Certificates of Insurance shall:

- a. Be in the form approved by the Commission.
- b. Disclose any deductible, self-insured retention, aggregate limit or any exclusion to the policy that materially changes the coverage required by the Contract.
- c. Specify the Additional Insureds and Named Insureds as required herein.
- d. When coverage is provided by a non-admitted carrier, be accompanied by a completed ELANY Affidavit, and be signed by an authorized representative of the insurance carrier or producer.

Only original documents (Certificates of Insurance, Supplemental Insurance Certificates, and other attachments) will be accepted.

4. Primary Coverage. All insurance policies shall provide that the required coverage shall apply on a primary and not on an excess or contributing basis as to any other insurance that may be available to the Commission for any claim arising from the Contractor's Work under this Contract, or as a result of the Contractor's activities. Any other insurance maintained by the Commission shall be excess of and shall not contribute with the Contractor's insurance regardless of the "other insurance clause contained in the Commission's own policy of insurance.

5. Policy Renewal/Expiration. At least two weeks prior to the expiration of any policy required by this Contract, evidence of renewal or replacement policies of insurance with terms no less favorable to the Commission than the expiring policies shall be delivered to the Commission in the manner required for service of notice in Paragraph A.3 above. If, at any time during the term of this Contract, the coverage provisions and limits of the policies required herein do not meet the provisions and limits set forth in the Contract or proof thereof is not provided to the Commission, the Contractor shall immediately cease Work on the Project. The Contractor shall not resume Work on the Project until authorized to do so by the Commission. Any delay, time lost, or additional cost incurred as a result of the Contractor not having insurance required by the Contract or not providing proof of same in a form acceptable to the Commission, shall not give rise to a delay claim or any other claim against the Commission. Should the Contractor fail to provide or maintain any insurance required by this Contract, or proof thereof is not provided to the Commission, the Commission may withhold further Contract payments, treat such failure as a breach or default of the Contract, and/or, after providing written notice to the Contractor, require the Surety if, any, to secure appropriate coverage and/or purchase insurance complying with the Contract and charge back such purchase to the Contractor.

6. Self-Insured Retention/Deductibles. Certificates of Insurance must indicate the applicable deductible/self-insured retention on each policy. Additional surety/security may be required in certain circumstances. The Contractor shall be solely responsible for all claim expenses and loss payments within the deductible or self-insured retention.

7. Subcontractors. Should the Contractor engage a Sub-contractor, the Contractor shall endeavor to impose the insurance requirements of this document on the Sub-contractor, as applicable. Required insurance limits should be determined commensurate with the work of the Sub-contractor. Proof thereof shall be supplied to the Commission.

B. Specific Coverages and Limits. The types of insurance and minimum policy limits shall be as provided below.

1. General Liability. Commercial General Liability Insurance (CGL), covering the liability of the Contractor for bodily injury, property damage, and personal/advertising injury arising from all work and operations under this Contract. The limits under such policy shall not be less than the following:

- Each Occurrence limit: \$2,000,000
- General Aggregate: \$5,000,000
- Products/Completed Operations should equal the General Aggregate limit
- Personal Advertising Injury \$1,000,000
- Damage to Rented Premises \$50,000
- Medical Expense \$5,000

Coverage shall include, but not be limited to, the following: premises liability; independent contractors; blanket contractual liability, including tort liability of another assumed in a Contract; defense and/or indemnification obligations, including obligations assumed under this Contract; cross liability for additional insured's; products/completed operations for a term of no less than three years, commencing upon acceptance of the work, as required by the Contract; explosion, collapse, and underground hazards; contractor means and methods; liability resulting from Section 240 or Section 241 of the New York State Labor Law.

The following ISO forms must be endorsed to the policy:

- CG 00 01 01 96 or an equivalent – Commercial General Liability Coverage Form
- CG 20 10 11 85, or, an equivalent- Additional Insured-Owner, Lessees or Contractors (Form B)

Limits may be provided through a combination of primary and umbrella/excess liability policies. The CGL aggregate shall be endorsed to apply on a per project basis for construction contracts.

Policies shall name the Commission as Additional Insureds, and such coverage shall be extended to afford Additional Insured status to those entities during the Products/Completed Operations term.

The CGL policy, and any umbrella/excess policies used to meet the “Each Occurrence” limits specified above, must be endorsed to be primary with respects to the coverage afforded the Additional Insureds, and such polic(ies) shall be primary to, and non-contributing with, any other insurance maintained by the Commission. Any other insurance maintained by the Commission shall be in excess of and shall not contribute with the Contractor’s or Subcontractor’s insurance, regardless of the “Other Insurance” clause contained in either party’s policy of insurance.

2. Professional Liability. The Professional and any Professional sub-bidder retained by the Professional to work on the Contract shall procure and maintain during and for a period of three (3) years after completion of this Contract,

Professional Liability Insurance in the amount of \$1,000,000 issued to and covering damage for liability imposed on the Professional by this Contract or law arising out of any negligent act, error, or omission in the rendering of or failure to render professional services required by this Contract . The professional liability insurance may be issued on a claims-made policy form, in which case the Professional shall purchase at its sole expense, with extended Discovery Clause coverage of up to three (3) years after work is completed, if coverage is cancelled or not renewed.

3. Comprehensive Advertising Liability. With a limit of not less than \$5,000,000 to cover claims arising from, but not limited to, occurrences committed by contractor such as:

- defamation, libel, slander, product disparagement or trade libel;
- invasion of or interference with the right to privacy or publicity, including intrusion upon seclusion, false light invasion of privacy, public disclosure of private facts and misappropriation of name or likeness;
- negligent or intentional infliction of emotional distress, outrage or outrageous conduct;
- false arrest, detention or imprisonment, or malicious prosecution;
- trespass, wrongful entry or eviction;
- infringement of copyright, piracy, plagiarism and misappropriation of ideas under implied contract;
- infringement or dilution of title or slogan, trademark, trade name, trade dress, service mark or service name.

4. Workers' Compensation. For work to be performed in New York State, the Contractor shall provide and maintain coverage during the life of this Contract for the benefit of such employees as are required to be covered by the NYS Workers' Compensation Law.

(a) Evidence of Workers' Compensation and Employers Liability coverage must be provided on **one** of the following forms specified by the Commissioner of the Workers' Compensation Board:

- (1) C-105.2 (September 2007, or most current version) – Certificate of Workers' Compensation Insurance. Bidder must request its carrier to send this form to the Commission; or
- (2) U-26.3 – Certificate of Workers' Compensation Insurance from the State Insurance Fund. Bidder must request that the State Insurance Fund send this form to the Commission; or
- (3) GSI-105/SI-12 – Certificate of Workers' Compensation Self Insurance.

All forms are valid for one year from the date the form is signed/ stamped, or until policy expiration, whichever is earlier. (**ACORD forms are NOT** acceptable proof of Workers' Compensation coverage.)

All forms must name THE NEW YORK STATE GAMING COMMISSION as the Entity Requesting Proof of Coverage (Entity being listed as the Certificate Holder).

- (b) If the Contractor is legally exempt from obtaining Workers' Compensation insurance coverage, Contractor must provide: **Form CE-200**, *Certificate of Attestation for New York Entities With No Employees and Certain Out of State Entities, That New York State Workers' Compensation and/or Disability Benefits Insurance Coverage is Not Required* which is available on the Workers' Compensation Board's website (www.wcb.state.ny.us).
- (c) If the Contractor is self-insured, Contractor must provide: **Form SI-12**, *Certificate of Workers' Compensation Self-Insurance*, available from the New York State Workers' Compensation Board's Self-Insurance Office; or **Form GSI-105.2**, *Certificate of Participation in Workers' Compensation Group Self-Insurance*, available from the Contractor's Group Self-Insurance Administrator.

5. Disability Benefits. For work to be performed in New York State, the Contractor shall provide and maintain coverage during the life of this Agreement for the benefit of such employees as are required to be covered by the New York State Disability Benefits Law.

- (a) Evidence of Disability Benefits coverage must be provided on: **Form DB-120.1** (May 2006 or most current version), *Certificate of Insurance Coverage under the NYS Disability Benefits Law*. Vendor must request its business insurance carrier to send this form to the Commission.
- (b) If the Contractor is legally exempt from obtaining Workers' Compensation Disability insurance, Contractor must provide: **Form CE-200**, *Certificate of Attestation for New York Entities With No Employees and Certain Out of State Entities, That New York State Workers' Compensation and/or Disability Benefits Insurance Coverage is Not Required* which is available on the Workers' Compensation Board's website (www.wcb.state.ny.us).
- (c) If the Contractor is self-insured, Contractor must provide: **Form DB-155**, *Certificate of Disability Benefits Self-Insurance*.

All forms are valid for one year from the date the form is signed/ stamped, or until policy expiration, whichever is earlier.

All forms must name THE NEW YORK STATE GAMING COMMISSION as the Entity Requesting Proof of Coverage (Entity being listed as the Certificate Holder).

2.14 CONTRACTOR REQUIREMENTS AND PROCEDURES FOR EQUAL EMPLOYMENT AND BUSINESS PARTICIPATION OPPORTUNITIES FOR MINORITY GROUP MEMBERS AND NEW YORK STATE CERTIFIED MINORITY/WOMEN-OWNED BUSINESSES.

By submission of a Proposal in response to this solicitation, the bidder agrees with all of the terms and conditions of Clause 12 of Appendix A – Equal Employment Opportunities for Minorities and Women.

In accordance with Article 15-a of the New York State Executive Law and in conformance with the Regulations promulgated by the Minority and Women’s Business Development Division of the New York State Department of Economic Development set forth at 5 NYCRR Parts 140-144, the bidder/contractor agrees to be bound by provisions to promote equality of economic opportunity for minority group members and women, and the facilitation of minority and women-owned business enterprise participation.

The EEO and M/WBE requirements are set forth in Appendix I of this RFP.

The M/WBE goal established under this RFP is 20%.

2.15 SUCCESSFUL VENDOR RESPONSIBILITIES AS PRIMARY CONTRACTOR

The Contractor will be required to assume responsibility for all contractual activities offered in the Proposal whether or not the Contractor performs such activities. Further, the Commission will consider the Contractor to be the sole point of contact with regard to contractual matters, including payment of any and all charges resulting from the Contract.

The Contractor may have subcontractors; however, the Contractor must accept full responsibility for the performance of any such subcontractor. If any part of the work is to be subcontracted, responses to this RFP must include a list of subcontractors, as provided in Part 4 of this RFP.

2.16 APPROVAL OF STAFFING

Subsequent to award, the Lottery must be notified of any personnel changes on the account at least five (5) days prior to the departure of any given employee in the event of a resignation. In the event of a termination by the Agency, the Lottery must be notified within 24 hours. Agency senior management must present the Lottery with a transition plan within 48 hours of an announcement that a position will be vacated. The Agency will have 60 days to fill an open position with an individual with the same or greater qualifications than the individual who vacated the position. The Lottery reserves the right to review and, if perceived necessary, disapprove any employee of the successful bidder who is assigned to the Lottery Contract, either at Contract inception or during the term or any extension thereof.

2.17 NEW YORK STATE SUB-CONTRACTORS AND SUPPLIERS

Proposers are strongly encouraged and expected to consider New York State businesses in the fulfillment of the requirements of the contract. Such partnering may be as subcontractors, suppliers, protégés or other supporting roles. Proposers are also encouraged to include the New York State Media Services Center (MSC) in the bidding process for any projects for which it meets the criteria. A list of MSC's capabilities are attached as Exhibit B.

Sub-contractor and supplier requirements are set forth in Appendix J of this RFP.

2.18 SUB-CONTRACT APPROVAL

The Lottery must approve subcontractors and may require the successful bidder to replace subcontractors who are determined to be unacceptable upon inception or during the term or any extension thereof. Subcontractors are subject to background checks of personnel and principals, and may also require bidder licensing.

2.19 DELEGATION AND/OR ASSIGNMENT

No delegation of any duties under this Contract to another entity shall be binding upon the State until the Lottery has given written consent to such delegation; nor shall assignments of rights to moneys due or to become due under this Contract be permitted to any entity other than Contractor, except by express written consent of the Lottery.

2.20 CODE OF CONDUCT FOR VENDOR

The Lottery 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 which would be linked to it in the public mind, avoid not only impropriety but also the appearance of impropriety. Due to this, Contractors associated with the Lottery are expected to:

- A. Offer goods and services only of the highest standards;
- B. Use their best efforts to prevent the industry from becoming embroiled in unfavorable publicity;
- C. Make sales presentations in a responsible manner; and when it is necessary to point out the superiority of their goods or services over those of their competitors, to do so in such a manner as to avoid unfavorable publicity for the industry;
- D. Avoid promotional activities that could be interpreted as improper and result in embarrassment to the industry;
- E. Report security problems or potential security problems promptly to the Lottery;

- F. Not offer or give any gift, gratuity, favor, entertainment, loan or any other thing of material monetary value to any Commission employee, or to any individual influencing the outcome of this project;
- G. At any point during the procurement and resulting Contract bidder must identify, and bring to the attention of the Lottery, real or apparent conflicts of interest as knowledge of such conflicts arise.

2.21 NON EXCLUSIVE RIGHTS

Nothing in this RFP or the Contract resulting from this RFP shall preclude the Lottery purchasing other concepts, products, services, or equipment from other sources throughout the duration of the resulting contracts.

2.22 OWNERSHIP OF MATERIALS

Ownership of all data, documentary material and operating reports originated and prepared exclusively for the Lottery pursuant to any Contract resulting from this RFP shall belong to the Lottery. Vendor agrees that, except where noted, all materials, documents, products, reports, data and other information, whether finished, unfinished, or draft developed, gathered or compiled under this agreement by vendor are the sole exclusive property of the Lottery and that they shall not be used by the vendor or any other person or destroyed without express written permission of the Lottery.

2.23 PARTISAN POLITICAL ACTIVITY

Funds provided pursuant to this Agreement shall not be used for any partisan political activity, or for activities that may influence legislation or the election or defeat of any candidate for public office.

2.24 COMMISSION SECURITY REQUIREMENTS

The Contractor, including its employees, officers, agents and subcontractors, shall be required to comply with all present and future security policies of the Commission. In addition, the Contractor, its subcontractors, project managers, their employees, officers and agents, and any and all persons involved in projects and work assignments under this Contract will be required, prior to access to any Lottery site, to be given a security clearance by the Commission. Anyone seeking access to a Lottery site must provide their name, address, date of birth, company affiliation, and a company point of contact for employment verification, at least one week prior to any site visit. Once preliminary access approval is granted by the Commission, all visitors to a site must provide two (2) forms of valid identification, including one photo ID and written authorization that they are acting on behalf of a designated employer and/or contractor. Only after site authorization is confirmed will access to the Lottery site be approved.

A. Physical Security During the Delivery of Contracted Services

(i) The Contractor shall be solely responsible for the safety and security of the project sites, facilities, and components under this Contract, with the exception that the Contractor is not responsible for overall building security at locations under the control and management of Lottery, local, State or federal agencies. The Contractor remains responsible, however, for security of project components or equipment within such buildings, e.g. secure equipment enclosures within the space provided by such agencies. The Contractor shall be responsible for and shall correct its failure or theft of any components or portion of the project due to the Contractor's inadequate physical and/or information security at its cost and expense.

(ii) The physical security and the information security of project data shall be provided at a level commensurate with that normally established for a similar system in today's heightened security environment. All components of site security shall be of suitable strength and design, and shall reasonably withstand attempts to gain unauthorized access.

B. Access by Personnel

(i) The Prime Contractor, its officers, agents, sub-contractors, and their employees and independent contractors, shall be required to comply with all applicable facility and information security policies and procedures of the Lottery and the State in performing the scope of work under this RFP. Such policies and procedures shall be communicated to the Contractor as a condition precedent to Contractor's obligations under this paragraph.

(ii) The Contractor warrants that each individual performing work under this RFP is legally eligible to work in the United States and that such eligibility shall be maintained at all times during the engagement while the individual is accessing any Lottery site, information systems or data contained therein. In addition, prior to accessing any Lottery site, project information systems or data contained therein, the Contractor, and its officers, agents, sub-contractors, and their collective employees and independent contractors performing work under this RFP, shall be required to:

(a) Obtain security clearance from the Lottery, which may include, at the Lottery's discretion, a criminal history and/or background investigation of each individual proposed to perform work under the Contract. Each individual assigned to the project by or through the Contractor shall be required to submit identifying information to the Lottery.

(b) Obtain from the Lottery and prominently display on their person, Lottery issued identification cards at all times while physically present at any Lottery site.

(iii) When an emergency or other circumstances occur which render immediate compliance with the foregoing requirements impractical, the Lottery may, in its sole judgment, defer an individual's compliance with the foregoing requirements and grant temporary access. Such deferment shall not be construed as a waiver of the Lottery's right to subsequently require security clearance as to any individual previously granted such temporary access; provided however, that even in such circumstances, the Lottery shall approve such individual's access prior to such individual accessing a site, system or data and the Lottery may accompany such individual at all times when on-site.

(iv) The Lottery reserves the right, in its sole discretion, and without liability to the Contractor's officers, agents, subcontractors, and their collective employees and independent contractors assigned to work under the Contract, to withhold approval of and refuse to permit access prior to such individual accessing a site, system or data and the Lottery may accompany such individual at all times when on-site. The Lottery reserves the right, in its sole discretion, and without liability to the Contractor's officers, agents, subcontractors, and their collective employees and independent contractors assigned to work under the Contract, to withhold approval of and refuse to permit access to Lottery facilities, electronic information systems or data contained therein to any individual proposed by or through the Contractor (A) who refuses to comply with the security procedures outlined in this section, or (B) where the Lottery determines that the individual may present a risk to the Lottery's security interests. The Lottery shall not be liable for payments or damages of any kind if the Contractor is delayed or unable to perform under the Contract as a result of the Lottery's denial of access to any individual(s) pursuant to this section.

LOT 1

CREATIVE & MARKETING COMMUNICATIONS SERVICES

PART 3 THROUGH PART 5

Pages 41 through 62 pertain to Creative & Marketing Communications Services – LOT 1 only. If you are not bidding on LOT 1 you may disregard these pages.

PART 3- SCOPE OF WORK

3.1 WORK AND DELIVERABLES

Prior to the start of each fiscal year (April), the Lottery will provide the Agency with a marketing plan, including product introduction schedules and business priorities, as well as an annual budget. The plan shall clearly define marketing and advertising communication objectives that result from the Lottery's general business goals and strategies. The Lottery staff and the Agency staff will meet as required, and at least on a monthly basis, to review the marketing objectives and strategies, with modifications being made as market and/or business needs arise.

The Agency awarded this contract will be expected to provide the following services including, but not limited to, the following:

- A. Business Partnership
- B. Account Management
- C. Strategic Account Planning / Market Research / Brand Metric and Advertising Communication Tracking
- D. Creative development, production and distribution of all advertising, marketing communications, and point-of-sale materials
- E. Advertising Effectiveness Analysis / Optimization
- F. Hispanic and Multi-cultural Marketing
- G. Digital Marketing & Advertising
- H. Social Media Management
- I. State & Local Marketing Programs
- J. Sweepstakes / Promotion Management
- K. Direct Marketing / Database Management / Customer Relationship Marketing
- L. Creative Development & Content Management of Lottery Websites
- M. Budget / Billing Management
- N. Annual Agency Review

3.2 SCOPE

The section below provides an overview of the responsibilities of the Contracted Agency, as well as the expectations the Lottery has for a successful partnership throughout the contract period.

- A. **Business Partnership** – Become a partner in the development and evolution of the Lottery business, brand and product portfolio to further the Lottery's mission of providing aid to New York State public education. The Lottery expects that the entire Agency team will be committed to the same goals as the Lottery and will create and execute programs that will deliver on those objectives.

1. Agency personnel assigned to the account are expected to build and maintain an industry knowledge base that will inform business decisions and recommendations.
 - a. Each year, two (2) individuals from the Agency team must attend industry conferences, such as PGRI, NASPL and WLA, and share learnings and industry best practice with the broader team and Lottery marketing team.
 - b. Two (2) individuals from the Agency team are encouraged to participate in industry training sessions once per year. Such training is offered by trade associations, such as WLA.
2. On-site meetings at Lottery offices will be held as required and at a minimum of twice monthly to discuss the state of the business and plans for upcoming initiatives.

B. Dedicated Account Management – Provide a seasoned, dedicated account team that will work collaboratively with the Lottery’s Marketing Unit to manage the daily activities of the account. This Account Group will be assigned exclusively to the Lottery business. A key role of the Account Management Team is to become thoroughly involved with the Lottery’s business and keep on top of industry trends, sales performance, and product developments. They will also work closely with the Account Planning group to ensure that consumer-centric strategies are being developed that tie into Lottery’s business objectives. The Account Team will be responsible for establishing regular communications between the Media Agency and the Creative Agency to ensure seamless integration of the advertising program. The Account team will also be responsible for preparation of the following reports:

1. **Status Report** – Weekly status reports will be issued detailing all current projects, production jobs, promotional events, reporting and meetings. Status reports shall include timelines for all initiatives, allowing no fewer than 5 days for Lottery approval at any stage.
2. **Annual Advertising Plans** – Based on the Lottery’s Fiscal Year (April – March) and following receipt of the Lottery’s Marketing Plan, the Agency is expected to prepare an annual advertising plan in partnership with the Director of Advertising / Marketing Unit which must include at a minimum:
 - a. Innovative approaches for planned business initiatives, including how these strategies achieve the Lottery’s goals with measurable Key Performance Indicators for post-initiative evaluations.

- b. A general breakdown of proposed spending for production, talent, research, and other projected expenses.
 - c. Opportunities for special events, promotional activities, and any other topics specified by the Lottery.
- C. **Strategic Account Planning / Market Research / Brand Metric and Advertising Communication Tracking** – Provide a team of experts in strategic planning. The team’s responsibility will be to gain and transfer extensive knowledge of the Lottery’s various customer and prospect consumer groups from a demographic and psychographic perspective. Alongside the Lottery’s Director of Advertising, it is also their responsibility to propose, conduct and analyze market research as necessary to gain such consumer insights to inform strategic direction for the account. The Account Planners must be responsible for the development of consumer-led strategies for all initiatives, providing relevant consumer insights or recommendations for additional market research to support the proposed initiatives in Annual Advertising planning and drafting of all creative briefs. Planners will work closely with the Account Team to gain a thorough understanding of the Lottery’s business objectives and product specifications to enable the Planners to develop consumer insights to deliver effective marketing and advertising strategies that will achieve stated objectives for each initiative and the account as a whole.
- D. **Creative development, production and distribution of Advertising, Marketing Communications and Point-of-Sale materials** – Develop effective, breakthrough creative and produce it with high-quality production standards in the most cost-efficient manner. Creative includes, but is not limited to, television, radio, print, out-of-home, and digital advertising, plus an extensive array of merchandising items and point-of-sale materials for a retailer network of approximately 18,000. Agency may also be required to assist the Lottery in developing game names, product logos, or art for other use. The Agency shall ensure all creative elements are produced and distributed on time and on budget.
- 1. **Creative Brief** – The Lottery shall provide the Agency with a briefing document for each advertising initiative that provides business opportunity, product overview, campaign objectives, general strategy, key consumer insights, project budget, sales targets and other measurable Key Performance Indicators (KPIs) against which the campaign will be evaluated. The Agency Account Planning group and Account Management team will then develop a Creative Brief which will inform the Creative Teams about strategy and the initiative details and guide creative development. The Agency’s Creative Brief shall be approved by the Lottery prior to briefing the Creative Teams. And all creative presented will be evaluated based on its delivery against the creative brief.

2. **Creative Concepts** – The Agency shall develop advertising and marketing creative that represents the Lottery brand in a positive light and in a manner consistent with the brand identity, and where there is a relevant existing campaign platform (e.g., Powerball’s “Yeah, That Kind of Rich”) consistent with that campaign platform. For new campaigns, the Agency shall present overarching 360⁰ big idea platforms, with at least 3 creative routes for each potential platform, with at least 3 creative options for each medium in the campaign. For existing campaigns, the Agency shall present at least 3 creative options for each medium that fit with the campaign’s overarching 360⁰ big idea platform. Storyboards shall be prepared and presented for television executions developed for the approved campaign concept before commercials can be submitted for bid by directors.
3. **Creative Timelines** – The Agency shall plan creative development schedules that allow sufficient time for developing and presenting integrated creative solutions, editing and revising selected options, obtaining final approvals from the Lottery staff, producing the final product, and distributing the finished product according to Lottery specifications. Creative development timescales should also allow for concept and script refinement, through qualitative testing ensuring target audience message clarity, general comprehension and appeal. Additionally, Agency time plans need to allow for a signed off 360⁰ big idea platform, creative route and executional style guides for use by the Lottery in-house creative department. Unless otherwise approved by the Lottery, all timelines shall include a minimum of 5 working days for approval by the Lottery at every stage of each job or project. The Agency shall provide detailed production schedules with task milestones for each job. Prior to conference calls between the Agency and the Lottery, all required materials must be sent via email no later than 1 hour before the call unless otherwise approved by the Lottery. The Lottery will not be responsible for any additional costs incurred as a result of the Agency’s not adhering to set timelines.
4. **Casting** – Talent recommendations must be made to the Lottery for any and all advertising and marketing creative. Casting auditions must be provided for all On-camera or Voice-over talent and must be presented with alternates, allowing the Lottery a minimum of 2 business days for review and approval.
5. **Artwork Changes** – The Agency shall only be allowed to charge the Lottery one time for artwork that is used in multiple forms, except for the reduction or enlargement of the artwork. Artwork required for

any print advertisements shall be billed as a one-time item on a separate invoice.

6. **Creative Approvals** – The Agency shall obtain written approval from the Lottery prior to producing any advertisement or promotional item. When producing any creative work, the Agency shall not vary from approved scripts, story boards or print layouts without written approval from the Lottery. Failure to adhere to approved scripts, storyboards or layouts may void the Lottery's approval of the estimate for the project. The Agency shall incorporate all changes required by the Lottery, as well as submit any other alternative creative solutions deemed prudent by the Agency. The Agency shall be responsible for all unauthorized expenses.
- E. **Advertising Effectiveness Analysis / Optimization** – The Lottery will evaluate the effectiveness of all advertising initiatives upon completion based on established KPIs from the corresponding relevant creative brief and Monthly campaign tracking / brand metrics. KPIs may include improvements in participation, frequency and awareness measures, sales goals or other criteria determined as 'What success looks like' by the Lottery prior to the development of the work and detailed in each initiative brief and/or annual plan objectives.
1. **Post-Campaign/Promotional Report** – In the quarter following the conclusion of a campaign phase or promotional event, the Agency shall provide a recap of the initiative, including total expenses and performance against established KPIs to assist the Lottery in the evaluation of its success.
- F. **Hispanic and Multi-cultural Marketing** – The Agency will develop effective strategies for reaching the diverse New York State population and integrate such marketing efforts into general market program to achieve stated goals. If the Agency determines that a separate diversity initiative would improve deliverables, then the Agency shall present the recommendation to the Lottery for approval with complete rationale for the initiative.
1. **Dedicated Hispanic/Multi-Cultural Account and Creative Teams**
– Whether provided in-house or through a partner Agency, the Contracted Agency must dedicate account and creative teams with relevant experience and multi-lingual expertise to manage the Lottery's Diversity marketing programs. It will be the responsibility of these teams to ensure that the Lottery's Hispanic and Multi-Cultural activities are effective for the target audiences and work synergistically with the General Market programs.
 2. **Translation Services** – These services may include translation in multiple languages, terminology creation and management, editing,

proofreading, studio linguistic advising and post-processing, and cultural review. Translation services must be available upon request. In its advertising, the Lottery has used translation services for Spanish, Chinese (Mandarin) and Korean.

- G. Digital Marketing & Advertising** – Create innovative digital marketing campaigns to effectively communicate with target audiences through all digital consumer touch points. There will be an emphasis placed on creativity and effectiveness of digital initiatives, with KPIs and measurement tools established with the Lottery prior to the development of any campaign. Digital programs must work synergistically with other advertising communications to achieve stated goals. The Agency must remain current on all emerging technologies and provide the Lottery with timely recommendations for digital marketing opportunities.
1. **Digital Marketing Manager** – The Agency will be responsible for providing a full-time individual to work at the Lottery offices in Schenectady to serve as a technical consultant to the Marketing Unit on all things digital, including website development, email marketing, social management issues, app development, mobile marketing, etc. This individual will act as a liaison between the Agency, Lottery's Marketing Unit and Technology Service Providers. The individual will be accountable to the Director of Sales & Marketing and will be hired and salaried through the contracted Agency.
- H. Social Media Management** – Work with the Director of Advertising to manage the Lottery's comprehensive social media communications platform. The goals of the social program are to increase engagement with the Lottery brand among existing players and future players; to communicate brand and product news; and reinforce the Lottery's advertising and marketing initiatives in the social arena. Agency responsibilities include strategic development, content & creative development, community management, optimization and performance analysis through monthly reporting.
- I. State & Local Marketing Efforts** – The Agency will be responsible for the development, management and fulfillment of State & Local Marketing Programs, including sports marketing, experiential marketing, local events and promotions. Working with the Media Planning & Buying agency, the Agency shall bring forward new and viable opportunities to build brand awareness and promote Lottery products. Agency will develop and provide creative assets for these state & local marketing programs and ensure that they work synergistically with the overall marketing and advertising plans. The Agency may be responsible for designing promotional giveaways and interactive and experiential activities in support of the Lottery's brand and products. This may include contracted services with third party vendors, equipment, supplies or other components required to conduct the promotional event/activity.

- J. **Sweepstakes / Promotion Management** – Develop and manage on-going promotional projects, including media-driven promotions, sweepstakes, online contests, and on-site local events. Ensure that all promotional activity is effective and measurable based on KPIs pre-determined by the Lottery and is consistent with the Lottery brand character.
- K. **Direct Marketing / Database Management / Customer Relationship Marketing** – Work with the Lottery to develop and implement a comprehensive strategy for building and maintaining a solid customer base that is loyal to the Lottery brand. Achieve this through email marketing, customer loyalty program, couponing, database management, and other tactics deemed appropriate to achieve the Lottery’s business goals through all current and future channels.
- L. **Creative Development / Content Management of Lottery Websites** – Provide creative input into the design and content management of Lottery websites, including nylottery.ny.gov and a retailer-focused website, nylotteryretailer.com. A new website will be developed in 2014/15, and it will be the responsibility of the new Agency to work with the Lottery on all creative aspects of the websites to ensure it enhances the consumer experience with the Lottery brand and works synergistically with all other marketing and advertising communications. Actual programming will be conducted by New York State’s centralized ITS Unit and its sub-contractors.
- M. **Budget / Billing Management** – Due to the size of the Lottery’s advertising budget, a dedicated budget/billing staff is required to work directly with the Lottery Marketing and Gaming Commission Finance Units on a daily basis. They must be (become) familiar with competitive bidding requirements and have the capability to track production costs of advertising and retail materials on a per unit basis. (Note: The New York Lottery has formal, highly detailed procedures for budget management and expenditure requirements. Poor budget management and failure to comply with these procedures may result in delayed authorizations to proceed with media and/or production projects as well as substantially delayed payment of bills and invoices based upon inadequate billing documentation. Bidders should give strong consideration to allocation of at least one, full-time person for Lottery budget management support.)
1. **Approved Expenditure Report** – Each month, the Agency must prepare this report to summarize all approved expenditures to date in the Fiscal Year. The summary will show the total amount available in the budget and the total amount currently committed, as well as invoicing status. The report will be reviewed with the Lottery on a monthly basis to ensure all expenses are properly accounted for and budget plans remain aligned with marketing initiatives.
 2. **Agency Fee Reconciliation Reports** – The Agency will be responsible for providing all back-up documentation on staffing hours

on a monthly basis to enable Lottery to track labor costs against Annual Fee.

N. **Annual Agency Review** – Once a year, the Agency shall participate in an Annual Agency Review of overall account performance to determine the Agency’s eligibility for the Performance-Based Bonus (Specific details on bonus eligibility are outlined in Section 4.8.) and inform account decisions in next fiscal year, including determining if any staffing changes are required. This opportunity will also allow the Lottery to review the prior year’s activity to ensure proper contract compliance by the Agency. The Annual Agency Review will consist of the following three components:

1. **Performance Evaluation** – Based on written qualitative evaluation by the Lottery, the Agency’s performance across all disciplines will be evaluated based on the Agency’s ability to meet established client expectations. The Agency Performance Evaluation Questionnaire that will be used in the Annual Agency Review process is included in Exhibit A for reference.
2. **Agency Metrics** – As the second component of the Annual Agency Review process, the Agency will be evaluated on their ability to drive consumer attitudes and behaviors that can be attributed to marketing. At the Annual Agency Review, the Lottery will determine if the specific pre-determined brand metrics / KPI’s were met for each project initiative completed by the Agency during the fiscal year. A sample of the Agency Metrics Evaluation Form is included with Exhibit A for reference.
3. **Business Metrics** – The final component of the Annual Agency Review measures the agency’s ability to help the Lottery deliver against pre-established sales goals. A sample of the Business Metrics Evaluation Form is included with Exhibit A for reference.

3.3 LOTTERY RESPONSIBILITY AND PROJECT CONTROL

The Lottery’s marketing plan is developed and administered by its Marketing Unit, under the direction of the Acting Director of the Lottery. The Sales & Marketing Director leads the Lottery’s integrated marketing program. The Agency will work under the direction of the Director of Advertising, who reports to the Sales & Marketing Director. The Gaming Commission’s in-house Communications department will direct and execute all aspects of Public Relations, Press Communications and Customer Service for the Lottery.

3.4 REPORTS

Specific reports required by the Lottery were outlined in Section 3.2, however, there may be the need for additional reports to be developed and executed on a regular or sporadic

basis throughout the term of the contract. Those reports specified in Section 3.2 represent the minimum number of reports that will be required by the Agency.

PART – 4 INFORMATION REQUIRED FROM BIDDERS

In preparation of the Proposal, each bidder should pay special attention to the requirements and information being requested in order to respond fully to the RFP. Any Proposal found to be incomplete or placing conditions in response to the requirements under this RFP may be deemed non-responsive and removed from further consideration.

Technical evaluations will be done in two phases. Phase One will determine whether the Agency meets the minimum qualifications defined herein, and the business credentials, including an in-person presentation, will be scored. Agencies who meet the minimum qualifications and receive a score higher than the minimum scored defined, will be notified that they are a finalist, and will proceed to Phase Two, which will consist of development of responses to specific creative or media scenarios, based on the LOT in which you are bidding.

PHASE ONE

4.1 BUSINESS ORGANIZATION & EXPERIENCE

- A. The bidder must state the full name and address of its organization and, if applicable, any branch office or other subordinate element that will perform or assist in the performance of the work hereunder. The bidder shall indicate whether it operates as an individual, partnership, corporation, joint venture, or other specified form of business organization. If the bidder is part of a larger holding company, details of the structure must be defined. Each bidder must state whether they are qualified and/or registered to do business in the State of New York.
- B. The bidder must indicate the name, address (including e-mail) and telephone number of the individual from your organization that is authorized to enter into and bind the organization to the terms and conditions of its Proposal.
- C. In addition, the bidder must demonstrate in its Phase One Technical Proposal (Credentials) that its organization is of sufficient size and has the qualifications required to perform the requested services as defined in this RFP. The Proposal must include the following:
 1. Thorough description of the organization, including employee capacity to undertake and successfully carry out the proposed services. Indicate the specific team that will be the Bidder's proposed Account Team to work on the Lottery business if successful.

NOTE: ACCOUNT TEAM CHANGES ARE AT THE DISCRETION OF THE NY LOTTERY.

2. Three (3) relevant case studies that incorporate business problem/opportunity, creative solution and quantitative results.
3. Agency creative reel, as well as representative samples of radio, print, digital, events, sponsorships and Point of Sale (POS) materials, if not featured in the Agency reel.
4. Brief summary of Agency mission, culture and guiding philosophy.
5. Overview of Agency's planning and creative development process.
6. List of Agency strengths and capabilities with relevance to the Lottery business.
7. Client list of New York office, including billing ranges and tenure with the agency.
8. List of any accounts the New York office has lost or resigned over the past two years and comments on why this occurred.
9. Approximate percentage breakdown of the creative output by media type (e.g., television, radio, magazine, newspaper, outdoor, direct, interactive/digital, collateral/POS, or other media specific types of creative products).
10. Brief description of the Agency's Staff Retention principles (i.e., hiring and training).
11. Describe why the Agency is uniquely suited to address the challenges and opportunities of the Lottery account.

4.2 FINANCIAL VIABILITY

The bidder must submit information demonstrating the bidders' financial viability, integrity and stability, including, but not limited to, audited financial reports and client lists for the past three years. Further, to the extent not already provided in the Vendor Responsibility Questionnaire, the bidder shall describe key corporate personnel, ownership control, and facilities available to satisfy the requirements of the proposed Contract. This information will be used in conjunction with the Vendor Responsibility Questionnaire in determining whether the bidder is "responsible" and therefore subject to award under this procurement.

4.3 PROJECT MANAGEMENT AND STAFFING

As part of the Proposal, the Bidder must submit an in-depth staffing plan by department for managing the Lottery account as defined in this RFP scope of work (Part 3). The Proposal must identify the full-time lead(s) on the account and other responsible individuals by name, title, and location who will work under a resulting Contract, including proposed subcontractor staff members. As defined in the Annual

Agency Review section 3.2, the staffing plan may be altered after Year One of the contract, if it is deemed necessary by the Lottery and the Agency to meet the business needs of the Lottery. **This proposed staffing plan must be the same staffing plan that is included in the determination of the Agency Labor-based Fee in the Pricing Proposal or the Agency will be deemed unresponsive.**

- A. The Bidder must provide resumes for key staff members indicating the relevant education, knowledge, training, and experience of each individual, his or her role on the account, and anticipated Full Time Equivalent (FTE) each individual will attribute to the Lottery account. The State expects that the same key personnel will have overall responsibility for all projects conducted pursuant to this RFP. Exceptions may be made only with the approval of the Lottery.
- B. An organizational chart with definition of roles and brief biographies for all proposed staff members, other than clerical level, must be included in the Proposal.
- C. The Agency must also provide resources for development and management of the Lottery’s Hispanic marketing efforts. Whether this function will be provided in-house by a dedicated team or whether the Agency will be subcontracting with a Spanish Language or Multi-Cultural Agency must be clearly defined in the proposal.

4.4 REFERENCES:

The Proposal must name as references at least three clients relevant to the work to be performed under the Contract resulting from this RFP. References must include company name, contact person (name, title, telephone number, email address, and mailing address). Also, each reference must include a general statement of the type of work performed for the reference. References will be used by the Lottery to substantiate the Technical Proposal.

4.5 SUB-CONTRACTORS

If applicable, the Proposal must list all subcontractors, including firm name and address, contact person, and a complete description of work to be subcontracted. Descriptive information relative to the sub-contractor’s organization and capabilities must be included. If the bidder does not intend to utilize subcontractors, that too should be indicated in the Technical Proposal submitted under Phase One.

4.6 CREDENTIALS PRESENTATIONS

Phase One requires that the Agency prepare substantiation that the Agency meets or exceeds the Minimum Qualifications, as well as complete responses to Agency Credentials questions outlined in Part 4. These responses make up the Phase One Technical Proposal (Credentials) and must be submitted in writing (due by June 6, 2014 at 3:00pm EST) and also presented in person to the Lottery at the Agency’s New York

office during regular business hours at a scheduled 90 minute time slot during the weeks of June 11 – July 15, 2014. It is expected that all Bidders will make themselves available during this window of time established by the Lottery for the Phase One Credentials presentations. Bidders will be contacted by the Lottery between June 9 and June 10, 2014 to schedule the specific date and time of their individual Credentials presentation. Agencies that are unable to present during the specified time will be deemed unresponsive.

Agency qualifications that are provided in the Phase One Technical Proposal written submission are to be presented in person at the Agency’s New York Office. The intent of the Credentials Presentation is to allow the Agency to provide the Lottery with an overview of their capabilities, corporate structure, relevant experience, corporate philosophies, and creative work, as well as to give the Lottery an opportunity to determine that Agency’s physical site is conducive to proper management of the Lottery account. Importantly, the Credentials presentation will allow the Lottery to meet the specific Agency team that will be assigned to the Lottery account and assess their ability to establish a rapport with the Lottery Evaluation Committee. **The Credentials presentation must be given by the team who will be managing the Lottery account if they are awarded the contract, or else the Agency will be deemed unresponsive.** The Phase One Technical Proposal (Credentials) provides the Agency the opportunity to demonstrate to the Lottery why they are uniquely qualified to handle the Lottery account.

At the conclusion of Phase One Oral Credentials Presentations, the Agency’s Phase One Technical Proposal will be scored, and it will be determined at this time whether the Agency will proceed to Phase Two based on the minimum qualifying score defined in Part 5 of this RFP.

PHASE TWO

4.7 SCENARIOS FOR EVALUATION

Phase Two requires that the Agency prepare responses to two separate assignments which will be submitted in writing (due on August 13, 2014 at 3:00pm EST) and also presented in person to the Lottery at the Agency’s New York office subject to approval by the Lottery, at a scheduled 2-hour time slot during the weeks of August 14 – September 12, 2014. The assignments are based on the Lottery’s business challenges and the Agency’s solutions to these challenges will, in part, determine who is awarded the contract.

A. CREATIVE ASSIGNMENT: “GROWING LOTTO”

Lotto was introduced by the New York Lottery in 1978 as the first “pick-your-own-numbers” weekly draw game that provided a jackpot of \$250,000. The jackpot would roll up if its numbers were not hit. Lotto’s popularity took off in the 1980’s and resulted in phenomenal sales of \$6.5 million a week on average and jackpot prizes began at \$3 million a week. Lotto enjoyed success within the Lottery’s portfolio of traditional

Lottery games, but the introduction of the two multi-state Jackpot games, Powerball and Mega Millions, has taken a significant toll on Lotto sales.

As the payout percentage in Lotto is a statutory 40% (making every sale of Lotto more profitable than other lottery games within the portfolio with regards to net returns for the Mission for Education), sales of the game have been in a years-long decline, especially since the addition of Mega Millions (in 2002) and Powerball (in 2010) to the Lottery's portfolio. Powerball is also drawn on the same nights as Lotto, which may also be a contributing factor. The 2013/14 fiscal year saw Lotto sales decrease by 13.3%, from \$107.2MM to \$92.9MM, despite overall Lottery sales increasing. Lotto sales have dropped a total of 48.4% over the past 5 years from \$179.9MM in 09/10 to \$92.9MM in 13/14 showing that this is not just a blip in the radar screen. This steady downward trend also applies to the Lotto's percentage of overall traditional Lottery sales. Lotto is becoming an ever shrinking piece of the New York Lottery pie. In the most recent fiscal year 2013/14, Lotto only represents 1.3% of total sales, down from 2.6% five years ago.

The game has evolved over the years to try to stem the declines. The starting Lotto jackpot was reduced from \$3 million to \$2 million (in 26 graduated payments) in April 2013, rollovers were reduced from \$500,000 to \$300,000 over Thanksgiving weekend in 2012; in the late 1990s, its jackpot was \$10 million after only one rollover. A bonus feature called "Lotto Extra" was introduced to try to generate more interest in the game, but was quickly discontinued in May 2010 due to lack of interest.

The challenge today is to reverse the decline of Lotto, targeting a 15% sales growth in the first year of the campaign. Each Bidder shall develop a creative marketing and advertising program that will positively move the needle on Lotto not only in sales but in levels of frequency of play, too. The primary goal of the program is to drive sales of Lotto across all existing sales channels throughout New York State. As part of the submission, the bidder must prepare a marketing and advertising strategy grounded in consumer insight and supporting creative 360⁰ Big Idea and associated campaign(s) that will meet the stated objective. In addition to showcasing the Agency's creative product for this Lotto assignment, each Bidder must also clearly define in their written and oral presentations how they approached the following areas as they relate to the creative campaign(s) being presented:

1. Analysis of the marketing situation
2. Determination of target audience
3. How the consumer insight was determined
4. Development of marketing & advertising strategy to deliver on the consumer insight
5. Creative Development Process
 - a. Include Creative Brief against which campaign was developed
6. Determination of Project budget as it relates to the annual budget allocation
7. Production Process
8. Tracking and Analysis of Effectiveness

Specific consideration should be given to how the advertising would be adapted for the Hispanic market. If a separate campaign is recommended for this market, a clear rationale must be provided.

The bidder should also include an overview as to how the campaign(s) would be evaluated for effectiveness and efficiency to ensure that dollars invested are being maximized and that the creative is meeting its stated objectives. The proposal must include specific measurement tools and processes the Agency intends to use to evaluate the campaign(s).

NOTE: It is important that bidders understand that any Lottery advertising message has to be in good taste and reinforce the Lottery’s integrity and credibility. All Lottery marketing and advertising activity must strive to avoid controversy. Lottery advertising is under close scrutiny, particularly if the message can be interpreted to focus on “excessive greed” or “gambling.” All New York Lottery advertising needs to reflect a positive image of New Yorkers and of the Lottery. This image needs to be consistent across all communications, including choice of talent, subject matter, and imagery in both direct and implied messaging. The New York Lottery is dependent upon public trust to maintain and increase its business. New Yorkers have to believe that the Lottery is honest, properly run and maintains the highest standards for operations. This information is intended to provide general creative guidance and should not limit the creativity of the proposals.

Data required for the preparation of this assignment will be provided to agencies identified as finalists at the conclusion of Phase One. These documents include:

- Lotto Historical Overview
- Lotto Sales by County (past 5 years)
- Jackpot Game Sales Comparison (past 5 years)

B. STRATEGIC ASSIGNMENT: “MAXIMIZING SHARE OF DISCRETIONARY INCOME”

While the New York Lottery does not directly compete with other state Lotteries, with the exception of overlapping commuter and media markets, there is still a great deal of competition in the marketplace with which the Lottery must contend on a daily basis. Recognizing the fact that purchases of Lottery tickets are wholly discretionary in nature, the Lottery must compete with other low out-of-pocket purchases, as well as other gaming opportunities across New York State, for a portion of the consumers’ discretionary spend. For reference, Lottery players spend an average of \$22.9 over a 7-day period on all traditional Lottery games combined. Average spend per visit ranges from \$4.8/week for Pick 10 to \$20.4/week for Win 4. As such, the Lottery must focus its marketing efforts on maximizing its share of consumers’ discretionary income in order to achieve its business goals of growing revenues and aid to education.

For this assignment, each Bidder must prepare a strategic approach to maximizing share of discretionary income among New Yorkers 18+ who can legally play Lottery

games. The Bidder's response must include details of the following:

1. Methodology for analyzing the market situation
2. Sources of all consumer insights that informed strategic development
3. Explanation of strategy development process
4. Rationale for recommended strategic approach
5. Proposed implementation of the recommended strategy
6. Modelling of changes to consumer discretionary spend that supports the approach
7. Process for implementing the strategy

NOTE: Creative campaigns are not required for this assignment and should not be submitted in the Bidder's response.

Data required for the preparation of this assignment will be provided to agencies identified as finalists at the conclusion of Phase One. These documents include:

- Lottery Player Demographics & Usage
- NY Lottery Regional Map
- Retailer List by County
- 12/13 Weekly Sales by Game

4.8 PRICING PROPOSAL

As a New York State government agency whose sole mission is to generate revenues to provide aid to state education, the Lottery must successfully manage the use of state funds to market Lottery products. It is therefore the responsibility of the Lottery and its Agency to maximize the effectiveness and efficiency of the marketing investment. To that end, the Lottery expects an aggressively-packaged compensation package to help maximize working advertising dollars as a proportion of the total budget. The budgets provided herein are inclusive of all Agency compensation.

Bear in mind that in addition to the Labor-based Fee structure, the Lottery will also provide the Agency with a performance-based bonus component to the overall remuneration package, as outlined in Section 2.8. It is the Lottery's goal that this will serve as an additional incentive for the Agency to create effective advertising and marketing programs that will drive key business and agency metrics that will ultimately make the Lottery more successful in its mission to provide aid to education.

As described in Section 2.8, the Agency will be compensated, in part, by an annual fee that is derived from a Labor-based compensation model that takes into account the Agency's direct and indirect costs, as well as reasonable profit margin. The Pricing Proposal must define this fee on an annual basis and clearly describe how it was derived. Referring to the details in **Attachment 2 – Pricing Proposal Form**, and based on your Agency's own recommended staffing model for the Lottery account, provide the details of the fee calculation for evaluation by the Lottery. Keep in mind that the annual fee is only

part of the Agency’s overall remuneration package. In addition to the Labor-based Annual Fee, there is the possibility to earn an additional financial Bonus of up to \$500,000, as described in Section 2.8. The Pricing Proposal must include the information outlined below.

Annual Fee – Provide the proposed annual labor-based fee to effectively and efficiently manage the Lottery account based on the Scope of Work outlined in this RFP. As defined in Section 2.8, the annual fee set forth in the Pricing Proposal, and the staffing plan upon which it is based, applies only to year one of the contract. At the conclusion of year one, and at the close of each fiscal year within the contract, the Annual Agency Review provides the opportunity to alter the staffing plan, if required, which would affect the annual fee. The components that go into the annual fee, however, are fixed for the five-year term of the contract. The annual fee is composed of the following elements:

A. Direct Labor Costs – Provide the total projected direct labor costs for the Scope of Work defined in this RFP based on the Agency’s proposed staffing plan and the Agency’s standard hourly rate card, as defined by function and by seniority level (see Attachment 2 – Pricing Proposal Form for an explanation of terms and what should and should not be included in the cost components). Calculations should be based upon one Full Time Equivalent (FTE) equaling 1,800 annual hours.

1. **Agency Staffing Plan** - Provide the list of Agency staff positions that will be assigned to the Lottery account, including the percentage of each FTE that will be dedicated to the account.
2. **Standard Rate Card** – Submit hourly labor rates for all Agency staff positions that will be assigned to the Lottery account in Year 1 of the contract, or could be added in subsequent contract years. A Standard Rate Card is attached as **Attachment 3**. The Bidder must complete the rate card using standard hourly rates for each position listed. If the Bidder uses different names for positions with similar titles, the precise titles must be included on the rate card submission.

Each position on the Rate Card has been identified as an Executive Level (E), Senior Level (S), Mid-Level (M) or Junior Level (J). These labor rates will remain fixed for the length of the contract. All bidders must complete the form and provide rates for all Agency staffing positions, whether or not they are planned to service the Lottery account in year one of the contract. If a position(s) do not exist within the Bidder’s agency, the hourly rate field should be populated with “N/A”.

B. Indirect Costs – Identify a specific percentage over direct labor costs for Agency overhead (e.g., rent, utilities, corporate insurance, depreciation, equipment leases or purchases and maintenance, supplies, loan costs, etc.) and indirect payroll costs (e.g., general office administration, human resources,

accounting, tech support, executive management, secretarial and clerical staff, and other back office functions) that will be factored into the Annual fee. This percentage will remain fixed for the length of the contract.

C. Profit Margin – Propose the profit margin that takes into account the two-tiered compensation plan (Section 2.8). Profit should be identified as a percentage of gross income (pre-FIT). The Profit Margin will remain fixed for the length of the contract.

Rate Card: The positions and related rates listed in the Rate Card will also be considered in the evaluation of Price as provided in Part 5 of this RFP.

4.9 ADDITIONAL INFORMATION AND COMMENTS

The bidder should include any other information that is believed to be pertinent but not specifically asked for elsewhere.

PART 5 – EVALUATION AND SELECTION

5.1 INTRODUCTION

This section describes the evaluation process that will be used to determine which Proposal provides the Best Value to the State. The ability of the Lottery to evaluate a bidder's Proposal is dependent upon the completeness and proper submission of the Proposal. The failure of a bidder to provide information requested by this RFP, to submit the Proposal according to the required format, or to respond appropriately to a clarification request or demonstration request, may result in rejection of the bidder's Proposal or reduction in scoring during the evaluation.

5.2 EVALUATION METHODOLOGY

The Commission will conduct a comprehensive, fair, and impartial evaluation of Proposals received in response to this RFP. In making a selection, the Lottery will be represented by an Evaluation Committee (the "Committee") comprising of Commission staff members, including those from the Marketing, Advertising, Sales and Finance Units. In addition, there will be Commission employees and a consulting firm serving as subject matter experts who will also be involved in the review process as non-voting members of the Committee. The Lottery reserves the right to make changes in the Committee's membership as necessary.

Scoring of the Technical Proposals will be by consensus of the Committee. The Pricing Proposals will be scored by one or more individuals from the Commission's Finance Office designated by the Committee and will be based on a pre-determined formula. The relative weight of technical to price will be: Technical 80%; Price 20%.

5.3 EVALUATION AND AWARD STEPS

The evaluation and award process will comprise all of the following:

PHASE ONE

1. Pass/Fail evaluation of the minimum qualifying requirements of the bidder as provided for in Part 1 of this RFP.
2. Review of Phase One Proposals to assess compliance with Proposal submission requirements, including responsiveness to terms, conditions and requirements.
3. Detailed review by the Committee of the Phase One Technical Proposals relative to proposed functions, features, services, and references, using the requirements and criteria defined in this RFP.
4. Proposal clarifications, if applicable.

5. Onsite Credentials Presentations.
6. Evaluation and scoring of Phase One written Technical Proposal and Onsite Credentials Presentations by the Committee.
7. Phase One Finalist selection will be based on scores of at least 70% of points available for Phase One.

PHASE TWO

8. Detailed review by the Committee of the Phase Two Technical Proposals relative to proposed functions, features, services, and references, using the requirements and criteria defined in this RFP.
9. Proposal clarifications, if applicable.
10. Onsite Pitch Presentations.
11. Evaluation and scoring of Phase Two Proposals and Onsite Pitch Presentations by the Committee.
12. Assessment and scoring of Pricing Proposals after finalization of Phase Two Technical Scoring.
13. Compilation of the Phase One Technical score, Phase Two Technical score, and Pricing score.
14. Ranking of bidders based on final score to determine Best Value.
15. Preparation of a Recommendation of Award Memorandum, on behalf of the Committee, by staff of the Contracts Office. Signature of each member of the Committee on final Memorandum.
16. Submission of the Memorandum to the Commission's Acting Executive Director for review and acceptance of the Committee's recommendation for award by signature of the Memorandum.
17. Review and Adoption of the Award by the Commissioners.
18. Notice of Award.

5.4 INFORMATION FROM OTHER SOURCES

The Lottery reserves the right to obtain from sources other than the bidder, information concerning a bidder, the bidder's offerings and capabilities, and the bidder's performance, that the Lottery deems pertinent to this RFP and to consider such information in evaluating the bidder's Proposal. This may include, but is not limited to, the Chairperson of the Evaluation Committee engaging bidders and additional experts from

outside the Committee to better inform the Committee’s findings, as well as references from other lotteries and gaming jurisdictions.

In addition, as provided in Part 4 of this RFP, references will be checked regarding the bidder’s past experience. The Lottery reserves the right to contact references as many times as is necessary and to contact as many references as is necessary, to obtain a complete understanding of the bidder’s performance and experience.

5.5 EVALUATION & SELECTION CRITERIA

Proposals determined to comply with the requirements set forth in this RFP and submission requirements outlined in Part 4 – Information Required from Vendors – of this RFP will be evaluated based on the following criteria:

Minimum Qualifications will be evaluated on a Pass/Fail basis. Any bidder who demonstrates that they meet or exceed the minimum qualifications outlined in Section 1.3 of this RFP will receive a “Pass”. Those who do not meet the Minimum Qualifications will receive a “Fail” and will be disqualified from the Bidding process. The Evaluation Committee will review Technical Proposals for Phase One, and Technical and Pricing Proposals for finalists that move on to Phase Two, as outlined in the RFP.

PHASE ONE - CREDENTIALS

TECHNICAL PROPOSAL

A. Relevant Experience & Capabilities (15 Points)

The depth and relevance of overall experience, values and current practices of the Bidder’s organization – and New York office, in particular -- will be evaluated in relation to its ability to provide the services defined in this RFP. Specifically, the Lottery will look at related branding, marketing, and advertising expertise demonstrated in the submitted case studies. Of particular interest is experience with gaming-related accounts or other mass market and high volume consumer goods accounts reaching a target audience similar to that of the Lottery. The Agency will also be evaluated on specific capabilities, processes employed, and depth of industry knowledge as it relates to the scope of work outlined in this RFP.

B. Management Philosophy, Organizational Structure and Staffing (15 Points)

Bidder will be evaluated on the type of systems and organizational structure in place to properly manage the account and deliver the end products in a timely manner and of the highest quality. For those individuals identified to work on the Lottery account, their level of relevant experience and longevity at the agency will be evaluated, as will the organization’s approach to staff changes and training. The Agency will also be evaluated based on perceived compatibility of agency values/mission/culture, as well as the quality of references.

C. On-site visits and Credentials Oral presentations (10 Points)

On-site visits and Oral Credentials presentations will be evaluated based on the Bidder's ability to establish a rapport with the Lottery Evaluation Committee; quality, originality, clarity and completeness of presentation; on-site capabilities and physical resources; and a corporate atmosphere consistent with Lottery's brand character. The Evaluation Committee will allow up to a maximum of 90 minutes at each bidder's site.

Only those Proposals that meet the minimum qualifying score of 70% of the total number of points available in Phase One will advance to Phase Two. Those Proposals not meeting this minimum qualifying score will not be considered further in this evaluation process.

PHASE TWO

A. Technical Proposal – Challenge Assignments (40 Points)

Creative assignments will be evaluated with respect to originality and clarity of strategic thinking, as well as quality of the executions. The Lottery is seeking responses that show innovation, creativity, and an understanding of the traditional Lottery business. The campaign(s) must also be designed to achieve the stated objectives of the assignment.

- Creative Assignment: "Growing Lotto" (20 points)
- Strategic Assignment: "Maximizing Share of Discretionary Income" (20 points)

B. Cost Proposal (20 Points)

After the Technical proposal is scored, the Finance Office will open the Pricing Proposals and will conduct an evaluation of the Proposals. While the Pricing Proposal must include the detailed explanation of how the annual fee was determined, it is the annual fee itself that will generate the Pricing Proposal Score when compared to the annual fees proposed by the other Bidders.

The Pricing Proposals will be ranked with a maximum of 20 points awarded to the lowest Pricing Proposal. The score for each of the remaining Proposals will be proportionate to the lowest Proposal based upon a pre-determined formula.

The cost will be scored in two steps as follows:

- **Annual Fee:** a maximum of 15 points will be awarded to the lowest total annual fee, as indicated in Attachment 2 – Pricing Proposal Form
- **Rate Card:** a maximum of 5 points will be awarded to the lowest total blended hourly rate, as indicated in Attachment 3 – Rate Card.

5.6 FINAL COMPOSITE SCORE/DETERMINATION OF AWARD PROCESS

Both Technical Scores and Pricing score will be combined to determine the final composite score for each bidder. Award will be made to the responsive and responsible bidder who achieves the highest composite score.

5.7 NOTICE OF AWARD

A Contract award notification letter will be sent to the successful bidder and unsuccessful bidders indicating award subject to approval by the Office of the Attorney General and Office of the State Comptroller.

No public discussion or news releases relating to this RFP or the resulting Contract shall be made by any bidder without the prior approval of the Commission.

5.8 DEBRIEFINGS

At the time of award notification, bidders will be advised of the opportunity for a debriefing by the Commission. Information shared during the debriefings will be in accordance with the FOIL.

LOT 2 – MEDIA PLANNING & BUYING SERVICES

PART 3 THROUGH PART 5

Pages 64 through 83 pertain to Media Services – LOT 2 only. If you are not bidding on LOT 2 you may disregard these pages.

PART 3- SCOPE OF WORK

3.1 WORK AND DELIVERABLES

Prior to the start of each fiscal year (April), the Lottery will provide the Agency with a marketing plan, including product flights, as well as an annual budget. The plan shall clearly define marketing and advertising communication objectives that result from the Lottery’s general business goals and strategies. The Lottery staff and the Agency staff will meet monthly to review the marketing objectives and strategies, with modifications being made as market and/or business needs arise.

The Agency awarded this contract will be expected to provide the following services including, but not limited to, the following:

- A. Business Partnership
- B. Account Management
- C. Media Research & Strategy Development
- D. Media Planning, Buying and Placement
- E. Hispanic and Multi-cultural media programs
- F. Media Plan Return-on-Investment Performance Analysis
- G. State & Local Marketing Programs
- H. Budget / Billing Management
- I. Annual Agency Review

3.2 SCOPE

The section below provides an overview of the responsibilities of the Contracted Agency, as well as the expectations the Lottery has for a successful partnership throughout the contract period.

- A. **Business Partnership** – Become a partner in the development and evolution of the Lottery business, brand and product portfolio to further the Lottery’s mission of providing aid to New York State public education. The Lottery expects that the entire Agency team will be committed to the same goals as the Lottery and will create and execute programs that will deliver on those objectives.
 - 1. Agency personnel assigned to the account are expected to build and maintain an industry knowledge base that will inform business decisions and recommendations.
 - a. Each year, two (2) individuals from the Agency team must attend industry conferences, such as PGRI, NASPL and WLA, and share learnings and industry best practice with the broader team and Lottery marketing team.

- b. Two (2) individuals from the Agency team are encouraged to participate in industry training sessions once per year. Such training is offered by trade associations, such as WLA.
 - 2. On-site meetings at Lottery offices will be held as required at a minimum of twice monthly to discuss the state of the business and plans for upcoming initiatives.
- B. **Dedicated Account Management** – The Agency shall provide a seasoned, dedicated media account team that will work collaboratively with the Lottery’s Marketing Unit to manage the daily activities of the account. This Account group will be assigned exclusively to the Lottery business. The Account Team will be responsible for establishing regular communications between the Media Agency and the Creative Agency to ensure seamless integration of the advertising program. The Account team will also be responsible for preparation of the following report:
 - 1. **Status Report** – Weekly status reports will be issued detailing all current projects and initiatives. Status reports shall include timelines and deadlines for all activity, allowing no fewer than 5 business days for Lottery approval, unless authorized by the Lottery.
 - 2. **Current Flowcharts** – The Account group is responsible for maintaining current flowcharts for all fiscal year media activity. Detailed flowcharts must specify media type, market tiers, GRP levels, creative rotation, and costs for each campaign. Costs are to be summarized by campaign, by month, by quarter, and year. Any time there is a change in media plans or activity, flowcharts must be updated and provided to the Lottery within 48 hours.
- C. **Media Research & Strategy Development** – The Agency will utilize a wide range of syndicated and proprietary research tools to obtain key consumer insights and keep on top of media trends and emerging technologies to inform media strategies and tactics that will ensure an effective communications plan for the Lottery. A quarterly update should be presented to the Lottery Marketing Unit of these findings, highlighting implications and/or opportunities relating to the Lottery business objectives.
- D. **Strategic Media Planning, Buying and Placement** – The Agency shall deliver innovative and effective solutions for the Lottery’s statewide, multi-channel advertising program utilizing the most inventive and effective media for the individual campaign goals and objectives, as determined by the Lottery. Media for the Lottery typically includes, but is not limited to, television, radio, print, out-of-home and digital.
 - 1. **Strategic Media Planning** – The Agency shall use all the research, analytical tools and sales data at its disposal to develop the most

creative and effective media plans to achieve stated objectives and drive business outcomes for the Lottery.

2. **Negotiation and Placement** – The Agency shall be responsible for the placement and purchase of all media. The Agency’s experience and buying power in the local New York advertising markets shall lead to cost savings for the Lottery for up front as well as last minute jackpot buys. In negotiating media purchases, the Agency shall make the Lottery aware of any savings that might be achieved through long-term commitments or other specialized programs.
3. **Media Audits** – The Agency will be responsible for auditing and verifying all media outlets. If the Agency proposes a more viable and cost effective method, the Agency will make the report available for inspection and approval by the Lottery.
4. **Placement Verification** – The Agency shall ensure that all media was broadcast or published according to any contracts or placement instructions. The Agency shall provide, at no cost to the Lottery, affidavits, tear sheets or any other placement verification requested by the Lottery. Placement verification documents shall indicate the run dates and/or times and the circulation or ratings achieved.
5. **Annual Media Plans** - Based on the Lottery’s Fiscal Year (April – March), the Agency is expected to prepare annual media plans which must include at a minimum:
 - a. Definition of Target Audience(s) for each initiative with detailed rationale.
 - b. Allocation of dollars by media type and market with detailed rationale.
 - c. Gross Rating Point (GRP) objectives with reach/frequency and efficiency analysis.
 - d. Media Mix, Daypart Mix and Unit Mix recommendations and rationale for each initiative.
 - e. Quarterly reviews with the Lottery Marketing Unit and to evaluate if any re-planning spend allocation is required to meet the Lottery Fiscal Business Objectives and maximize spend efficiencies based on ROI analysis.

After the Annual Media Plan is approved, it is possible that new initiatives are added to the Lottery's business plan. The Agency is expected to develop and implement specific media plans to address the needs of the new initiative(s). Additionally, the current strategy for supporting high level Jackpot games includes purchasing media leading up to the day of the draw. However, since these jackpot amounts cannot be predicted in advance, the media must be purchased in a timely and dynamic fashion in the event that a jackpot reaches a certain pre-determined threshold. This requires the Agency to remain constantly vigilant with the jackpots, and they must also be nimble, diligent and responsive in preparing, negotiating and implementing such last minute incremental media plans to maximize the Lottery's media investment. Analysis of the fiscal effectiveness of high jackpot media spending is required.

- E. Hispanic and Multi-cultural Marketing** – The Agency shall develop effective strategies for reaching the diverse New York State population and integrate such marketing efforts into general market advertising to achieve stated goals, as defined by the Lottery. If a distinct communications initiative would better serve the Lottery's diversity business objectives, the Agency shall provide a recommendation and rationale for the effort to the Lottery for approval.
- F. Media Plan Return-on-Investment Performance Analysis** – The Agency shall put in place appropriate tools and processes to monitor and maintain and improve the ROI effectiveness of all media buys by providing specific and detailed media purchase information, data analytics, print audits, and post-buy and ROI analyses and sales data. The Agency shall also utilize econometric modeling to further analyze the effectiveness of the advertising plans and to inform future media recommendations. It is expected that the econometric modeling is kept up to date with the latest sales data, to be provided by the Lottery, and the outputs reviewed and presented to the Lottery Marketing Unit on a quarterly basis. Initiatives will be evaluated against KPI's determined in advance by the Lottery. The Agency shall optimize all plans on an on-going basis to maximize the budget. At a minimum, the following specific reports shall be generated by the Agency on a regular basis as defined below:
1. **Post Buy Report** – No more than 120 days beyond the end of the broadcast quarter after the flight ends, the Agency shall issue a post-buy report indicating whether the reach, frequency and GRP goals of each buy were achieved within budget. If the goals were not achieved, the report shall contain a make good report where bonus spots were issued. In addition, post buy analyses shall be provided for media buys that utilize new rating information for the buy period, when available.
 2. **Print Audit** – No more than 30 days following the end of each Lottery Fiscal Year quarter, the Agency shall submit quarterly print audits that include the name of publication, circulation, DMA, year established, publication frequency, distribution sites and publisher information.

- G. State & Local Marketing Programs** – The Agency shall assist in selecting, developing, negotiating and contracting for promotional events/activities, sponsorships, sports marketing and other state and local marketing programs. The Agency shall make the Lottery aware of any possible media sponsorships and the cost-efficiency of such sponsorships as they may be effective in forwarding the marketing objectives of the Lottery. The Agency shall provide analyses on all SLMP's within 60 days of the conclusion of the program.
1. **Free Tickets & Other Benefits** – Sponsorships often carry with them an offer for free tickets to events, premium items and other special benefits. All such benefits provided in relation to a sponsorship purchased on behalf of the Lottery shall be fully disclosed and documented. The Lottery reserves the right to accept or reject the offer of any such items or benefits offered in association with a sponsorship or other media buy. The Agency may not utilize any such items for its own benefit or the benefit of other clients. No such item shall be provided to an employee of the Lottery. The Agency shall maintain a listing of any or all items or benefits provided to the Lottery, and the Lottery will determine the appropriate use of such items, as appropriate for business development purposes. If the Lottery cannot make appropriate use of the items offered, it shall be the obligation of the Agency to negotiate lower rates or alternative benefits.
- H. Budget / Billing Management** – Due to the size of the Lottery's advertising budget, a dedicated budget/billing staff is required to work directly with the Lottery Marketing and Finance Units on a daily basis. They must be (become) familiar with competitive bidding requirements and have the capability to track production costs of advertising and retail materials on a per unit basis. (Note: the New York Lottery has formal, highly detailed procedures for budget management and expenditure requirements. Poor budget management and failure to comply with these procedures may result in delayed authorizations to proceed with media and/or production projects as well as substantially delayed payment of bills and invoices based upon inadequate billing documentation. Bidders should give strong consideration to allocation of at least one, full-time person for Lottery budget management support.)
- I. Annual Agency Review** – Once a year, the Agency shall participate in an Annual Agency Review of overall account performance to determine the Agency's eligibility for the Performance-Based Bonus (Specific details on bonus eligibility are outlined in Section 4.8.) and inform account decisions in next fiscal year, including determining if any staffing changes are required. This opportunity will also allow the Lottery to review the prior year's activity to ensure proper contract compliance by the Agency. The Annual Agency Review will consist of the following three components:
1. **Performance Evaluation** – Based on written qualitative evaluation by the Lottery, the Agency's performance across all disciplines will be evaluated based on the Agency's ability to meet established client expectations. The

Agency Performance Evaluation Questionnaire that will be used in the Annual Agency Review process is included as Exhibit A for reference.

2. **Agency Metrics** – As the second component of the Annual Agency Review process, the Agency will be evaluated on their ability to drive consumer attitudes and behaviors that can be attributed to marketing. At the Annual Agency Review, the Lottery will determine if the specific pre-determined brand metrics / KPI's were met for each project initiative completed by the Agency during the fiscal year. A sample of the Agency Metrics Evaluation Form is included as Exhibit A for reference.
3. **Business Metrics** – The final component of the Annual Agency Review measures the agency's ability to help the Lottery deliver against pre-established sales goals.

3.3 LOTTERY RESPONSIBILITY AND PROJECT CONTROL

The Lottery's marketing plan is developed and administered by its Marketing Unit, under the direction of the Acting Director of the Lottery. The Sales & Marketing Director leads the Lottery's integrated marketing program. The Agency will work under the direction of the Director of Advertising, who reports to the Sales & Marketing Director. The Lottery's in-house Communications department will direct and execute all aspects of Public Relations, Press Communications and Customer Service for the Lottery.

3.4 REPORTS

Specific reports required by the Lottery were outlined in Part 3, however, there may be the need for additional reports to be developed and executed on a regular or sporadic basis throughout the term of the contract. Those reports specified in Part 3 represent the minimum number of reports that will be required by the Agency.

PART – 4 INFORMATION REQUIRED FROM BIDDERS

In preparation of the Proposal, each bidder should pay special attention to the requirements and information being requested in order to respond fully to the RFP. Any Proposal found to be incomplete or placing conditions in response to the requirements under this RFP may be deemed non-responsive and removed from further consideration.

Technical evaluations will be done in two phases. Phase One will determine whether the Agency meets the minimum qualifications defined herein; and the business credentials, including an in-person presentation, will be scored. Agencies who meet the minimum qualifications and receive a score higher than the minimum score defined, will be notified that they are a finalist, and will proceed to Phase Two, which will consist of development of responses to specific creative or media scenarios, based on the LOT in which you are bidding.

PHASE ONE

4.1 BUSINESS ORGANIZATION & EXPERIENCE

- A. The bidder must state the full name and address of its organization and, if applicable, any branch office or other subordinate element that will perform or assist in the performance of the work hereunder. The bidder shall indicate whether it operates as an individual, partnership, corporation, joint venture, or other specified form of business organization. If the bidder is part of a larger holding company, details of the structure must be defined. Each bidder must state and or exhibit whether they are qualified and/or registered to do business in the State of New York.
- B. The bidder must indicate the name, address (including e-mail) and telephone number of the individual from your organization that is authorized to enter into and bind the organization to the terms and conditions of its Proposal.
- C. The bidder must demonstrate in its Phase One Technical Proposal (Credentials) that its organization is of sufficient size and has the qualifications required to perform the requested services as defined in this RFP. The Proposal must include the following:
 1. Thorough description of the organization, including employee capacity to undertake and successfully carry out the proposed services. Indicate the specific team that will be the Bidder's proposed Account Team to work on the Lottery business if successful.

NOTE: ACCOUNT TEAM CHANGES ARE AT THE DISCRETION OF THE NY LOTTERY.

2. Four (4) relevant case studies that incorporate business problem/opportunity, creative solution and quantitative sales and ROI results.
3. Brief summary of Agency mission, culture & guiding philosophy.
4. Overview of Agency's media planning development process.
5. List of Agency strengths and capabilities with relevance to the Lottery.
6. Client list of New York office, including approximate billings and tenure with the agency.
7. List of any accounts the New York office has lost or resigned over the past two years and comments on why this occurred as well as contact information for the accounts lost or resigned.
8. Approximate percentage breakdown of the Agency billings by media type (e.g., television, radio, magazine, newspaper, outdoor, interactive/digital, etc.).
9. Brief description of the Agency's training and hiring principles.
10. Describe why the Agency is uniquely suited to address the challenges and opportunities of the Lottery account.

4.2 FINANCIAL VIABILITY

The bidder must submit information demonstrating the bidders' financial viability, integrity and stability, including, but not limited to, audited financial reports and client lists for the past three years. Further, to the extent not already provided in the Vendor Responsibility Questionnaire, the bidder shall describe key corporate personnel, ownership control, and facilities available to satisfy the requirements of the proposed Contract. This information will be used in conjunction with the Vendor Responsibility Questionnaire in determining whether the bidder is "responsible" and therefore subject to award under this procurement.

4.3 PROJECT MANAGEMENT AND STAFFING

As part of the proposal, bidders must submit an in-depth staffing plan by department for management of the Lottery account. The Proposal must identify the full-time lead(s) on the account and other responsible individuals by name, title, and location who will work under a resulting Contract, including proposed subcontractor staff members.

- A. The Bidder must provide resumes for key staff members indicating the relevant education, knowledge, training, and experience of each individual, his or her role on the account, and anticipated Full Time Equivalent each individual will attribute to the Lottery account. The State expects that the same key personnel will have overall

responsibility for all projects conducted pursuant to this RFP. Exceptions may be made only with the approval of the Lottery.

- B. An organizational chart with definition of roles and brief biographies for all proposed staff members must be included in the Proposal.
- C. The Agency must also provide resources for development and management of the Lottery's Hispanic marketing efforts. Whether this function will be provided in-house by a dedicated team or whether the Agency will be sub-contracting with a Spanish Language agency within the parent company's organization must be clearly defined in the proposal.

4.4 REFERENCES

The Proposal must name as references at least three clients relevant to the work to be performed under the Contract resulting from this RFP. References must include company name, contact person (name, title, telephone number, email address, and mailing address). Also, each reference must include a general statement of the type of work performed for the reference. References will be used to substantiate the Technical Proposal.

4.5 SUB-CONTRACTORS

If applicable, the Proposal must list all subcontractors, including firm name and address, contact person, and a complete description of work to be subcontracted. Descriptive information relative to the sub-contractor's organization and capabilities must be included. If the bidder does not intend to utilize subcontractors, that too should be indicated in the Technical Proposal.

4.6 CREDENTIALS PRESENTATIONS

Phase One requires that the Agency prepare substantiation that the Agency meets or exceeds the Minimum Qualifications, as well as complete responses to Agency Credentials questions outlined in Part 4. These responses make up the Phase One Technical Proposal (Credentials) and must be submitted in writing (due on June 6, 2014 at 3:00pm EST) and also presented in person to the Lottery at the Agency's New York office during regular business hours at a scheduled 90 minute time slot during the weeks of June 11 – July 15, 2014. It is expected that all Bidders will make themselves available during this window of time established by the Lottery for the Phase One Credentials presentations. Bidders will be contacted by the Lottery between June 9 and June 10, 2014 to schedule the specific date and time of their individual Credentials presentation. Agencies that are unable to present during the specified time will be deemed unresponsive.

Agency qualifications that are provided in the Phase One Technical Proposal written submission are to be presented in person at the Agency's New York Office. The intent of

the Credentials Presentation is to allow the Agency to provide the Lottery with an overview of their capabilities, corporate structure, relevant experience, corporate philosophies, and media planning work, as well as to give the Lottery an opportunity to determine that Agency's physical site is conducive to proper management of the Lottery account. Importantly, the Credentials presentation will allow the Lottery to meet the specific Agency team that will be assigned to the Lottery account and assess their ability to establish a rapport with the Lottery Evaluation Committee. **The Credentials presentation must be given by the team who will be managing the Lottery account if they are awarded the contract, or else the Agency will be deemed non-responsive.** The Phase One Technical Proposal (Credentials) provides the Agency the opportunity to demonstrate to the Lottery why they are qualified to handle the Lottery account.

At the conclusion of Phase One Oral Credentials Presentations, the Agency's Phase One Technical Proposal will be scored, and it will be determined at this time whether the Agency will proceed to Phase Two based on the minimum qualifying score defined in Part 5.

PHASE TWO

4.7 SCENARIOS FOR EVALUATION

Phase Two requires that the Agency prepare responses to two separate assignments which will be submitted in writing (due on August 13, 2014 at 3:00pm EST) and also presented in person to the Lottery at the Agency's New York office at a scheduled 2-hour time slot during the weeks of August 14 – September 12, 2014. The assignments are based on the Lottery's business challenges and the Agency's solutions to these challenges will, in part, determine who is awarded the contract. It is expected that all Bidders identified to participate in Phase Two will make themselves available during this window of time established by the Lottery for the Phase Two Pitch presentations. Bidders will be notified by the Lottery that they are a finalist on July 16, 2014 and will schedule the specific date and time of their individual Pitch presentation. **Agencies that are unable to present during the specified time will be deemed unresponsive.**

A. MEDIA ASSIGNMENT —“GROWING LOTTO”

Lotto was introduced by the New York Lottery in 1978 as the first “pick-your-own-numbers” weekly draw game that provided a jackpot of \$250,000. The jackpot would roll up if its numbers were not hit. Lotto's popularity took off in the 1980's and resulted in phenomenal sales of \$6.5 million a week on average and jackpot prizes began at \$3 million a week. Lotto enjoyed success within the Lottery's portfolio of traditional Lottery games, but the introduction of the two multi-state Jackpot games, Powerball and Mega Millions, has taken a significant toll on Lotto sales.

As the payout percentage in Lotto is a statutory 40% (making every sale of Lotto more profitable than other lottery games within the portfolio with regards to net returns for

the Mission for Education), sales of the game have been in a years-long decline, especially since the addition of Mega Millions (in 2002) and Powerball (in 2010) to the Lottery's portfolio. Powerball is also drawn on the same nights as Lotto, which may also be a contributing factor. The 2013/14 fiscal year saw Lotto sales decrease by 13.3%, from \$107.2MM to \$92.9MM, despite overall Lottery sales increasing. Lotto sales have dropped a total of 48.4% over the past 5 years from \$179.9MM in 09/10 to \$92.9MM in 13/14 showing that this is not just a blip in the radar screen. This steady downward trend also applies to the Lotto's percentage of overall traditional Lottery sales. Lotto is becoming an ever shrinking piece of the New York Lottery pie. In the most recent fiscal year 2013/14, Lotto only represents 1.3% of total sales, down from 2.6% five years ago.

The game has evolved over the years to try to stem the declines. The starting Lotto jackpot was reduced from \$3 million to \$2 million (in 26 graduated payments) in April 2013, rollovers were reduced from \$500,000 to \$300,000 over Thanksgiving weekend in 2012; in the late 1990s, its jackpot was \$10 million after only one rollover. A bonus feature called "Lotto Extra" was introduced to try to generate more interest in the game, but was quickly discontinued in May 2010 due to lack of interest.

The challenge today is to reverse the decline of Lotto, targeting a 15% sales growth in the first year of the campaign. Each Bidder shall develop a media plan that will move the needle on Lotto not only in sales but in levels of frequency of play, too. The primary goal of the program is to drive sales of Lotto across all existing sales channels throughout New York State. For this assignment, the Agency shall prepare a media plan that will achieve the Lottery's objectives of driving sales of Lotto.

In addition to the media plan itself, each Bidder must also clearly define how they approached or propose to approach the following areas as they relate to the Lotto plan being presented:

- a. Analysis of the marketing situation
- b. Development of media strategy & tactics
- c. Media Planning Process
- d. Determination of project budget as part of the annual media allocation
- e. Analysis of Media Plan Effectiveness & Efficiencies

The proposal should also include details of how the media will be purchased, monitored and analyzed to ensure maximum efficiencies and ROI on marketing investment for the Lottery. The bidder should also include an overview as to how the advertising would be evaluated for effectiveness and efficiency to ensure that dollars invested are being maximized and that the plan is meeting its stated objectives. A specific discussion of evaluation criteria and analytical tools to be used to measure the program's effectiveness should be included detailing, via case studies, how the Bidder would use the outputs to inform future marketing investments.

New York Lottery's statewide distribution and relevant sales data should be considered in developing the media plan. Syndicated research, proprietary research, background data and consumer insights that led to the creation of the plan should be provided. The bidder should also demonstrate how the media plan would be evaluated for effectiveness and efficiency to ensure that dollars invested are being maximized and that the media plan is meeting its stated objectives. The proposal must include specific measurement tools and processes the Agency intends to use to evaluate the campaign(s).

The ultimate deliverable must include a media flowchart that clearly shows all the information indicated below. Written and oral presentation of the media plan must incorporate a comprehensive description of and detailed rationale for each of the following plan components:

- a. Target Audience
- b. Media Mix (detailed allocation of budget by media type)
- c. Market Coverage (detailed allocation of budget by market)
- d. Delivery Objectives (GRP goals with reach/frequency percentages by week)
- e. Unit Mix by media type
- f. Daypart Mix for Broadcast media
- g. Flighting/Scheduling
- h. Budget breakdown by media type and by month, with totals
- i. The submission shall incorporate the consumer insights that led to the strategy and creation of the plan(s), including the briefing documents against which the plan was developed.

Specific consideration should be given to how the planning would be adapted for the Hispanic market. If a separate plan is recommended for this market, a clear rationale must be provided.

NOTE: It is important that bidders understand that any Lottery advertising plan has to reinforce the Lottery's integrity and credibility. All Lottery marketing and advertising activity must strive to avoid controversy. Lottery advertising is under close scrutiny, particularly if it can be interpreted to focus on "excessive greed" or "gambling." All New York Lottery advertising needs to reflect a positive image of New Yorkers and of the Lottery. This needs to be taken into account when selecting specific media vehicles to ensure they are consistent with the Lottery's brand image. The New York Lottery is dependent upon public trust to maintain and increase its business. New Yorkers have to believe that the Lottery is honest, properly run and maintains the highest standards for operations. This information is intended to provide general guidance and should not limit the creativity and integrity of the proposals.

Data required for the preparation of this assignment will be provided to agencies identified as finalists at the conclusion of Phase One. These documents include:

- Lotto Historical Overview
- Lotto Sales by County (past 5 years)

- Lotto Sales by Region (past 5 years)

B. STRATEGIC ASSIGNMENT – “SEGMENTING THE STATE”

The New York Lottery is a \$7 billion business with approximately 18,000 retailers selling traditional lottery games to New Yorkers in 62 counties across the state. The demographic profile of the Lottery’s customer base mimics that of the state as a whole, including a significant Hispanic population. It is imperative that the Lottery’s marketing efforts reach this broad customer base in order to grow sales and maximize revenues for its Mission for Education, with a view to optimizing return on investment of marketing dollars. Each year, the Lottery is charged with reaching this geographically and demographically diverse audience with a sizeable, yet still finite media budget. Recognizing that a significant portion of the New York population is located in one of the most expensive U.S. media markets makes this task even more challenging. The assignment for the Bidders is to develop a strategic approach to the media planning process that will maximize effective coverage of the Lottery’s existing and potential customer base across New York State, which must be achieved within the defined budget parameters (\$70MM gross). In order to develop effective media plans to support the Lottery’s business objectives, the Agency must have a thorough understanding of the nuances in the local media markets throughout New York State, as well as strong working relationships with the local media vendors in order to secure the best rates and opportunities for the Lottery’s omni-channel advertising program. Extensive knowledge of the diversity within the New York State population is also critical to understanding the Lottery’s business and developing media plans that will deliver against marketing and sales goals.

A specific media plan is not required for this assignment, but rather the Bidders are asked to identify the methodology, strategy and tactics by which they would segment the market, geographically and demographically, to best attain the Lottery’s overall business goals of maximizing revenues for aid to education and return on investment. In addition, each Bidder is required to provide specific examples that demonstrate their strength in local media planning and buying within New York State. The Bidder’s response must include a description of the Agency’s approach to ensuring that local media plans are developed with a thorough understanding of the local market dynamics and that the media is purchased effectively and efficiently to maximize the investment and achieve the Lottery’s goals. To assist with this assignment historical sales data by county for the past 5 years and a list of current Lottery retail locations by county will be provided, as well as an overview of customer demographic and usage profiles as identified in the Lottery’s rolling tracking study.

Data required for the preparation of this assignment will be provided to agencies identified as finalists at the conclusion of Phase One. These documents include:

- Lottery Player Demographics & Usage
- NY Lottery Regional Map

- Retailer List by County
- 12/13 Weekly Sales by Game

4.8 PRICING PROPOSAL

As a New York State government agency whose sole mission is to generate revenues to provide aid to state education, the Lottery must successfully manage the use of state funds to market Lottery products. It is therefore the responsibility of the Lottery and its Agency to maximize the effectiveness and efficiency of the marketing investment. To that end, the Lottery expects an aggressively-packaged compensation package to help maximize working advertising dollars as a proportion of the total budget. The budgets provided herein are inclusive of all Agency compensation.

Bear in mind that in addition to the Labor-based Fee structure, the Lottery will also provide the Agency with a performance-based bonus component to the overall remuneration package, as outlined in Section 2.8. It is the Lottery's goal that this will serve as an additional incentive for the Agency to create effective advertising and marketing programs that will drive key business and agency metrics that will ultimately make the Lottery more successful in its mission to provide aid to education.

As described in Section 2.8, the Agency will be compensated, in part, by an annual fee that is derived from a Labor-based compensation model that takes into account the Agency's direct and indirect costs, as well as reasonable profit margin. The Pricing Proposal must define this fee on an annual basis and clearly describe how it was derived. Referring to the details in **Attachment 2 - Pricing Proposal Form**, and based on your Agency's own recommended staffing model for the Lottery account, provide the details of the fee calculation for evaluation by the Lottery. Keep in mind that the annual fee is only part of the Agency's overall remuneration package. In addition to the profit margin factored into the Agency fee, there is also a performance-based bonus of up to \$500,000, as described in Section 2.8. The Pricing Proposal must include the information outlined below.

Annual Fee – Provide the proposed annual labor-based fee to effectively and efficiently manage the Lottery account based on the Scope of Work outlined in this RFP. As defined in Section 2.8, the annual fee set forth in the Pricing Proposal, and the staffing plan upon which it is based, applies only to year one of the contract. At the conclusion of year one, and at the close of each fiscal year within the contract, the Annual Agency Review provides the opportunity to alter the staffing plan, if required, which would affect the annual fee. The components that go into the annual fee, however, are fixed for the five-year term of the contract. The annual fee is composed of the following elements:

- C. Direct Labor Costs** – Provide the total projected direct labor costs for the Scope of Work defined in this RFP based on the Agency's proposed staffing plan and the Agency's standard hourly rate card, as defined by function and by seniority level (see Attachment 2 – Pricing Proposal Form for explanation of terms and what should and should not be included in the cost components). Calculations should

be based upon one Full Time Equivalent (FTE) equaling 1,800 annual hours.

1. **Agency Staffing Plan** - Provide the list of Agency staff positions that will be assigned to the Lottery account, including the percentage of each FTE that will be dedicated to the account.
2. **Standard Rate Card** – Submit hourly labor rates for all Agency staff positions that will be assigned to the Lottery account in Year 1 of the contract, or could be added in subsequent contract years. A Standard Rate Card is included as **Attachment 3**. The Bidder must complete the rate card using standard hourly rates for each position listed. If the Bidder uses different names for positions with similar titles, the precise titles must be included on the rate card submission.

Each position on the Rate Card has been identified as an Executive Level (E), Senior Level (S), Mid-Level (M) or Junior Level (J). These labor rates will remain fixed for the length of the contract. All bidders must complete the form and provide rates for all Agency staffing positions, whether or not they are planned to service the Lottery account in year one of the contract. If a position(s) do not exist within the Bidder's agency, the hourly rate field should be populated with "N/A".

D. Indirect Costs – Identify a specific percentage over direct labor costs for Agency overhead (e.g., rent, utilities, corporate insurance, depreciation, equipment leases or purchases and maintenance, supplies, loan costs, etc.) and indirect payroll costs (e.g., general office administration, human resources, accounting, tech support, executive management, secretarial and clerical staff, and other back office functions) that will be factored into the Annual fee. This percentage will remain fixed for the length of the contract.

E. Profit Margin – Propose the profit margin that takes into account the two-tiered compensation plan (Section 2.8). Profit should be identified as a percentage of gross income (pre-FIT). The Profit Margin will remain fixed for the length of the contract.

Rate Card: The positions and related rates listed in the Rate Card will also be considered in the evaluation of Price as provided in Part 5 of this RFP.

4.9 ADDITIONAL INFORMATION AND COMMENTS

The bidder should include any other information that is believed to be pertinent but not specifically asked for elsewhere.

PART 5 – EVALUATION AND SELECTION

5.1 INTRODUCTION

This section describes the evaluation process that will be used to determine which Proposal provides the Best Value to the State. The ability of the Lottery to evaluate a bidder's Proposal is dependent upon the completeness and proper submission of the Proposal. The failure of a bidder to provide information requested by this RFP, to submit the Proposal according to the required format, or to respond appropriately to a clarification request or demonstration request, may result in rejection of the bidder's Proposal or reduction in scoring during the evaluation.

5.2 EVALUATION METHODOLOGY

The Lottery will conduct a comprehensive, fair, and impartial evaluation of Proposals received in response to this RFP. In making a selection, the Lottery will be represented by an Evaluation Committee (the "Committee") comprising of Commission staff members, including those from the Marketing, Advertising, Sales and Finance Units. In addition, there will be a consulting firm serving as subject matter experts who will also be involved in the review process as non-voting members of the Committee. The Commission reserves the right to make changes in the Committee's membership as necessary.

Scoring of the Technical Proposals will be by consensus of the Committee. The Pricing Proposals will be scored by one or more individuals from the Commission's Finance Office designated by the Committee and will be based on a pre-determined formula. The relative weight of technical to price will be: Technical 80%; Price 20%.

5.3 EVALUATION AND AWARD STEPS

The evaluation and award process will comprise all of the following:

PHASE ONE

1. Pass/Fail evaluation of the minimum qualifying requirements of the bidder as provided for in Part 1 of this RFP.
2. Review of Phase One Proposals to assess compliance with Proposal submission requirements, including responsiveness to terms, conditions and requirements.
3. Detailed review by the Committee of the Phase One Technical Proposals relative to proposed functions, features, services, and references, using the requirements and criteria defined in this RFP.
4. Proposal clarifications, if applicable.

5. Onsite Credentials Presentations.
6. Evaluation and scoring of Phase One written Technical Proposal and Onsite Credentials Presentations by the Committee.
7. Phase One Finalist selection based on scores of at least 70% of total points available for Phase One.

PHASE TWO

8. Detailed review by the Committee of the Phase Two Technical Proposals relative to proposed functions, features, services, and references, using the requirements and criteria defined in this RFP.
9. Proposal clarifications, if applicable.
10. Onsite Pitch Presentations.
11. Evaluation and scoring of Phase Two Proposals and Onsite Pitch Presentations by the Committee.
12. Assessment and scoring of Pricing proposals after finalization of Phase Two Technical Scoring.
13. Compilation of the Phase One Technical score, Phase Two Technical score, and Pricing score.
14. Ranking of bidders based on final score to determine Best Value.
15. Preparation of a Recommendation of Award Memorandum, on behalf of the Committee, by staff of the Contracts Office. Signature of each member of the Committee on final Memorandum.
16. Submission of the Memorandum to the Commission Executive Director for review and acceptance of the Committee's recommendation for award by signature of the Memorandum.
17. Review and Adoption of the Award by the Commissioners.
18. Notice of Award.

5.4 INFORMATION FROM OTHER SOURCES

The Commission reserves the right to obtain from sources other than the bidder, information concerning a bidder, the bidder's offerings and capabilities, and the bidder's performance, that the Commission deems pertinent to this RFP and to consider such information in evaluating the bidder's Proposal. This may include, but is not limited to, the

Chairperson of the Evaluation Committee engaging bidders and additional experts from outside the Committee to better inform the Committee’s findings, as well as references from other lotteries and gaming jurisdictions.

In addition, as provided in Part 4 of this RFP, references will be checked regarding the bidder’s past experience. The Committee will select an equal number of current or previous clients for each bidder. The Commission reserves the right to contact references as many times as is necessary and to contact as many references as is necessary, to obtain a complete understanding of the bidder’s performance and experience.

5.5 EVALUATION & SELECTION CRITERIA

Proposals determined to comply with the requirements set forth in this RFP and submission requirements outlined in Part 4 – Information Required from Vendors – of this RFP will be evaluated based on the following criteria:

Minimum Qualifications will be evaluated on a Pass/Fail basis. Any bidder who demonstrates that they meet or exceed the minimum qualifications outlined in Section 1.3 of this RFP will receive a “Pass”. Those who do not meet the Minimum Qualifications will receive a “Fail” and will be disqualified from the Bidding process. The Evaluation Committee will review Technical Proposals for Phase One, and Technical and Pricing Proposals for finalists that move on to Phase Two, as outlined in the RFP.

PHASE ONE - CREDENTIALS

TECHNICAL PROPOSAL (40 points)

A. Relevant Experience & Capabilities (15 Points)

The depth and relevance of overall experience, values and current practices of the Bidder’s organization – and New York office, in particular -- will be evaluated in relation to its ability to provide the services defined in this RFP. Specifically, the Lottery will look at related branding, marketing, and advertising expertise demonstrated in the submitted case studies. Of particular interest is experience with gaming-related accounts or other mass market and high volume consumer goods accounts reaching a target audience similar to that of the Lottery. The Agency will also be evaluated on specific capabilities, processes employed, and depth of industry knowledge as it relates to the scope of work outlined in this RFP.

B. Management Philosophy, Organizational Structure and Staffing (15 Points)

Bidder will be evaluated on the type of systems and organizational structure in place to properly manage the account and deliver the end products in a timely manner and of the highest quality. For those individuals identified to work on the Lottery account, their level of relevant experience and longevity at the agency will be evaluated, as will the organization’s approach to staff changes and training. The Agency will also be evaluated

based on perceived compatibility of agency values/mission/culture, as well as the quality of references.

C. On-site visits and Credentials Oral presentations (10 Points)

On-site visits and Oral Credentials presentations will be evaluated based upon factors, including the Bidder’s ability to establish a rapport with the Committee; quality, originality, clarity and completeness of presentation; on-site capabilities and physical resources; and a corporate atmosphere consistent with Lottery’s brand character. The Committee will allow up to a maximum of 90 minutes at each bidder’s site.

Only those Proposals that meet the minimum qualifying score of 70% of the total number of points available in Phase One will advance to Phase Two. Those Proposals not meeting this minimum qualifying score will not be considered further in this evaluation process.

PHASE TWO

A. Technical Proposal - Media Assignments (40 Points)

Media assignments will be evaluated with respect to originality and clarity of strategic thinking, as well as quality of the executions. The Lottery is seeking responses that show innovation, creativity, and an understanding of the traditional Lottery business. The plan(s)/responses must also achieve the stated objectives of the assignment.

- Media Assignment: “Growing Lotto” (20 points)
- Strategic Assignment: “Segmenting the State” (20 points)

B. Cost Proposal (20 Points)

Following final scoring of the Technical Proposal, the Finance Office will open the Pricing Proposals and conduct an evaluation of the Proposals. While the Pricing Proposal must include the detailed explanation of how the annual fee was determined, it is the annual fee itself that will generate the Pricing Proposal Score when compared to the annual fees proposed by the other Bidders.

The Pricing Proposals will be ranked with a maximum of 20 points awarded to the lowest Pricing Proposal. The score for each of the remaining Proposals will be proportionate to the lowest Proposal based upon a pre-determined formula.

The cost will be scored in two steps as follows:

- **Annual Fee:** A maximum of 15 points will be awarded to the lowest total annual fee, as indicated in Attachment 2 – Pricing Proposal Form
- **Rate Card:** A maximum of 5 points will be awarded to the lowest total blended hourly rate, as indicated in Attachment 3 – Rate Card.

5.6 FINAL COMPOSITE SCORE/DETERMINATION OF AWARD PROCESS

Both Technical Scores and Pricing score will be combined to determine the final composite score for each bidder. Award will be made to the responsive and responsible bidder who achieves the highest composite score.

5.7 NOTICE OF AWARD

A Contract award notification letter will be sent to the successful bidder and unsuccessful bidders indicating award subject to approval by the Office of the Attorney General and Office of the State Comptroller.

No public discussion or news releases relating to this RFP or the resulting Contract shall be made by any bidder without the prior approval of the Commission.

5.8 DEBRIEFINGS

At the time of award notification, bidders will be advised of the opportunity for a debriefing by the Commission. Information shared during the debriefings will be in accordance with the FOIL.

APPENDIX A

Standard Clauses for NYS Contracts

APPENDIX A

STANDARD CLAUSES FOR NEW YORK STATE CONTRACTS

PLEASE RETAIN THIS DOCUMENT
FOR FUTURE REFERENCE.

TABLE OF CONTENTS

	Page
1. Executory Clause	3
2. Non-Assignment Clause	3
3. Comptroller's Approval	3
4. Workers' Compensation Benefits	3
5. Non-Discrimination Requirements	3
6. Wage and Hours Provisions	3
7. Non-Collusive Bidding Certification	4
8. International Boycott Prohibition	4
9. Set-Off Rights	4
10. Records	4
11. Identifying Information and Privacy Notification	4
12. Equal Employment Opportunities For Minorities and Women	4-5
13. Conflicting Terms	5
14. Governing Law	5
15. Late Payment	5
16. No Arbitration	5
17. Service of Process	5
18. Prohibition on Purchase of Tropical Hardwoods	5-6
19. MacBride Fair Employment Principles	6
20. Omnibus Procurement Act of 1992	6
21. Reciprocity and Sanctions Provisions	6
22. Compliance with New York State Information Security Breach and Notification Act	6
23. Compliance with Consultant Disclosure Law	6
24. Procurement Lobbying	7
25. Certification of Registration to Collect Sales and Compensating Use Tax by Certain State Contractors, Affiliates and Subcontractors	7
26. Iran Divestment Act	7

STANDARD CLAUSES FOR NYS CONTRACTS

The parties to the attached contract, license, lease, amendment or other agreement of any kind (hereinafter, "the contract" or "this contract") agree to be bound by the following clauses which are hereby made a part of the contract (the word "Contractor" herein refers to any party other than the State, whether a contractor, licenser, licensee, lessor, lessee or any other party):

1. EXECUTORY CLAUSE. In accordance with Section 41 of the State Finance Law, the State shall have no liability under this contract to the Contractor or to anyone else beyond funds appropriated and available for this contract.

2. NON-ASSIGNMENT CLAUSE. In accordance with Section 138 of the State Finance Law, this contract may not be assigned by the Contractor or its right, title or interest therein assigned, transferred, conveyed, sublet or otherwise disposed of without the State's previous written consent, and attempts to do so are null and void. Notwithstanding the foregoing, such prior written consent of an assignment of a contract let pursuant to Article XI of the State Finance Law may be waived at the discretion of the contracting agency and with the concurrence of the State Comptroller where the original contract was subject to the State Comptroller's approval, where the assignment is due to a reorganization, merger or consolidation of the Contractor's business entity or enterprise. The State retains its right to approve an assignment and to require that any Contractor demonstrate its responsibility to do business with the State. The Contractor may, however, assign its right to receive payments without the State's prior written consent unless this contract concerns Certificates of Participation pursuant to Article 5-A of the State Finance Law.

3. COMPTROLLER'S APPROVAL. In accordance with Section 112 of the State Finance Law (or, if this contract is with the State University or City University of New York, Section 355 or Section 6218 of the Education Law), if this contract exceeds \$50,000 (or the minimum thresholds agreed to by the Office of the State Comptroller for certain S.U.N.Y. and C.U.N.Y. contracts), or if this is an amendment for any amount to a contract which, as so amended, exceeds said statutory amount, or if, by this contract, the State agrees to give something other than money when the value or reasonably estimated value of such consideration exceeds \$10,000, it shall not be valid, effective or binding upon the State until it has been approved by the State Comptroller and filed in his office. Comptroller's approval of contracts let by the Office of General Services is required when such contracts exceed \$85,000 (State Finance Law Section 163.6-a). However, such pre-approval shall not be required for any contract established as a centralized contract through the Office of General Services or for a purchase order or other transaction issued under such centralized contract.

4. WORKERS' COMPENSATION BENEFITS. In accordance with Section 142 of the State Finance Law, this

contract shall be void and of no force and effect unless the Contractor shall provide and maintain coverage during the life of this contract for the benefit of such employees as are required to be covered by the provisions of the Workers' Compensation Law.

5. NON-DISCRIMINATION REQUIREMENTS. To the extent required by Article 15 of the Executive Law (also known as the Human Rights Law) and all other State and Federal statutory and constitutional non-discrimination provisions, the Contractor will not discriminate against any employee or applicant for employment because of race, creed, color, sex (including gender identity or expression), national origin, sexual orientation, military status, age, disability, predisposing genetic characteristics, marital status or domestic violence victim status. Furthermore, in accordance with Section 220-e of the Labor Law, if this is a contract for the construction, alteration or repair of any public building or public work or for the manufacture, sale or distribution of materials, equipment or supplies, and to the extent that this contract shall be performed within the State of New York, Contractor agrees that neither it nor its subcontractors shall, by reason of race, creed, color, disability, sex, or national origin: (a) discriminate in hiring against any New York State citizen who is qualified and available to perform the work; or (b) discriminate against or intimidate any employee hired for the performance of work under this contract. If this is a building service contract as defined in Section 230 of the Labor Law, then, in accordance with Section 239 thereof, Contractor agrees that neither it nor its subcontractors shall by reason of race, creed, color, national origin, age, sex or disability: (a) discriminate in hiring against any New York State citizen who is qualified and available to perform the work; or (b) discriminate against or intimidate any employee hired for the performance of work under this contract. Contractor is subject to fines of \$50.00 per person per day for any violation of Section 220-e or Section 239 as well as possible termination of this contract and forfeiture of all moneys due hereunder for a second or subsequent violation.

6. WAGE AND HOURS PROVISIONS. If this is a public work contract covered by Article 8 of the Labor Law or a building service contract covered by Article 9 thereof, neither Contractor's employees nor the employees of its subcontractors may be required or permitted to work more than the number of hours or days stated in said statutes, except as otherwise provided in the Labor Law and as set forth in prevailing wage and supplement schedules issued by the State Labor Department. Furthermore, Contractor and its subcontractors must pay at least the prevailing wage rate and pay or provide the prevailing supplements, including the premium rates for overtime pay, as determined by the State Labor Department in accordance with the Labor Law. Additionally, effective April 28, 2008, if this is a public work contract covered by Article 8 of the Labor Law, the Contractor understands and agrees that the filing of payrolls in a manner consistent with Subdivision 3-a of Section 220 of the Labor Law shall be a condition precedent to payment by the State of

any State approved sums due and owing for work done upon the project.

7. NON-COLLUSIVE BIDDING CERTIFICATION. In accordance with Section 139-d of the State Finance Law, if this contract was awarded based upon the submission of bids, Contractor affirms, under penalty of perjury, that its bid was arrived at independently and without collusion aimed at restricting competition. Contractor further affirms that, at the time Contractor submitted its bid, an authorized and responsible person executed and delivered to the State a non-collusive bidding certification on Contractor's behalf.

8. INTERNATIONAL BOYCOTT PROHIBITION. In accordance with Section 220-f of the Labor Law and Section 139-h of the State Finance Law, if this contract exceeds \$5,000, the Contractor agrees, as a material condition of the contract, that neither the Contractor nor any substantially owned or affiliated person, firm, partnership or corporation has participated, is participating, or shall participate in an international boycott in violation of the federal Export Administration Act of 1979 (50 USC App. Sections 2401 et seq.) or regulations thereunder. If such Contractor, or any of the aforesaid affiliates of Contractor, is convicted or is otherwise found to have violated said laws or regulations upon the final determination of the United States Commerce Department or any other appropriate agency of the United States subsequent to the contract's execution, such contract, amendment or modification thereto shall be rendered forfeit and void. The Contractor shall so notify the State Comptroller within five (5) business days of such conviction, determination or disposition of appeal (2NYCRR 105.4).

9. SET-OFF RIGHTS. The State shall have all of its common law, equitable and statutory rights of set-off. These rights shall include, but not be limited to, the State's option to withhold for the purposes of set-off any moneys due to the Contractor under this contract up to any amounts due and owing to the State with regard to this contract, any other contract with any State department or agency, including any contract for a term commencing prior to the term of this contract, plus any amounts due and owing to the State for any other reason including, without limitation, tax delinquencies, fee delinquencies or monetary penalties relative thereto. The State shall exercise its set-off rights in accordance with normal State practices including, in cases of set-off pursuant to an audit, the finalization of such audit by the State agency, its representatives, or the State Comptroller.

10. RECORDS. The Contractor shall establish and maintain complete and accurate books, records, documents, accounts and other evidence directly pertinent to performance under this contract (hereinafter, collectively, "the Records"). The Records must be kept for the balance of the calendar year in which they were made and for six (6) additional years thereafter. The State Comptroller, the Attorney General and any other person or entity authorized to conduct an examination, as well as the agency or agencies involved in this

contract, shall have access to the Records during normal business hours at an office of the Contractor within the State of New York or, if no such office is available, at a mutually agreeable and reasonable venue within the State, for the term specified above for the purposes of inspection, auditing and copying. The State shall take reasonable steps to protect from public disclosure any of the Records which are exempt from disclosure under Section 87 of the Public Officers Law (the "Statute") provided that: (i) the Contractor shall timely inform an appropriate State official, in writing, that said records should not be disclosed; and (ii) said records shall be sufficiently identified; and (iii) designation of said records as exempt under the Statute is reasonable. Nothing contained herein shall diminish, or in any way adversely affect, the State's right to discovery in any pending or future litigation.

11. IDENTIFYING INFORMATION AND PRIVACY NOTIFICATION.

(a) Identification Number(s). Every invoice or New York State Claim for Payment submitted to a New York State agency by a payee, for payment for the sale of goods or services or for transactions (e.g., leases, easements, licenses, etc.) related to real or personal property must include the payee's identification number. The number is any or all of the following: (i) the payee's Federal employer identification number, (ii) the payee's Federal social security number, and/or (iii) the payee's Vendor Identification Number assigned by the Statewide Financial System. Failure to include such number or numbers may delay payment. Where the payee does not have such number or numbers, the payee, on its invoice or Claim for Payment, must give the reason or reasons why the payee does not have such number or numbers.

(b) Privacy Notification. (1) The authority to request the above personal information from a seller of goods or services or a lessor of real or personal property, and the authority to maintain such information, is found in Section 5 of the State Tax Law. Disclosure of this information by the seller or lessor to the State is mandatory. The principal purpose for which the information is collected is to enable the State to identify individuals, businesses and others who have been delinquent in filing tax returns or may have understated their tax liabilities and to generally identify persons affected by the taxes administered by the Commissioner of Taxation and Finance. The information will be used for tax administration purposes and for any other purpose authorized by law. (2) The personal information is requested by the purchasing unit of the agency contracting to purchase the goods or services or lease the real or personal property covered by this contract or lease. The information is maintained in the Statewide Financial System by the Vendor Management Unit within the Bureau of State Expenditures, Office of the State Comptroller, 110 State Street, Albany, New York 12236.

12. EQUAL EMPLOYMENT OPPORTUNITIES FOR MINORITIES AND WOMEN.

In accordance with Section 312 of the Executive Law and 5 NYCRR 143, if this contract is: (i) a written agreement or purchase order instrument, providing for a total expenditure in excess of \$25,000.00,

whereby a contracting agency is committed to expend or does expend funds in return for labor, services, supplies, equipment, materials or any combination of the foregoing, to be performed for, or rendered or furnished to the contracting agency; or (ii) a written agreement in excess of \$100,000.00 whereby a contracting agency is committed to expend or does expend funds for the acquisition, construction, demolition, replacement, major repair or renovation of real property and improvements thereon; or (iii) a written agreement in excess of \$100,000.00 whereby the owner of a State assisted housing project is committed to expend or does expend funds for the acquisition, construction, demolition, replacement, major repair or renovation of real property and improvements thereon for such project, then the following shall apply and by signing this agreement the Contractor certifies and affirms that it is Contractor's equal employment opportunity policy that:

(a) The Contractor will not discriminate against employees or applicants for employment because of race, creed, color, national origin, sex, age, disability or marital status, shall make and document its conscientious and active efforts to employ and utilize minority group members and women in its work force on State contracts and will undertake or continue existing programs of affirmative action to ensure that minority group members and women are afforded equal employment opportunities without discrimination. Affirmative action shall mean recruitment, employment, job assignment, promotion, upgradings, demotion, transfer, layoff, or termination and rates of pay or other forms of compensation;

(b) at the request of the contracting agency, the Contractor shall request each employment agency, labor union, or authorized representative of workers with which it has a collective bargaining or other agreement or understanding, to furnish a written statement that such employment agency, labor union or representative will not discriminate on the basis of race, creed, color, national origin, sex, age, disability or marital status and that such union or representative will affirmatively cooperate in the implementation of the Contractor's obligations herein; and

(c) the Contractor shall state, in all solicitations or advertisements for employees, that, in the performance of the State contract, all qualified applicants will be afforded equal employment opportunities without discrimination because of race, creed, color, national origin, sex, age, disability or marital status.

Contractor will include the provisions of "a", "b", and "c" above, in every subcontract over \$25,000.00 for the construction, demolition, replacement, major repair, renovation, planning or design of real property and improvements thereon (the "Work") except where the Work is for the beneficial use of the Contractor. Section 312 does not apply to: (i) work, goods or services unrelated to this contract; or (ii) employment outside New York State. The State shall consider compliance by a contractor or subcontractor with the requirements of any federal law concerning equal employment

opportunity which effectuates the purpose of this section. The contracting agency shall determine whether the imposition of the requirements of the provisions hereof duplicate or conflict with any such federal law and if such duplication or conflict exists, the contracting agency shall waive the applicability of Section 312 to the extent of such duplication or conflict. Contractor will comply with all duly promulgated and lawful rules and regulations of the Department of Economic Development's Division of Minority and Women's Business Development pertaining hereto.

13. CONFLICTING TERMS. In the event of a conflict between the terms of the contract (including any and all attachments thereto and amendments thereof) and the terms of this Appendix A, the terms of this Appendix A shall control.

14. GOVERNING LAW. This contract shall be governed by the laws of the State of New York except where the Federal supremacy clause requires otherwise.

15. LATE PAYMENT. Timeliness of payment and any interest to be paid to Contractor for late payment shall be governed by Article 11-A of the State Finance Law to the extent required by law.

16. NO ARBITRATION. Disputes involving this contract, including the breach or alleged breach thereof, may not be submitted to binding arbitration (except where statutorily authorized), but must, instead, be heard in a court of competent jurisdiction of the State of New York.

17. SERVICE OF PROCESS. In addition to the methods of service allowed by the State Civil Practice Law & Rules ("CPLR"), Contractor hereby consents to service of process upon it by registered or certified mail, return receipt requested. Service hereunder shall be complete upon Contractor's actual receipt of process or upon the State's receipt of the return thereof by the United States Postal Service as refused or undeliverable. Contractor must promptly notify the State, in writing, of each and every change of address to which service of process can be made. Service by the State to the last known address shall be sufficient. Contractor will have thirty (30) calendar days after service hereunder is complete in which to respond.

18. PROHIBITION ON PURCHASE OF TROPICAL HARDWOODS. The Contractor certifies and warrants that all wood products to be used under this contract award will be in accordance with, but not limited to, the specifications and provisions of Section 165 of the State Finance Law, (Use of Tropical Hardwoods) which prohibits purchase and use of tropical hardwoods, unless specifically exempted, by the State or any governmental agency or political subdivision or public benefit corporation. Qualification for an exemption under this law will be the responsibility of the contractor to establish to meet with the approval of the State.

In addition, when any portion of this contract involving the use of woods, whether supply or installation, is to be performed by any subcontractor, the prime Contractor will indicate and certify in the submitted bid proposal that the subcontractor has been informed and is in compliance with specifications and provisions regarding use of tropical hardwoods as detailed in §165 State Finance Law. Any such use must meet with the approval of the State; otherwise, the bid may not be considered responsive. Under bidder certifications, proof of qualification for exemption will be the responsibility of the Contractor to meet with the approval of the State.

19. MACBRIDE FAIR EMPLOYMENT PRINCIPLES.

In accordance with the MacBride Fair Employment Principles (Chapter 807 of the Laws of 1992), the Contractor hereby stipulates that the Contractor either (a) has no business operations in Northern Ireland, or (b) shall take lawful steps in good faith to conduct any business operations in Northern Ireland in accordance with the MacBride Fair Employment Principles (as described in Section 165 of the New York State Finance Law), and shall permit independent monitoring of compliance with such principles.

20. OMNIBUS PROCUREMENT ACT OF 1992. It is the policy of New York State to maximize opportunities for the participation of New York State business enterprises, including minority and women-owned business enterprises as bidders, subcontractors and suppliers on its procurement contracts.

Information on the availability of New York State subcontractors and suppliers is available from:

NYS Department of Economic Development
Division for Small Business
Albany, New York 12245
Telephone: 518-292-5100
Fax: 518-292-5884
email: opa@esd.ny.gov

A directory of certified minority and women-owned business enterprises is available from:

NYS Department of Economic Development
Division of Minority and Women's Business Development
633 Third Avenue
New York, NY 10017
212-803-2414
email: mwbecertification@esd.ny.gov
<https://ny.newnycontracts.com/FrontEnd/VendorSearchPublic.asp>

The Omnibus Procurement Act of 1992 requires that by signing this bid proposal or contract, as applicable, Contractors certify that whenever the total bid amount is greater than \$1 million:

(a) The Contractor has made reasonable efforts to encourage the participation of New York State Business Enterprises as suppliers and subcontractors, including certified minority and women-owned business enterprises, on this project, and has retained the documentation of these efforts to be provided upon request to the State;

(b) The Contractor has complied with the Federal Equal Opportunity Act of 1972 (P.L. 92-261), as amended;

(c) The Contractor agrees to make reasonable efforts to provide notification to New York State residents of employment opportunities on this project through listing any such positions with the Job Service Division of the New York State Department of Labor, or providing such notification in such manner as is consistent with existing collective bargaining contracts or agreements. The Contractor agrees to document these efforts and to provide said documentation to the State upon request; and

(d) The Contractor acknowledges notice that the State may seek to obtain offset credits from foreign countries as a result of this contract and agrees to cooperate with the State in these efforts.

21. RECIPROCITY AND SANCTIONS PROVISIONS.

Bidders are hereby notified that if their principal place of business is located in a country, nation, province, state or political subdivision that penalizes New York State vendors, and if the goods or services they offer will be substantially produced or performed outside New York State, the Omnibus Procurement Act 1994 and 2000 amendments (Chapter 684 and Chapter 383, respectively) require that they be denied contracts which they would otherwise obtain. NOTE: As of May 15, 2002, the list of discriminatory jurisdictions subject to this provision includes the states of South Carolina, Alaska, West Virginia, Wyoming, Louisiana and Hawaii. Contact NYS Department of Economic Development for a current list of jurisdictions subject to this provision.

22. COMPLIANCE WITH NEW YORK STATE INFORMATION SECURITY BREACH AND NOTIFICATION ACT. Contractor shall comply with the provisions of the New York State Information Security Breach and Notification Act (General Business Law Section 899-aa; State Technology Law Section 208).

23. COMPLIANCE WITH CONSULTANT DISCLOSURE LAW. If this is a contract for consulting services, defined for purposes of this requirement to include analysis, evaluation, research, training, data processing, computer programming, engineering, environmental, health, and mental health services, accounting, auditing, paralegal, legal or similar services, then, in accordance with Section 163 (4-g) of the State Finance Law (as amended by Chapter 10 of the Laws of 2006), the Contractor shall timely, accurately and properly comply with the requirement to submit an annual employment report for the contract to the agency that awarded

the contract, the Department of Civil Service and the State Comptroller.

24. PROCUREMENT LOBBYING. To the extent this agreement is a "procurement contract" as defined by State Finance Law Sections 139-j and 139-k, by signing this agreement the contractor certifies and affirms that all disclosures made in accordance with State Finance Law Sections 139-j and 139-k are complete, true and accurate. In the event such certification is found to be intentionally false or intentionally incomplete, the State may terminate the agreement by providing written notification to the Contractor in accordance with the terms of the agreement.

25. CERTIFICATION OF REGISTRATION TO COLLECT SALES AND COMPENSATING USE TAX BY CERTAIN STATE CONTRACTORS, AFFILIATES AND SUBCONTRACTORS.

To the extent this agreement is a contract as defined by Tax Law Section 5-a, if the contractor fails to make the certification required by Tax Law Section 5-a or if during the term of the contract, the Department of Taxation and Finance or the covered agency, as defined by Tax Law 5-a, discovers that the certification, made under penalty of perjury, is false, then such failure to file or false certification shall be a material breach of this contract and this contract may be terminated, by providing written notification to the Contractor in accordance with the terms of the agreement, if the covered agency determines that such action is in the best interest of the State.

26. IRAN DIVESTMENT ACT. By entering into this Agreement, Contractor certifies in accordance with State Finance Law §165-a that it is not on the "Entities Determined to be Non-Responsive Bidders/Offerers pursuant to the New York State Iran Divestment Act of 2012" ("Prohibited Entities List") posted at: <http://www.ogs.ny.gov/about/regs/docs/ListofEntities.pdf>

Contractor further certifies that it will not utilize on this Contract any subcontractor that is identified on the Prohibited Entities List. Contractor agrees that should it seek to renew or extend this Contract, it must provide the same certification at the time the Contract is renewed or extended. Contractor also agrees that any proposed Assignee of this Contract will be required to certify that it is not on the Prohibited Entities List before the contract assignment will be approved by the State.

During the term of the Contract, should the state agency receive information that a person (as defined in State Finance Law §165-a) is in violation of the above-referenced certifications, the state agency will review such information and offer the person an opportunity to respond. If the person fails to demonstrate that it has ceased its engagement in the investment activity which is in violation of the Act within 90 days after the determination of such violation, then the state agency shall take such action as may be appropriate and provided for by law, rule, or contract, including, but not

limited to, imposing sanctions, seeking compliance, recovering damages, or declaring the Contractor in default.

The state agency reserves the right to reject any bid, request for assignment, renewal or extension for an entity that appears on the Prohibited Entities List prior to the award, assignment, renewal or extension of a contract, and to pursue a responsibility review with respect to any entity that is awarded a contract and appears on the Prohibited Entities list after contract award.

APPENDIX B

Contract (incorporates Appendix A)

**CREATIVE & MARKETING
COMMUNICATIONS SERVICES
C140008**

AND

**MEDIA PLANNING & BUYING SERVICES
C140009**

CREATIVE & MARKETING COMMUNICATIONS SERVICES
CONTRACT # C140008

THIS AGREEMENT made this ____ day of _____, 2014 by and between the NEW YORK STATE GAMING COMMISSION, DIVISION OF LOTTERY, an executive agency of the State of New York having an office at One Broadway Center, Post Office Box 7500, Schenectady, New York 12301-7500 (the "Commission"), and [name of company] having an office at [address of company] (the "Contractor").

WHEREAS the Commission issued a Request for Proposals on May 12, 2014 soliciting proposals from qualified firms to provide Advertising and Media services, and clarified the requirements of the Request for Proposals with a list of Questions and Answers dated May 29, 2014 and July 31, 2014 (collectively, the "RFP"); and

WHEREAS the Contractor submitted a Technical Proposal and a Pricing Proposal dated [_____] (collectively, the "Proposal"), which received the highest total combined score from among competing proposals by the Commission's evaluation team;

NOW, THEREFORE, in consideration of the foregoing and of the mutual promises hereinafter set forth, the parties hereto agree as follows:

1. Scope of Services. The Contractor agrees to provide the Commission with Creative & Marketing Communications Services, as more fully set forth in the RFP and the Proposal. Both the RFP and the Proposal are hereby incorporated into this Agreement with the same force and effect as if they were fully set forth herein.

2. Term. This Agreement shall be for a term of five years commencing as of January 15, 2015.

3. Compensation. In full consideration for all goods and services specified in the RFP and the Proposal, the Commission agrees to pay, and the Contractor agrees to accept, compensation in accordance with the prices set forth in the Proposal. No minimum amount is guaranteed by this Agreement and the Contractor shall not have any right to make a claim therefor. The contract value is not to exceed _____.

4. Approvals Required. This Agreement, and any extension of the term of this Agreement or any amendment of the provisions of this Agreement, shall not be effective and binding upon the Commission, the State of New York, or the Contractor unless and until approved by the Attorney General and the State Comptroller. The Commission agrees to exercise its best efforts to obtain such approval.

5. Mutual Cooperation. The objective of this Agreement is to obtain Creative & Marketing Communications Services. The parties agree to cooperate fully in good faith and to assist each other, to the extent reasonably practicable, in order to accomplish that objective.

6. Termination.

(a) The Commission shall have the right to terminate this Agreement for convenience or for any of the following causes:

(i) a material breach by the Contractor of any of the provisions of this Agreement;

- (ii) a determination by a court of competent jurisdiction that the Contractor is bankrupt or insolvent;
- (iii) a good faith determination by the Commission that continuation of the contract could place the integrity of the Commission in jeopardy; or
- (iv) a conviction of the Contractor or any of its directors, officers, or employees of any criminal offense connected to the Contractor's business which, in the sole reasonable opinion of the Executive Director of the Commission, would be prejudicial to public confidence in the Lottery or the Commission.

(b) In the event that the Commission decides to exercise the right to terminate this Agreement for cause, the Commission shall give the Contractor advance written Notice of Intention to Terminate for Cause ("Notice"). Such Notice shall state clearly and specifically the cause for which termination is sought, and the Contractor shall be entitled to a period of thirty (30) days from receipt of such Notice to correct or cure the cause so described to the reasonable satisfaction of the Commission in which case such Notice shall be deemed withdrawn and a nullity. If termination is sought because of a criminal conviction as described in subparagraph (iv) of Paragraph (a) of this section 6, the cause for termination shall be deemed to be cured if the Contractor causes or obtains the dismissal, resignation, retirement, or other removal of the person convicted of such offense during such thirty (30) day period.

(c) The Commission reserves the right to terminate this Agreement in the event it is found that the certification filed by the Contractor in accordance with New York State Finance Law § 139-k was intentionally false or intentionally incomplete. Upon such finding, the Commission may exercise its termination right by providing written notice to the Contractor in accordance with the written notice terms of this Agreement.

(d) Upon written notice to the Contractor, and a reasonable opportunity to be heard with appropriate Commission officials or staff, the Contract may be terminated by the Executive Director or his or her designee at the Contractor's expense where the Contractor is determined by the Executive Director or his or her designee to be non-responsible. In such event, the Executive Director or his or her designee may complete the contractual requirements in any manner he or she may deem advisable and pursue available legal or equitable remedies for breach.

7. Confidentiality and Non-Disclosure.

(a) For the purposes of this section, "Confidential Information" means any information not generally known to the public, whether oral or written, that the Commission identifies as confidential and discloses to the Contractor so that the Contractor can provide services to the Commission pursuant to this Agreement. Confidential Information may include, but is not limited to, operational and infrastructure information relating to: bid documents, plans, drawings, specifications, reports, product information; business and security processes and procedures; personnel and organizational data, and financial statements; information system IP addresses, passwords, security controls, architectures and designs; and such other data, information and images that the Commission deems confidential. The Commission will identify written Confidential Information by marking it with the word "Confidential" and will identify oral Confidential Information as confidential at the time of disclosure to the Contractor.

(b) Confidential Information does not include information that, at the time of Commission disclosure to the Contractor:

(i) is already in the public domain or becomes publicly known through no act of the Contractor;

(ii) is already known by the Contractor free of any confidentially obligations;

(iii) is information that the Commission has approved in writing for disclosure; or
(iv) is required to be disclosed by the Contractor pursuant to law so long as the Contractor provides the Commission with notice of such disclosure requirement and opportunity to defend prior to any such disclosure.

(c) The Contractor may use Confidential Information solely for the purposes of providing services to the Commission pursuant to this Agreement. The Contractor shall not make copies of any written Confidential Information without the express written permission of the Commission. The Commission's disclosure of Confidential Information to the Contractor shall not convey to the Contractor any right to or interest in such Confidential Information and the Commission shall retain all right and title to such Confidential Information at all times.

(d) The Contractor shall hold Confidential Information confidential to the maximum extent permitted by law. The Contractor shall safeguard Confidential Information with at least the same level of care and security, using all reasonable and necessary security measures, devices and procedures that the Contractor uses to maintain its own confidential information.

(e) Upon written request by the Commission, the Contractor shall return all written Confidential Information to the Commission.

8. Records Retention. Records required by this Agreement to be retained by the Contractor shall be retained for the periods specified in Appendix A, attached hereto. Such records may be retained in their original form or in any other reliable and readily retrievable format, at the option of the Contractor.

9. Notices. All notices required by this Agreement shall be sufficient if in writing and sent by certified mail return receipt requested and all other communications shall be sufficient if

communicated in writing to the following addresses or to such other addresses as may be designated from time to time by the parties in writing:

(a) As to the Commission:

Executive Director of the New York State Gaming Commission
One Broadway Center
Post Office Box 7500
Schenectady NY 12301-7500

(b) As to the Contractor:

[Name and Address]

10. Liability and Indemnification. The Contractor shall be responsible for all damages to life and property due to activities of the Contractor, as well as the subcontractors (if any), agents or employees of the Contractor in connection with performance of services under this agreement. The Contractor shall indemnify, defend, and save harmless the New York Lottery, the Commission, the State of New York, and their officers, employees, agents, assigns and retailers from and against any and all third party claims, liabilities, losses, damages, costs, or expenses, including reasonable attorneys' fees, which may be incurred, suffered, or required in whole or in part by an actual or alleged act or omission of:

(a) The Contractor, its officers, employees, agents, successors and assigns,
and/or

(b) A Subcontractor, its officers, employees, agents, successors and assigns.

11. Relationship. The relationship of the Contractor to the Commission arising out of this Agreement shall be that of an independent contractor. The Contractor, in accordance with its status as an independent contractor, agrees that it will conduct itself consistent with such status, that it will neither hold itself out as, nor claim to be, an officer or employee of the

Commission or the State by reason hereof, and that it will not by reason hereof, make any claim, demand or application for any right or privilege applicable to an officer or employee of the Commission or the State, including, but not limited to, workers' compensation coverage, unemployment insurance benefits, social security coverage, or retirement membership or credit. All personnel of the Contractor shall be within the employ of the Contractor only or shall be duly contracted subcontractors of the Contractor, which alone shall be responsible for their work, the direction thereof, and their compensation. Nothing in this Agreement shall impose any liability or duty on the Commission or the State, on account of any acts, omissions, liabilities or obligations of the Contractor or any person, firm, company, agency, association, corporation, or organization engaged by the Contractor as expert, consultant, independent contractor, specialist, trainee, employee, servant or agent, for taxes of any nature, including, but not limited to, unemployment insurance and workers' compensation, and the Contractor hereby agrees to indemnify and hold harmless the Commission and the State against any such liabilities.

12. Documents Incorporated. Appendix A, "Standard Clauses for New York State Contracts," the RFP, and the Proposal are hereby incorporated herein to the same force and effect as if set forth at length hereat.

13. Order of Precedence. Any conflict between the provisions of this Agreement and the documents incorporated herein shall be resolved according to the following order of precedence, from the highest to the lowest:

- (a) Appendix A – Standard Clauses for New York State Contracts;
- (b) Any amendments to the Agreement;
- (c) Agreement;

- (d) Request for Proposal and any clarifying responses by the Commission;
- (e) Vendor Proposal and any clarifying responses by the vendor.

14. Miscellaneous Provisions.

(a) A waiver of enforcement of any provision of this Agreement shall not constitute a waiver of any other provision of this Agreement nor shall it preclude the affected party from subsequently enforcing such provision.

(b) This instrument and the documents incorporated herein represent the entire agreement between the Commission and the Contractor, and no modification thereof shall be binding unless the same is in writing and signed by the respective parties.

(c) The headings contained in this Agreement are intended for ease of reference only and shall not be interpreted to limit or modify any of the provisions of this Agreement.

(d) The Contractor shall at all times during the Contract term remain responsible. The Contractor agrees, if requested by the Executive Director of the Commission or his or her designee, to present evidence of its continuing legal authority to do business in New York State, integrity, experience, ability, prior performance, and organizational and financial capacity.

(e) The Executive Director of the Commission or his or her designee, in his or her sole discretion, reserves the right to suspend any or all activities under this Contract, at any time, when he or she discovers information that calls into question the responsibility of the Contractor. In the event of such suspension, the Contractor will be given written notice outlining the particulars of such suspension. Upon issuance of such notice, the Contractor must comply with the terms of the suspension order. Contract activity may resume at such time as the Executive Director of the Commission or his or her designee issues a written notice authorizing a resumption of performance under the Contract.

IN WITNESS WHEREOF, the parties hereto have executed this Agreement as of the day and year first above written.

[CONTRACTOR]

NEW YORK STATE
GAMING COMMISSION

By: _____

By: _____

Title: _____

Title: _____

Date: _____

Date: _____

ATTORNEY GENERAL

COMPTROLLER
Thomas P. DiNapoli

By: _____

By: _____

Title: _____

Title: _____

Date: _____

Date: _____

STATE OF _____)
) ss.:
COUNTY OF _____)

On this ____ day of _____, 2014, before me personally came _____, to me known, who being duly sworn, did depose and say that he or she resides in _____ (if the place of residence is in a city, include the house and street number), that he or she is the _____ of [company name], the corporation which executed this contract, and that he or she was authorized to execute this contract on behalf of said corporation.

Notary Public

MEDIA PLANNING & BUYING SERVICES
CONTRACT # C140009

THIS AGREEMENT made this ____ day of _____, 2014 by and between the NEW YORK STATE GAMING COMMISSION, DIVISION OF LOTTERY, an executive agency of the State of New York having an office at One Broadway Center, Post Office Box 7500, Schenectady, New York 12301-7500 (the "Commission"), and [name of company] having an office at [address of company] (the "Contractor").

WHEREAS the Commission issued a Request for Proposals on May 12, 2014 soliciting proposals from qualified firms to provide Advertising and Media services, and clarified the requirements of the Request for Proposals with a list of Questions and Answers dated May 29, 2014 and July 31, 2014 (collectively, the "RFP"); and

WHEREAS the Contractor submitted a Technical Proposal and a Pricing Proposal dated [_____] (collectively, the "Proposal"), which received the highest total combined score from among competing proposals by the Commission's evaluation team;

NOW, THEREFORE, in consideration of the foregoing and of the mutual promises hereinafter set forth, the parties hereto agree as follows:

1. Scope of Services. The Contractor agrees to provide the Commission with Media Planning & Buying Services, as more fully set forth in the RFP and the Proposal. Both the RFP and the Proposal are hereby incorporated into this Agreement with the same force and effect as if they were fully set forth herein.

2. Term. This Agreement shall be for a term of five years commencing as of January 15, 2015.

3. Compensation. In full consideration for all goods and services specified in the RFP and the Proposal, the Commission agrees to pay, and the Contractor agrees to accept, compensation in accordance with the prices set forth in the Proposal. No minimum amount is guaranteed by this Agreement and the Contractor shall not have any right to make a claim therefor. The contract value is not to exceed _____.

4. Approvals Required. This Agreement, and any extension of the term of this Agreement or any amendment of the provisions of this Agreement, shall not be effective and binding upon the Commission, the State of New York, or the Contractor unless and until approved by the Attorney General and the State Comptroller. The Commission agrees to exercise its best efforts to obtain such approval.

5. Mutual Cooperation. The objective of this Agreement is to obtain Media Planning & Buying Services. The parties agree to cooperate fully in good faith and to assist each other, to the extent reasonably practicable, in order to accomplish that objective.

6. Termination.

(a) The Commission shall have the right to terminate this Agreement for convenience or for any of the following causes:

(i) a material breach by the Contractor of any of the provisions of this Agreement;

- (ii) a determination by a court of competent jurisdiction that the Contractor is bankrupt or insolvent;
- (iii) a good faith determination by the Commission that continuation of the contract could place the integrity of the Commission in jeopardy; or
- (iv) a conviction of the Contractor or any of its directors, officers, or employees of any criminal offense connected to the Contractor's business which, in the sole reasonable opinion of the Executive Director of the Commission, would be prejudicial to public confidence in the Lottery or the Commission.

(b) In the event that the Commission decides to exercise the right to terminate this Agreement for cause, the Commission shall give the Contractor advance written Notice of Intention to Terminate for Cause ("Notice"). Such Notice shall state clearly and specifically the cause for which termination is sought, and the Contractor shall be entitled to a period of thirty (30) days from receipt of such Notice to correct or cure the cause so described to the reasonable satisfaction of the Commission in which case such Notice shall be deemed withdrawn and a nullity. If termination is sought because of a criminal conviction as described in subparagraph (iv) of Paragraph (a) of this section 6, the cause for termination shall be deemed to be cured if the Contractor causes or obtains the dismissal, resignation, retirement, or other removal of the person convicted of such offense during such thirty (30) day period.

(c) The Commission reserves the right to terminate this Agreement in the event it is found that the certification filed by the Contractor in accordance with New York State Finance Law § 139-k was intentionally false or intentionally incomplete. Upon such finding, the Commission may exercise its termination right by providing written notice to the Contractor in accordance with the written notice terms of this Agreement.

(d) Upon written notice to the Contractor, and a reasonable opportunity to be heard with appropriate Commission officials or staff, the Contract may be terminated by the Executive Director or his or her designee at the Contractor's expense where the Contractor is determined by the Executive Director or his or her designee to be non-responsible. In such event, the Executive Director or his or her designee may complete the contractual requirements in any manner he or she may deem advisable and pursue available legal or equitable remedies for breach.

7. Confidentiality and Non-Disclosure.

(a) For the purposes of this section, "Confidential Information" means any information not generally known to the public, whether oral or written, that the Commission identifies as confidential and discloses to the Contractor so that the Contractor can provide services to the Commission pursuant to this Agreement. Confidential Information may include, but is not limited to, operational and infrastructure information relating to: bid documents, plans, drawings, specifications, reports, product information; business and security processes and procedures; personnel and organizational data, and financial statements; information system IP addresses, passwords, security controls, architectures and designs; and such other data, information and images that the Commission deems confidential. The Commission will identify written Confidential Information by marking it with the word "Confidential" and will identify oral Confidential Information as confidential at the time of disclosure to the Contractor.

(b) Confidential Information does not include information that, at the time of Commission disclosure to the Contractor:

(i) is already in the public domain or becomes publicly known through no act of the Contractor;

(ii) is already known by the Contractor free of any confidentially obligations;

(iii) is information that the Commission has approved in writing for disclosure; or
(iv) is required to be disclosed by the Contractor pursuant to law so long as the Contractor provides the Commission with notice of such disclosure requirement and opportunity to defend prior to any such disclosure.

(c) The Contractor may use Confidential Information solely for the purposes of providing services to the Commission pursuant to this Agreement. The Contractor shall not make copies of any written Confidential Information without the express written permission of the Commission. The Commission's disclosure of Confidential Information to the Contractor shall not convey to the Contractor any right to or interest in such Confidential Information and the Commission shall retain all right and title to such Confidential Information at all times.

(d) The Contractor shall hold Confidential Information confidential to the maximum extent permitted by law. The Contractor shall safeguard Confidential Information with at least the same level of care and security, using all reasonable and necessary security measures, devices and procedures that the Contractor uses to maintain its own confidential information.

(e) Upon written request by the Commission, the Contractor shall return all written Confidential Information to the Commission.

8. Records Retention. Records required by this Agreement to be retained by the Contractor shall be retained for the periods specified in Appendix A, attached hereto. Such records may be retained in their original form or in any other reliable and readily retrievable format, at the option of the Contractor.

9. Notices. All notices required by this Agreement shall be sufficient if in writing and sent by certified mail return receipt requested and all other communications shall be sufficient if

communicated in writing to the following addresses or to such other addresses as may be designated from time to time by the parties in writing:

(a) As to the Commission:

Executive Director of the New York State Gaming Commission
One Broadway Center
Post Office Box 7500
Schenectady NY 12301-7500

(b) As to the Contractor:

[Name and Address]

10. Liability and Indemnification. The Contractor shall be responsible for all damages to life and property due to activities of the Contractor, as well as the subcontractors (if any), agents or employees of the Contractor in connection with performance of services under this agreement. The Contractor shall indemnify, defend, and save harmless the New York Lottery, the Commission, the State of New York, and their officers, employees, agents, assigns and retailers from and against any and all third party claims, liabilities, losses, damages, costs, or expenses, including reasonable attorneys' fees, which may be incurred, suffered, or required in whole or in part by an actual or alleged act or omission of:

(a) The Contractor, its officers, employees, agents, successors and assigns,
and/or

(b) A Subcontractor, its officers, employees, agents, successors and assigns.

11. Relationship. The relationship of the Contractor to the Commission arising out of this Agreement shall be that of an independent contractor. The Contractor, in accordance with its status as an independent contractor, agrees that it will conduct itself consistent with such status, that it will neither hold itself out as, nor claim to be, an officer or employee of the

Commission or the State by reason hereof, and that it will not by reason hereof, make any claim, demand or application for any right or privilege applicable to an officer or employee of the Commission or the State, including, but not limited to, workers' compensation coverage, unemployment insurance benefits, social security coverage, or retirement membership or credit. All personnel of the Contractor shall be within the employ of the Contractor only or shall be duly contracted subcontractors of the Contractor, which alone shall be responsible for their work, the direction thereof, and their compensation. Nothing in this Agreement shall impose any liability or duty on the Commission or the State, on account of any acts, omissions, liabilities or obligations of the Contractor or any person, firm, company, agency, association, corporation, or organization engaged by the Contractor as expert, consultant, independent contractor, specialist, trainee, employee, servant or agent, for taxes of any nature, including, but not limited to, unemployment insurance and workers' compensation, and the Contractor hereby agrees to indemnify and hold harmless the Commission and the State against any such liabilities.

12. Documents Incorporated. Appendix A, "Standard Clauses for New York State Contracts," the RFP, and the Proposal are hereby incorporated herein to the same force and effect as if set forth at length hereat.

13. Order of Precedence. Any conflict between the provisions of this Agreement and the documents incorporated herein shall be resolved according to the following order of precedence, from the highest to the lowest:

- (a) Appendix A – Standard Clauses for New York State Contracts;
- (b) Any amendments to the Agreement;
- (c) Agreement;

- (d) Request for Proposal and any clarifying responses by the Commission;
- (e) Vendor Proposal and any clarifying responses by the vendor.

14. Miscellaneous Provisions.

(a) A waiver of enforcement of any provision of this Agreement shall not constitute a waiver of any other provision of this Agreement nor shall it preclude the affected party from subsequently enforcing such provision.

(b) This instrument and the documents incorporated herein represent the entire agreement between the Commission and the Contractor, and no modification thereof shall be binding unless the same is in writing and signed by the respective parties.

(c) The headings contained in this Agreement are intended for ease of reference only and shall not be interpreted to limit or modify any of the provisions of this Agreement.

(d) The Contractor shall at all times during the Contract term remain responsible. The Contractor agrees, if requested by the Executive Director of the Commission or his or her designee, to present evidence of its continuing legal authority to do business in New York State, integrity, experience, ability, prior performance, and organizational and financial capacity.

(e) The Executive Director of the Commission or his or her designee, in his or her sole discretion, reserves the right to suspend any or all activities under this Contract, at any time, when he or she discovers information that calls into question the responsibility of the Contractor. In the event of such suspension, the Contractor will be given written notice outlining the particulars of such suspension. Upon issuance of such notice, the Contractor must comply with the terms of the suspension order. Contract activity may resume at such time as the Executive Director of the Commission or his or her designee issues a written notice authorizing a resumption of performance under the Contract.

IN WITNESS WHEREOF, the parties hereto have executed this Agreement as of the day and year first above written.

[CONTRACTOR]

NEW YORK STATE
GAMING COMMISSION

By: _____

By: _____

Title: _____

Title: _____

Date: _____

Date: _____

ATTORNEY GENERAL

COMPTROLLER
Thomas P. DiNapoli

By: _____

By: _____

Title: _____

Title: _____

Date: _____

Date: _____

STATE OF _____)
) ss.:
COUNTY OF _____)

On this ____ day of _____, 2014, before me personally came _____, to me known, who being duly sworn, did depose and say that he or she resides in _____ (if the place of residence is in a city, include the house and street number), that he or she is the _____ of [company name], the corporation which executed this contract, and that he or she was authorized to execute this contract on behalf of said corporation.

Notary Public

APPENDIX C

**Procurement Lobbying
Bidder/Offeror Disclosure/Certification Form**

BIDDER/OFFERER DISCLOSURE/CERTIFICATION FORM

CONTRACT/PROJECT DESCRIPTION: Advertising and Media Services

CONTRACT/PROJECT NUMBER: C140008 and C140009

RESTRICTED PERIOD FOR THIS PROCUREMENT: 5/12/14 through approval of the Office of the State Comptroller.

PERMISSABLE CONTACTS: Gail Thorpe and Stacey Relation

1. CONTACTS - Contractor affirms that it understands and agrees to comply with the procedures on procurement lobbying restrictions regarding permissible contacts in the restricted period for a procurement contract in accordance with State Finance Law §§ 139-j and 139-k. I agree

2. BIDDER/OFFERER DISCLOSURE OF PRIOR NON-RESPONSIBILITY DETERMINATIONS Pursuant to Procurement Lobbying Law (SFL §139-j)

(a) Has any Governmental Entity made a finding of non-responsibility regarding the individual or entity seeking to enter into the Procurement Contract in the previous four years?

Yes No

If yes, please answer the following question:

(b) Was the basis for the finding of non-responsibility due to a violation of State Finance Law §139-j?

Yes No

(c) If "Yes" was the basis for the finding of non-responsibility due to the intentional provision of false or incomplete information to a governmental entity?

Yes No

If "Yes", please provide details regarding the finding of non-responsibility:

Governmental Entity: _____

Date of Finding of Non-Responsibility: _____

Basis of Finding of Non-Responsibility (attach additional sheets if necessary):

(d) Has any governmental agency terminated or withheld a procurement contract with the above-named individual or entity due to the intentional provision of false or incomplete information?

Yes No

If yes, provide details:

Governmental Entity: _____

Date of Termination or Withholding of Contract: _____

Basis of Termination or Withholding: (add additional pages if necessary)

3. TERMINATION CLAUSE:

Contractor certifies that all information provided to the Agency with respect to State Finance Law §§139 (j) and 139 (k) is complete true and accurate. If found to be in violation of State Finance Law §§139 (j) and 139 (k), the contract will result in termination.

I agree

Name of Contractor's Firm/Company: _____

Contractor Address: _____

Contractor's signature: _____

I understand that my signature represents that I am signing and responding to both certifications listed above

Print Name: _____

Occupation of Person signing this form: _____

Email Address: _____

APPENDIX D

Non-Collusive Bidding Certification

**Non-Collusive Bidding Certification
Required By Section 139-D of the State Finance Law**

By submission of this bid, bidder and each person signing on behalf of bidder certifies, under penalty of perjury, that to the best of his/her knowledge and belief:

[1] The prices of this bid have been arrived at independently, without collusion, consultation, communication, or agreement, for the purposes of restricting competition, as to any matter relating to such prices with any other Bidder or with any competitor;

[2] Unless otherwise required by law, the prices which have been quoted in this bid have not been knowingly disclosed by the Bidder and will not knowingly be disclosed by the Bidder prior to opening, directly or indirectly, to any other Bidder or to any competitor; and

[3] No attempt has been made or will be made by the Bidder to induce any other person, partnership or corporation to submit or not to submit a bid for the purpose of restricting competition.

A BID SHALL NOT BE CONSIDERED FOR AWARD NOR SHALL ANY AWARD BE MADE WHERE [1], [2], [3] ABOVE HAVE NOT BEEN COMPLIED WITH; PROVIDED HOWEVER, THAT IF IN ANY CASE THE BIDDER(S) CANNOT MAKE THE FORGOING CERTIFICATION, THE BIDDER SHALL SO STATE AND SHALL FURNISH BELOW A SIGNED STATEMENT WHICH SETS FORTH IN DETAIL THE REASONS THEREFORE:

[AFFIX ADDEDUM TO THIS PAGE IF SPACE IS REQUIRED FOR STATEMENT.]

Subscribed to under penalty of perjury under the laws of the State of New York, this _____ day _____, 2014 as the act and deed of said corporation.

Title

Signature

APPENDIX E

NYS Vendor Responsibility Questionnaire

Andrew M. Cuomo
Governor

Mark D. Gearan, Chair
John A. Crotty
John J. Poklemba
Barry C. Sample
Todd R. Snyder
Commissioners



Robert Williams
Acting Executive Director

Edmund C. Burns
General Counsel

The submission of the attached Vendor Responsibility Questionnaire is required with your bid.

You must include your ten-digit Vendor ID identifier number issued by New York State. Please insert the Vendor ID number on the top right corner of pages 2-10 of the questionnaire.

If you have previously submitted a New York State Vendor Questionnaire that was signed less than one year ago in connection with another State solicitation or contract, and there are no material changes to that questionnaire, you may submit an Affidavit of No Change along with a copy of the previously completed Vendor Questionnaire.

You are encouraged to complete the questionnaire online. By doing so, you will not be required to complete the questionnaire for future contracts with New York State agencies, so long as you certify the information every six months.

If you are interested in completing the online questionnaire, please visit the following website for additional information:

<http://www.osc.state.ny.us/vendrep/documents/welcomepkg.pdf>

If you have filed your questionnaire online, please sign below and return only this page with your bid.

Complete the below only if you have filed your questionnaire online, otherwise, please complete the attached questionnaire.

Contractor Name (print)

Signature

Company Name

Date

**NEW YORK STATE
VENDOR RESPONSIBILITY QUESTIONNAIRE
FOR-PROFIT BUSINESS ENTITY**

You have selected the For-Profit Non-Construction questionnaire which may be printed and completed in this format or, for your convenience, may be completed online using the New York State VendRep System.

COMPLETION & CERTIFICATION

The person(s) completing the questionnaire must be knowledgeable about the vendor's business and operations. An owner or officer must certify the questionnaire and the signature must be notarized.

NEW YORK STATE VENDOR IDENTIFICATION NUMBER (VENDOR ID)

The Vendor ID is a ten-digit identifier issued by New York State when the vendor is registered on the Statewide Vendor File. This number must now be included on the questionnaire. If the business entity has not obtained a Vendor ID, contact the OSC Help Desk at ciohelpdesk@osc.state.ny.us or call 866-370-4672.

DEFINITIONS

All underlined terms are defined in the "New York State Vendor Responsibility Definitions List," found at www.osc.state.ny.us/vendrep/documents/definitions.pdf. These terms may not have their ordinary, common or traditional meanings. Each vendor is strongly encouraged to read the respective definitions for any and all underlined terms. By submitting this questionnaire, the vendor agrees to be bound by the terms as defined in the "New York State Vendor Responsibility Definitions List" existing at the time of certification.

RESPONSES

Every question must be answered. Each response must provide all relevant information which can be obtained within the limits of the law. However, information regarding a determination or finding made in error which was subsequently corrected is not required. Individuals and Sole Proprietors may use a Social Security Number but are encouraged to obtain and use a federal Employer Identification Number (EIN).

REPORTING ENTITY

Each vendor must indicate if the questionnaire is filed on behalf of the entire Legal Business Entity or an Organizational Unit within or operating under the authority of the Legal Business Entity and having the same EIN. Generally, the Organizational Unit option may be appropriate for a vendor that meets the definition of "Reporting Entity" but due to the size and complexity of the Legal Business Entity, is best able to provide the required information for the Organizational Unit, while providing more limited information for other parts of the Legal Business Entity and Associated Entities.

ASSOCIATED ENTITY

An Associated Entity is one that owns or controls the Reporting Entity or any entity owned or controlled by the Reporting Entity. However, the term Associated Entity does **not** include "sibling organizations" (i.e., entities owned or controlled by a parent company that owns or controls the Reporting Entity), unless such sibling entity has a direct relationship with or impact on the Reporting Entity.

STRUCTURE OF THE QUESTIONNAIRE

The questionnaire is organized into eleven sections. Section I is to be completed for the Legal Business Entity. Section II requires the vendor to specify the Reporting Entity for the questionnaire. Section III refers to the individuals of the Reporting Entity, while Sections IV-VIII require information about the Reporting Entity. Section IX pertains to any Associated Entities, with one question about their Officials/Owners. Section X relates to disclosure under the Freedom of Information Law (FOIL). Section XI requires an authorized contact for the questionnaire information.

**NEW YORK STATE
VENDOR RESPONSIBILITY QUESTIONNAIRE
FOR-PROFIT BUSINESS ENTITY**

I. LEGAL BUSINESS ENTITY INFORMATION			
<u>Legal Business Entity Name</u> *		<u>EIN</u> (Enter 9 digits, without hyphen)	
Address of the <u>Principal Place of Business</u> (street, city, state, zip code)		<u>New York State Vendor Identification Number</u>	
		Telephone ext.	Fax
Email		Website	
Additional <u>Legal Business Entity</u> Identities: If applicable, list any other <u>DBA</u> , <u>Trade Name</u> , <u>Former Name</u> , Other Identity, or <u>EIN</u> used in the last five (5) years and the status (active or inactive).			
Type	Name	EIN	Status
1.0 <u>Legal Business Entity</u> Type – Check appropriate box and provide additional information:			
<input type="checkbox"/> <u>Corporation</u> (including <u>PC</u>)		Date of Incorporation	
<input type="checkbox"/> <u>Limited Liability Company (LLC or PLLC)</u>		Date of Organization	
<input type="checkbox"/> <u>Partnership</u> (including <u>LLP</u> , <u>LP</u> or <u>General</u>)		Date of Registration or Establishment	
<input type="checkbox"/> <u>Sole Proprietor</u>		How many years in business?	
<input type="checkbox"/> Other		Date Established	
If Other, explain:			
1.1 Was the <u>Legal Business Entity</u> formed or incorporated in New York State?			<input type="checkbox"/> Yes <input type="checkbox"/> No
If ‘No,’ indicate jurisdiction where <u>Legal Business Entity</u> was formed or incorporated and attach a <u>Certificate of Good Standing</u> from the applicable jurisdiction or provide an explanation if a <u>Certificate of Good Standing</u> is not available.			
<input type="checkbox"/> United States State _____			
<input type="checkbox"/> Other Country _____			
Explain, if not available:			
1.2 Is the <u>Legal Business Entity</u> publicly traded?			<input type="checkbox"/> Yes <input type="checkbox"/> No
If “Yes,” provide <u>CIK Code</u> or Ticker Symbol			
1.3 Does the <u>Legal Business Entity</u> have a <u>DUNS</u> Number?			<input type="checkbox"/> Yes <input type="checkbox"/> No
If “Yes,” Enter <u>DUNS</u> Number			

* All underlined terms are defined in the “New York State Vendor Responsibility Definitions List,” which can be found at www.osc.state.ny.us/vendrep/documents/definitions.pdf.

**NEW YORK STATE
VENDOR RESPONSIBILITY QUESTIONNAIRE
FOR-PROFIT BUSINESS ENTITY**

I. LEGAL BUSINESS ENTITY INFORMATION

1.4 If the <u>Legal Business Entity</u> 's <u>Principal Place of Business</u> is not in New York State, does the <u>Legal Business Entity</u> maintain an office in New York State? (Select "N/A," if <u>Principal Place of Business</u> is in New York State.)	<input type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> N/A
--	--

If "Yes," provide the address and telephone number for one office located in New York State.

1.5 Is the <u>Legal Business Entity</u> a New York State certified <u>Minority-Owned Business Enterprise</u> (MBE), <u>Women-Owned Business Enterprise</u> (WBE), <u>New York State Small Business</u> (SB) or a federally certified <u>Disadvantaged Business Enterprise</u> (DBE)? If "Yes," check all that apply: <input type="checkbox"/> New York State certified <u>Minority-Owned Business Enterprise</u> (MBE) <input type="checkbox"/> New York State certified <u>Women-Owned Business Enterprise</u> (WBE) <input type="checkbox"/> <u>New York State Small Business</u> (SB) <input type="checkbox"/> Federally certified <u>Disadvantaged Business Enterprise</u> (DBE)	<input type="checkbox"/> Yes <input type="checkbox"/> No
---	--

1.6 Identify Officials and Principal Owners, if applicable. For each person, include name, title and percentage of ownership. Attach additional pages if necessary. If applicable, reference to relevant SEC filing(s) containing the required information is optional.

Name	Title	Percentage Ownership <i>(Enter 0% if not applicable)</i>

**NEW YORK STATE
VENDOR RESPONSIBILITY QUESTIONNAIRE
FOR-PROFIT BUSINESS ENTITY**

II. REPORTING ENTITY INFORMATION

2.0 The Reporting Entity for this questionnaire is:

Note: Select only one.

Legal Business Entity

Note: If selecting this option, “Reporting Entity” refers to the entire Legal Business Entity for the remainder of the questionnaire. (SKIP THE REMAINDER OF SECTION II AND PROCEED WITH SECTION III.)

Organizational Unit within and operating under the authority of the Legal Business Entity

SEE DEFINITIONS OF “REPORTING ENTITY” AND “ORGANIZATIONAL UNIT” FOR ADDITIONAL INFORMATION ON CRITERIA TO QUALIFY FOR THIS SELECTION.

Note: If selecting this option, “Reporting Entity” refers to the Organizational Unit within the Legal Business Entity for the remainder of the questionnaire. (COMPLETE THE REMAINDER OF SECTION II AND ALL REMAINING SECTIONS OF THIS QUESTIONNAIRE.)

IDENTIFYING INFORMATION

a) Reporting Entity Name

Address of the Primary Place of Business (street, city, state, zip code)

Telephone

ext.

b) Describe the relationship of the Reporting Entity to the Legal Business Entity

c) Attach an organizational chart

d) Does the Reporting Entity have a DUNS Number?

Yes No

If “Yes,” enter DUNS Number

e) Identify the designated manager(s) responsible for the business of the Reporting Entity.
For each person, include name and title. Attach additional pages if necessary.

Name

Title

**NEW YORK STATE
VENDOR RESPONSIBILITY QUESTIONNAIRE
FOR-PROFIT BUSINESS ENTITY**

INSTRUCTIONS FOR SECTIONS III THROUGH VII

For each “Yes,” provide an explanation of the issue(s), relevant dates, the government entity involved, any remedial or corrective action(s) taken and the current status of the issue(s). For each “Other,” provide an explanation which provides the basis for not definitively responding “Yes” or “No.” Provide the explanation at the end of the section or attach additional sheets with numbered responses, including the Reporting Entity name at the top of any attached pages.

III. LEADERSHIP INTEGRITY

Within the past five (5) years, has any current or former reporting entity official or any individual currently or formerly having the authority to sign, execute or approve bids, proposals, contracts or supporting documentation on behalf of the reporting entity with any government entity been:

3.0 <u>Sanctioned</u> relative to any business or professional permit and/or license?	<input type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> Other
3.1 <u>Suspended, debarred, or disqualified</u> from any <u>government contracting process</u> ?	<input type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> Other
3.2 The subject of an <u>investigation</u> , whether open or closed, by any <u>government entity</u> for a civil or criminal violation for any business-related conduct?	<input type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> Other
3.3 Charged with a misdemeanor or felony, indicted, granted immunity, convicted of a crime or subject to a <u>judgment</u> for: a) Any business-related activity; or b) Any crime, whether or not business-related, the underlying conduct of which was related to truthfulness?	<input type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> Other

For each “Yes” or “Other” explain:

IV. INTEGRITY – CONTRACT BIDDING

Within the past five (5) years, has the reporting entity:

4.0 Been <u>suspended or debarred</u> from any <u>government contracting process</u> or been <u>disqualified</u> on any government procurement, permit, license, concession, franchise or lease, including, but not limited to, <u>debarment</u> for a violation of New York State Workers’ Compensation or Prevailing Wage laws or New York State Procurement Lobbying Law?	<input type="checkbox"/> Yes <input type="checkbox"/> No
4.1 Been subject to a denial or revocation of a government prequalification?	<input type="checkbox"/> Yes <input type="checkbox"/> No
4.2 Been denied a contract award or had a bid rejected based upon a <u>non-responsibility finding</u> by a <u>government entity</u> ?	<input type="checkbox"/> Yes <input type="checkbox"/> No
4.3 Had a low bid rejected on a <u>government contract</u> for failure to <u>make good faith efforts</u> on any <u>Minority-Owned Business Enterprise, Women-Owned Business Enterprise or Disadvantaged Business Enterprise</u> goal or <u>statutory affirmative action requirements</u> on a previously held contract?	<input type="checkbox"/> Yes <input type="checkbox"/> No
4.4 Agreed to a voluntary exclusion from bidding/contracting with a <u>government entity</u> ?	<input type="checkbox"/> Yes <input type="checkbox"/> No
4.5 Initiated a request to withdraw a bid submitted to a <u>government entity</u> in lieu of responding to an information request or subsequent to a formal request to appear before the <u>government entity</u> ?	<input type="checkbox"/> Yes <input type="checkbox"/> No

For each “Yes,” explain:

**NEW YORK STATE
VENDOR RESPONSIBILITY QUESTIONNAIRE
FOR-PROFIT BUSINESS ENTITY**

V. INTEGRITY – CONTRACT AWARD

Within the past five (5) years, has the reporting entity:

- | | |
|---|--|
| 5.0 Been <u>suspended</u> , cancelled or <u>terminated for cause</u> on any <u>government contract</u> including, but not limited to, a <u>non-responsibility finding</u> ? | <input type="checkbox"/> Yes <input type="checkbox"/> No |
| 5.1 Been subject to an <u>administrative proceeding</u> or civil action seeking specific performance or restitution in connection with any <u>government contract</u> ? | <input type="checkbox"/> Yes <input type="checkbox"/> No |
| 5.2 Entered into a formal monitoring agreement as a condition of a contract award from a <u>government entity</u> ? | <input type="checkbox"/> Yes <input type="checkbox"/> No |

For each “Yes,” explain:

VI. CERTIFICATIONS/LICENSES

Within the past five (5) years, has the reporting entity:

- | | |
|---|--|
| 6.0 Had a revocation, <u>suspension</u> or <u>disbarment</u> of any business or professional permit and/or license? | <input type="checkbox"/> Yes <input type="checkbox"/> No |
| 6.1 Had a denial, decertification, revocation or forfeiture of New York State certification of <u>Minority-Owned Business Enterprise</u> , <u>Women-Owned Business Enterprise</u> or federal certification of <u>Disadvantaged Business Enterprise</u> status for other than a change of ownership? | <input type="checkbox"/> Yes <input type="checkbox"/> No |

For each “Yes,” explain:

VII. LEGAL PROCEEDINGS

Within the past five (5) years, has the reporting entity:

- | | |
|--|--|
| 7.0 Been the subject of an <u>investigation</u> , whether open or closed, by any <u>government entity</u> for a civil or criminal violation? | <input type="checkbox"/> Yes <input type="checkbox"/> No |
| 7.1 Been the subject of an indictment, grant of immunity, <u>judgment</u> or conviction (including entering into a plea bargain) for conduct constituting a crime? | <input type="checkbox"/> Yes <input type="checkbox"/> No |
| 7.2 Received any OSHA citation and Notification of Penalty containing a violation classified as <u>serious</u> or <u>willful</u> ? | <input type="checkbox"/> Yes <input type="checkbox"/> No |
| 7.3 Had a <u>government entity</u> find a willful prevailing wage or supplemental payment violation or any other willful violation of New York State Labor Law? | <input type="checkbox"/> Yes <input type="checkbox"/> No |
| 7.4 Entered into a consent order with the New York State Department of Environmental Conservation, or received an enforcement determination by any <u>government entity</u> involving a violation of federal, state or local environmental laws? | <input type="checkbox"/> Yes <input type="checkbox"/> No |
| 7.5 Other than previously disclosed:
a) Been subject to fines or penalties imposed by <u>government entities</u> which in the aggregate total \$25,000 or more; or
b) Been convicted of a criminal offense pursuant to any administrative and/or regulatory action taken by any <u>government entity</u> ? | <input type="checkbox"/> Yes <input type="checkbox"/> No |

For each “Yes,” explain:

**NEW YORK STATE
VENDOR RESPONSIBILITY QUESTIONNAIRE
FOR-PROFIT BUSINESS ENTITY**

VIII. FINANCIAL AND ORGANIZATIONAL CAPACITY	
8.0 Within the past five (5) years, has the <u>Reporting Entity</u> received any <u>formal unsatisfactory performance assessment(s)</u> from any <u>government entity</u> on any contract?	<input type="checkbox"/> Yes <input type="checkbox"/> No
If “Yes,” provide an explanation of the issue(s), relevant dates, the <u>government entity</u> involved, any remedial or corrective action(s) taken and the current status of the issue(s). Provide answer below or attach additional sheets with numbered responses.	
8.1 Within the past five (5) years, has the <u>Reporting Entity</u> had any <u>liquidated damages</u> assessed over \$25,000?	<input type="checkbox"/> Yes <input type="checkbox"/> No
If “Yes,” provide an explanation of the issue(s), relevant dates, contracting party involved, the amount assessed and the current status of the issue(s). Provide answer below or attach additional sheets with numbered responses.	
8.2 Within the past five (5) years, have any <u>liens</u> or <u>judgments</u> (not including UCC filings) over \$25,000 been filed against the <u>Reporting Entity</u> which remain undischarged?	<input type="checkbox"/> Yes <input type="checkbox"/> No
If “Yes,” provide an explanation of the issue(s), relevant dates, the Lien holder or Claimant’s name(s), the amount of the <u>lien(s)</u> and the current status of the issue(s). Provide answer below or attach additional sheets with numbered responses.	
8.3 In the last seven (7) years, has the <u>Reporting Entity</u> initiated or been the subject of any bankruptcy proceedings, whether or not closed, or is any bankruptcy proceeding pending?	<input type="checkbox"/> Yes <input type="checkbox"/> No
If “Yes,” provide the bankruptcy chapter number, the court name and the docket number. Indicate the current status of the proceedings as “Initiated,” “Pending” or “Closed.” Provide answer below or attach additional sheets with numbered responses.	
8.4 During the past three (3) years, has the <u>Reporting Entity</u> failed to file or pay any tax returns required by <u>federal, state or local tax laws</u> ?	<input type="checkbox"/> Yes <input type="checkbox"/> No
If “Yes,” provide the taxing jurisdiction, the type of tax, the liability year(s), the tax liability amount the <u>Reporting Entity</u> failed to file/pay and the current status of the tax liability. Provide answer below or attach additional sheets with numbered responses.	
8.5 During the past three (3) years, has the <u>Reporting Entity</u> failed to file or pay any New York State unemployment insurance returns?	<input type="checkbox"/> Yes <input type="checkbox"/> No
If “Yes,” provide the years the <u>Reporting Entity</u> failed to file/pay the insurance, explain the situation and any remedial or corrective action(s) taken and the current status of the issue(s). Provide answer below or attach additional sheets with numbered responses.	
8.6 During the past three (3) years, has the <u>Reporting Entity</u> had any <u>government audit(s)</u> completed?	<input type="checkbox"/> Yes <input type="checkbox"/> No
a) If “Yes,” did any audit of the <u>Reporting Entity</u> identify any reported significant deficiencies in internal control, fraud, illegal acts, significant violations of provisions of contract or grant agreements, significant abuse or any <u>material disallowance</u> ?	<input type="checkbox"/> Yes <input type="checkbox"/> No
If “Yes” to 8.6 a), provide an explanation of the issue(s), relevant dates, the <u>government entity</u> involved, any remedial or corrective action(s) taken and the current status of the issue(s). Provide answer below or attach additional sheets with numbered responses.	

**NEW YORK STATE
VENDOR RESPONSIBILITY QUESTIONNAIRE
FOR-PROFIT BUSINESS ENTITY**

IX. ASSOCIATED ENTITIES

*This section pertains to any entity(ies) that either controls or is controlled by the reporting entity.
(See definition of "associated entity" for additional information to complete this section.)*

9.0 Does the Reporting Entity have any Associated Entities?

Yes No

Note: All questions in this section must be answered if the Reporting Entity is either:

- An Organizational Unit; or
- The entire Legal Business Entity which controls, or is controlled by, any other entity(ies).

If "No," SKIP THE REMAINDER OF SECTION IX AND PROCEED WITH SECTION X.

9.1 Within the past five (5) years, has any Associated Entity Official or Principal Owner been charged with a misdemeanor or felony, indicted, granted immunity, convicted of a crime or subject to a judgment for:

Yes No

- a) Any business-related activity; or
- b) Any crime, whether or not business-related, the underlying conduct of which was related to truthfulness?

If "Yes," provide an explanation of the issue(s), the individual involved, his/her title and role in the Associated Entity, his/her relationship to the Reporting Entity, relevant dates, the government entity involved, any remedial or corrective action(s) taken and the current status of the issue(s).

9.2 Does any Associated Entity have any currently undischarged federal, New York State, New York City or New York local government liens or judgments (not including UCC filings) over \$50,000?

Yes No

If "Yes," provide an explanation of the issue(s), identify the Associated Entity's name(s), EIN(s), primary business activity, relationship to the Reporting Entity, relevant dates, the Lien holder or Claimant's name(s), the amount of the lien(s) and the current status of the issue(s). Provide answer below or attach additional sheets with numbered responses.

9.3 Within the past five (5) years, has any Associated Entity:

a) Been disqualified, suspended or debarred from any federal, New York State, New York City or other New York local government contracting process?

Yes No

b) Been denied a contract award or had a bid rejected based upon a non-responsibility finding by any federal, New York State, New York City, or New York local government entity?

Yes No

c) Been suspended, cancelled or terminated for cause (including for non-responsibility) on any federal, New York State, New York City or New York local government contract?

Yes No

d) Been the subject of an investigation, whether open or closed, by any federal, New York State, New York City, or New York local government entity for a civil or criminal violation with a penalty in excess of \$500,000?

Yes No

e) Been the subject of an indictment, grant of immunity, judgment, or conviction (including entering into a plea bargain) for conduct constituting a crime?

Yes No

f) Been convicted of a criminal offense pursuant to any administrative and/or regulatory action taken by any federal, New York State, New York City, or New York local government entity?

Yes No

g) Initiated or been the subject of any bankruptcy proceedings, whether or not closed, or is any bankruptcy proceeding pending?

Yes No

For each "Yes," provide an explanation of the issue(s), identify the Associated Entity's name(s), EIN(s), primary business activity, relationship to the Reporting Entity, relevant dates, the government entity involved, any remedial or corrective action(s) taken and the current status of the issue(s). Provide answer below or attach additional sheets with numbered responses.

**NEW YORK STATE
VENDOR RESPONSIBILITY QUESTIONNAIRE
FOR-PROFIT BUSINESS ENTITY**

X. FREEDOM OF INFORMATION LAW (FOIL)

10. Indicate whether any information supplied herein is believed to be exempt from disclosure under the Freedom of Information Law (FOIL). Note: A determination of whether such information is exempt from FOIL will be made at the time of any request for disclosure under FOIL.	<input type="checkbox"/> Yes <input type="checkbox"/> No
--	--

If "Yes," indicate the question number(s) and explain the basis for the claim.

XI. AUTHORIZED CONTACT FOR THIS QUESTIONNAIRE

Name	Telephone	Fax
	ext.	
Title	Email	

**NEW YORK STATE
VENDOR RESPONSIBILITY QUESTIONNAIRE
FOR-PROFIT BUSINESS ENTITY**

Certification

The undersigned: (1) recognizes that this questionnaire is submitted for the express purpose of assisting New York State contracting entities in making responsibility determinations regarding an award of a contract or approval of a subcontract; (2) recognizes that the Office of the State Comptroller (OSC) will rely on information disclosed in the questionnaire in making responsibility determinations and in approving a contract or subcontract; (3) acknowledges that the New York State contracting entities and OSC may, in their discretion, by means which they may choose, verify the truth and accuracy of all statements made herein; and (4) acknowledges that intentional submission of false or misleading information may constitute a misdemeanor or felony under New York State Penal Law, may be punishable by a fine and/or imprisonment under Federal Law, and may result in a finding of non-responsibility, contract suspension or contract termination.

The undersigned certifies that he/she:

- is knowledgeable about the Reporting Entity's business and operations;
- has read and understands all of the questions contained in the questionnaire;
- has not altered the content of the questionnaire in any manner;
- has reviewed and/or supplied full and complete responses to each question;
- to the best of his/her knowledge, information and belief, confirms that the Reporting Entity's responses are true, accurate and complete, including all attachments, if applicable;
- understands that New York State will rely on the information disclosed in the questionnaire when entering into a contract with the Reporting Entity; and
- is under obligation to update the information provided herein to include any material changes to the Reporting Entity's responses at the time of bid/proposal submission through the contract award notification, and may be required to update the information at the request of the New York State contracting entities or OSC prior to the award and/or approval of a contract, or during the term of the contract.

Signature of Owner/Officer _____

Printed Name of Signatory _____

Title _____

Reporting Entity Name _____

Address _____

City, State, Zip _____

Sworn to before me this _____ day of _____ 20 _____ ;

_____ Notary Public

APPENDIX F

Substitute Form W-9



NEW YORK STATE OFFICE OF THE STATE COMPTROLLER
SUBSTITUTE FORM W-9:
REQUEST FOR TAXPAYER IDENTIFICATION NUMBER & CERTIFICATION

TYPE OR PRINT INFORMATION NEATLY. PLEASE REFER TO INSTRUCTIONS FOR MORE INFORMATION.

Part I: Vendor Information

1. Legal Business Name:

2. Business name/disregarded entity name, if different from Legal Business Name:

3. Entity Type (Check one only):

- Individual Sole Proprietor
 Partnership
 Limited Liability Co.
 Corporation
 Not For Profit
 Trusts/Estates
 Federal, State or Local Government
 Public Authority
 Disregarded Entity
 Other _____

Exempt Payee

Part II: Taxpayer Identification Number (TIN) & Taxpayer Identification Type

1. Enter your TIN here: *(DO NOT USE DASHES)*
See instructions.

--	--	--	--	--	--	--	--	--	--

2. Taxpayer Identification Type (check appropriate box):

- Employer ID No. (EIN)
 Social Security No. (SSN)
 Individual Taxpayer ID No. (ITIN)
 N/A (Non-United States Business Entity)

Part III: Address

1. Physical Address:

Number, Street, and Apartment or Suite Number

City, State, and Nine Digit Zip Code or Country

2. Remittance Address:

Number, Street, and Apartment or Suite Number

City, State, and Nine Digit Zip Code or Country

Part IV: Certification and Exemption from Backup Withholding

Under penalties of perjury, I certify that:

- The number shown on this form is my correct taxpayer identification number (TIN), and
- I am a U.S. citizen or other U.S. person, and
- (Check one only):
 - I am not subject to backup withholding.** *I am (a) exempt from backup withholding, or (b) I have not been notified by the Internal Revenue Service (IRS) that I am subject to backup withholding as a result of a failure to report all interest or dividends, or (c) the IRS has notified me that I am no longer subject to backup withholding), or*
 - I am subject to backup withholding.** *I have been notified by the IRS that I am subject to backup withholding as a result of a failure to report all interest or dividends, and I have not been notified by the IRS that I am no longer subject to backup withholding.*

Sign Here:

Signature	Title	Date
Print Preparer's Name	Phone Number	Email Address

Part V: Contact Information – Individual Authorized to Represent the Vendor

Vendor Contact Person: _____ Title: _____

Contact's Email Address: _____ Phone Number: _____

DO NOT SUBMIT FORM TO IRS — SUBMIT FORM TO NYS ONLY AS DIRECTED

NYS Office of the State Comptroller Instructions for Completing Substitute Form W-9

New York State (NYS) must obtain your correct Taxpayer Identification Number (TIN) to report income paid to you or your organization. NYS Office of the State Comptroller uses the Substitute Form W-9 to obtain certification of your TIN in order to ensure accuracy of information contained in its payee/vendor database and to avoid backup withholding.¹ We ask for the information on the Substitute Form W-9 to carry out the Internal Revenue laws of the United States. You are required to give us the information.

Any payee/vendor who wishes to do business with New York State must complete the Substitute Form W-9. Substitute Form W-9 is the only acceptable documentation. We will not accept IRS Form W-9.

Part I: Vendor Information

1. **Legal Business Name:** For individuals, enter the name of the person who will do business with NYS as it appears on the Social Security card or other required Federal tax documents. An organization should enter the name shown on its charter or other legal documents that created the organization. Do not abbreviate names.
2. **Business name/disregarded entity name, if different from Legal Business Name:** Enter your DBA name or another name your entity is known by.
3. **Entity Type:** Check the Entity Type doing business with New York State.

Part II: Taxpayer Identification Number (TIN) and Taxpayer Identification Type

The TIN provided must match the name in the "Legal Business Name" box to avoid backup withholding. For individuals, this is your social security number (SSN). However, for a resident alien, sole proprietor, or disregarded entity, refers to IRS W-9 instructions for additional information. For other entities, it is your employer identification number (EIN). If you do not have a number or if the account is in more than one name, refer to IRS W-9 instructions for additional information.

1. **Taxpayer Identification Number:** Enter your nine-digit Social Security Number, Individual Taxpayer Identification Number (ITIN) or Employer Identification Number (EIN).
2. **Taxpayer Identification Type:** Check the type of identification number provided.

Part III: Address

1. **Physical Address:** Enter the location of where your business is physically located.
2. **Remittance Address:** Enter the address where payments should be mailed.

Part IV: Certification and Exemption from Backup Withholding

Check the appropriate box indicating your exemption status from backup withholding. Individuals and sole proprietors are not exempt from backup withholding. Corporations are exempt from backup withholding for certain types of payments. Refer to IRS Form W-9 instructions for additional information. The signature should be provided by the individual, owner, officer, legal representative, or other authorized person of the entity listed on the form. Certain exceptions to the signature requirement are listed in the IRS instructions for form W-9.

Part V: Contact Information

Please provide the contact information for an executive at your organization. This individual should be the person who makes legal and financial decisions for your organization.

¹ According to IRS Regulations, OSC must withhold 28% of all payments if a payee/vendor fails to provide OSC its certified TIN. The Substitute Form W-9 certifies a payee/vendor's TIN.

APPENDIX G

Electronic Payment Request

NYS Office of the State Comptroller Instructions for Electronic Payment (ePayment) Request

Please Note: For your protection, we will not accept email or fax to enroll or change electronic payment information. Failure to provide the requested information may delay or prevent the receipt of payments through the Electronic Payment (ePayment) Program.

Notification Required under Personal Privacy Protection Law: The information provided on this form is required under Section 109 of the New York State Finance Law, as well as the New York State and Federal tax laws (See New York State Tax Law § 674, 26 USC §6041). This information will be provided only to the designated financial institution(s) and/or their agent(s) for the purpose of processing payments, and for other official business of the Office of the State Comptroller. No further disclosure of this information will be made unless such disclosure is authorized or required by law. The information provided is maintained in New York State's Statewide Financial System by the Vendor Management Unit within the Bureau of State Expenditures, Office of the State Comptroller, 110 State Street, Albany, New York 12236.

Part I: NYS Vendor Information

Vendor ID (Required): The NYS Vendor ID is a ten-character identifier issued by the Vendor Management Unit when the vendor is registered in the Vendor File.

Legal Business Name (Required): The name of the person or business as it appears on the Social Security card or other required Federal tax documents. Do not abbreviate names.

Remittance Address: The Remittance Address is the default address where payments will be delivered if the payment fails to process electronically.

Part II: Type of ePayment Request

Select one of the following options (Required):

New Enrollment – Please complete all information in Part III and IV and attach an original voided check. If you do not attach an original voided check the financial institution must complete Part IV and V.

Change ePayment Bank Information – Please complete all information in Part III and IV and attach an original voided check. If you do not attach an original voided check the financial institution must complete Part IV and V.

Cancel ePayments – Please complete all information in Part III. To cancel, the payee's authorized vendor contact must provide this form or signed written notification (including all information in Part III) to the address provided on the front of this form. Notification may be submitted via mail, fax (518-402-4212) or email (epayments@osc.state.ny.us).

Part III: Vendor Certification

Authorized Vendor Contact Signature (Required): The signature of the contact person at the vendor submitting the request. This should be someone who can make financial and/or legal decisions for the entity or the Vendor's Primary Contact on their NYS Vendor Record.

Vendor Contact Name (Required): Print the name of the contact person at the vendor. This should be someone who can make financial and/or legal decisions for the entity or the Vendor's Primary Contact on their Vendor Record.

Title (Required): Contact's title

Email Address (Required): Contact's email address

Phone Number (Required): Contact's phone number

Part IV: Financial Institution Information

Name of Financial Institution (Required): Name of the bank that the account is with.

Type of Account: Savings or Checking Account

Bank Routing Number/ABA# (Required): Nine-digit number identifying the financial institution the account belongs to.

Account Number (Required): Vendor's Bank Account Number

Part V: Financial Institution Certification

Institution Officer Signature (Required): Signature of the Institution Officer at the bank certifying the banking information provided on this form.

Institution Officer Name (Required): Name of the Institution Officer at the bank completing this section of the form.

Title (Required): Institution Officer's title

Phone Number (Required): Institution Officer's phone number

Email Address (Required): Institution Officer's email address

APPENDIX H

Sales & Use Tax (Section 5-a – Tax Law)

ST-220-CA: Contractor Certification to Covered Agency

ST-220-TD: Contractor Certification to Tax Department



Contractor Certification to Covered Agency

(Pursuant to Section 5-a of the Tax Law, as amended, effective April 26, 2006)

ST-220-CA

(6/06)

For information, consult Publication 223, *Questions and Answers Concerning Tax Law Section 5-a* (see *Need Help? on back*).

Contractor name		For covered agency use only Contract number or description	
Contractor's principal place of business	City	State	ZIP code
Contractor's mailing address (if different than above)		Estimated contract value over the full term of contract (but not including renewals)	
Contractor's federal employer identification number (EIN)	Contractor's sales tax ID number (if different from contractor's EIN)		\$
Contractor's telephone number	Covered agency name		
Covered agency address		Covered agency telephone number	

I, _____, hereby affirm, under penalty of perjury, that I am _____

(name)

(title)

of the above-named contractor, that I am authorized to make this certification on behalf of such contractor, and I further certify that:

(Mark an X in only one box)

The contractor has filed Form ST-220-TD with the Department of Taxation and Finance in connection with this contract and, to the best of contractor's knowledge, the information provided on the Form ST-220-TD, is correct and complete.

The contractor has previously filed Form ST-220-TD with the Tax Department in connection with _____
(insert contract number or description)

and, to the best of the contractor's knowledge, the information provided on that previously filed Form ST-220-TD, is correct and complete as of the current date, and thus the contractor is not required to file a new Form ST-220-TD at this time.

Sworn to this ____ day of _____, 20 ____

(sign before a notary public)

(title)

Instructions

General information

Tax Law section 5-a was amended, effective April 26, 2006. On or after that date, in all cases where a contract is subject to Tax Law section 5-a, a contractor must file (1) Form ST-220-CA, *Contractor Certification to Covered Agency*, with a covered agency, and (2) Form ST-220-TD with the Tax Department before a contract may take effect. The circumstances when a contract is subject to section 5-a are listed in Publication 223, Q&A 3. This publication is available on our Web site, by fax, or by mail. (See *Need help?* for more information on how to obtain this publication.) In addition, a contractor must file a new Form ST-220-CA with a covered agency before an existing contract with such agency may be renewed.

If you have questions, please call our information center at 1 800 698-2931.

Note: Form ST-220-CA must be signed by a person authorized to make the certification on behalf of the contractor, and the acknowledgement on page 2 of this form must be completed before a notary public.

When to complete this form

As set forth in Publication 223, a contract is subject to section 5-a, and you must make the required certification(s), if:

- i. The procuring entity is a *covered agency* within the meaning of the statute (see Publication 223, Q&A 5);
- ii. The contractor is a *contractor* within the meaning of the statute (see Publication 223, Q&A 6); and
- iii. The contract is a *contract* within the meaning of the statute. This is the case when it (a) has a value in excess of \$100,000 and (b) is a contract for *commodities* or *services*, as such terms are defined for purposes of the statute (see Publication 223, Q&A 8 and 9).

Furthermore, the procuring entity must have begun the solicitation to purchase on or after January 1, 2005, and the resulting contract must have been awarded, amended, extended, renewed, or assigned *on or after April 26, 2006* (the effective date of the section 5-a amendments).

Individual, Corporation, Partnership, or LLC Acknowledgment

STATE OF }
: SS.:
COUNTY OF }

On the ___ day of _____ in the year 20___, before me personally appeared _____,
known to me to be the person who executed the foregoing instrument, who, being duly sworn by me did depose and say that
_he resides at _____,
Town of _____,
County of _____,
State of _____; and further that:

[Mark an X in the appropriate box and complete the accompanying statement.]

- (If an individual): _he executed the foregoing instrument in his/her name and on his/her own behalf.
(If a corporation): _he is the _____ of _____, the corporation described in said instrument; that, by authority of the Board of Directors of said corporation, _he is authorized to execute the foregoing instrument on behalf of the corporation for purposes set forth therein; and that, pursuant to that authority, _he executed the foregoing instrument in the name of and on behalf of said corporation as the act and deed of said corporation.
(If a partnership): _he is a _____ of _____, the partnership described in said instrument; that, by the terms of said partnership, _he is authorized to execute the foregoing instrument on behalf of the partnership for purposes set forth therein; and that, pursuant to that authority, _he executed the foregoing instrument in the name of and on behalf of said partnership as the act and deed of said partnership.
(If a limited liability company): _he is a duly authorized member of _____, LLC, the limited liability company described in said instrument; that _he is authorized to execute the foregoing instrument on behalf of the limited liability company for purposes set forth therein; and that, pursuant to that authority, _he executed the foregoing instrument in the name of and on behalf of said limited liability company as the act and deed of said limited liability company.

Notary Public

Registration No.

Privacy notification

The Commissioner of Taxation and Finance may collect and maintain personal information pursuant to the New York State Tax Law, including but not limited to, sections 5-a, 171, 171-a, 287, 308, 429, 475, 505, 697, 1096, 1142, and 1415 of that Law; and may require disclosure of social security numbers pursuant to 42 USC 405(c)(2)(C)(i).
This information will be used to determine and administer tax liabilities and, when authorized by law, for certain tax offset and exchange of tax information programs as well as for any other lawful purpose.
Information concerning quarterly wages paid to employees is provided to certain state agencies for purposes of fraud prevention, support enforcement, evaluation of the effectiveness of certain employment and training programs and other purposes authorized by law.
Failure to provide the required information may subject you to civil or criminal penalties, or both, under the Tax Law.
This information is maintained by the Director of Records Management and Data Entry, NYS Tax Department, W A Harriman Campus, Albany NY 12227; telephone 1 800 225-5829. From areas outside the United States and outside Canada, call (518) 485-6800.

Need help?
Internet access: www.nystax.gov (for information, forms, and publications)
Fax-on-demand forms: 1 800 748-3676
Telephone assistance is available from 8:00 A.M. to 5:00 P.M. (eastern time), Monday through Friday. 1 800 698-2931
To order forms and publications: 1 800 462-8100
From areas outside the U.S. and outside Canada: (518) 485-6800
Hearing and speech impaired (telecommunications device for the deaf (TDD) callers only): 1 800 634-2110
Persons with disabilities: In compliance with the Americans with Disabilities Act, we will ensure that our lobbies, offices, meeting rooms, and other facilities are accessible to persons with disabilities. If you have questions about special accommodations for persons with disabilities, please call 1 800 972-1233.



Contractor Certification

(Pursuant to Section 5-a of the Tax Law, as amended, effective April 26, 2006)

ST-220-TD

(6/06)

For information, consult Publication 223, *Questions and Answers Concerning Tax Law Section 5-a (see Need help? below)*.

Contractor name				
Contractor's principal place of business		City	State	ZIP code
Contractor's mailing address (if different than above)				
Contractor's federal employer identification number (EIN)		Contractor's sales tax ID number (if different from contractor's EIN)		Contractor's telephone number ()
Covered agency name	Contract number or description		Estimated contract value over the full term of contract (but not including renewals) \$	
Covered agency address			Covered agency telephone number	

General information

Section 5-a of the Tax Law, as amended, effective April 26, 2006, requires certain contractors awarded certain state contracts valued at more than \$100,000 to certify to the Tax Department that they are registered to collect New York State and local sales and compensating use taxes, if they made sales delivered by any means to locations within New York State of tangible personal property or taxable services having a cumulative value in excess of \$300,000, measured over a specified period. In addition, contractors must certify to the Tax Department that each affiliate and subcontractor exceeding such sales threshold during a specified period is registered to collect New York State and local sales and compensating use taxes. Contractors must also file a Form ST-220-CA, certifying to the procuring state entity that they filed Form ST-220-TD with the Tax Department and that the information contained on Form ST-220-TD is correct and complete as of the date they file Form ST-220-CA.

For more detailed information regarding this form and section 5-a of the Tax Law, see Publication 223, *Questions and Answers Concerning Tax Law Section 5-a, (as amended, effective April 26, 2006)*, available at www.nystax.gov. Information is also available by calling the Tax Department's Contractor Information Center at 1 800 698-2931.

Note: Form ST-220-TD must be signed by a person authorized to make the certification on behalf of the contractor, and the acknowledgement on page 4 of this form must be completed before a notary public.

Mail completed form to:

**NYS TAX DEPARTMENT
DATA ENTRY SECTION
W A HARRIMAN CAMPUS
ALBANY NY 12227**

Privacy notification

The Commissioner of Taxation and Finance may collect and maintain personal information pursuant to the New York State Tax Law, including but not limited to, sections 5-a, 171, 171-a, 287, 308, 429, 475, 505, 697, 1096, 1142, and 1415 of that Law; and may require disclosure of social security numbers pursuant to 42 USC 405(c)(2)(C)(i).


This information will be used to determine and administer tax liabilities and, when authorized by law, for certain tax offset and exchange of tax information programs as well as for any other lawful purpose.


Information concerning quarterly wages paid to employees is provided to certain state agencies for purposes of fraud prevention, support enforcement, evaluation of the effectiveness of certain employment and training programs and other purposes authorized by law.


Failure to provide the required information may subject you to civil or criminal penalties, or both, under the Tax Law.

This information is maintained by the Director of Records Management and Data Entry, NYS Tax Department, W A Harriman Campus, Albany NY 12227; telephone 1 800 225-5829. From areas outside the United States and outside Canada, call (518) 485-6800.

Need help?

 **Internet access:** www.nystax.gov
(for information, forms, and publications)

 **Fax-on-demand forms:** 1 800 748-3676


 **Telephone assistance** is available from 8:00 A.M. to 5:00 P.M. (eastern time), Monday through Friday.

To order forms and publications: 1 800 462-8100

Sales Tax Information Center: 1 800 698-2909

From areas outside the U.S. and outside Canada: (518) 485-6800

Hearing and speech impaired (telecommunications device for the deaf (TDD) callers only): 1 800 634-2110

 **Persons with disabilities:** In compliance with the Americans with Disabilities Act, we will ensure that our lobbies, offices, meeting rooms, and other facilities are accessible to persons with disabilities. If you have questions about special accommodations for persons with disabilities, please call 1 800 972-1233.

I, _____, hereby affirm, under penalty of perjury, that I am _____
(name) *(title)*
of the above-named contractor, and that I am authorized to make this certification on behalf of such contractor.

Make only one entry in each section below.

Section 1 — Contractor registration status

- The contractor has made sales delivered by any means to locations within New York State of tangible personal property or taxable services having a cumulative value in excess of \$300,000 during the four sales tax quarters which immediately precede the sales tax quarter in which this certification is made. The contractor is registered to collect New York State and local sales and compensating use taxes with the Commissioner of Taxation and Finance pursuant to sections 1134 and 1253 of the Tax Law, and is listed on Schedule A of this certification.
- The contractor has not made sales delivered by any means to locations within New York State of tangible personal property or taxable services having a cumulative value in excess of \$300,000 during the four sales tax quarters which immediately precede the sales tax quarter in which this certification is made.

Section 2 — Affiliate registration status

- The contractor does not have any affiliates.
- To the best of the contractor's knowledge, the contractor has one or more affiliates having made sales delivered by any means to locations within New York State of tangible personal property or taxable services having a cumulative value in excess of \$300,000 during the four sales tax quarters which immediately precede the sales tax quarter in which this certification is made, and each affiliate exceeding the \$300,000 cumulative sales threshold during such quarters is registered to collect New York State and local sales and compensating use taxes with the Commissioner of Taxation and Finance pursuant to sections 1134 and 1253 of the Tax Law. The contractor has listed each affiliate exceeding the \$300,000 cumulative sales threshold during such quarters on Schedule A of this certification.
- To the best of the contractor's knowledge, the contractor has one or more affiliates, and each affiliate has not made sales delivered by any means to locations within New York State of tangible personal property or taxable services having a cumulative value in excess of \$300,000 during the four sales tax quarters which immediately precede the sales tax quarter in which this certification is made.

Section 3 — Subcontractor registration status

- The contractor does not have any subcontractors.
- To the best of the contractor's knowledge, the contractor has one or more subcontractors having made sales delivered by any means to locations within New York State of tangible personal property or taxable services having a cumulative value in excess of \$300,000 during the four sales tax quarters which immediately precede the sales tax quarter in which this certification is made, and each subcontractor exceeding the \$300,000 cumulative sales threshold during such quarters is registered to collect New York State and local sales and compensating use taxes with the Commissioner of Taxation and Finance pursuant to sections 1134 and 1253 of the Tax Law. The contractor has listed each subcontractor exceeding the \$300,000 cumulative sales threshold during such quarters on Schedule A of this certification.
- To the best of the contractor's knowledge, the contractor has one or more subcontractors, and each subcontractor has not made sales delivered by any means to locations within New York State of tangible personal property or taxable services having a cumulative value in excess of \$300,000 during the four sales tax quarters which immediately precede the sales tax quarter in which this certification is made.

Sworn to this ____ day of _____, 20 ____

(sign before a notary public)

(title)

CONTRACTOR REQUIREMENTS AND PROCEDURES FOR BUSINESS PARTICIPATION OPPORTUNITIES FOR NEW YORK STATE CERTIFIED MINORITY-AND WOMEN-OWNED BUSINESS ENTERPRISES AND EQUAL EMPLOYMENT OPPORTUNITIES FOR MINORITY GROUP MEMBERS AND WOMEN

NEW YORK STATE LAW

Pursuant to New York State Executive Law Article 15-A, The New York State Gaming Commission (the "Commission") recognizes its obligation under the law to promote opportunities for maximum feasible participation of certified minority-and women-owned business enterprises and the employment of minority group members and women in the performance of Commission contracts.

In 2006, the State of New York commissioned a disparity study to evaluate whether minority and women-owned business enterprises had a full and fair opportunity to participate in state contracting. The findings of the study were published on April 29, 2010, under the title "The State of Minority and Women-Owned Business Enterprises: Evidence from New York" ("Disparity Study"). The report found evidence of statistically significant disparities between the level of participation of minority-and women-owned business enterprises in state procurement contracting versus the number of minority-and women-owned business enterprises that were ready, willing and able to participate in state procurements. As a result of these findings, the Disparity Study made recommendations concerning the implementation and operation of the statewide certified minority- and women-owned business enterprises program. The recommendations from the Disparity Study culminated in the enactment and the implementation of New York State Executive Law Article 15-A, which requires, among other things, that the Commission establishes goals for maximum feasible participation of New York State Certified minority- and women – owned business enterprises ("MWBE") and the employment of minority groups members and women in the performance of New York State contracts.

Business Participation Opportunities for MWBEs

For purposes of this solicitation, the Commission hereby establishes an overall goal of 20% for MWBE participation, based on the current availability of qualified MBEs and WBEs. A contractor ("Contractor") on the subject contract ("Contract") must document good faith efforts to provide meaningful participation by MWBEs as subcontractors or suppliers in the performance of the Contract and Contractor agrees that the Commission may withhold payment pending receipt of the required MWBE documentation. The directory of New York State Certified MWBEs can be viewed at: <http://www.esd.ny.gov/mwbe.html>.

For guidance on how the Commission will determine a Contractor's "good faith efforts," refer to 5 NYCRR §142.8.

In accordance with 5 NYCRR §142.13, Contractor acknowledges that if it is found to have willfully and intentionally failed to comply with the MWBE participation goals set forth in the Contract, such finding constitutes a breach of Contract and the Commission may withhold payment from the Contractor as liquidated damages.

Such liquidated damages shall be calculated as an amount equaling the difference between: (1) all sums identified for payment to MWBEs had the Contractor achieved the contractual MWBE goals; and (2) all sums actually paid to MWBEs for work performed or materials supplied under the Contract.

By submitting a bid or proposal, a bidder on the Contract ("Bidder") agrees to submit the following documents and information as evidence of compliance with the foregoing:

- A. Bidders are required to submit a MWBE Utilization Plan on **Form I-4** with their bid or proposal. Any modifications or changes to the MWBE Utilization Plan after the Contract award and during

the term of the Contract must be reported on a revised MWBE Utilization Plan and submitted to the Commission.

- B. The Commission will review the submitted MWBE Utilization Plan and advise the Bidder of Commission acceptance or issue a notice of deficiency within 30 days of receipt.
- C. If a notice of deficiency is issued, Bidder agrees that it shall respond to the notice of deficiency within seven (7) business days of receipt by submitting to the NYS Gaming Commission, Attn: Stacey Relation, One Broadway Center, Schenectady, NY 12305, email stacey.relation@gaming.ny.gov, or fax to (518) 388-3334, a written remedy in response to the notice of deficiency. If the written remedy that is submitted is not timely or is found by the Commission to be inadequate, the Commission shall notify the Bidder and direct the Bidder to submit, within five (5) business days, a request for a partial or total waiver of MWBE participation goals on **Form #I-7**. Failure to file the waiver form in a timely manner may be grounds for disqualification of the bid or proposal.
- D. The Commission may disqualify a Bidder as being non-responsive under the following circumstances:
 - a) If a Bidder fails to submit a MWBE Utilization Plan;
 - b) If a Bidder fails to submit a written remedy to a notice of deficiency;
 - c) If a Bidder fails to submit a request for waiver; or
 - d) If the Commission determines that the Bidder has failed to document good faith efforts.

Contractors shall attempt to utilize, in good faith, any MBE or WBE identified within its MWBE Utilization Plan, during the performance of the Contract. Requests for a partial or total waiver of established goal requirements made subsequent to Contract Award may be made at any time during the term of the Contract to the Commission, but must be made no later than prior to the submission of a request for final payment on the Contract.

Contractors are required to submit a Contractor's Quarterly MWBE Contractor Compliance & Payment Report on **Form #I-6** to the NYS Gaming Commission, Attn: Finance Office, One Broadway Center, Schenectady, NY 12305, Phone: (518) 388-3404 and fax: (518) 388-3334, by the 10th day following each end of quarter over the term of the Contract documenting the progress made toward achievement of the MWBE goals of the Contract.

Equal Employment Opportunity Requirements

By submission of a bid or proposal in response to this solicitation, the Bidder/Contractor agrees with all of the terms and conditions of Appendix A including Clause 12 - Equal Employment Opportunities for Minorities and Women. The Contractor is required to ensure that it and any subcontractors awarded a subcontract over \$25,000 for the construction, demolition, replacement, major repair, renovation, planning or design of real property and improvements thereon (the "Work") except where the Work is for the beneficial use of the Contractor, shall undertake or continue programs to ensure that minority group members and women are afforded equal employment opportunities without discrimination because of race, creed, color, national origin, sex, age, disability or marital status. For these purposes, equal opportunity shall apply in the areas of recruitment, employment, job assignment, promotion, upgrading, demotion, transfer, layoff, termination, and rates of pay or other forms of compensation. This requirement does not apply to: (i) work, goods, or services unrelated to the Contract; or (ii) employment outside New York State.

Bidder further agrees, where applicable, to submit with the bid a staffing plan (**Form #I-2**) identifying the anticipated work force to be utilized on the Contract and if awarded a Contract, will, upon request, submit to the Commission, a workforce utilization report identifying the workforce actually utilized on the Contract if known.

Further, pursuant to Article 15 of the Executive Law (the "Human Rights Law"), all other State and Federal statutory and constitutional non-discrimination provisions, the Contractor and sub-contractors will not discriminate against any employee or applicant for employment because of race, creed (religion),

color, sex, national origin, sexual orientation, military status, age, disability, predisposing genetic characteristic, marital status or domestic violence victim status, and shall also follow the requirements of the Human Rights Law with regard to non-discrimination on the basis of prior criminal conviction and prior arrest.

Please Note: Failure to comply with the foregoing requirements may result in a finding of non-responsiveness, non-responsibility and/or a breach of the Contract, leading to the withholding of funds, suspension or termination of the Contract or such other actions or enforcement proceedings as allowed by the Contract.

**WORK FORCE EMPLOYMENT UTILIZATION REPORT
SERVICE and/or CONSULTANT FIRMS
INSTRUCTIONS FOR COMPLETION**

PURPOSE: The *Work Force Employment Utilization Report for Services and/or Consultant Firms* is prepared by all contractors, and subcontractors if any, providing services (skilled or non-skilled) or professional consulting services to a state agency to document their actual employment of minority group members and women during the period covered by the report. The report has a format similar to forms used by the Federal government for reporting equal employment opportunity data. When the *contract specific work force* can be identified, the report covers all employees (including apprentices or trainees) working on the project. If the contract specific work force *cannot* be separated out, the contractor's *total work force* is reported. The completed reports are used by the contracting state agency to monitor the contractor's and subcontractor's compliance with the contract's equal employment opportunity requirements.

GENERAL INFORMATION:

1. **Name of contracting state agency** and state agency code (five-digit code).
2. **Reporting period** covered by report (mm/dd/yy to mm/dd/yy); **check** to indicate **Quarterly** or **Semi-Annual Report**.
3. **Contractor firm name** (prime contractor on summary report submitted to agency) and **address** (including city name, state and zip code); **check** if the contractor is a NOT-FOR-PROFIT.
4. **Type of Report:** **check** to indicate whether report covers (i) the **Contract Specific Work Force** or (ii) the **Company's Total Work Force** (in the event the contract specific work force cannot be separated out).
5. Contractor **Federal Employer Identification number** or payee identification number (prime contractor i.d. on summary report); **check** to indicate prime or subcontractor report.
6. **Contract Amount** is dollar amount based on terms of the contract.
7. **Contract number** is the agency assigned number given to the contract (seven digits).
8. **Location of work** including county and zip code where work is performed.
9. Indicate **Product or Service provided** by contractor (brief description).
10. **Contract start date** is month/day/year work on contract actually began.
11. Contractor's **estimate of the percentage of work completed** at the end of this reporting period.

FEDERAL OCCUPATIONAL CATEGORIES: The contractor's work force is broken down and reported by the nine **Federal Occupational Categories (FOC's)** consistent with the Federal government's EEO-1 categories for the private sector labor force. These are: *Officials and Managers, Professionals, Technicians, Sales, Office & Clerical (Administrative Support), Craft Workers, Operatives, Laborers and Service Workers*. The categories are general in nature, and include all related occupational job titles. The contracting agency can provide assistance in categorizing specific jobs.

TOTAL NUMBER OF EMPLOYEES: Record the *total number of all persons employed* in each FOC during the reporting period, regardless of ethnicity (either working on the specific contract OR in the contractor's total work force, based on the type of report indicated above). Report the total number of male (M) employees in column (1) and the total number of female (F) employees in column (2) for each FOC. In columns (3) thru (10) report the numbers of male and female *minority group members* employed, based on the following defined groups:

- **Black (not of Hispanic origin):** all persons having origins in any of the Black African racial groups;
- **Hispanic:** all persons of Mexican, Puerto Rican, Dominican, Cuban, Central or South American or either Indian or Hispanic origin, regardless of race;
- **Asian or Pacific Islander:** all persons having origins in any of the Far East countries, South East Asia, the Indian subcontinent or the Pacific Islands;
- **Native American or Alaskan Native:** all persons having origins in any of the original peoples in North America.

TOTAL % MINORITY = sum of all minority group members (male and female) employed in the FOC divided by the total number of all employees in that FOC (column 1 + column 2).

TOTAL % FEMALE = total number of female employees in the FOC (column 2) divided by the total number of all employees in that FOC (column 1 + column 2).

TOTALS: column totals should be calculated (sum each column) for all FOC's combined. Total minority and female percentages should be calculated as shown above, based on the column totals.

SUBMISSION: The work force utilization report is to be completed by both prime and subcontractors and **signed and dated** by an *authorized representative* before submission. This **Company Official's name, official title and telephone number** should be printed or typed where indicated on the bottom of the form.

The **prime contractor** shall complete a report for its own work force, **collect** reports completed by each subcontractor, and **prepare a summary report for the entire combined contract work force**. The reports shall include the total number of employees in each occupational category for all payrolls completed in the monthly reporting period. The prime contractor shall submit the summary report to the contracting agency as required by *Part 542 of Title 9 Subtitle N of the NYCRR* pursuant to *Article 15-A of the Executive Law*.

**NEW YORK STATE GAMING COMMISSION
VENDOR/CONTRACTOR'S MINORITY AND WOMEN-OWNED BUSINESS UTILIZATION PLAN FORM**

AGENCY NAME _____
 AGENCY CONTACT _____
 AGENCY PHONE _____

CONTRACTOR NAME AND ADDRESS	CHECK APPROPRIATE BOX		DATE SUBMITTED		TOTAL VALUE OF CONTRACT		
	<input type="checkbox"/> SUPPLIER <input type="checkbox"/> CONTRACTOR		CONTRACTOR'S FID#		CONTRACT EFFECTIVE DATES		
PROJECT DESCRIPTION	GOALS MBE WBE		JOB NUMBER (IF APPLICABLE)		CONTRACT NUMBER		
MWBE SUBCONTRACTOR/SUPPLIER NAME & ADDRESS	CHECK ONE	SUBCONTRACTOR/SUPPLIER TAXPAYER/FEDERAL ID #	MBE (CHECK)	WBE (CHECK)	NYS CERTIFIED (CHECK)	DESCRIPTION OF WORK	\$ VALUE OF CONTRACT
	SUB _____ SUP _____		YES _____ NO _____	YES _____ NO _____	YES _____ NO _____		
	SUB _____ SUP _____		YES _____ NO _____	YES _____ NO _____	YES _____ NO _____		
	SUB _____ SUP _____		YES _____ NO _____	YES _____ NO _____	YES _____ NO _____		
	SUB _____ SUP _____		YES _____ NO _____	YES _____ NO _____	YES _____ NO _____		

\$ AMOUNT % OF TOTAL

(A) TOTAL CONTRACT BID AMOUNT: _____
 (B) TOTAL SUBCONTRACTS FOR COMMODITIES AND SERVICES TO MBE'S: _____
 (C) TOTAL SUBCONTRACTS FOR COMMODITIES AND SERVICES TO WBE'S: _____

CONTRACTOR'S ATTESTATION: MY FIRM PROPOSES TO USE THE MWBE'S LISTED ON THIS FORM.

PREPARED BY: (SIGNATURE OF CONTRACTOR)	PRINT NAME OF CONTRACTOR	TELEPHONE NUMBER	DATE
--	--------------------------	------------------	------

FOR OFFICE USE ONLY
REVIEWED BY:
DATE:
MWBE FIRMS CERTIFIED:
MWBE FIRMS NOT CERTIFIED:

NOTICE: this report is required pursuant to Executive Law; failure to report will result in noncompliance.

REQUEST FOR WAIVER FORM

INSTRUCTIONS: SEE PAGE 2 OF THIS ATTACHMENT FOR REQUIREMENTS AND DOCUMENT SUBMISSION INSTRUCTIONS.	
Offerer/Contractor Name:	Federal Identification No.:
Address:	Solicitation/Contract No.:
City, State, Zip Code:	M/WBE Goals: MBE % WBE %
By submitting this form and the required information, the offerer/contractor certifies that every Good Faith Effort has been taken to promote M/WBE participation pursuant to the M/WBE requirements set forth under the contract.	
Contractor is requesting a:	
1. <input type="checkbox"/> MBE Waiver – A waiver of the MBE Goal for this procurement is requested. <input type="checkbox"/> Total <input type="checkbox"/> Partial	
2. <input type="checkbox"/> WBE Waiver – A waiver of the WBE Goal for this procurement is requested. <input type="checkbox"/> Total <input type="checkbox"/> Partial	
PREPARED BY (Signature):	Date:
SUBMISSION OF THIS FORM CONSTITUTES THE OFFERER/CONTRACTOR'S ACKNOWLEDGEMENT AND AGREEMENT TO COMPLY WITH THE M/WBE REQUIREMENTS SET FORTH UNDER NYS EXECUTIVE LAW, ARTICLE 15-A AND 5 NYCRR PART 143. FAILURE TO SUBMIT COMPLETE AND ACCURATE INFORMATION MAY RESULT IN A FINDING OF NONCOMPLIANCE AND/OR TERMINATION OF THE CONTRACT.	
Name and Title of Preparer (Printed or Typed):	Telephone Number:
	Email Address:
Submit with the bid or proposal or if submitting after award submit to: NYS Gaming Commission Attn: Stacey Relation One Broadway Center Schenectady, NY 12301	***** GAMING COMMISSION USE ONLY *****
	REVIEWED BY:
	DATE:
	Waiver Granted: <input type="checkbox"/> YES MBE: <input type="checkbox"/> WBE: <input type="checkbox"/> <input type="checkbox"/> Total Waiver <input type="checkbox"/> Partial Waiver <input type="checkbox"/> *Conditional <input type="checkbox"/> Notice of Deficiency Issued _____ *Comments:

REQUIREMENTS AND DOCUMENT SUBMISSION INSTRUCTIONS

When completing the Request for Waiver Form please check all boxes that apply. To be considered, the Request for Waiver Form must be accompanied by documentation for items 1 – 11, as listed below. If box # 3 has been checked above, please see item 11. Copies of the following information and all relevant supporting documentation must be submitted along with the request:

1. A statement setting forth your basis for requesting a partial or total waiver.
2. The names of general circulation, trade association, and M/WBE-oriented publications in which you solicited certified M/WBEs for the purposes of complying with your participation goals.
3. A list identifying the date(s) that all solicitations for certified M/WBE participation were published in any of the above publications.
4. A list of all certified M/WBEs appearing in the NYS Directory of Certified Firms that were solicited for purposes of complying with your certified M/WBE participation levels.
5. Copies of notices, dates of contact, letters, and other correspondence as proof that solicitations were made in writing and copies of such solicitations, or a sample copy of the solicitation if an identical solicitation was made to all certified M/WBEs.
6. Provide copies of responses made by certified M/WBEs to your solicitations.
7. Provide a description of any contract documents, plans, or specifications made available to certified M/WBEs for purposes of soliciting their bids and the date and manner in which these documents were made available.
8. Provide documentation of any negotiations between you, the Offerer/Contractor, and the M/WBEs undertaken for purposes of complying with the certified M/WBE participation goals.
9. Provide any other information you deem relevant which may help us in evaluating your request for a waiver.
10. Provide the name, title, address, telephone number, and email address of offerer/contractor's representative authorized to discuss and negotiate this waiver request.

Note: Unless a Total Waiver has been granted, the offerer or contractor will be required to submit all reports and documents pursuant to the provisions set forth in the Contract.

APPENDIX J

Subcontractors and Suppliers

ATTACHMENTS

Attachment 1: Vendor Acknowledgement of Addendum

Attachment 2: Pricing Proposal – Lot 1

Attachment 2: Pricing Proposal – Lot 2

Attachment 3: Rate Card

Attachment 4: Technical Proposal Submittal Checklist



RFP: Advertising and Media Services

VENDOR ACKNOWLEDGEMENT OF ADDENDUM

Amendment Number: _____

Date Issued: _____

Summary:

By signing below, the bidder attests to receiving and responding to the amendment number indicated above.

FIRM NAME: _____

REPRESENTATIVE SIGNATURE: _____



PRICING PROPOSAL FORM – LOT 1
 (Based on Part 3 Scope of Work)

1. Direct Labor Costs - Labor rates and percentage of Full Time Equivalents (FTE) assigned to the first year of the Contract must be provided based on the chart below. Bidder must list every title that will be utilized for the services under this RFP for year one. Only titles provided in this Pricing Proposal Form will be utilized during the first year of the Contract resulting from this RFP. No alternative pricing structure is permitted. Any alternative pricing structure will be deemed non-responsive. The form may be expanded if additional room for more titles is needed. Rates stated below must match the rates indicated on the Agency Rate Card – Attachment 3.

Percentage of FTE is based on One FTE equivalent to 1800 annual hours.

This portion of the Cost proposal will be ranked with a maximum of 15 points awarded to the lowest total annual rate, with the next lowest annual rate awarded proportionately less points based on their values relative to the lowest annual rate.

(A) Job Title by Department (Specify job title within each department)	(B) Annualized Labor Rate (based on standard hourly rate for each position)	(C) % of FTE for Year 1 (e.g., staff dedicating half of their time to the Lottery account = 50%)	(D) Total Annual Amount for Job Title (Multiply columns B x C)
Account Management:			
Account Planning:			
Creative:			
Production:			
Digital:			
Other (Specify department):			
Total Labor-Based Fee for Year One:			(1) \$ _____

2. Indirect Costs (Percent Markup Over Labor-Based Fee):

_____ % x Total Labor-Based Fee (Total from Column D) = (2) \$ _____

3. Profit Margin (Percent Markup Over Labor-Based Fee and Indirect Costs):

_____ % x Total Labor-Based and Indirect Costs (Total from #2 above) = (3) \$ _____

4. Total Annual Amount (Sum of 1 through 3 above)

\$ _____

FIRM NAME: _____

REPRESENTATIVE NAME (PRINT): _____

REPRESENTATIVE SIGNATURE: _____



PRICING PROPOSAL FORM – LOT 2
(Based on Part 3 Scope of Work)

1. Direct Labor Costs - Labor rates and percentage of Full Time Equivalents (FTE) assigned to the first year of the Contract must be provided based on the chart below. Bidder must list every title that will be utilized for the services under this RFP for year one. Only titles provided in this Pricing Proposal Form will be utilized during the first year of the Contract resulting from this RFP. No alternative pricing structure is permitted. Any alternative pricing structure will be deemed non-responsive. The form may be expanded if additional room for more titles is needed. Rates stated below must match the rates indicated on the Agency Rate Card – Attachment 3.

Percentage of FTE is based on One FTE equivalent to 1800 annual hours.

This portion of the Cost proposal will be ranked with a maximum of 15 points awarded to the lowest total annual rate, with the next lowest annual rate awarded proportionately less points based on their values relative to the lowest annual rate.

(A) Job Title by Department <small>(Specify job title within each department)</small>	(B) Annualized Labor Rate <small>(based on standard hourly rate for each position)</small>	(C) % of FTE for Year 1 <small>(e.g., staff dedicating half of their time to the Lottery account = 50%)</small>	(D) Total Annual Amount for Job Title <small>(Multiply columns B x C)</small>
Account Management / Media Planning:			
Broadcast:			
Print:			
Out-of-Home:			
Digital:			
Other (Specify Department or Function):			
Total Labor-Based Fee for Year One:			(1) \$ _____

2. Indirect Costs (Percent Markup Over Labor-Based Fee):

_____ % x Total Labor-Based Fee (Total from Column D) = (2) \$ _____

3. Profit Margin (Percent Markup Over Labor-Based Fee and Indirect Costs):

_____ % x Total Labor-Based and Indirect Costs (Total from #2 above) = (3) \$ _____

4. Total Annual Amount (Sum of 1 through 3 above) =

\$ _____

FIRM NAME: _____

REPRESENTATIVE NAME (PRINT): _____

REPRESENTATIVE SIGNATURE: _____

AGENCY RATE CARD
STANDARD HOURLY RATES BY POSITION

Instructions: Enter the hourly rate for each title available that may provide service to the Lottery account at any point during the contract term. Any titles that are not available, please indicate with a "N/A". At the bottom of the form, please provide the blended hourly rate for each category of Executive, Senior, Mid-Level and Junior. The blended hourly rate is the average for the rates entered below. This portion of the Cost proposal will be ranked with a maximum of 5 points awarded to the lowest total blended hourly rate, with the next lowest total blended hourly rate awarded proportionately less points based on their values relative to the lowest total blended hourly rate.

TITLE	LEVEL	HOURLY RATE
ACCOUNT MANAGEMENT		
Director of Account Services	E	
Group Account Director	S	
Account Director	S	
Management Supervisor	S	
Account Supervisor	M	
Senior Account Executive	M	
Account Executive	M	
Assistant Account Executive	J	
Account Coordinator	J	

TITLE	LEVEL	HOURLY RATE
CREATIVE (CONTINUED)		
Senior Web Designer	M	
Web Developer	J	
Mobile Web Developer	J	
Lead Web Designer	S	
Senior Web Graphic Designer	S	
Web Graphic Designer	M	
Senior Interactive/Digital Designer	S	
Interactive/Digital Designer	M	
Flash/Rich Media Developer	J	

ACCOUNT /STRATEGIC PLANNING		
Executive Director Account Planning	E	
Director Account Planning	S	
Account Planning Manager	S	
Digital Strategy Manager	S	
Digital Strategist	M	
Mobile Strategist	M	
Social Strategist	M	
Account Planning Supervisor	M	
Account Planner	J	
Assistant Account Planner	J	

PRINT PRODUCTION & ART BUYING SERVICES		
Executive Director Print Production Services	E	
Director Print Production Services	S	
Print Production Manager	M	
Print Production Supervisor	J	
Assitant Print Production Specialist	J	
Art Production/Buying Manager	M	
Art Production/Buying Supervisor	J	
Art Buyer	M	
Assistant Art Buyer	J	

RESEARCH SERVICES		
Executive Research Director	E	
Group Research Director	S	
Research Supervisor	M	
Research Specialist	J	
Assistant Research Specialist	J	

BROADCAST PRODUCTION SERVICES		
Executive Director Broadcast Production	E	
Broadcast Production Director	S	
Broadcast Production Manager	M	
Broadcast Production Supervisor	M	
Broadcast Producer	J	
Assistant Broadcast Producer	J	

CREATIVE		
Chief Creative Director	E	
Group Creative Director	S	
Creative Director	S	
Associate Creative Director	M	
Creative Supervisor	M	
Senior Art Director	M	
Art Director	J	
Assistant Art Director	J	
Senior Designer	M	
Illustrator	J	
Senior Copywriter	M	
Copywriter	J	
Assistant Copywriter	J	
Blogger	J	
Creative Technologist	M	
Senior Web Designer	M	
Web Developer	J	
Mobile Web Developer	J	
Lead Web Designer	S	
Senior Web Graphic Designer	S	
Web Graphic Designer	M	

DIGITAL PRODUCTION & CONTENT MANAGEMENT SERVICES		
Executive Director Digital Production	E	
Digital Production Director	S	
Digital Production Manager	S	
Digital Production Supervisor	M	
Senior Digital Producer	S	
Digital Producer	M	
Associate Digital Producer	J	
Mobile Producer	M	
Director of Content Management	S	
Content Manager	M	

STUDIO SERVICES		
Studio Manager	S	
Studio Supervisor	M	
Studio Specialist	J	
Retoucher	J	
Quality Assurance Analyst	J	
Database Administrator	J	
Software Application Developer	M	

**AGENCY RATE CARD
STANDARD HOURLY RATES BY POSITION**

PROJECT MANAGEMENT & TRAFFIC SERVICES		
Director of Project Management	S	
Senior Project Manager	M	
Project Manager	J	
Traffic Manager	M	
Traffic Supervisor	M	
Traffic Specialist	J	
Assistant Traffic Specialist	J	

PROOFREADING & EDITORIAL SERVICES		
Editorial Manager	M	
Proofreader	J	
Editor	J	

TALENT MANAGEMENT & PAYMENT SERVICES		
Manager Talent Management/Payment Services	M	
Talent Management/Payment Specialist	J	

MEDIA SERVICES		
Executive Media Director	E	
Group Media Director	S	
Media Director	S	
Associate Media Director	M	
Media Planning Supervisor	M	
Media Planner	J	
Assistant Media Planner	J	
Media Buying Supervisor	M	
Media Buyer	J	
Assistant Media Buyer	J	
Digital Media Director	S	
Digital Media Coordinator	J	
Social Media Director	S	
Social Media Planner	J	
Search Director	S	
Search Supervisor	M	
Search Marketing Specialist	J	
Search Marketing Analyst	J	
Media Research Manager	M	
Media Research Assistant	J	

AVERAGE BLENDED HOURLY RATES	
Executive Level	\$
Senior Level	\$
Mid-Level	\$
Junior	\$
Total of Blended Hourly Rates	\$



RFP – Advertising and Media Services

DOCUMENT SUBMITTAL CHECKLIST

Description of Document	RFP	Submittal Requirements	Checklist
Contract Form (Appendix B) (incorporates Appendix A)	§1.1 & §1.12	With Phase One Proposal (must be signed)	
Procurement Lobbying BODC Form (Appendix C)	§1.9	With Phase One Proposal	
Non-Collusive Bidding Certification (Appendix D)	§1.13	With Phase One Proposal	
NYS Vendor Responsibility Questionnaire (Appendix E)	§1.14	With Phase One Proposal	
W-9 (Appendix F)	§1.15	With Phase One Proposal	
Designation of Proprietary Information	§1.16	With Phase One Proposal and as defined in RFP	
Technical & Pricing Proposals	§1.17	Separately as defined in RFP	
Litigation Bond	§1.20	With Phase One Proposal	
Fidelity Bond	§1.21	With Phase One Proposal	
E-pay (Appendix G)	§2.10	Upon notification of award	
Sales & Use Tax (Appendix I) <ul style="list-style-type: none"> • ST220-CA (submit to Lottery) • ST220-TD (submit to DTF) 	§2.11	Within seven calendar days of notification of award	
Insurance Documentation	§2.13	With Phase One Proposal	
Equal Employment Opportunity (EEO) (Appendix J) <ul style="list-style-type: none"> • Policy Statement • Staffing Plan (J-2) • Utilization Report (J-3) 	§2.14.A	Policy Statement: with Phase One Proposal; I-2: proposed staffing plan – with Phase One Proposal; I-3: quarterly if devoted staff; semi-annually if entire staff.	
Minority and Women-Owned Business Enterprise Program (Appendix J) <ul style="list-style-type: none"> • Proposed Utilization Plan • Utilization Plan Form (J-4) • Quarterly Activity Report (J-5) 	§2.14.B	Proposed Utilization Plan, including estimated value – with Phase One Proposal; I-4: Utilization Plan - within 14 days after notification of award; I-5: 45 days following the end of the previous quarter.	

FIRM NAME: _____

REPRESENTATIVE SIGNATURE: _____

EXHIBIT A

Agency Evaluation Forms

- Agency Evaluation Form – Lot 1**
- Agency Evaluation Form – Lot 2**
- Agency Metrics Evaluation Form**
- Business Metrics Evaluation Form**
- Agency Evaluation Bonus Calculation Summary**

**NEW YORK LOTTERY
AGENCY PERFORMANCE EVALUATION - Lot 1**

AGENCY SERVICES		PERFORMANCE RATING					
Senior Agency Management:		N/A	Poor	Below Average	Average	Above Average	Outstanding
		0	1	2	3	4	5
1	Demonstrates knowledge of the Lottery industry and the client's business						
2	Is involved in the client's business						
3	Contacts the client on a regular basis to ensure the relationship is positive						
4	Listens and acts on client feedback						
5	Fosters positive relationship with client						
6	Drives regular succession planning discussion with client (i.e., capacity/volume and talent capability needs)						
Overall Senior Agency Management Score:			out of 30 possible points				
List 2-3 specific and achievable areas of improvement which would help the team's overall effectiveness over the next 12 months.							

AGENCY SERVICES		PERFORMANCE RATING					
Account Management:		N/A	Poor	Below Average	Average	Above Average	Outstanding
		0	1	2	3	4	5
1	Is pro-active and anticipates issues/needs						
2	Acts with personal initiative/desire to make a constructive contribution						
3	Demonstrates professional skills necessary to effectively manage the account						
4	Sets aggressive, yet realistic, timelines, completes projects within agreed upon timeframes and alerts client immediately if timelines cannot be met						
5	Understands Lottery's business, its problems, opportunities and competitive environment						
6	Follows through on agreed-upon commitments and takes directions well						

**NEW YORK LOTTERY
AGENCY PERFORMANCE EVALUATION - Lot 1**

7	Has point of view and challenges appropriately						
8	Makes recommendations that are founded on sound reasoning and supported factually						
9	Ensures all agency personnel work as one team by communicating all learning across members of the team						
10	Clearly and accurately documents via conference reports all client decisions and client/agency action steps on a timely basis						
11	Takes costs into consideration when making recommendations and executing plans/projects						
12	Is knowledgeable about information providing client (i.e., relaying of estimates from other areas of the agency) and can immediately address questions and concerns						
13	Submits sound, useful creative briefs that reflect agency's understanding of project and obtains written client approval prior to creative development						
14	Ensures all materials have been proofread and are accurate prior to providing to client						
15	Is responsive/has sense of urgency						
16	Is staffed adequately to handle peak workloads, vacations, etc.						
17	Listens to client's concerns, suggestions and input through all phases of project(s)						
18	Provides fresh, innovative ideas on ways to tackle problems						
19	Provides actionable project status updates on a weekly basis						
20	Accurately interprets facts, strategies and objectives into usable advertisements and plans						
21	Provides client with competitive/industry information, which includes business implications, as soon as it becomes available (i.e., advertising, articles, consumer trends, etc.)						

**NEW YORK LOTTERY
AGENCY PERFORMANCE EVALUATION - Lot 1**

22	Develops and presents insightful annual advertising plan designed to achieve clients stated objectives						
23	Provides useful and timely reports; findings are taken into account when planning future initiatives						
24	Effectively communicates and works collaboratively with Lottery's media agency to ensure development and implementation of synergistic, effective marketing programs						
25	Oversees and maintains Agency's financial accountability on the account						

Overall Account Management Score: **out of possible score of 125 points**

List 2-3 specific and achievable areas of improvement which would help the team's overall effectiveness over the next 12 months.

AGENCY SERVICES		PERFORMANCE RATING					
Creative:	N/A	Poor	Below Average	Average	Above Average	Outstanding	
	0	1	2	3	4	5	
1	Is on strategy and adheres to creative brief						
2	Consistently tests well with target audience						
3	Is breakthrough/innovative						
4	Is implementable from a cost, creative, risk tolerance, corporate culture, production, etc. standpoint						
5	Is reflective of research results/consumer insights						
6	Complies with established branding guidelines						
7	Pushes envelope and takes calculated risks						
8	Is consistently of highest quality and delivered on time						
9	Adheres to established timelines						
10	Creative team is knowledgeable about products, markets and strategies						
11	Creative team is able to develop "big idea" campaigns and not just ads						

**NEW YORK LOTTERY
AGENCY PERFORMANCE EVALUATION - Lot 1**

12	Creative team is appropriately staffed to successfully deliver what is outlined in Scope of Work						
13	Presents a range of creative as requested by client as well as other ideas that are also on-strategy that agency feels to be good opportunities						
14	Recommendations are appropriate for target customer						
15	Recommendations are logical, versatile and sustainable over time						
16	Creative team can stretch and think outside the box when asked						
17	Is willing to accept ideas vs. being overprotective of its own creative product						
18	Regularly brings forward innovative ideas in alignment with the brand's overall goals						

Overall Creative Score:

out of possible score of 90 points

List 2-3 specific and achievable areas of improvement which would help the team's overall effectiveness over the next 12 months.

AGENCY SERVICES		PERFORMANCE RATING					
Production:		N/A	Poor	Below Average	Average	Above Average	Outstanding
		0	1	2	3	4	5
1	Ensures both agency and client have the same vision for the brand in terms of content, quality and cost						
2	Manages production dollars efficiently by taking in consideration client's budget						
3	Works to discover efficiencies to save time and money						
4	Provides ample time in the production schedule for client approvals						
5	Efficiently manages all invoices, insuring that the estimate approved by the brand is in line with the actuals						

**NEW YORK LOTTERY
AGENCY PERFORMANCE EVALUATION - Lot 1**

6	Develops timelines that are comprehensive and incorporate all development steps to drive delivery of final product						
7	Understands client processes and works within established bidding procedures for outside vendors						
8	Informs in a timely manner how changes in direction will affect quality and/or price						
9	Effectively and efficiently handles fulfillment of point-of-sale program across statewide retail network						
10	Produces marketing and advertising products with high production values						

Overall Production Score:

out of possible score of 50 points

List 2-3 specific and achievable areas of improvement which would help the team's overall effectiveness over the next 12 months.

AGENCY SERVICES		PERFORMANCE RATING					
Account Planning / Research:		N/A	Poor	Below Average	Average	Above Average	Outstanding
		0	1	2	3	4	5
1	Uses research to establish consumer-focused strategic direction for the account						
2	Provides quality, detailed research design input						
3	Proactively recommends actionable, strategic research						
4	Provides thoughtful analysis of research and recommends how new insights should affect marketing efforts						
5	Disseminates research findings/consumer insights to client and full agency team to ensure they are incorporated into all communications						
6	Incorporates key consumer insights into development of creative briefs to drive effective marketing communications						

**NEW YORK LOTTERY
AGENCY PERFORMANCE EVALUATION - Lot 1**

7	Provides thorough research proposals for client review that include research objectives, methodology, interpretation and conclusions						
8	Provides adequate pre-testing in development of campaigns						
9	Uses research to measure advertising effectiveness (attitude surveys)						
10	Has a thorough understanding of the Lottery industry, client's business and marketing objectives						
11	Evaluates effectiveness of marketing efforts by examining and analyzing key metrics against established KPIs						
12	Provides client with thorough, timely and accurate research results and post-campaign effectiveness reports						
13	Understands the Lottery's diverse consumer base						
14	Presents research results objectively						

Overall Account Planning/Research Score: **out of possible score of 70 points**

List 2-3 specific and achievable areas of improvement which would help the team's overall effectiveness over the next 12 months.

AGENCY SERVICES		PERFORMANCE RATING					
Digital:	N/A	Poor	Below Average	Average	Above Average	Outstanding	
	0	1	2	3	4	5	
1	Has extensive expertise on latest trends in digital marketing and emerging technologies and shares knowledge with client						
2	Develops consumer-led digital strategies that deliver against established KPIs						
3	Recommends and produces innovative, effective breakthrough creative that reaches target consumers						
4	Analyzes digital marketing programs on a timely basis to inform future marketing decisions						

**NEW YORK LOTTERY
AGENCY PERFORMANCE EVALUATION - Lot 1**

5	Creates digital programs that work synergistically with the overall marketing plans and reinforce brand identity						
6	Manages Social Media platform effectively and efficiently and posts are in keeping with the brand identity						
7	Develops creative, cutting edge Social Media strategies that engage Lottery consumers and deliver against stated objectives						
8	Provides analysis of Social Media programs on a timely basis to ensure effectiveness of initiatives						
9	Develops and implements effective, creative direct marketing efforts across all digital consumer touchpoints						
10	Manages the design and content of the Lottery websites based on consumer-driven insights and needs						
11	Provides client with proper digital files needed for content management of websites						

Overall Multi-Cultural Marketing Score: **out of possible score of 55 points**

List 2-3 specific and achievable areas of improvement which would help the team's overall effectiveness over the next 12 months.

AGENCY SERVICES		PERFORMANCE RATING					
Multi-Cultural Marketing:		N/A	Poor	Below Average	Average	Above Average	Outstanding
		0	1	2	3	4	5
1	Has a thorough understanding of the psychographics, demographics and purchase behaviors of the Lottery's ethnically diverse consumer base						
2	Develops effective strategies that work synergistically with general market marketing plans						
3	Ensures that multi-cultural marketing programs deliver against established client goals						

**NEW YORK LOTTERY
AGENCY PERFORMANCE EVALUATION - Lot 1**

4	Uses expertise in Hispanic marketing to develop effective, inventive marketing strategies to reach New York's Hispanic community						
5	Understands New York's Asian population and uses knowledge base to inform marketing strategies						
6	Produces alternative language creative materials that reflect cultural sensitivities						
7	Works effectively and collaboratively with General Market creative, account and media teams to ensure multi-cultural marketing programs are synergistic with general market efforts						
8	Analyzes multi-cultural marketing programs in a timely manner for effectiveness in reaching stated goals						
Overall Multi-Cultural Marketing Score:			out of possible 40 points				

List 2-3 specific and achievable areas of improvement which would help the team's overall effectiveness over the next 12 months.

AGENCY SERVICES		PERFORMANCE RATING					
Financial/Administrative Services:		N/A	Poor	Below Average	Average	Above Average	Outstanding
		0	1	2	3	4	5
1	Billing procedures reflect well-run internal accounting operation						
2	Billings come in close to cost estimates						
3	Paperwork flow is timely and accurate						
4	Maintains appropriate and adequate files and documentation						
5	Handles questions and concerns promptly						
6	Follows client billing and bidding processes and procedures and submits proper paperwork/back-up on a timely basis						

**NEW YORK LOTTERY
AGENCY PERFORMANCE EVALUATION - Lot 1**

7	Provides client with information and documentation necessary to track agency labor costs against annual fee on a monthly basis						
8	Provides accurate and detailed budget/billing reports to client monthly						
Overall Financial/Administrative Services Score:			out of possible 40 points				
List 2-3 specific and achievable areas of improvement which would help the team's overall effectiveness over the next 12 months.							

RELATIONSHIP		PERFORMANCE RATING					
Chemistry & Teamwork		N/A	Poor	Below Average	Average	Above Average	Outstanding
		0	1	2	3	4	5
1	Is committed to open and honest communications						
2	Maintains a positive attitude even during times of adversity						
3	Has good chemistry with client and Lottery culture						
4	Is flexible enough to meet changing needs of client						
5	Is viewed as a strategic partner and acts accordingly						
6	Is able to perform as a proficient team member with other internal and external groups that are essential to integrating the marketing communications program						
7	Is accessible						
8	Is committed to staffing the client account with the best people available						
9	Demonstrates mutual respect for everyone on the team						
10	Assists client in building brand marketing capabilities (i.e., positioning, creative development process, production, etc.) through informal training of client employees and sharing of best practices						

**NEW YORK LOTTERY
AGENCY PERFORMANCE EVALUATION - Lot 1**

11	People assigned to the account add excitement and enthusiasm to the work						
Overall Chemistry & Teamwork Score:			out of possible 55 points				
List 2-3 specific and achievable areas of improvement which would help the team's overall effectiveness over the next 12 months.							

RELATIONSHIP		PERFORMANCE RATING					
Financial Accountability		N/A	Poor	Below Average	Average	Above Average	Outstanding
		0	1	2	3	4	5
1	Adheres to all client billing procedures						
2	Has strong degree of cost consciousness and demonstrates fiscal responsibility by proactively bringing forth ways to save money on production, processes, etc.						
3	Provides and obtains approval on estimates prior to starting work						
4	Submits billings that come within +/- 10% of estimate or a revised estimate is provided to client						
5	Provides timely and accurate paperwork (i.e., monthly billing spreadsheet, invoices, etc.)						
6	Alerts client prior to a project going over budget						
7	Has billing practices that reflect a well-run internal accounting operation						
Overall Financial Accountability Score:			out of possible 35 points				
List 2-3 specific and achievable areas of improvement which would help the team's overall effectiveness over the next 12 months.							

**NEW YORK LOTTERY
AGENCY PERFORMANCE EVALUATION - Lot 1**

RELATIONSHIP		PERFORMANCE RATING					
Client-Agency Relationship		N/A	Poor	Below Average	Average	Above Average	Outstanding
		0	1	2	3	4	5
1	The relationship is fully leveraging the skills and expertise of both agency and client						
2	The overall performance of the client-agency relationship is rated as:						
3	Compared to a year ago, the overall effectiveness of this relationship has improved						
Overall Client-Agency Relationship Score:			out of possible 15 points				
List 2-3 specific and achievable areas of improvement which would help the team's overall effectiveness over the next 12 months.							

**NEW YORK LOTTERY
AGENCY PERFORMANCE EVALUATION - Lot 1**

OVERALL SCORING	POINTS EARNED
AGENCY SERVICES	
Senior Agency Management:	
Account Management:	
Creative:	
Production:	
Account Planning/Research:	
Digital:	
Multi-Cultural Marketing:	
Financial/Administrative Services:	
RELATIONSHIP	
Chemistry & Teamwork:	
Financial Accountability:	
Client-Agency Relationship:	

TOTAL SCORE:

out of 605 available points

% of total points available

x 35 points allocated to Agency Performance

Total Points for Agency Performance

NOTE: Scores are rounded to a tenth of a point. Total Points for Agency Performance are combined with Total Points for Agency Metrics and Business Metrics to determine level of Bonus achieved.

NEW YORK LOTTERY
AGENCY PERFORMANCE EVALUATION - Lot 2

AGENCY SERVICES		PERFORMANCE RATING					
Senior Agency Management:		N/A	Poor	Below Average	Average	Above Average	Outstanding
		0	1	2	3	4	5
1	Demonstrates knowledge of the Lottery industry and the client's business						
2	Is involved in the client's business						
3	Contacts the client on a regular basis to ensure the relationship is positive						
4	Listens and acts on client feedback						
5	Fosters positive relationship with client						
6	Drives regular succession planning discussion with client (i.e., capacity/volume and talent capability needs)						
Overall Senior Agency Management Score:			out of possible 30 points				
List 2-3 specific and achievable areas of improvement which would help the team's overall effectiveness over the next 12 months.							

AGENCY SERVICES		PERFORMANCE RATING					
Media Planning & Buying:		N/A	Poor	Below Average	Average	Above Average	Outstanding
		0	1	2	3	4	5
1	Develops clear media objectives and strategies that align with the brand's marketing goals						
2	Clearly explains media plan recommendations						
3	Thoroughly analyzes the marketplace in the planning process						
4	Has a solid understanding of the Lottery products and category						
5	Has a strong understanding of the target audience						
6	Has extensive knowledge of the local New York State media markets						
7	Has positive working relationships with media partners						
8	Utilizes multiple media research resources for better targeting						

NEW YORK LOTTERY

AGENCY PERFORMANCE EVALUATION - Lot 2

9	Has a strong knowledge of competitive activities						
10	Studies demographic data & consumer profiles to identify target audiences for all media						
11	Presents periodic updates on major media trends, developments and emerging technologies						
12	Has a strong level of experience with new product/awareness models						
13	Is open-minded to new ideas and approaches						
14	Works collaboratively and effectively with the Creative & Marketing Services Agency and other agency partners						
15	Provides key meaningful media performance reports on a timely basis						
16	Makes the brand team aware of media opportunities as they arise						
17	Demonstrates creative thinking in the planning process						
18	Is effective in media negotiations for the best possible position for Lottery advertising						
19	Are efficient, effective negotiators to maximize the client's budget						
20	Delivers the numbers that are estimated +/- 10%						
21	Media planning strategies are based on key consumer insights						
22	Exhibits a broad capability in media as opposed to specializing in one particular medium						
23	Effectively uses econometric modeling to optimize media plans with reports provided to the Lottery on a timely basis						
24	Maintains accurate, current flowcharts for all media activity						
25	Prepares and presents media recommendations on a timely basis allowing sufficient time for client review and approvals						
26	Has in place appropriate tools and processes to monitor and improve ROI effectiveness						

NEW YORK LOTTERY

AGENCY PERFORMANCE EVALUATION - Lot 2

27	Brings valuable sponsorship and promotional opportunities to client for consideration						
28	Develops omni-channel media plans that reach target audiences across all consumer touchpoints						
29	Responds quickly to time-sensitive communications needs (e.g., Jackpot Messaging, traffic changes, etc.)						
Overall Media Planning & Buying Score:			out of possible 145 points				
List 2-3 specific and achievable areas of improvement which would help the team's overall effectiveness over the next 12 months.							

NEW YORK LOTTERY
AGENCY PERFORMANCE EVALUATION - Lot 2

AGENCY SERVICES		PERFORMANCE RATING					
Multi-Cultural Marketing:		N/A	Poor	Below Average	Average	Above Average	Outstanding
		0	1	2	3	4	5
1	Has a thorough understanding of the Lottery's ethnically diverse consumer base						
2	Develops effective strategies that work synergistically with general market marketing plans						
3	Ensures that multi-cultural media plans deliver against established client goals						
4	Uses expertise in Hispanic media channels to develop effective, inventive plans to reach New York's Hispanic community						
5	Understands media habits of New York's Asian population and uses knowledge base to inform media strategies						
7	Works effectively and collaboratively with brand teams to ensure multi-cultural marketing programs are synergistic with general market efforts						
8	Analyzes multi-cultural marketing programs in a timely manner for effectiveness in reaching target audience and achieving stated goals						
Overall Multi-Cultural Marketing Score:			out of possible 40 points				
List 2-3 specific and achievable areas of improvement which would help the team's overall effectiveness over the next 12 months.							

NEW YORK LOTTERY
AGENCY PERFORMANCE EVALUATION - Lot 2

AGENCY SERVICES		PERFORMANCE RATING					
Financial/Administrative Services:		N/A	Poor	Below Average	Average	Above Average	Outstanding
		0	1	2	3	4	5
1	Billing procedures reflect well-run internal accounting operation						
2	Billings come in close to cost estimates						
3	Paperwork flow is timely and accurate						
4	Maintains appropriate and adequate files and documentation						
5	Handles questions and concerns promptly						
6	Follows client billing and bidding processes and procedures and submits proper paperwork/back-up on a timely basis						
7	Provides client with information and documentation necessary to track agency labor costs against annual fee on a monthly basis						
8	Provides accurate and detailed budget/billing reports to client monthly						
Overall Financial/Administrative Services Score:				out of possible 40 points			
List 2-3 specific and achievable areas of improvement which would help the team's overall effectiveness over the next 12 months.							

NEW YORK LOTTERY
AGENCY PERFORMANCE EVALUATION - Lot 2

RELATIONSHIP		PERFORMANCE RATING					
Chemistry & Teamwork		N/A	Poor	Below Average	Average	Above Average	Outstanding
		0	1	2	3	4	5
1	Is committed to open and honest communications						
2	Maintains a positive attitude even during times of adversity						
3	Has good chemistry with client and Lottery culture						
4	Is flexible enough to meet changing needs of client						
5	Is viewed as a strategic partner and acts accordingly						
6	Is able to perform as a proficient team member with other internal and external groups that are essential to integrating the marketing communications program						
7	Is accessible						
8	Is responsive to client needs						
9	Is committed to staffing the client account with the best people available						
10	Demonstrates mutual respect for everyone on the team						
11	Assists client in building brand marketing capabilities (i.e., media planning, buying procedures, new media trends, etc.) through informal training of client employees and sharing of best practices						
12	People assigned to the account add excitement and enthusiasm to the work						
Overall Chemistry & Teamwork Score:			out of possible 60 points				
List 2-3 specific and achievable areas of improvement which would help the team's overall effectiveness over the next 12 months.							

**NEW YORK LOTTERY
AGENCY PERFORMANCE EVALUATION - Lot 2**

RELATIONSHIP		PERFORMANCE RATING					
Financial Accountability		N/A	Poor	Below Average	Average	Above Average	Outstanding
		0	1	2	3	4	5
1	Adheres to all client billing procedures						
2	Has strong degree of cost consciousness and demonstrates fiscal responsibility by proactively bringing forth ways to save money on media buying						
3	Provides and obtains approval on recommendations and projected costs prior to making media commitments						
4	Submits billings that come within +/- 10% of estimate or a revised estimate is provided to client						
5	Provides timely and accurate paperwork (i.e., monthly billing spreadsheet, invoices, etc.)						
6	Has billing practices that reflect a well-run internal accounting operation						
Overall Financial Accountability Score:			out of possible 30 points				
List 2-3 specific and achievable areas of improvement which would help the team's overall effectiveness over the next 12 months.							

NEW YORK LOTTERY
AGENCY PERFORMANCE EVALUATION - Lot 2

RELATIONSHIP		PERFORMANCE RATING					
Client-Agency Relationship		N/A	Poor	Below Average	Average	Above Average	Outstanding
		0	1	2	3	4	5
1	The relationship is fully leveraging the skills and expertise of both agency and client						
2	The overall performance of the client-agency relationship is rated as:						
3	Compared to a year ago, the overall effectiveness of this relationship has improved						
Overall Client-Agency Relationship Score:		out of possible 15 points					
List 2-3 specific and achievable areas of improvement which would help the team's overall effectiveness over the next 12 months.							

**NEW YORK LOTTERY
AGENCY PERFORMANCE EVALUATION - Lot 2**

OVERALL SCORING	POINTS EARNED
AGENCY SERVICES	
Senior Agency Management:	
Media Planning & Buying:	
Multi-Cultural Marketing:	
Financial/Administrative Services:	
RELATIONSHIP	
Chemistry & Teamwork:	
Financial Accountability:	
Client-Agency Relationship:	

TOTAL SCORE:

out of 360 available points

% of total points available

x 35 points allocated to Agency Performance

Total Points for Agency Performance

NOTE: Total Points for Agency Performance are combined with Total Points for Agency Metrics and Business Metrics to determine level of Bonus achieved.

ANNUAL EVALUATION OF AGENCY METRICS

Initiative	Key Performance Indicators	<75% of goal	75-89% of goal	90-97% of goal	98-102% of goal	103-115% of goal	>116% of goal
		0	1	2	3	4	5
EXAMPLE:							
Lotto Re-Launch Campaign	Generate 30% Prompted Awareness for Lotto Advertising				X		
	Generate Advertising Brand Linkage for Lotto of 50% among target audience			X			
	Increase frequency of net monthly play of Lotto by 2%					X	
	Total Score for Initiative:	9.0	out of possible score of 15				
Initiative #2							
	KPI #1						
	KPI #2						
	Total Score for Initiative:		out of possible score of XX				
Initiative #3							
	KPI #1						
	KPI #2						
	KPI #3						
	Total Score for Initiative:		out of possible score of XX				
Cumulative Score for all initiatives:			out of possible score of XX				

% of total points available

x 50 points allocated to Agency Metrics

Total Points for Agency Metrics

Notes: All Agency metrics are derived from IPSOS rolling tracking study. KPIs are based on changes from cycle immediately prior to launch of initiative, unless specified otherwise in advance of initiative. Scores are rounded to a tenth of a point. Total Points for Agency Metrics are combined with Total Points for Agency Performance and Business Metrics to determine level of Bonus achieved.

ANNUAL EVALUATION OF LOTTERY BUSINESS METRICS

	14/15 Sales Goal (000)	<75% of goal	75-89% of goal	90-97% of goal	98-102% of goal	103-115% of goal	>116% of goal
		0	1	2	3	4	5
Powerball							
Mega Millions							
Cash 4 Life							
Lotto							
Numbers							
Win 4							
Take 5							
Quick Draw							
Instant Games							
All Traditional Lottery Games							

TOTAL POINTS:

out of possible 50 points

% of total points available

x 15 points allocated to Business Metrics

Total Points for Business Metrics

Notes: Sales Goals are determined by the Lottery at the beginning of the Lottery's fiscal year. Scores are rounded to a tenth of a point. Total Points for Business Metrics are combined with Total Points for Agency Performance and Agency Metrics to determine level of Bonus achieved.

**ANNUAL AGENCY EVALUATION
BONUS CALCULATION SUMMARY**

AGENCY EVALUATION	SCORE	
Agency Performance Evaluation Score	<input type="text"/>	out of 35 points possible
Agency Metrics Evaluation Score	<input type="text"/>	out of 50 points possible
Business Metrics Evaluation Score	<input type="text"/>	out of 15 points possible

TOTAL COMPOSITE SCORE:

out of possible 100 points

% of possible points

(This percentage is applied to the total available bonus of \$500,000.)

\$ Bonus Amount earned during this evaluation period.

EXHIBIT B

Media Service Center Capabilities

MEDIA SERVICES CENTER CAPABILITIES

A service of the NYS Office of General Services, the Media Services Center provides creative services, marketing, web/social media/graphic design, video production, and transmission services to support the various needs of 109 New York State agencies. Content created at the MSC includes newsfeeds, public service announcements, webcasts, training videos, graphics, websites, as well as print components.

Due to our unique location and connectivity at the Empire State Plaza, we also offer studio and uplink services for various regional and national television organizations needing expert commentary for news, entertainment, and event coverage.

Specialties: Video Production, Creative Services, Web/Graphic Design, Marketing, Webcasting, Encoding, Satellite Uplink