NEW YORK STATE OF OPPORTUNITY. Gaming Commission
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www.gaming.ny.gov

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REQUEST FOR PROPOSALS

FOR

CERTIFIED PUBLIC ACCOUNTING SERVICES

May 26, 2015

C150003 – Examination of Financial Statements, Performance of Agreed Upon Procedures, and Other Engagements

and

C150004 – Observation of Studio Drawings, Ball Weight Certifications, and Other Engagements

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PART 1 – GENERAL INFORMATION

1.1 INTRODUCTION

The New York State Gaming Commission (the "Commission"), on behalf of the State of New York is issuing this Request for Proposals ("RFP") to solicit Proposals from Bidders seeking award of a contract to provide Certified Public Accounting Services ("CPA") and related services. Two separate contracts will be awarded under this RFP: (a) for the examination of financial statements, performance of Agreed Upon Procedures for multijurisdictional games, and other engagements, hereinafter referred to as "LOT 1"; and (b) for observation of studio drawings and ball weight certifications, and other engagements, hereinafter referred to as "LOT 2". Part 3 of this document further describes the required services.

Contractors 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 Contractor offering the Best Value for each LOT.

The Commission is the only office authorized to clarify, modify, amend, alter or withdraw the provisions of this RFP. Every Bidder 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 Commission and the New York State Offices of the Attorney General and State Comptroller.

In the RFP, the Commission has defined a series of objectives, requirements, and a proposal evaluation approach that will represent its best interests in conformance with Commission 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 bidder to accept these obligations may result in cancellation of the award.

The term of each agreement will be October 1, 2015 through October 31, 2020, as defined in Section 2.5 of this RFP.

This RFP requires that an Intent to Bid Form be submitted for each LOT as outlined in Section 1.10 of the RFP.

For the convenience of bidders, the Parts of this RFP have been divided as follows: Part 1 – Introduction, and Part 2 – Contractual Provisions, pertain to all bidders. Whereas, Part 3 – Scope of Work, Part 4 – Information Required from Bidders, and Part 5 – Evaluation and 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

In November 1966, a constitutional amendment was approved by a majority of NY voters which established the New York Lottery (the "Lottery"). In February 2013, the NY Lottery merged with the NYS Racing & Wagering Board to form the NYS Gaming Commission under adoption of Chapter 60 of the Laws of 2012 as part of the FY 2012-2013 Enacted State Budget. The Commission oversees and regulates six gaming and racing programs, including Lottery, Video Lottery, Horse Racing, Charitable Gaming, Indian Casino Gaming and Commercial Casino Gaming.

While the Commission regulates all gaming activity in the State, it only operates and administers the Lottery and Video Lottery programs which are accounted for as an enterprise fund of the State of NY. The Commission prepares financial statements to summarize these two programs with all net proceeds benefitting aid to education. The statements are prepared in conformance with generally accepted accounting principles ("GAAP") and are audited in accordance with generally accepted auditing standards ("GAAS"). The Commission requires that the financial statements be audited annually by an independent certified public accounting firm.

Other divisions within the Commission may require services within the Scope of this RFP over the course of the contract term. If such services are needed, a Statement of Work process will be followed as provided in Part 3 of each Lot under this RFP.

1.3 MINIMUM QUALIFICATIONS

Any bidder submitting a Proposal in response to this RFP must meet the minimum qualifications listed below for the corresponding LOT. Failure to meet these minimum requirements will result in a proposal being found non-responsive and eliminated from consideration.

Information demonstrating the qualifications defined below will be requested in response to Section 4.1 (each LOT) of this RFP. Subcontractors may not be used to meet the Minimum Qualifications.

LOT 1 – Examination of Financial Statements, Performance of Agreed Upon Procedures for Multijurisdictional Games, and Other Engagements.

The CPA firm must meet the following criteria to be considered for award under this procurement.

- Be a Certified Public Accounting firm that is in good standing with the New York State Board for Accountancy, or with the State Board for Accountancy where licensed; and

- Be registered to practice public accounting in New York State; and

- Have demonstrated experience auditing the financial statements prepared on a Generally Accepted Accounting Principles ("GAAP") basis serving clients in state government within the last five years, including audits of entities utilizing third party service providers where such third parties provide Service Organization Control reports (Type II); and

- Be independent of the NYS Gaming Commission in accordance with the American Institute of Certified Public Accountants ("AICPA") and GAAP and is able to conduct the proposed audit; and

- Have a peer review with unqualified opinion.

LOT 2 - Observation of Studio Drawings, Ball Weight Certifications, and Other Engagements.

The CPA firm must meet the following criteria to be considered for award under this procurement.

- Be a Certified Public Accounting firm that is in good standing with the New York State Board for Accountancy, or with the State Board for Accountancy where licensed; and

- Be registered to practice public accounting in New York State; and

- Be independent of the NYS Gaming Commission in accordance with the AICPA and GAAP and able to conduct the proposed audit; and

- Have a peer review with unqualified opinion; and

- Have or assign managers that have experience observing lottery drawings and ball weight certifications.

1.4 SCHEDULE

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

RFP Issued	May 26, 2015
First Bidders' Questions Due by 3:00 pm	June 8, 2015
Commission Responses to First Questions	June 11, 2015
Intent to Bid & Confidentiality Agreement Due by 3:00 pm	June 16, 2015
Exhibits Issued	June 17, 2015
Second Bidders' Questions Due by 3:00 pm	June 25, 2015
Commission Responses to Second Questions	June 30, 2015
Bidder Proposals Due by 3:00 pm	July 13, 2015
Contract Start Date	October 1, 2015

1.5 RFP APPENDICES AND ATTACHMENTS

The following documents (Appendices, Attachments, Exhibits) are incorporated into this RFP:

Appendix A: Standard Clauses for New York State Contracts
Appendix B: Contract Form (incorporates Appendix A) – LOT 1
Appendix B: Contract Form (incorporates Appendix A) – LOT 2
Appendix C: Procurement Lobbying – Bidder/Offeror Disclosure
Appendix D: Non-Collusive Bidding Certification
Appendix E: New York State Vendor Responsibility Questionnaire
Appendix F: W-9 Form – Vendor Identification Number
Appendix G: Electronic Payment Authorization
Appendix H: Consultant Disclosure – Forms A and B
Appendix I: Contractor Certification – Tax Law Section 5-a
Appendix J: EEO and M/WBE Program
Appendix K: NY Subcontractors and Suppliers

Attachment 1: Bidder Acknowledgement of Addendum
Attachment 2a: Pricing Proposal Form – LOT 1
Attachment 2b: Pricing Proposal Form – LOT 2
Attachment 3: Technical Proposal Submittal Checklist
Attachment 4: Intent to Bid Form
Attachment 4a: Confidentiality and Non-Disclosure Agreement
Attachment 5: Statement of Work Form

The following Exhibits will be distributed following receipt of the Intent to Bid Form and Confidentiality and Non-Disclosure Agreement:

LOT 1
Exhibit 1: New York Lottery Financial Statements for Fiscal Year 2013-14
Exhibit 2a: Description of processing of Instant Lottery ticket transactions
Exhibit 2b: Description of processing of Video Lottery gaming transactions
Exhibit 3: Sample Fixed Prize Analysis Report

LOT 2
Exhibit 4: Executive Directives prescribing the drawing procedures
Exhibit 5: Ball weighing procedures for each game
Exhibit 6: Sample Ball Weight Report
Exhibit 7: Level of Effort for Drawing Observations

LOTS 1 and 2
Exhibit 8: Bidder Relationships with the Gaming Commission
Exhibit 8a: Conflict of Interest Disclosure Form

1.6 BIDDER/CONTRACTOR DIFFERENTIATION

Throughout this RFP the terms "bidder", "vendor", “proposer”, and “firm” 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 term "successful bidder", “contractor” and “firm”.

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 Contract Management Specialist or Supervisor of Contract Administration 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 CONTRACT MANAGEMENT SPECIALIST OR SUPERVISOR OF CONTRACT ADMINISTRATION AS NOTED BELOW:

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

Stacey Relation, Contract Management Specialist 2
stacey.relation@gaming.ny.gov

or

Gail P. Thorpe, Supervisor of Contract Administration
gail.thorpe@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 Commission 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 at the beginning 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 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.ny.gov/acpl.

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 Response.

1.10 INTENT TO BID AND CONFIDENTIALITY AND NON-DISCLOSURE AGREEMENT

Each firm interested in submitting a proposal must submit an Intent to Bid Form, incorporated into this RFP as **Attachment 4**, by the date outlined in Section 1.4, Schedule. **If the Intent to Bid Form is not received by the date and time specified, the proposer will not be considered further in the procurement process.**

Each firm must also submit with their Intent to Bid Form, a signed and notarized Confidentiality and Non-Disclosure Agreement, incorporated into this RFP as **Attachment 4a**. The Exhibits listed in Section 1.5 of this RFP contain confidential information and will only be issued to firms who submit the Intent to Bid Form and Confidentiality and Non-Disclosure Agreement. Exhibits will be contained on a password protected disc and sent via overnight parcel. Passwords will be emailed to the contact person designated on the Intent to Bid Form.

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 should 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. Bidders 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 this Part 1. 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 it's 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 VENDOR RESPONSIBILITY QUESTIONNAIRE

Bidder agrees to fully and accurately complete the NYS Vendor Responsibility Questionnaire (hereinafter the "Questionnaire"), which is available online at: http://www.osc.state.ny.us/vendrep/documents/system/welcome_package.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 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.

1.16 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 Commission 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 Proposal must be submitted in two (2) separate volumes **(Technical Proposal and Pricing Proposal)** as defined below and the 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 due date for responses to this RFP.

Volume I – Technical (non-price) Proposal:

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 and identify whether the submission is for C150003 - LOT 1 or C150004 - 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.

Hardcopy: **Two originals and seven copies.**
Electronic: Two USB Memory Sticks containing a PDF file.
Electronic: One redacted version, consistent with proprietary designation provided in response to Section 1.15 of this RFP.

The electronic versions must include all Proposal sections within a single file to facilitate searches for terms across the breadth of the Proposal. The non-redacted electronic 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 electronic 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 3**. 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 Proposals.

2. Technical Proposal Submittal Checklist – Attachment 3

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 1.15).

6. Disclosure of Litigation and Other Information (Section 1.20).

7. Certifications and representations as required by this RFP and addressed throughout.

8. 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:

The Pricing Proposal must be prepared as provided in Part 4 of this RFP and in the form provided in **Attachments 2a & b** 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 electronic versions of the entire Pricing Proposal must be submitted as noted below and must be marked clearly to differentiate.

Hardcopy: **Two originals and five copies.**
Electronic: Two USB Memory Sticks containing a PDF file.
Electronic: One redacted version, consistent with proprietary designation provided in response to Section 1.15 of this RFP.

Note: If there are any differences between the hard copy and electronic 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.

C. **Proposal Submission:**

Both volumes of each Proposal must be submitted to the Commission as set forth below, and must be received by the date and time 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, LOT number, company or organization name, 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 an interior envelope or package.

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

Stacey Relation
Contract Management Specialist 2
New York State Gaming Commission
Contracts Office – 4th 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 Contract Management Specialist 2 or the Supervisor of Contract Administration, 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 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.

Upon receipt of a 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 Technical Evaluation process is complete.

The 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 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 Proposal 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 under either Lot in response to 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.

Note: A Proposal incorporating Lots 1 and 2 is not permitted and under this RFP is not considered a Joint Proposal.

G. **Multiple Proposals from one bidder Prohibited:**

A bidder shall submit only a single Proposal for each LOT. Submission of multiple Proposals under the same Lot is not permitted. 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 Commission. 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.

1.17 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.

1.18 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 for any travel, accommodations, or other expenses of such site visits.

1.19 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.

1.20 DISCLOSURE OF LITIGATION AND OTHER INFORMATION

Because the Commission has a strong interest in the successful bidder's continuing ability to provide secure, 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 in 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.

1.21 CONFLICTS OF INTEREST

Throughout the procurement process Bidders must identify, and bring to the attention of the Commission, actual or apparent conflicts of interest as knowledge of such conflicts arise.

A list of current relationships, that the Commission has that relate to the services provided under this procurement, is incorporated into this RFP as **Exhibit 8**.

Bidder must complete and return with its Proposal, the Conflict of Interest Disclosure Form, incorporated into this RFP as **Exhibit 8a**.

Any Bidder awarded a contract under this RFP will have an on-going obligation to inform the Commission of any actual or apparent conflicts of interest.

1.22 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 Executive Director of the Commission, or Commission designee, at the time the change occurs or is identified. Failure to notify the Executive Director of the Commission, or Commission 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.

1.23 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 Executive 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.

1.24 NEWS RELEASES

A news 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 outcome of the award under this procurement may be released without prior approval by the Commission and then only to persons designated by the Commission.

1.25 ADVERTISING

Each respondent agrees not to use the Commission’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 Commission, and then only in consultation and cooperation with the Commission.

1.26 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.

1.27 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.

M. Stop the work covered by this proposal and the contract at any time that it is deemed the successful bidder is unable or incapable of performing the work to their satisfaction. In the event of such stopping, the Commission shall have the right to arrange for the completion of the work in such a

manner as it may deem advisable and if the cost thereof exceeds the amount of the bid, the successful bidder and its surety shall be liable to the State of New York for any such cost on account thereof. In the event that the Commission stops the work as provided thereof, together with the reason thereof, the Contractor shall have ten (10) working days to respond thereto before any such stop order shall become effective.

1.28 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 protester 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 bidder's Proposal
- Bidder'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 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.

2.5 TERM OF CONTRACT AND CONTRACT EXTENSIONS

(a) The contract term is October 1, 2015 through October 31, 2020.

(b) The period October 1, 2015 through October 31, 2015 will be designated the "start-up" period for services performed in LOT 2, pursuant to Section 3.2 of this RFP for LOT 2.

2.6 COMPENSATION

LOT 1:

(a) Scope of Work:

(i) Contractor will be compensated for services provided in accordance with the Scope of Work, defined in Part 3 of this RFP, at the hourly rates set forth in the Pricing Proposal for each type of service and for expenses deemed reasonable, with documented receipt, including: overnight package fees (e.g. Federal Express); photocopy expenses related to the preparation of special documents specifically requested by the Commission, at the firm's normal rate, but not to exceed 25 cents per page.

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.

(b) "Other Engagements":

(ii) Contractor will be reimbursed for services provided through the Statement of Work process at the hourly rates set forth in the Pricing Proposal for "Other Engagements."

(iii) Contractor will be reimbursed for travel expenses, deemed reasonable, and with documented receipt, for work performed under the Statement of Work process. Travel guidelines are detailed below in this Section.

LOT 2:

(a) Scope of Work:

(i) Contractor will be compensated for services provided in accordance with the Scope of Work at the hourly rates set forth in the Pricing Proposal for each type of service and for expenses, deemed reasonable, and with documented receipt, including: overnight package fees (e.g. Federal Express); costs related to seals used to secure ball sets in conjunction with the firm's role in the nightly drawing process; photocopy expenses related to the preparation of special documents specifically requested by the Commission, at the firm's normal rate, but not to exceed 25 cents per page.

Except as provided below in (ii) relative to the observation of drawings, 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.

(ii) Contractor will be reimbursed for travel expenses, deemed reasonable, and with documented receipt, incurred while providing services related to observation of drawings that are held at a location other than the Lottery Headquarters in Schenectady, NY.

(b) "Other Engagements":

(iii) Contractor will be reimbursed for services provided through the Statement of Work process at the hourly rates set forth in the Pricing Proposal for "Other Engagements."

(iv) Contractor will be reimbursed for travel expenses, deemed reasonable, and with documented receipt, for work performed under the Statement of Work process. Travel guidelines are detailed below.

Travel Reimbursement (LOTS 1 and 2):
Reimbursement for travel for the allowable circumstances outlined in this section, the following guidelines apply:

(a) Travel expenses require prior approval from the Commission. 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.

(b) 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.

2.7 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.

2.8 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 Vendor Identification Number for use in the Statewide Financial System (SFS). The Substitute Form W-9 must be completed and submitted directly to the Commission upon notification of award. 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 vendor 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.

2.9 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.

2.10 CONSULTANT DISCLOSURE

The contractor must comply with the requirements of New York State Finance Law Section 163(4) (g), which imposes certain reporting requirements on contractors doing business as vendors with New York State. In furtherance of these reporting requirements, the contractor agrees to complete and submit Contractor's Planned Employment report (**Appendix H – Form A**) within two (2) business days after receiving notice of a Contract award and Contractor's Annual Employment Report (**Appendix H – Form B**) by May 15th for each fiscal year (April 1 – March 31) the Contract term is in effect. Page two of each form provides the necessary addresses for submitting the form.

While the Planned Employment report (Form A) is a one-time projection of the planned employment under the upcoming Contract term, the Annual Employment Report (Form B) is a reporting of the actual employment history for the previous fiscal year.

Forms A and B should be completed as follows:

- **Employment Category**: The contractor must use specific occupation titles as listed in the O*net occupational classification system found through the U.S. Department of Labor's Employment and Training Administration (www.online.onetcenter.org). The classification system provides a code for various occupational titles; the contractor should use the code that best defines the employment titles to be utilized under the Contract.
- **Number of Employees**: Enter the number of employees in the employment category employed to provide services (Form A), or who have performed services (Form B), during the reporting period, including part-time employees and employees of subcontractors.

- **Number of Hours Worked or to be Worked**: Enter the number of hours to be worked (Form A), or worked (Form B) under the employment category for the reporting period.
- **Amount payable or paid under the Contract**: Enter the estimated amount to be paid (Form A), or actually paid (Form B) for each employment category for the reporting period.
- **Scope of Contract (Form B only)**: Choose the category that best describes the predominate nature of the services performed under the Contract.

2.11 AUDITOR INDEPENDENCE

The contractor shall annually submit a statement, signed by an authorized signatory, that the firm is independent of the NYS Gaming Commission in accordance with the American Institute of Certified Public Accountants ("AICPA") and Generally Accepted Accounting Principles ("GAAP") standards and is able to conduct the proposed audit.

2.12 TRANSITION

Upon expiration or termination of this Agreement, the Contractor shall, upon the appointment of the successor contractor, provide such successor contractor access to all necessary records in the Contractor's possession relating to the services provided under this Agreement. At the Commission's request, the Contractor shall, at no cost to the Commission, also make appropriate staff available to the Commission and to the successor contractor during normal business hours to answer questions regarding such records and the services which have been provided by the Contractor under this Agreement. The Contractor shall cooperate to the fullest extent with any successor contractor in order to accomplish a smooth and orderly transition, so that the services required are uninterrupted and are not adversely impacted by the change in contractor.

2.13 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 Contract 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.

Bidders can visit the New York State Department of Taxation and Finance website to obtain more information:
http://www.tax.ny.gov/pdf/publications/sales/pub223.pdf

2.14 INSURER QUALIFICATIONS

All required 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.

2.15 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 1of 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: $1,000,000
- General Aggregate: $2,000,000
- 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-contractor 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 rending 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. **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.

4. **Disability Benefits.** For work to be performed in NYS, 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 NYS 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*. Bidder 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).

2.16 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 J of this RFP.

The M/WBE goal established under this RFP is 30%.

Contractor's diversity practices will be evaluated as part of the scoring factor as further described in Parts 4 and 5 of each Lot of the RFP.

2.17 SUCCESSFUL BIDDER 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.

2.18 APPROVAL OF STAFFING

The Commission reserves the right to review and, if perceived necessary, disapprove any employee of the successful bidder who is assigned to the Commission Contract, either at Contract inception or during the term or any extension thereof.

2.19 NEW YORK STATE SUBCONTRACTORS 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.

Subcontractor and supplier requirements are set forth in Appendix K of this RFP.

2.20 SUB-CONTRACT APPROVAL

The Commission 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.

2.21 DELEGATION AND/OR ASSIGNMENT

No delegation of any duties under this Contract to another entity shall be binding upon the State until the Commission 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 Commission.

2.22 CODE OF CONDUCT FOR BIDDER

The Commission 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 Commission 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 Commission;

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;

2.23 LICENSED INTELLECTUAL PROPERTY

To the extent that the bidder utilizes or relies upon the intellectual property rights of a third party in fulfilling its obligations under the Contract, the bidder will provide the Commission with whatever assurance the Commission deems necessary that the use of such third party intellectual property is permissible. In addition, in the event of failure to perform or breach of Contract the bidder must ensure continued right of use of licensed intellectual property by the Commission. The Commission will not pay a fee for rights already held by the bidder; however, if fees are incurred for the licensing of intellectual property owned by any third party relevant to the fulfillment of the services under this RFP, any fees to be paid by the Commission for use of a third party's intellectual property will be negotiated on a case by case basis. As part of its Proposal, the bidder must provide a list of any third party's intellectual property relevant to this procurement that the bidder is currently licensed to use.

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 Commission site, to be given a security clearance by Commission. Anyone seeking access to a Commission 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 Commission 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 Commission, State, local 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, subcontractors, and their employees and independent contractors, shall be required to comply with all applicable facility and information security policies and procedures of the Commission 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 Commission site, information systems or data contained therein. In addition, prior to accessing any Commission 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 Commission, which may include, at the Commission'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 Commission.

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

(iii) When an emergency or other circumstances occur which render immediate compliance with the foregoing requirements impractical, the Commission 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 Commission's right to subsequently require security clearance as to any individual previously granted such temporary access; provided however, that even in such circumstances, the Commission shall approve such individual's access prior to such individual accessing a site, system or date and the Commission may accompany such individual at all times when on-site.

(iv) The Commission 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 Commission may accompany such individual at all times when on-site. The Commission 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 Commission 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 Commission determines that the individual may present a risk to the Commission's security interests. The Commission 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 Commission's denial of access to any individual(s) pursuant to this section.

LOT 1

EXAMINATION OF FINANCIAL STATEMENTS, PERFORMANCE OF AGREED UPON PROCEDURES FOR MULTIJURISDICTIONAL GAMES, AND OTHER ENGAGEMENTS

PARTS 3 THROUGH 5

Pages 39 through 50 pertain to this LOT only. If you are not bidding on LOT 1 you may disregard these pages.

PART 3- SCOPE OF WORK

SCOPE

The Commission requests a Proposal from CPA firms interested in entering into a contract with the Commission to perform the professional accounting and auditing services listed below:

A. Examination of the Lottery's annual financial statements
B. Performance of Agreed Upon Procedures for multijurisdictional games
C. Other engagements, as needed, through the Statement Of Work process

The contractor will carry out this project under the direction and control of the Administrative Officer and Director of Internal Audit.

Background information and detailed requirements for each of the above areas is provided in the sections that follow.

A. EXAMINATION OF FINANCIAL STATEMENTS

Overview

The firm selected will be required to conduct examinations, in accordance with GAAS, of the financial statements for all funds included in the Lottery's comprehensive annual financial reports for the fiscal years ending March 31, 2016, 2017, 2018, 2019, and 2020.

Duties and Responsibilities of the Auditor

The selected firm will be expected to:

- Conduct a pre-audit conference each fiscal year. The purpose of this conference is to discuss the proposed audit plan and establish timelines for completion of the audit.
- Provide an audit engagement letter stating the terms and conditions of the engagement, including the scope of the audit and the firm's commitment.
- Conduct audit fieldwork and provide progress updates to Commission staff explaining; (1) any progress to date not consistent with the fiscal year audit plan and time schedule, and (2) any accounting or auditing concerns that have come to the auditor's attention that would have an impact on the opinion on the financial statements for the fiscal year being examined. The financial statement for fiscal year 2013-14 is included as **Exhibit 1**.
- Deliver the audited financial statements and a management letter identifying any internal control deficiencies to the Commission no later than June 15 each year.
- Upon completion of each year's audit and after all deliverables have been received, conduct an exit conference with Commission staff. The exit conference will provide the auditor an opportunity to report on the audit and discuss the content of the auditor's reports and any other significant observations and/or issues identified during the audit.

- If necessary, assist Commission management with advice and counsel pertaining to audit recommendations.

The selected firm will be provided with two SSAE 16, SOC I, Type II Reports that describe the internal control environment of third party contractors utilized for the full service Lottery system (Gtech Corp) and the video lottery gaming system (Multimedia Games, Inc.). A description of the transaction processing performed by these two contractors is included as **Exhibits 2a and 2b respectively** to enable competing firms to better understand how these entities interface with the Commission's operations.

Work Space

A work area at One Broadway Center, Schenectady, NY 12301, including internet connectivity, will be provided for the auditors during their examination of the financial statements. Equipment and supplies such as binders, personal computers, calculators, etc., are the responsibility of the auditors.

B. PERFORMANCE OF AGREED UPON PROCEDURES FOR MULTIJURISDICTIONAL GAMES

Overview

The New York Lottery, as part of an agreement entered into with other states participating in multijurisdictional games, which currently include Mega Millions, Megaplier, Powerball, Powerplay and Cash 4 Life, or such other multijurisdictional games with which the New York Lottery participates and requires agreed upon procedures in relation to sales verification, prize verification or other steps as necessitated by the multijurisdictional game agreements, utilizes a certified public accounting firm to test the Lottery's sales and prize results from April 1 of each year through March 31 of the following year, and the receivable or payable as of March 31.

Draw games may be added or removed. Payment will be made based on the hourly rates provided, regardless of the number of games tested.

Duties and Responsibilities of Auditor

The firm selected will be expected to perform the current Agreed Upon Procedures for each multijurisdictional game. There are currently five separate Agreed Upon Procedures. A copy of the New York State Lottery Mega Millions Fixed Prize Analysis Report for the fiscal year ending March 31, 2014 is provided as **Exhibit 3** as a sample for reference.

The tasks outlined in the Agreed Upon Procedures are to be performed annually in accordance with standards established by the AICPA. A report is to be provided to the Commission, by June 15 of each year, of the tasks completed and related findings. Because these procedures do not constitute an audit, an opinion will not be required on any of the elements, accounts, or items of the financial statements. Language addressing the expectations and limitations

associated with reporting the procedures above is to be mutually agreed upon prior to issuing the annual report.

C. OTHER ENGAGEMENTS (Statement of Work Process)

Lottery management has found that issues emerge, sometimes unexpectedly, where it is beneficial to engage a CPA firm for services of various types. When this occurs, it is often important that the services be performed expeditiously and by a firm whose professional staff already has some knowledge of the Lottery and its operations. In the past the Lottery has utilized CPA firms to perform engagements that are within the scope of the services being provided under the contract, but were not specifically defined in the contract, such as the review of construction related billings.

When billing for these services, the firm must use the same standardized hourly rates it proposes for the defined engagements as applicable to the year within the contract term that the hours will be incurred. For example, if a firm bills for an IT Manager on one project and the Lottery requires another project in the same year as "Other Engagement", the firm must bill at the same standardized rate for that title. The firm should include separately in its Pricing Proposal the rates for any consultants or other specialized personnel it anticipates may be needed to perform the contract but who are not proposed in any of the defined engagements. The rates for these services must be provided in **Attachment 2a.3: Pricing Proposal – LOT 1.**

If such "other engagements" are required, the process for entering into these engagements is outlined below:

- The Lottery will define, in writing, the objectives and scope of the project.
- The firm will prepare an engagement letter, including a breakdown in cost.
- The Commission will prepare a **Statement of Work (SOW)** in the form incorporated into this RFP as **Attachment 5**. The SOW will define the work plan and cost to complete the project, including the staff positions and associated hourly rates that will be dedicated to the work. As defined previously, the pricing of this work will be based on the rates provided for in **Attachment 2a.3: Pricing Proposal – LOT 1.**
- The SOW will be signed by both parties and forwarded to the Office of the State Comptroller for final review and approval. Upon approval of OSC the project can commence.

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.

4.1 BUSINESS ORGANIZATION

The Proposal must include the information listed below.

1. 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. Each bidder must state whether they are qualified and/or registered to do business in the State of New York.

2. 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.

3. Submit proof that the firm is a CPA firm that is in good standing with the New York State Board for Accountancy, or with the State Board for Accountancy where licensed.

4. Submit a copy of the firm's current registration to practice public accounting in New York State.

5. Include a copy of your firm's most recent peer review report, the related letter of comments, and the firm's response to the letter of comments.

6. Indicate where, within the organization, each of the categories listed in the Scope of Work falls in the reporting structure and what office or division will be responsible for each category.

7. Submit a statement, signed by an authorized signatory, that the firm is independent of the NYS Gaming Commission in accordance with the AICPA and GAAP standards and is able to conduct the proposed audit.

8. Submit information demonstrating the bidders' financial viability, integrity and stability, for example; financial statements or revenues.

9. 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.

4.2 EXPERIENCE OF THE BIDDER'S ORGANIZATION

The Proposal must include the information listed below.

1. Specify the size of the firm, including the number of licensed CPAs.

2. The firm's experience in conducting the type of observations or certifications requested, including any experience in the Lottery industry or auditing government agencies. Also, the firm should describe the type of personnel it would use and the experience such personnel have in performing such tasks.

3. Submit a list of client(s) and dates that demonstrate that it has audited the financial statements prepared on a generally accepted accounting principles ("GAAP") basis serving clients in state government within the last five years, including audits of entities utilizing third party service providers where such third parties provide Service Organization Control reports (Type II).

4. A list of major accounts the firm resigned from, or for which the firm was terminated, over the past two years. The list must include an explanation of each occurrence.

5. Description of how the firm's quality assurance program will be applied to this proposal.

6. Indicate whether the firm or its principals have been sanctioned in the last five years by a gaming, racing or any governmental entity and that all individuals are properly licensed and whether or not they have had their accounting license suspended, revoked or sanctioned.

References

The firm must include at least three references relevant to any of the requested services. References must include company name, contact person (name, title, phone number, email address and mailing address). Also include a general statement of the type of engagement performed for this reference. **References will be used to substantiate the technical proposal.**

4.3 PROJECT MANAGEMENT AND STAFFING

The Proposal must include the information listed below.

1. Identify the full time dedicated staff project director and other responsible individuals by name, title, and location who will work under a resulting Contract, including proposed subcontractor staff members.
2. Identify the principal supervisory and management staff, including engagement partners, managers, and other supervisors, who would be assigned to the engagement. Indicate the New York State CPA licensure status of each person. Submit resumes of each such person including specific examples of similar governmental engagements.

3. Provide a brief description of the firm's staff retention principles (i.e., hiring and training).

4. Provide evidence of certifications and licenses (i.e. CPA, CFA) of the proposed staff relating to the work outlined in the RFP.

5. Provide as much information as possible regarding the number, qualification, and experience of the staff to be employed in this engagement.

   Note: Staff levels provided in response to this section must agree with staff levels provided in Attachments 2a: Pricing Proposal – LOT 1. Do not provide any cost information in this section.

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.

4.4 WORK PLAN

The Technical Proposal must include a response to the components below, the details of which are defined in the Scope of Work – Part 3 of this RFP.

A. Examination of financial statements: describe the firm's approach to the examination of the financial statements, including, but not limited to:

   1. Proposed audit segmentation;
   2. Allocation of staff and other resources by major segment or function: Provide as much information as possible regarding the staff (nature, number, qualification) to be assigned to each major segment or function and an estimate of the annual staff hours for each major segment or function for each of the five years of the engagement;
   3. Information technology auditing techniques;
   4. Sampling methodology and utilization;
   5. Timing considerations: Identify critical dates and time estimates (i.e. commencement of examination and interim and year-end work).

B. Performance of Agreed Upon Procedures for Multijurisdictional Games: describe the firm's approach to performance of the Agreed Upon Procedures described in Part 3.

4.5 MWBE PLAN

In addition to the requirements set forth in Section 2.16 of this RFP, which include submission of a utilization plan that describes anticipated participation of Certified Minority and Women Owned Business Enterprises (MWBE) during the contract term, each Bidder must describe their diversity practices, such description shall include past use of MWBE firms and how the Bidder plans to meet the stated goals, including any existing relationships with MWBE firms. Bidder must demonstrate a commitment to maximizing opportunities for MWBE firms.

Pursuant to § 310(22) of Article 15A of New York State Executive Law, "Diversity practices" shall mean the contractor's practices and policies with respect to:

(a) utilizing certified minority and women-owned business enterprises in contracts awarded by a state agency or other public corporation, as subcontractors and suppliers; and

(b) entering into partnerships, joint ventures or other similar arrangements with certified minority and women-owned business enterprises as defined in this article or other applicable statute or regulation governing an entity's utilization of minority or women-owned business enterprises.

In describing its diversity practices, the bidder must include the items listed below, which may be expanded upon to include additional factors:

1. The percentage of such prime contractor's gross revenues involving the use of minority-and/or women-owned business enterprise subcontractors for servicing clients and/or manufacturing products and/or performing on contracts in the contractor's prior fiscal year of business activity;

2. The percentage of such contractor's gross revenues involving the use of joint ventures, partnerships, or other similar arrangements with certified minority- and/or women-owned business enterprises in the contractor's prior year of business activity;

3. The percentage of such contractors' gross revenues that the contractor paid to certified minority- and/or women-owned business enterprise subcontractors and paid to certified minority-and/or women-owned business enterprise joint ventures, partnerships, or other similar arrangements;

4. The percentage of such contractor's non-contract related/overhead expenses for the prior fiscal year of business activity that were certified minority- and/or women-owned business enterprise expenditures;

5. Any training or mentoring programs provided for certified minority- and/or women-owned business enterprises by such contractor.

6. Any supplier and subcontractor diversity goals involved in such contractor's procurements.

7. Any established goals for certified minority- and/or women-owned business enterprise suppliers or a total purchasing budget allocated to certified minority- and/or women-owned business suppliers by such contractors.

8. The utilization plan for the award as required by section 2.15; and

9. Any other information that demonstrates contractor's commitment to diversity practices.

The Bidder will be scored on its diversity practices as provided in Part 5 of the RFP.

4.6 ADDITIONAL INFORMATION AND COMMENTS

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

4.7 PRICING PROPOSAL

Utilizing the Pricing Proposal forms, **Attachments 2a**, the bidder is to propose pricing based on the Scope of Services set forth in **Part 3** of this RFP. **Bidder must use Attachments 2a.1, 2a.2, and 2a.3 as directed. Alternative pricing structures will be deemed non-responsive.**

A. Examination of Financial Statements (Attachment 2a.1): The cost breakdown for each year should present the following information:

- The staff titles to be assigned to the work;
- The hourly rates for each staff title;
- The number of hours the firm estimates will be needed to complete the project for each staff title;
- The total annual amount.

The total Annual Amount shall constitute the maximum amount that the firm will be allowed to bill the Commission annually. If the firm completes the work in less time than estimated, only the actual number of hours worked may be billed.

Bidder must list the specific titles to be used, including specialty titles, as only the titles and corresponding rates proposed can be billed. Additionally, a person can only be billed under one title, even if working on different projects.

B. Performance of Agreed Upon Procedures for Multi-jurisdictional Games (Attachment 2a.2): The cost breakdown for each year should present the following information:

- The staff titles to be assigned to the work;

- The hourly rates for each staff title;
- The number of hours the firm estimates will be needed to complete the project for each staff title;
- The total annual amount.

Pricing submitted on Attachment 2a.2 will apply to each game reviewed.

The total Annual Amount shall constitute the maximum amount that the firm will be allowed to bill the Commission annually for each game. If the firm completes the work in less time than estimated, only the actual number of hours worked may be billed.

Bidder must list the specific titles to be used, including specialty titles as only the titles and corresponding rates proposed can be billed. Additionally, a person can only be billed under one title, even if working on different projects.

C. Other Engagements (Attachment 2a.3): The cost breakdown for each year should present the following information:

- The staff titles to be assigned to the work;
- The hourly rates for each staff title.

The staff titles must be broken down as specified in the Pricing Proposal form. The dedicated Project Director must be the person defined in response to Section 4.3.1 of the Technical Proposal response. All other titles must be designated as either Senior Staff, Mid-level Staff, or Junior Staff.

The Bidder should include separately in its Pricing Proposal the rates for any consultants or other specialized personnel it anticipates may be needed to perform the contract but who are not proposed in any of the defined engagements. Only the titles and corresponding rates proposed can be billed. Additionally, a person can only be billed under one title, even if working on different projects.

Any title listed in this Pricing Proposal that is the same as proposed under the defined engagements of this Section, must have the same corresponding rate applicable to the same year as defined in the other Pricing Proposal forms. For example, if Audit Partner is a designated title under Examination of Financial Statements, that same title, if also designated under Performing Agreed Upon Procedures for Multi-jurisdictional Games and/or “Other Engagements”, must have the same corresponding rate under the same corresponding year in all Pricing Proposal forms.

PART 5 – EVALUATION AND SELECTION

5.1 INTRODUCTION

This section describes the evaluation process that will be used to determine which Proposal provides the greatest overall benefits to the State. The ability of the Commission 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 Commission will be represented by an Evaluation Committee (the "Committee") comprising of Commission staff members. 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 70%; Price 30%.**

5.3 EVALUATION AND AWARD STEPS

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

A. Pass/Fail evaluation of the minimum qualifying requirements of the bidder as provided for in Part 1 of this RFP.

B. Review of Proposals to assess compliance with proposal submission requirements, including responsiveness to terms, conditions and requirements.

C. Detailed review by the Committee of the Technical Proposals relative to proposed functions, features, services, and references, using the requirements and criteria defined in this RFP.

D. Proposal clarifications, if applicable.

E. Scoring of Technical Proposals by the Committee.

F. Assessment and scoring of Pricing Proposals after finalization of the technical scoring process and by one or more individuals from the Finance Office.

G. Compilation, by staff of the Contracts Office, of the technical and pricing score of each bidder into a summary score sheet.

H. 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.

I. 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.

J. Review and Adoption of the Award by the Commissioners.

K. 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 Bidders – of this RFP will be evaluated based on the following criteria:

A. **Technical Evaluation [70%]**

- Experience of the Bidder's Organization (20 points)
- Project Management & Staffing (30 points)
- Work Plan (15 points)
- MWBE Diversity Practices (5 points)

Note: Points awarded will be rounded to the nearest hundredth place.

B. **Pricing Evaluation [30%]**

- Examination of Financial Statements and Performance of Agreed Upon Procedures for Multi-jurisdictional Games (25 points)

- Other Engagements (5 points)

The bidder with the lowest total price* will be awarded the full points allocated to the pricing evaluation. The score for each of the remaining bidders will be proportionate to the lowest bidder based on a pre-determined formula.

***The total price under the Examination of Financial Statements and Performance of Agreed Upon Procedures for Multi-jurisdictional Games will be the combined Total Five Year Not-to-Exceed Amount from Attachments 2a.1 and 2a.2. The total price under "Other Engagements" will be determined based upon a pre-determined formula using the rates from Attachment 2a.3.**

5.6 FINAL COMPOSITE SCORE/DETERMINATION OF AWARD PROCESS

The technical and pricing scores 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 for each LOT.

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

OBSERVATION OF STUDIO DRAWINGS AND BALL WEIGHT CERTIFICATIONS AND OTHER ENGAGEMENTS

PARTS 3 THROUGH 5

Pages 52 through 66 pertain to this LOT only. If you are not bidding on LOT 2 you may disregard these pages.

PART 3- SCOPE OF WORK

3.1 SCOPE

The Commission requests a Proposal from certified public accounting firms interested in entering into a contract with the Commission to perform the services listed below:

A. Observation of Drawings and Ball Weight Certifications
B. Other engagements, as needed, through the Statement Of Work process

The contractor will carry out this project under the direction and control of the Director of the Lottery and the Lottery Drawings Manager.

Background information and detailed requirements for each of the above areas is provided in the sections that follow.

A. OBSERVATION OF STUDIO DRAWINGS AND BALL WEIGHT CERTIFICATIONS

Studio Drawings

Overview

The Commission requires the selected CPA firm to provide the services of a representative to observe and certify the performance of all drawings, drawing security procedures and the results of both the testing and live drawings. The purpose of this observation and certification is to ensure the security and integrity of the Numbers/Win-4 drawings, conducted twice daily; the daily Pick 10 and Take Five drawings; and the Wednesday and Saturday Lotto drawings. (To be referred to as “Studio Drawings”) Additionally, all ball sets used in these drawings, and backup sets for multijurisdictional games, must be certified.

The vendor is responsible for viewing and certification of drawings results of multi-state lotteries in which the New York Lottery does not conduct, but disseminates those drawing results: Powerball, every Wednesday and Saturday, Mega Millions, every Tuesday and Friday and Cash4Life, every Monday and Thursday.

Staffing the drawings with staff accountants who are entry level professionals with a bachelor’s degree or equivalent in the field of business or accounting would be optimal. However, the use of interns as representatives who are enrolled in a master’s degree business program or undergraduate, second year students or better would also be acceptable.

In an effort to encourage competition, the Commission emphasizes that there is no requirement for the selected firm to have a local office. The firm must be willing to provide proper training and supervision of the observation of all Studio Drawings and ball weighing using staff who reside locally. This can be achieved in several ways including but not limited to:

- Training and hiring student interns from local colleges (such as Siena, SUNY Albany, Saint Rose, RPI or Union College) to perform studio drawing services;
- If the incumbent firm is not selected, the incoming firm may negotiate with the incumbent firm to take over their drawing staff (consisting of student interns);
- Subcontracting with a local CPA firm to handle ball drawing functions.

Exhibit 7 indicates the level of effort currently used to staff the Drawing Observations and Ball Weight Certifications. This information is provided to assist with the Pricing Proposal.

Drawings are conducted seven (7) days per week, including holidays (the midday drawings procedures scheduled for December 25 begins at 6:00p.m., not the 10:30 a.m. scheduled start time), at the Commission Broadcast Facility, One Broadway Center, in Schenectady, New York. The CPA firm's representative must be present at the studio from the beginning to the end of the Drawing and Certification activities. The drawing schedule and times stated in the Executive Directives may change during the term of the contract.

Draw games may be added or removed and/or on occasion, designated to an off-site location. Payment will be made based on the hourly rates provided, regardless of the number of games observed.

Copies of the Executive Directives prescribing the procedures for all studio drawings are included as **Exhibit 4** (some Exhibits contain a Part 2, which is the form that must be completed as directed in each of the procedures). The Executive Directives may change during the term of the contract; the successful firm will be supplied with revised Directives as applicable.

Duties and Responsibilities of Auditing Firm Representative

A representative of the firm will be expected to attend each drawing, arriving at the drawing site no later than 10:30 a.m. for midday drawings and no later than 6:00 p.m. for evening drawings.

The duties and responsibilities include, but are not limited to the following:

- Confirm with the firm's backup and contingent representatives via telephone that he/she has arrived at the drawings studio;
- Report to the Lottery Program Manager ("Program Manager") and record his/her name in firm's logbook which is kept on site until necessary to deliver to firm;
- Observe, record, and certify the Program Manager's random drawing for the selection of each machine to be used (one for Numbers game and one for Win4 game);
- Observe, record, and certify the Program Manager's random drawing for the selection of each ball set for corresponding machine chamber. The Program Manager and Auditor verify the ball case number to their paperwork;

- Observe and record the removing of the drawing equipment from the safe, out of the safe room and transported into the studio for the drawings;
- Observe and confirm the randomly selected machines and ball-sets sets are properly positioned in accordance with the random drawings procedures addressed above;
- Observe while the Program Manager tests the operation of the drawing equipment to ensure its proper working order, and record the results of it;
- Prior to the ball sets being loaded into the machines, check seals on the heat-sealed Mylar bag containing the balls to ensure that they have not been tampered with. Compare the logged secure number with firm's official log record to ensure the seals have not been altered. Once verified, remove the seals, and record the results on the log record;
- Observe while the designated Lottery Drawing Assistant loads the balls into the machines;
- Observe and record results of the pre-test drawings on firm's independent drawing form. Once the ball sets have cleared the pre-test criteria, review the Program Manager's pre-test form to confirm drawing results. Review playback of pre-test drawings to reconfirm results. Observe and certify whether the drawing equipment is under the direct observation and supervision of a Program Manager at all times;
- Obtain, via telephone from a Lottery On-line Games Representative; notice that the sales for the game are closed. Record the time at which this occurred;
- Observe the live/official drawing and record the results, noting any deviations from procedure in accordance with established standards;
- Observe and record results of the post- test drawings. Once the ball sets have cleared the post-test criteria, review the Program Manager's post-test form to confirm drawing results. Review playback of live/Official and post-test drawings to reconfirm results. In the event of any deviation from drawing procedures, or if any irregularity occurs during any of the drawing proceedings, the representative shall ensure that the Program Manager or Lottery Official (if one is scheduled) notifies the Lottery Drawings Manager or his/her designated representative;
- Observe while the Lottery Drawing Assistant removes the sets of balls from the machines (0-9) and places them into a Mylar security bag, and that the bag is securely heat-sealed closed. Inspect the bag for no irregularities and ensure the bag is indeed heat-sealed. Place one pre-numbered security seal (provided by the Firm) on each individual secured bag, hand back to the Lottery Drawing Assistant and observe the bag being returned to their respective ball cases and locked and certify same;
- Observe that all of the drawing equipment is returned to the secured safe room and designated drawing equipment placed into the safe. Ensure safe is secured after closed and certify same;
- File a signed report with the firm, detailing the events of the nightly drawing, as outlined above;
- The auditing firm shall maintain documentation of the drawing activities for each drawing and assemble monthly reports of the final daily reports and unusual occurrences. Reports are to be forwarded to the Lottery Drawings Manager.

Emergency Contingency Services for Multijurisdictional Game Drawings

In addition to the games listed above, the Lottery provides emergency contingency services for the following multijurisdictional games:

- Mega Millions
- Cash 4 Life

For these games, the firm representative will be required to be prepared to act as a drawings observer in the event of a contingency situation. Typical drawings for these games are conducted in Georgia and New Jersey, respectively.

Ball Weight Certifications

Overview

Three times per month, the weights of the balls used for all non-multijurisdictional draw games are certified through a procedure involving the weighing of the individual balls and a calculation of the mean and set weights and the high and low set weight parameters. Such certifications are scheduled at the convenience of the Lottery Drawings Manager. The selected CPA firm's representative (auditor) must be present from the commencement to the completion of the ball weight certification process.

Duties and Responsibilities of Auditor

- Accompany the Lottery drawings staff representative from the Broadcast Facility to the Office of the New York State Bureau of Weights and Measures (NYS Department of Agriculture and Markets, Bureau of Weights and Measures, 10B Airline Drive, Albany, New York 12235-0001).
- Observe and record the results of the weighing and mean weight/parameter calculation for all ball sets used for draw games, including Numbers/Win-4, Pick 10, Take Five, and Lotto drawings;
- Upon completion of the ball weighing procedure the auditor seals the balls in their cases and returns with the Lottery Official to the Broadcast Facility and observes the securing of the ball sets. Ball weightings are normally completed within three (3) hours, including travel between the Lottery and the Bureau of Weights and Measures. Note: firm is responsible for purchase of seals and will be compensated as provided in Section 2.6 – Compensation.

  Copies of the Ball weighing procedures, for each game are included as **Exhibit 5**. A sample Ball Weight Report is included as **Exhibit 6**. The CPA firm will be required to attest, through signature, the test performed by the Bureau of Weights and Measures.

The CPA firm's representative in charge of staff scheduling will:

- Provide and be responsible for the overall supervision and scheduling of a firm representative for each drawing, including a standby and contingent representative and for coordinating training and staffing with the Lottery Drawings Manager. Periodically conduct unannounced observation of the

firm representatives for each drawing. **NOTE: the same firm representative may not be assigned the same schedule on consecutive days.**

- Review and sign the firm representative's report on each drawing and provide a copy to the Lottery Drawings Manager on a weekly basis.
- Upon becoming aware of any irregularity, immediately contact the Lottery Drawings Manager.
- Periodically, meet with the Lottery Drawings Manager, Director of Operations and the Lottery Director, and make recommendations for improvement and/or modification of procedures.
- Three times per month, schedule a firm representative to participate as an observer in the weighing and certification of all ball sets used for the drawings.

B. OTHER ENGAGEMENTS RELATED TO DRAWINGS AND BALL WEIGHT CERTIFICATIONS (Statement of Work Process)

Lottery management has found that issues emerge, sometimes unexpectedly, where it is beneficial to engage a CPA firm for services of various types. When this occurs, it is often important that the services be performed expeditiously and by a firm whose professional staff already has some knowledge of the Lottery and its operations. In the past the Lottery has utilized CPA firms to perform engagements that are within the scope of the services being provided under the contract, but were not specifically defined in the contract, such as review of draw procedures.

When billing for these services, the firm must use the same standardized hourly rates it proposes for the defined engagements as applicable to the year within the contract term that the hours will be incurred. For example, if a firm bills for an Account Manager on one project and the Lottery requires another project in the same year as "Other Engagement", the firm must bill at the same standardized rate for that title. The firm should include separately in its Pricing Proposal the rates for any consultants or other specialized personnel it anticipates may be needed to perform the contract but who are not proposed in any of the defined engagements. The rates for these services must be provided in **Attachment 2b.2: Pricing Proposal – LOT 2.**

If such "Other Engagements" are required, the process for entering into these engagements is outlined below:

- The Lottery will define, in writing, the objectives and scope of the project.
- The firm will prepare an engagement letter, including a breakdown in cost.
- The Commission will prepare a **Statement of Work (SOW)** in the form incorporated into this RFP as **Attachment 5**. The SOW will define the work plan and cost to complete the project, including the staff positions and associated hourly rates that will be dedicated to the work. As defined previously, the pricing of this work will be based on the rates provided for in **Attachment 2b.2: Pricing Proposal – LOT 2.**

- The SOW will be signed by both parties and forwarded to the Office of the State Comptroller for final review and approval. Upon approval of OSC the project can commence.

3.2 START-UP PERIOD

October 1, 2015 – October 31, 2015 will be designated the "start-up" period during which time the successful firm, if other than the incumbent, will be required to meet the requirements outlined in this Section.

The successful firm must be prepared to take over the drawing observation function on November 1, 2015 and should plan on attending a number of drawings until familiar enough to take over the process. Management staff, as well as those assigned to the daily drawing function, or to be hired and trained to perform the daily drawing function, must become thoroughly familiar with the Executive Directives, drawing procedures and all forms and documentation of the New York Lottery during this start-up period. It may also be necessary to order seals for the drawing ball containers.

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.

4.1 BUSINESS ORGANIZATION

The Proposal must include the information listed below.

1. 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. Each bidder must state whether they are qualified and/or registered to do business in the State of New York.

2. 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.

3. Submit proof that the firm is a CPA firm that is in good standing with the New York State Board for Accountancy, or with the State Board for Accountancy where licensed.

4. Submit a copy of the firm's current registration to practice public accounting in New York State.

5. Include a copy of your firm's most recent peer review report, the related letter of comments, and the firm's response to the letter of comments.

6. Submit a statement, signed by an authorized signatory, that the firm is independent of the NYS Gaming Commission in accordance with the AICPA and GAAP standards and is able to conduct the proposed audit.

7. A List of client(s) and dates that demonstrate that it has audited the lottery/gaming industry within the last five years, including audits of lottery drawings and ball weight certifications.

8. List any regulatory violations relating to the gaming industry.

9. Information demonstrating the bidders' financial viability, integrity and stability, for example; financial statements or revenues.

10. 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.

4.2 EXPERIENCE OF THE BIDDER'S ORGANIZATION

The Proposal must include the information listed below.

1. The size of the firm, including the number of licensed CPAs.

2. The firm's experience in conducting the type of observations or certifications requested, including experience in the lottery industry. Also, the firm should describe the type of personnel it would use and the experience such personnel have in performing such tasks.

3. A client list demonstrating experience observing lottery drawings and ball weight certifications.

4. List of major accounts the firm has resigned from, or for which the firm was terminated from, over the past two years. The list must include an explanation of each occurrence.

5. Description of the firm's capacity to undertake and successfully carry out the specified services and a complete description of the engagement team.

6. Description of how the firm's quality assurance program will be applied to this proposal.

7. Indicate whether the firm or its principals have been sanctioned in the last five years by a gaming, racing or any governmental entity and that all individuals are properly licensed and whether or not they have had their accounting license suspended, revoked or sanctioned.

References

The firm must include at least three references relevant to any of the requested services. References must include company name, contact person (name, title, phone number, email address and mailing address). Also include a general statement of the type of engagement performed for this reference. **References will be used to substantiate the technical proposal.**

4.3 PROJECT MANAGEMENT AND STAFFING

The Proposal must include the information listed below.

1. Identify the full time dedicated staff project director and other responsible individuals by name, title, and location who will work under a resulting Contract, including proposed subcontractor staff members.
2. Identify the principal supervisory and management staff, including engagement partners, managers, and other supervisors, who would be assigned to the engagement. Indicate the New York State CPA licensure

status of each person. Submit resumes of each such person including specific examples of similar engagements.

3. Provide as much information as possible regarding the number, qualification, and experience of the staff to be employed in this engagement, including audit personnel who will be responsible for observing drawings.

   Note: Staff levels provided in response to this section must agree with staff levels provided in **Attachments 2b, Pricing Proposal – LOT 2**. **Do not provide any cost information in this section.**

4. Provide evidence of certifications and licenses (i.e. CPA, CFA) of the proposed staff relating to the work outlined in the RFP.

5. A brief description of the firm's staff retention principles (i.e., hiring and training).

6. If submitting a proposal utilizing an internship program to staff the drawings, provide a plan outlining the education level of students, number of interns to be used, anticipated staff turnover rate, and training schedule. In addition, the firm's experience in administering internship programs, including dates, program size, assignments, hours worked, etc., must be provided.

7. If submitting a proposal utilizing an internship program to staff the drawings, explain how the firm will minimize staff turnover and its effects on the Lottery's account (staff training costs, etc.).

8. Drawing auditors may be assigned as backup auditors. Contingent auditors may be staff accountants or auditors trained in drawing procedures.

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.

4.4 WORK PLAN

The Technical Proposal must include a response to the components below, the details of which are defined in the Scope of Work – Part 3 of this RFP.

Observation of Studio Drawings and Ball Weight Certifications: the firm should describe its approach to the drawing related services described in Part 3, including backup plans and on call procedures.

4.5 MWBE PLAN

In addition to the requirements set forth in Section 2.16 of this RFP, which include submission of a utilization plan that describes anticipated participation of Certified Minority and Women Owned Business Enterprises (MWBE) during the contract term, each Bidder must describe their diversity practices, such description shall include past use of MWBE firms and how the Bidder plans to meet the stated goals, including any existing relationships with MWBE firms. Bidder must demonstrate a commitment to maximizing opportunities for MWBE firms.

Pursuant to § 310(22) of Article 15A of New York State Executive Law, "Diversity practices" shall mean the contractor's practices and policies with respect to:

(a) Utilizing certified minority and women-owned business enterprises in contracts awarded by a state agency or other public corporation, as subcontractors and suppliers; and

(b) Entering into partnerships, joint ventures or other similar arrangements with certified minority and women-owned business enterprises as defined in this article or other applicable statute or regulation governing an entity's utilization of minority or women-owned business enterprises.

In describing its diversity practices, the Bidder must include the items listed below, which may be expanded upon to include additional factors:

1. The percentage of such prime contractor's gross revenues involving the use of minority-and/or women-owned business enterprise subcontractors for servicing clients and/or manufacturing products and/or performing on contracts in the contractor's prior fiscal year of business activity;

2. The percentage of such contractor's gross revenues involving the use of joint ventures, partnerships, or other similar arrangements with certified minority- and/or women-owned business enterprises in the contractor's prior year of business activity;

3. The percentage of such contractors' gross revenues that the contractor paid to certified minority- and/or women-owned business enterprise subcontractors and paid to certified minority-and/or women-owned business enterprise joint ventures, partnerships, or other similar arrangements;

4. The percentage of such contractor's non-contract related/overhead expenses for the prior fiscal year of business activity that were certified minority- and/or women-owned business enterprise expenditures;

5. Any training or mentoring programs provided for certified minority- and/or women-owned business enterprises by such contractor.

6. Any supplier and subcontractor diversity goals involved in such contractor's procurements.

7. Any established goals for certified minority- and/or women-owned business enterprise suppliers or a total purchasing budget allocated to certified minority- and/or women-owned business suppliers by such contractors.

8. The utilization plan for the award as required by section 2.16; and

9. Any other information that demonstrates contractor's commitment to diversity practices.

The Bidder will be scored on its diversity practices as provided in Part 5 of the RFP.

4.6 ADDITIONAL INFORMATION AND COMMENTS

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

4.7 PRICING PROPOSAL

Utilizing the Pricing Proposal forms, **Attachments 2b,** the bidder is to propose pricing based on the Scope of Services set forth in Part 3 of this RFP. **Bidder must use Attachment 2b.1 and 2b.2 as directed. Alternative pricing structures will be deemed non-responsive.**

A. Observation of Studio Drawings and Ball Weight Certifications (Attachment 2b.1): The cost breakdown for each year should present the following information:

- The staff titles to be assigned to the work;
- The hourly rates for each staff title;
- The number of hours the firm estimates will be needed to complete the project for each staff title;
- The total annual amount.

The total Annual Amount shall constitute the maximum amount that the firm will be allowed to bill the Commission annually. If the firm completes the work in less time than estimated, only the actual number of hours worked may be billed.

Bidder must list the specific titles to be used, including specialty titles as only the titles and corresponding rates proposed can be billed. Additionally, a person can only be billed under one title, even if working on different projects.

Exhibit 7 – Level of Effort, is provided as a sample to assist with the preparation of the Pricing Proposal.

B. Other Engagements (Attachment 2b.2): The cost breakdown for each year should present the following information:

- The staff titles to be assigned to the work;
- the hourly rate for each staff title;

The staff titles must be broken down as specified in the Pricing Proposal form. The dedicated Project Director must be the person defined in response to Section 4.3.1 of the Technical Proposal response. All other titles must be designated as either Senior Staff, Mid-level Staff, or Junior Staff.

The Bidder should include separately in its Pricing Proposal the rates for any consultants or other specialized personnel it anticipates may be needed to perform the contract but who are not proposed in any of the defined engagements. Only the titles and corresponding rates proposed can be billed. Additionally, a person can only be billed under one title, even if working on different projects.

Any title listed in this Pricing Proposal that is the same as proposed under the defined engagement in this Section, must have the same corresponding rate applicable to the same year as defined in the other Pricing Proposal form. For example, if Drawings Specialist is a designated title under Observation of Studio Drawings and Ball Weight Certifications, that same title, if also designated under “Other Engagements”, must have the same corresponding rate under the same corresponding year in this Pricing Proposal form.

PART 5 – EVALUATION AND SELECTION

5.1 INTRODUCTION

This section describes the evaluation process that will be used to determine which Proposal provides the greatest overall benefits to the State. The ability of the Commission 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 Commission will be represented by an Evaluation Committee (the "Committee") comprising Commission staff members. 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 70%; Price 30%.**

5.3 EVALUATION AND AWARD STEPS

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

A. Pass/Fail evaluation of the minimum qualifying requirements of the bidder as provided for in Part 1 of this RFP.

B. Review of Proposals to assess compliance with proposal submission requirements, including responsiveness to terms, conditions and requirements.

C. Detailed review by the Committee of the Technical Proposals relative to proposed functions, features, services, and references, using the requirements and criteria defined in this RFP.

D. Proposal clarifications, if applicable.

E. Scoring of Technical Proposals by the Committee.

F. Assessment and scoring of Pricing Proposals after finalization of the technical scoring process and by one or more individuals from the Finance Office.

G. Compilation, by staff of the Contracts Office, of the technical and pricing score of each bidder into a summary score sheet.

H. 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.

I. 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.

J. Review and Adoption of the Award by the Commissioners.

K. 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 Bidders – of this RFP will be evaluated based on the following criteria:

A. Technical Evaluation [70%]

- Experience of the Bidder's Organization (20 points)
- Project Management & Staffing (30 points)
- Work Plan (15 points)
- MWBE Diversity Practices (5 points)

Note: Points awarded will be rounded to the nearest hundredth place.

Pricing Evaluation [30%]

- Observation of Studio Drawings and Ball Weight Certifications (25 points)
- Other Engagements (5 points)

The bidder with the lowest total price* will be awarded the full points allocated to the pricing evaluation. The score for each of the remaining bidders will be proportionate to the lowest bidder based on a pre-determined formula.

***The total price under the Observation of Studio Drawings and Ball Weight Certifications will be the Total Five-Year Not-to-Exceed Amount from Attachment 2b.1. The total price under "Other Engagements" will be determined based upon a pre-determined formula using the rates from Attachment 2b.2.**

5.6 FINAL COMPOSITE SCORE/DETERMINATION OF AWARD PROCESS

The technical and pricing scores 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 for each LOT.

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.

January 2014

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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. <u>CONFLICTING TERMS</u>. 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. <u>GOVERNING LAW</u>. This contract shall be governed by the laws of the State of New York except where the Federal supremacy clause requires otherwise.

15. <u>LATE PAYMENT</u>. 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. <u>NO ARBITRATION</u>. 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. <u>SERVICE OF PROCESS</u>. 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. <u>PROHIBITION ON PURCHASE OF TROPICAL HARDWOODS</u>. 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

Contracts (incorporates Appendix A)

LOT 1

C150003 - Examination of financial statements, Performance of Agreed Upon Procedures, and Other Engagements.

LOT 2

C150004- Observation of Studio Drawings and Ball Weight certifications and Review of Draw Procedures

CERTIFIED PUBLIC ACCOUNTING SERVICES
Examination of Financial Statements, Performance of Agreed Upon Procedures,
and Other Engagements

C150003

THIS AGREEMENT made this ____ day of _____, 2015 by and between the NEW YORK STATE GAMING COMMISSION, 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 ("RFP") on May 26, 2015 soliciting proposals from qualified firms to provide Certified Public Accounting (CPA) services to include the examination of financial statements, performance of agreed upon procedures, and other engagements, and clarified the requirements of the RFP with Questions and Answers dated June 11, 2015 and June 30, 2015 (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 CPA 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 effective from October 1, 2015 through October 31, 2020.

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. Expenditures under this contract shall not exceed [$XXXXX].

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 New York State 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 provide CPA services to the Commission as set forth in this Agreement. 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 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 Commission and 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. Force Majeure. A Force Majeure occurrence is an event or effect that cannot be reasonably anticipated or controlled. As herein used, Force Majeure means fire, explosion, action of the elements, governmental interference, rationing or any other cause which is beyond the control of the party affected and which, by the exercise of reasonable diligence, said party is unable to prevent.

Neither the Contractor nor the Commission shall be liable to the other for any delay in or failure of performance under the contract resulting from this RFP due to a Force Majeure occurrence. Any such delay in or failure of performance shall not constitute a default or give rise to any liability for damages. The existence of such causes of such delay or failure shall extend the period for performance to such extent as determined by the Contracting Officer to be necessary to enable complete performance by the Contractor if reasonable diligence is exercised after the cause of delay or failure has been removed.

13. 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.

14. 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.

15. 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 _____, 2015, 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

CERTIFIED PUBLIC ACCOUNTING SERVICES
Observation of Drawings, Ball Weight Certifications
and Other Engagements

C150004

THIS AGREEMENT made this ____ day of _____, 2015 by and between the NEW YORK STATE GAMING COMMISSION, 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 ("RFP") on May 26, 2015 soliciting proposals from qualified firms to provide Certified Public Accounting (CPA) services to include the examination of financial statements, performance of agreed upon procedures, and other engagements, and clarified the requirements of the RFP with Questions and Answers dated June 11, 2015 and June 30, 2015 (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 CPA 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 effective from October 1, 2015 through October 31, 2020.

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. Expenditures under this contract shall not exceed [$XXXXX].

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 New York State 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 provide CPA services to the Commission as set forth in this Agreement. 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 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 Commission and 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. Force Majeure. A Force Majeure occurrence is an event or effect that cannot be reasonably anticipated or controlled. As herein used, Force Majeure means fire, explosion, action of the elements, governmental interference, rationing or any other cause which is beyond the control of the party affected and which, by the exercise of reasonable diligence, said party is unable to prevent.

Neither the Contractor nor the Commission shall be liable to the other for any delay in or failure of performance under the contract resulting from this RFP due to a Force Majeure occurrence. Any such delay in or failure of performance shall not constitute a default or give rise to any liability for damages. The existence of such causes of such delay or failure shall extend the period for performance to such extent as determined by the Contracting Officer to be necessary to enable complete performance by the Contractor if reasonable diligence is exercised after the cause of delay or failure has been removed.

13. 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.

14. 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.

15. 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 _____, 2015, 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: Certified Public Accounting Services
CONTRACT/PROJECT NUMBER: #C150003 and #C150004
RESTRICTED PERIOD FOR THIS PROCUREMENT: May 26, 2015 through approval of the Office of the State Comptroller.
PERMISSABLE CONTACTS: Stacey Relation and Gail Thorpe

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 _____, 2015 as the act and deed of said corporation.

_____

Title

_____

Signature

APPENDIX E

NYS Vendor Responsibility Questionnaire

NEW YORK STATE OF OPPORTUNITY. Gaming Commission
One Broadway Center, Schenectady, NY 12305
www.gaming.ny.gov

Mark D. Gearan, Chair
John A. Crotty, Commissioner
Peter J. Moschetti, Jr., Commissioner
John J. Poklemba, Commissioner
Barry Sample, Commissioner
Todd R. Snyder, Commissioner

Robert Williams, 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.

NYS Vendor ID: 000000000

NEW YORK STATE

VENDOR RESPONSIBILITY QUESTIONNAIRE
FOR-PROFIT BUSINESS ENTITY

I. LEGAL BUSINESS ENTITY INFORMATION			
Legal Business Entity Name*		EIN (*Enter 9 digits, without hyphen*)	
Address of the Principal Place of Business (street, city, state, zip code)		New York State Vendor Identification Number	
		Telephone ext.	Fax
Email	Website		

Additional Legal Business Entity Identities: If applicable, list any other DBA, Trade Name, Former Name, Other Identity, or EIN used in the last five (5) years and the status (active or inactive).

Type	Name	EIN	Status

1.0 Legal Business Entity Type – Check appropriate box and provide additional information:

☐ Corporation (including PC)	Date of Incorporation
☐ Limited Liability Company (LLC or PLLC)	Date of Organization
☐ Partnership (including LLP, LP or General)	Date of Registration or Establishment
☐ Sole Proprietor	How many years in business?
☐ Other	Date Established

If Other, explain:

1.1 Was the Legal Business Entity formed or incorporated in New York State?	☐ Yes ☐ No

If 'No,' indicate jurisdiction where Legal Business Entity was formed or incorporated and attach a Certificate of Good Standing from the applicable jurisdiction or provide an explanation if a Certificate of Good Standing is not available.

☐ United States State _____

☐ Other Country _____

Explain, if not available:

1.2 Is the Legal Business Entity publicly traded?	☐ Yes ☐ No

If "Yes," provide CIK Code or Ticker Symbol

1.3 Does the Legal Business Entity have a DUNS Number?	☐ Yes ☐ No

If "Yes," Enter DUNS 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 Legal Business Entity's Principal Place of Business is not in New York State, does the Legal Business Entity maintain an office in New York State? (Select "N/A," if Principal Place of Business is in New York State.)	☐ Yes ☐ No ☐ N/A
If "Yes," provide the address and telephone number for one office located in New York State.	
1.5 Is the Legal Business Entity a New York State certified Minority-Owned Business Enterprise (MBE), Women-Owned Business Enterprise (WBE), New York State Small Business (SB) or a federally certified Disadvantaged Business Enterprise (DBE)? If "Yes," check all that apply: ☐ New York State certified Minority-Owned Business Enterprise (MBE) ☐ New York State certified Women-Owned Business Enterprise (WBE) ☐ New York State Small Business (SB) ☐ Federally certified Disadvantaged Business Enterprise (DBE)	☐ Yes ☐ 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 (*Enter 0% if not applicable*)

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

IV. INTEGRITY – CONTRACT BIDDING ***Within the past five (5) years, has the reporting entity*:**	
4.0 Been suspended or debarred from any government contracting process or been disqualified on any government procurement, permit, license, concession, franchise or lease, including, but not limited to, debarment for a violation of New York State Workers' Compensation or Prevailing Wage laws or New York State Procurement Lobbying Law?	☐ Yes ☐ No
4.1 Been subject to a denial or revocation of a government prequalification?	☐ Yes ☐ No
4.2 Been denied a contract award or had a bid rejected based upon a non-responsibility finding by a government entity?	☐ Yes ☐ No
4.3 Had a low bid rejected on a government contract for failure to make good faith efforts on any Minority-Owned Business Enterprise, Women-Owned Business Enterprise or Disadvantaged Business Enterprise goal or statutory affirmative action requirements on a previously held contract?	☐ Yes ☐ No
4.4 Agreed to a voluntary exclusion from bidding/contracting with a government entity?	☐ Yes ☐ No
4.5 Initiated a request to withdraw a bid submitted to a government entity in lieu of responding to an information request or subsequent to a formal request to appear before the government entity?	☐ Yes ☐ No
For each "Yes," explain:	

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V. INTEGRITY – CONTRACT AWARD ***Within the past five (5) years, has the reporting entity*:**	
5.0 Been suspended, cancelled or terminated for cause on any government contract including, but not limited to, a non-responsibility finding?	☐ Yes ☐ No
5.1 Been subject to an administrative proceeding or civil action seeking specific performance or restitution in connection with any government contract?	☐ Yes ☐ No
5.2 Entered into a formal monitoring agreement as a condition of a contract award from a government entity?	☐ Yes ☐ No
For each "Yes," explain:	

VI. CERTIFICATIONS/LICENSES ***Within the past five (5) years, has the reporting entity*:**	
6.0 Had a revocation, suspension or disbarment of any business or professional permit and/or license?	☐ Yes ☐ No
6.1 Had a denial, decertification, revocation or forfeiture of New York State certification of Minority-Owned Business Enterprise, Women-Owned Business Enterprise or federal certification of Disadvantaged Business Enterprise status for other than a change of ownership?	☐ Yes ☐ 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 investigation, whether open or closed, by any government entity for a civil or criminal violation?	☐ Yes ☐ No
7.1 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
7.2 Received any OSHA citation and Notification of Penalty containing a violation classified as serious or willful?	☐ Yes ☐ No
7.3 Had a government entity find a willful prevailing wage or supplemental payment violation or any other willful violation of New York State Labor Law?	☐ Yes ☐ No
7.4 Entered into a consent order with the New York State Department of Environmental Conservation, or received an enforcement determination by any government entity involving a violation of federal, state or local environmental laws?	☐ Yes ☐ No
7.5 Other than previously disclosed: a) Been subject to fines or penalties imposed by government entities 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 government entity?	☐ Yes ☐ No
For each "Yes," explain:	

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VIII. FINANCIAL AND ORGANIZATIONAL CAPACITY	
8.0 Within the past five (5) years, has the Reporting Entity received any formal unsatisfactory performance assessment(s) from any government entity on any contract?	☐ Yes ☐ No
If "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). Provide answer below or attach additional sheets with numbered responses.	
8.1 Within the past five (5) years, has the Reporting Entity had any liquidated damages assessed over $25,000?	☐ Yes ☐ 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 liens or judgments (not including UCC filings) over $25,000 been filed against the Reporting Entity which remain undischarged?	☐ Yes ☐ No
If "Yes," provide an explanation of the issue(s), 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.	
8.3 In the last seven (7) years, has the Reporting Entity initiated or been the subject of any bankruptcy proceedings, whether or not closed, or is any bankruptcy proceeding pending?	☐ Yes ☐ 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 Reporting Entity failed to file or pay any tax returns required by federal, state or local tax laws?	☐ Yes ☐ No
If "Yes," provide the taxing jurisdiction, the type of tax, the liability year(s), the tax liability amount the Reporting Entity 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 Reporting Entity failed to file or pay any New York State unemployment insurance returns?	☐ Yes ☐ No
If "Yes," provide the years the Reporting Entity 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 Reporting Entity had any government audit(s) completed?	☐ Yes ☐ No
a) If "Yes," did any audit of the Reporting Entity identify any reported significant deficiencies in internal control, fraud, illegal acts, significant violations of provisions of contract or grant agreements, significant abuse or any material disallowance?	☐ Yes ☐ No
If "Yes" to 8.6 a), 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). Provide answer below or attach additional sheets with numbered responses.	

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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? 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.	☐ Yes ☐ No
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: a) Any business-related activity; or b) Any crime, whether or not business-related, the underlying conduct of which was related to truthfulness?	☐ Yes ☐ No
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.	

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VENDOR RESPONSIBILITY QUESTIONNAIRE
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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.	☐ Yes ☐ No
If "Yes," indicate the question number(s) and explain the basis for the claim.	

XI. AUTHORIZED CONTACT FOR THIS QUESTIONNAIRE		
Name	Telephone ext.	Fax
Title	Email	

NYS Vendor ID: 000000000

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:	2. Remittance Address:
Number, Street, and Apartment or Suite Number	Number, Street, and Apartment or Suite Number
City, State, and Nine Digit Zip Code or Country	City, State, and Nine Digit Zip Code or Country

Part IV: Certification and Exemption from Backup Withholding

Under penalties of perjury, I certify that:

1. The number shown on this form is my correct taxpayer identification number (TIN), and
2. I am a U.S. citizen or other U.S. person, and
3. (Check one only):

☐ **I am not subject to backup withholding.** *I am (a) exempt from back up 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 back withholding.*

Sign Here:

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

Part V: Vendor Primary Contact Information – Executive Authorized to Represent the Vendor

Primary Contact Name: _____ Title: _____

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: Vendor Primary 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 Vendor Management

ELECTRONIC PAYMENT (ePAYMENT) REQUEST

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

Part I: Vendor Information

NYS Vendor Number:

Legal Business Name:

Remittance Address –
Number, Street, Apartment, Suite Number or Rural Route:

City or Town, State, Zip, Postal Code:

Part II: Type of ePayment Request

☐ **New Enrollment** ☐ **Change ePayment Bank Information** ☐ **Cancel ePayments**

Part III: Vendor Certification

Recovery of Funds Deposited in Error: In the event that an erroneous electronic payment is sent, the State reserves the right to 'reverse' the electronic payment. In the event that a 'reversal' cannot be implemented, the State will utilize any other lawful means to retrieve payments to which the payee was not entitled.

I certify that I understand this Electronic Payments authorization, including the Recovery of Funds Deposited in Error, for the State of New York to deposit funds into the designated bank account through an electronic fund transfer. The agreement represented by this authorization remains in effect until cancelled by the payee.

Authorized Vendor Contact Signature:

Vendor Contact Name (Printed):

Title:

Email Address (Required):

Phone Number:

Part IV: Financial Institution Information

Name of Financial Institution:

Type of Account:
☐ Savings Account ☐ Checking Account

Bank Routing Number/ABA#:

Account Number: (Only use the number of boxes needed.)

Part V: Financial Institution Certification –

Only completed by financial Institution if directing funds to a savings account or if an original voided check is not attached to this form.

I certify that the account number is in the name of the payee name above. As a representative of the named financial institution, I certify that this financial institution is ACH capable and agrees to receive and deposit payments to the account shown.

Institution Officer Signature:

Institution Officer Email Address (Required):

Institution Officer Name (Printed):

Title:

Phone Number:

SUBMIT FORM TO NYS OFFICE OF THE STATE COMPTROLLER – VENDOR MANAGEMENT UNIT
Mail to: 110 State Street Mail Drop 10-4,
Albany, NY 12236-0001

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

Consultant Disclosure

Form A: State Consultant Services – Contractor's Planned Employment
Form B: State Consultant Services – Contractor's Annual Employment

FORM A

New York State Consultant Services
Contractor's Planned Employment
From Contract Start Date Through the End of the Contract Term

State Agency Name: NYS Gaming Commission
State Agency Department ID: 20050 | Agency Business Unit:
Contractor Name: | Contract Number:
Contract Start Date: / / | Contract End Date: / /

Employment Category	Number of Employees	Number of Hours to be Worked	Amount Payable Under the Contract
Total this Page	0.00	0.00	$ 0.00
Grand Total			

Name of person who prepared this report:
Title: Phone #:
Preparer's Signature: _____
Date Prepared: / /

(Use additional pages, if necessary) Page of

The State Consulting Services Contractor's Planned Employment Report (this Form A) is due within two (2) business days after receiving notice of a contract award. The completed Report must be submitted to the Gaming Commission as provided below.

By mail: NYS Gaming Commission
Finance Office
One Broadway Center
Schenectady, NY 12305

By email: gail.thorpe@gaming.ny.gov

If you have any questions regarding this requirement under the Consultant Disclosure Law, please contact Gail Thorpe via email or at (518) 388-3329.

FORM B

New York State Consultant Services
Contractor's Annual Employment Report
Report Period: April 1, to March 31,

Contracting State Agency Name: NYS Gaming Commission
Contract Number: Agency Business Unit: 20050
Contract Term: / / to / / Agency Department ID:
Contractor Name:
Contractor Address:
Description of Services Being Provided:

Scope of Contract (Choose one that best fits):
☐ Analysis ☐ Evaluation ☒ Research ☐ Training
☐ Data Processing ☐ Computer Programming ☐ Other IT consulting
☐ Engineering ☐ Architect Services ☐ Surveying ☐ Environmental Services
☐ Health Services ☐ Mental Health Services
☐ Accounting ☐ Auditing ☐ Paralegal ☐ Legal ☐ Other Consulting

Employment Category	Number of Employees	Number of Hours Worked	Amount Payable Under the Contract
Total this Page	0.00	0.00	$ 0.00
Grand Total			

Name of person who prepared this report:
Title: Phone #:
Preparer's Signature: _____
Date Prepared: / /

Page of

(Use additional pages, if necessary)

The State Consulting Services Annual Employment Report (this Form B) will be due no later than May 15th following each fiscal year the contract is in effect. The completed Report must be submitted to OSC, DCS, and the Gaming Commission at the addresses provided below.

OSC:	NYS Office of the State Comptroller Bureau of Contracts 110 State Street, 11th Floor Albany, NY 12236 Attn: Consultant Reporting
DCS:	NYS Department of Civil Service Empire State Plaza Albany, NY 12239
Gaming Commission:	NYS Gaming Commission Finance Office One Broadway Center Schenectady, NY 12305 Attn: Gail Thorpe
By email:	gail.thorpe@gaming.ny.gov

If you have any questions regarding this requirement under the Consultant Disclosure Law, please contact Gail Thorpe via email or at (518) 388-3329.

APPENDIX I

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

ST-220-CA: Contractor Certification to Covered Agency
ST-220-TD: Contractor Certification to Tax Department

New York State Department of Taxation and Finance

Contractor Certification to Covered Agency

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

ST-220-CA

(12/11)

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. 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.

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 Manager of Document Management, NYS Tax Department, W A Harriman Campus, Albany NY 12227; telephone (518) 457-5181.

Need help?

Visit our Web site at ***www.tax.ny.gov***
- get information and manage your taxes online
- check for new online services and features

Telephone assistance

Sales Tax Information Center: (518) 485-2889

To order forms and publications: (518) 457-5431

Text Telephone (TTY) Hotline (for persons with hearing and speech disabilities using a TTY): (518) 485-5082

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, call the information center.

Department of Taxation and Finance

Contractor Certification

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

ST-220-TD

(4/15)

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)*	City	State	ZIP code

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 or state agency	Contract number or description	Covered agency telephone number ( )
Covered agency address	City / State	ZIP code

Is the estimated contract value over the full term of the contract (but not including renewals) more than $100,000?

Yes ☐ No ☐ Unknown at this time ☐

General information

Tax Law section 5-a, 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 Form ST-220-CA, *Contractor Certification to Covered Agency,* 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.

All sections must be completed including all fields on the top of this page, all sections on page 2, Schedule A on page 3, if applicable, and *Individual, Corporation, Partnership, or LLC Acknowledgement* on page 4. If you do not complete these areas, the form will be returned to you for completion.

For more detailed information regarding this form and Tax Law section 5-a, see Publication 223, *Questions and Answers Concerning Tax Law Section 5-a, (as amended, effective April 26, 2006)*. See *Need help?* for more information on how to obtain this publication.

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 12227-0826

Privacy notification

New York State Law requires all government agencies that maintain a system of records to provide notification of the legal authority for any request, the principal purpose(s) for which the information is to be collected, and where it will be maintained. To view this information, visit our Web site, or, if you do not have Internet access, call and request Publication 54, *Privacy Notification*. See *Need help?* for the Web address and telephone number.

Need help?

Visit our Web site at ***www.tax.ny.gov***

- get information and manage your taxes online
- check for new online services and features

Telephone assistance

Sales Tax Information Center:	(518) 485-2889
To order forms and publications:	(518) 457-5431
Text Telephone (TTY) Hotline (for persons with hearing and speech disabilities using a TTY):	(518) 485-5082

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, call the information center.

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.

Complete Sections 1, 2, and 3 below. Make **only one** entry in each section.

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 Tax Law sections 1134 and 1253, 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 Tax Law sections 1134 and 1253. 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 Tax Law sections 1134 and 1253. 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)*

Schedule A – Listing of each entity (contractor, affiliate, or subcontractor) exceeding $300,000 cumulative sales threshold

List the contractor, or affiliate, or subcontractor in Schedule A only if such entity exceeded the $300,000 cumulative sales threshold during the specified sales tax quarters. See directions below. For more information, see Publication 223.

A Relationship to contractor	B Name	C Address	D Federal ID number	E Sales tax ID number	F Registration in progress

Column A – Enter ***C*** in column A if the contractor; ***A*** if an affiliate of the contractor; or ***S*** if a subcontractor.

Column B – Name - If the entity is a corporation or limited liability company, enter the exact legal name as registered with the NY Department of State, if applicable. If the entity is a partnership or sole proprietor, enter the name of the partnership and each partner's given name, or the given name(s) of the owner(s), as applicable. If the entity has a different DBA (doing business as) name, enter that name as well.

Column C – Address - Enter the street address of the entity's principal place of business. Do not enter a PO box.

Column D – ID number - Enter the federal employer identification number (EIN) assigned to the entity. If the entity is an individual, enter the social security number of that person.

Column E – Sales tax ID number - Enter only if different from federal EIN in column D.

Column F – If applicable, enter an X if the entity has submitted Form DTF-17 to the Tax Department but has not received its certificate of authority as of the date of this certification.

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. _____

APPENDIX J

EEO and M/WBE Program

J: Contractor Requirements and Procedures for Business Participation Opportunities for EEO and M/WBE Program

J-1: Work Force Employment Utilization Report Service Instructions

J-2: Work Force Employment Staffing Plan

J-3: Work Force Employment Periodic Report

J-4: MWBE Utilization Plan Form

J-5: MWBE Quarterly Subcontracting/Supplier Activity Report

J-6: List of MWBE Contractors Quarterly Subcontracting/Supplier Activity Report of Certified MWBE Enterprises Utilized

J-7: MWBE Request for Waiver Form

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 and 5 NYCRR 140-145 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 30% for MWBE participation, 15% for New York State certified minority-owned business enterprises ("MBE") participation and 15 % for New York State certified women-owned business enterprises ("WBE") participation (based on the current availability of qualified MBEs and WBEs). A contractor ("Contractor") on the subject contract ("Contract") must document its good faith efforts to provide meaningful participation by MWBEs as subcontractors or suppliers in the performance of the Contract and the Contractor agrees that the Commission may withhold payment pending receipt of the required MWBE documentation. The directory of MWBEs can be viewed at: https://ny.newnycontracts.com. 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, the 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 demonstrate its good faith efforts to achieve its goals for the utilization of MWBEs by submitting evidence thereof through the New York State Contract System ("NYSCS"), which can be viewed at https://ny.newnycontracts.com, provided, however, that a Bidder may arrange to provide such evidence via a non-electronic method by contacting the Commission. Please note that the NYSCS is a one stop solution for all of your MWBE and Article 15-A contract requirements. For additional information on the use of the NYSCS to meet Bidder's MWBE requirements please see the attached MWBE guidance, "Your MWBE Utilization and Reporting Responsibilities Under Article 15-A."

Additionally, a Bidder will be required to submit the following documents and information as evidence of compliance with the foregoing:

A. An MWBE Utilization Plan 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.

   The Commission will review the submitted MWBE Utilization Plan and advise the Bidder of the Commission acceptance or issue a notice of deficiency within 30 days of receipt.

B. If a notice of deficiency is issued, the Bidder will be required to respond to the notice of deficiency within seven (7) business days of receipt by submitting to the New York State Gaming Commission, One Broadway Center, Schenectady, NY 12301-7500, 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. Failure to file the waiver form in a timely manner may be grounds for disqualification of the bid or proposal.

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.

The Contractor will be required to 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.

The Contractor will be required to submit a Contractor's Quarterly M/WBE Contractor Compliance & Payment Report to the the Commission, 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 – Standard Clauses for All New York State Contracts 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, 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.

The Bidder will be required to submit a Minority and Women-Owned Business Enterprises and Equal Employment Opportunity Policy Statement, Form # 4, to the Commission with their bid or proposal.

To ensure compliance with this Section, the Bidder will be required to submit with the bid or proposal an Equal Employment Opportunity Staffing Plan (Form #J -4) identifying the anticipated work force to be

utilized on the Contract and if awarded a Contract, will, upon request, submit an Equal Employment Opportunity Workforce Employment Utilization Compliance Report identifying the workforce actually utilized on the Contract, if known, through the New York State Contract System; provided, however, that a Bidder may arrange to provide such report via a non-electronic method by contacting stacey.relation@gaming.ny.gov.

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 consultanting 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*.

WORK FORCE EMPLOYMENT STAFFING PLAN

Project/RFP Title _____ Location of Contract _____
County Zip

Contractor/Firm Name _____ Address _____
State Zip

Check applicable categories (1) Staff Estimates include: Contract/Project Staff __ Total Work Force __ Subcontractors __
(2) Type of Contract: Construction Counsultants __ Commodities __ Services/Consultants __

Total Anticipated Work Force											Total Percent Minority Employees	Total Percent Female Employees
Federal Occupational Category	Total Number of Employees		Black (Not of Hispanic Origin)		Hispanic		Asian or Pacific Islander		Native American/ Alaskan Native			
	Male	Female	Male	Female	Male	Female	Male	Female	Male	Female		
Officials/Admin												
Professionals												
Technicians												
Sales Workers												
Office & Clerical												
Craft Workers												
Operatives												
Laborers												
Service Workers												
TOTALS												

Company Official's Name _____ Title _____

Company Official's Signature _____ Date _____

Telephone Number _____

WORK FORCE EMPLOYMENT UTILIZATION PERIODIC REPORT
SERVICES AND/OR CONSULTANT FIRMS

Agency NYSGaming Commission /code 20050 Reporting Period _____

Check one ___ Quarterly ___ Semi-Annual Report

Contractor/Firm Name _____ Address: _____

City State Zip

Type of Report ___ Contract Specific Work Force ___ Total Work Force Check if NOT-FOR-PROFIT ___

Federal Id/Payee Id. No. _____ Contract No. _____

Check One ___ Prime Contractor ____ Subcontractor Product/Service Provided _____

Contract Amount _____ Contract Start Date _____ Percent of Job Completed _____

Federal Occupational Category	Number of Employees: Total Number of Employees		Black (Not of Hispanic Origin)		Hispanic		Asian or Pacific Islander		Native American/ Alaskan Native		Total Percent Minority Employees	Total Percent Female Employees
	Male	Female	Male	Female	Male	Female	Male	Female	Male	Female		
Officials/Admin												
Professionals												
Technicians												
Sales Workers												
Office & Clerical												
Craft Workers												
Operatives												
Laborers												
Service Workers												
TOTALS	0	0	0	0	0	0	0	0	0	0	0	0

Company Official's Name _____ Title _____

Company Official's Signature _____ Date _____

Telephone Number _____

INSTRUCTIONS FOR COMPLETING THE NEW YORK STATE LOTTERY'S MINORITY AND WOMEN-OWNED BUSINESS ENTERPRISE PROGRAM VENDOR/CONTRACTOR'S MWBE UTILIZATION PLAN FORM

As mandated by Article 15-A of the Executive Law and the new subtitle N of 9 NYCRR 540 et seq, the New York State Gaming Commission has established a goal of 15 % participation by New York State Certified Minority and Women owned Business Enterprise (MWBE) as subcontractors/suppliers in this contract. Contractors must submit the attached MWBE Utilization Plan Form indicating how they will intend to comply with the established goals.

For the directory of New York State certified MWBE's, please visit the New York State's Division of Minority and Women-owned Business Development website at:
https://ny.newnycontracts.com/frontend/vendorsearchpublic.asp

Completion of the Form:

The Commission will complete all the un-shaded areas including: agency information, contract details, and summary of allocation of MWBE utilization and related value.

The contractor will complete the remaining, shaded, areas. It is important that the contractor provide detailed contact information including: name, phone number and email address.

Within the utilization section of the form, the contractor must list the names and addresses of all subcontractors or suppliers that will be utilized during this contract. The following items should be completed for each vendor listed:

- Subcontractor's Federal ID#;
- Subcontractor information as follows:
  - By checking the appropriate boxes, indicate whether the subcontractors are "SUB" or "SUP", minority-owned business enterprise "MBE" or women-owned business enterprise "WBE", and if they are NYS Certified.
- Brief description of the work the subcontractor's will provide.

Note: additional sheets may be used if necessary.

Attestation and Form Acceptance

The preparer must attest to the information provided by signing in the appropriate space; in addition, print the name of the contractor, provide telephone number, and date.

The last section, bottom right, will be completed by the Commission upon its review of the form. The contractor will be notified of the acceptance or deficiency of the MWBE Utilization Plan Form.

If assistance is required in completing this form or locating a New York State certified vendor to utilize as subcontractors or suppliers, please contact the Commission's Contracts Officer at (518) 388-0148.

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

AGENCY NAME New York State Gaming Commission
AGENCY CONTACT Jennifer Franklin
AGENCY PHONE (518) 388-0148

CONTRACTOR NAME AND ADDRESS	CHECK APPROPRIATE BOX ____ SUPPLIER ____ CONTRACTOR	DATE SUBMITTED CONTRACTOR'S FID#	TOTAL VALUE OF CONTRACT 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.

NEW YORK STATE GAMING COMMISSION
MWBE CONTRACT COMPLIANCE PROGRAM
CONTRACTOR'S QUARTERLY SUBCONTRACTING/SUPPLIER ACTIVITY REPORT
FOR THE PERIOD OF _____

1. NAME AND ADDRESS:	2. PROJECT/CONTRACT GOALS: MBE _____ WBE _____	3. DATE SUBMITTED	4. CONTRACT NO: _____ JOB NO.: _____ LOCATION/REGION: _____
FEDERAL ID/SOCIAL SECURITY NO.*	5. PROJECT WORK DESCRIPTION:*		6. CONTRACT EFFECTIVE DATES:*

SUBCONTRACTING/SUPPLIER ACTIVITY REPORT

7. REPORT SUBCONTRACTOR'S SUPPLIERS AWARDED/PURCHASED THIS QUARTER	# AWARDED THIS PERIOD	AMOUNT AWARDED THIS PERIOD	# AWARED TO NYS CERTIFIED		TOTAL DOLLAR AMOUNT AWARED THIS PERIOD TO NYS CERTIFIED		PERCENTAGE	
			MBE	WBE	MBE	WBE	MBE	WBE
DOLLAR RANGE: $0-$24,000								
$25,000 +								
TOTAL								

PREPARED BY: (SIGNATURE OF CONTRACTOR)	PRINT NAME OF CONTRACTOR	TELEPHONE NO.	DATE

This report is required by contract specifications. Failure to report will result in noncompliance with contract specifications.

*Delete information if reported on previous submittal.

NEW YORK STATE GAMING COMMISSION

LIST OF MWBE
CONTRACTORS QUARTERLY SUBCONTRACTING/SUPPLIER ACTIVITY REPORT
CERTIFIED MINORITY & WOMEN OWNED BUSINESS ENTERPRISES UTILIZED
FOR THE PERIOD OF _____

NAME OF FIRM/ADDRESS/PHONE	CHECK ONE NYS CERTIFIED		PAYEE ID (FEDERAL ID OR SOCIAL SECURITY NUMBER)	TYPE OF PURCHASE/ SERVICE	LOCATION OF WORK TO BE PERFORMED (INCLUDE CITY & ZIP CODE)	TOTAL DOLLAR AMOUNT OF PURCHASE/SERVICE
	MBE	WBE				

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. ☐ MBE Waiver – A waiver of the MBE Goal for this procurement is requested. ☐ Total ☐ Partial** **2. ☐ WBE Waiver – A waiver of the WBE Goal for this procurement is requested. ☐ Total ☐ Partial**		
PREPARED BY (Signature): **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.**	**Date:**	
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: ☐ YES MBE: ☐ WBE: ☐ **☐ Total Waiver ☐ Partial Waiver** **☐ *Conditional** **☐ 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 – 10, as listed below.. 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 K

Subcontractors and Suppliers

ENCOURAGING USE OF NEW YORK STATE BUSINESSES IN CONTRACT PERFORMANCE

New York State businesses have a substantial presence in State contracts and strongly contribute to the economies of the state and the nation. In recognition of their economic activity and leadership in doing business in New York State, bidders/proposers for this contract for commodities, services or technology 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.

Bidders/proposers need to be aware that all authorized users of this contract will be strongly encouraged, to the maximum extent practical and consistent with legal requirements, to use responsible and responsive New York State businesses in purchasing commodities that are of equal quality and functionality and in utilizing services and technology. Furthermore, bidders/proposers are reminded that they must continue to utilize small, minority and women-owned businesses, consistent with current State law.

Utilizing New York State businesses in State contracts will help create more private sector jobs, rebuild New York's infrastructure, and maximize economic activity to the mutual benefit of the contractor and its New York State business partners. New York State businesses will promote the contractor's optimal performance under the contract, thereby fully benefiting the public sector programs that are supported by associated procurements.

Public procurements can drive and improve the State's economic engine through promotion of the use of New York businesses by its contractors. The State therefore expects bidders/proposers to provide maximum assistance to New York businesses in their use of the contract. The potential participation by all kinds of New York businesses will deliver great value to the State and its taxpayers.

Bidders/proposers can demonstrate their commitment to the use of New York State businesses by responding to the question below:

Will New York State Businesses be used in the performance of this contract? _____ Yes _____ No

If yes, identify New York State businesses that will be used and attach identifying information.

Firm Name: _____

Signature: _____ Date: _____

ATTACHMENTS

Attachment 1: **Vendor Acknowledgement of Addendum**
Attachment 2a: **Pricing Proposal – LOT 1**
Attachment 2b: **Pricing Proposal – LOT 2**
Attachment 3: **Document Submittal Checklist**
Attachment 4: **Intent to Bid Form**
Attachment 4a: **Confidentiality and Non-Disclosure Agreement**
Attachment 5: **Statement of Work Form**

Attachment 1

RFP: Certified Public Accounting 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 LOT 1

Examination of Financial Statements (Fiscal Year)

In the columns below, indicate the staff titles to be used, the hourly rates for each staff title, the estimated number of hours and the total annual amount. This information must be provided for each contract year. The hourly rate provided for each year may not change. Add the total annual amount for each year and enter the total in the bottom in the field labeled "Total Five Year Not to Exceed Amount". You may expand the form to include as many titles as necessary.

	Statements for Fiscal Year 2015/2016			Statements for Fiscal Year 2016/2017			Statements for Fiscal Year 2017/2018		
Staff Titles	Hourly Rate	Estimated Annual Hours	Total Annual Amount*	Hourly Rate	Estimated Annual Hours	Total Annual Amount*	Hourly Rate	Estimated Annual Hours	Total Annual Amount*
	$	x	$	$	x	$	$	x	$
	$	x	$	$	x	$	$	x	$
	$	x	$	$	x	$	$	x	$
	$	x	$	$	x	$	$	x	$
	$	x	$	$	x	$	$	x	$
	$	x	$	$	x	$	$	x	$
		Annual Total:			**Annual Total:**			**Annual Total:**	

	Statements for Fiscal Year 2018/2019			Statements for Fiscal Year 2019/2020		
Staff Titles	Hourly Rate	Estimated Annual Hours	Total Annual Amount*	Hourly Rate	Estimated Annual Hours	Total Annual Amount*
	$	x	$	$	x	$
	$	x	$	$	x	$
	$	x	$	$	x	$
	$	x	$	$	x	$
	$	x	$	$	x	$
	$	x	$	$	x	$
		Annual Total:			**Annual Total:**	

Total Five Year Not to Exceed Amount: $

*The Annual Total will represent the maximum billable amount for that year. Payment will be based on actual hours, but may not exceed the amount indicated for each year.

Pricing Proposal LOT 1

Performance of Agreed Upon Procedures for Multi-Jurisdictional Games

In the columns below, indicate the staff titles to be used, the hourly rates for each staff title, the estimated number of hours and the total annual amount. This information must be provided for each contract year. The hourly rate provided for each year may not change. Add the total annual amount for each year and enter the total in the bottom in the field labeled "Total Five Year Not to Exceed Amount". You may expand the form to include as many titles as necessary.

	Fiscal Year 2015/2016			Fiscal Year 2016/2017			Fiscal Year 2017/2018		
Staff Titles	Hourly Rate	Annual Hours per Game	Annual Total Per Game*	Hourly Rate	Annual Hours per Game	Annual Total Per Game*	Hourly Rate	Annual Hours per Game	Annual Total Per Game*
	$	x	$	$	x	$	$	x	$
	$	x	$	$	x	$	$	x	$
	$	x	$	$	x	$	$	x	$
	$	x	$	$	x	$	$	x	$
	$	x	$	$	x	$	$	x	$
	$	x	$	$	x	$	$	x	$
		Annual Total:			**Annual Total:**			**Annual Total:**	

	Fiscal Year 2018/2019			Fiscal Year 2019/2020		
Staff Titles	Hourly Rate	Annual Hours per Game	Annual Total Per Game*	Hourly Rate	Annual Hours per Game	Annual Total Per Game*
	$	x	$	$	x	$
	$	x	$	$	x	$
	$	x	$	$	x	$
	$	x	$	$	x	$
	$	x	$	$	x	$
	$	x	$	$	x	$
		Annual Total:			**Annual Total:**	

Total Five Year Amount Per Game: $ **x 5 Games =** $

*The Annual Total will represent the maximum billable amount for that year, for each game. Payment will be based on actual hours, but may not exceed the amount indicated for each year.

Pricing Proposal LOT 1
Other Engagements

Enter the staff titles that may be used for "Other Engagements" as defined in LOT 1, Part 3 of the RFP. Enter the hourly rate for each position for each contract year. Payment will be made based on the rates provided, for actual hours worked.

Staff Titles	October 1, 2015 - October 31, 2016	November 1, 2016 - October 31, 2017	November 1, 2017 - October 31, 2018	November 1, 2018 - October 31, 2019	November 1, 2019 - October 31, 2020
Dedicated Project Director (RFP Section 4.3.1)					
Senior Staff					
Mid-level Staff					
Junior Staff					

Pricing Proposal LOT 2

Observation of Studio Drawings & Ball Weight Certifications

In the columns below, indicate the staff titles to be used, the hourly rates for each staff title, the estimated number of hours and the total annual amount. This information must be provided for each contract year. The hourly rate provided for each year may not change. Add the total annual amount for each year and enter the total in the bottom in the field labeled "Total Five Year Not to Exceed Amount". You may expand the form to include as many titles as necessary.

	October 1, 2015 - October 31, 2016			November 1, 2016 - October 31, 2017			November 1, 2017 - October 31, 2018		
Staff Titles	Hourly Rate	Estimated Annual Hours	Total Annual Amount	Hourly Rate	Estimated Annual Hours	Total Annual Amount	Hourly Rate	Estimated Annual Hours	Total Annual Amount
	$	x	$	$	x	$	$	x	$
	$	x	$	$	x	$	$	x	$
	$	x	$	$	x	$	$	x	$
	$	x	$	$	x	$	$	x	$
	$	x	$	$	x	$	$	x	$
	$	x	$	$	x	$	$	x	$
		***Annual Total:**			***Annual Total:**			***Annual Total:**	

	November 1, 2018 - October 31, 2019			November 1, 2019 - October 31, 2020		
Staff Titles	Hourly Rate	Estimated Annual Hours	Total Annual Amount	Hourly Rate	Estimated Annual Hours	Total Annual Amount
	$	x	$	$	x	$
	$	x	$	$	x	$
	$	x	$	$	x	$
	$	x	$	$	x	$
	$	x	$	$	x	$
	$	x	$	$	x	$
		***Annual Total:**			***Annual Total:**	

Total Five Year Not to Exceed Amount: $

*The Annual Total will represent the maximum billable amount for that year. Payment will be based on actual hours, but may not exceed the amount indicated for each year.

Pricing Proposal - LOT 2
Other Engagements

Enter the staff titles that may be used for "Other Engagements" as defined in LOT 2, Part 3 of the RFP. Enter the hourly rate for each position for each contract year. Payment will be made based on the rates provided, for actual hours worked.

Staff Titles	October 1, 2015 - October 31, 2016	November 1, 2016 - October 31, 2017	November 1, 2017 - October 31, 2018	November 1, 2018 - October 31, 2019	November 1, 2019 - October 31, 2020
Dedicated Project Director (RFP Section 4.3.1)					
Senior Staff					
Mid-level Staff					
Junior Staff					

NEW YORK STATE OF OPPORTUNITY. Gaming Commission

RFP – Certified Public Accounting Services

DOCUMENT SUBMITTAL CHECKLIST

Submissions Required:

Description of Document	RFP	Submittal Requirements	Checklist
Contract Form (Appendix B) (incorporates Appendix A)	§1.1 & §1.12	With Proposal (must be signed)	
Procurement Lobbying BODC Form (Appendix C)	§1.9	With Proposal	
Non-Collusive Bidding Certification (Appendix D)	§1.13	With Proposal	
NYS Vendor Responsibility Questionnaire (Appendix E)	§1.14	With Proposal	
Designation of Proprietary Information	§1.16	With Proposal and With Phase Two Proposal, as defined in RFP	
Technical & Pricing Proposals	§1.17	Submit Technical and Pricing Proposals Separately as Defined in RFP	
Conflicts of Interest (Exhibit 8a)	§1.21	With Proposal	
Insurance Documentation	§2.13	Proof of coverage with Proposal	
Equal Employment Opportunity (EEO) (Appendix I) • Policy Statement • Staffing Plan (I-2)	§2.14.A	Policy Statement: with Proposal; I-2: proposed staffing plan – with Proposal	
Minority and Women-Owned Business Enterprise Program (Appendix I) • Proposed Utilization Plan	§2.14.B	Proposed Utilization Plan, including estimated value – with Proposal	

Submissions Required Subsequent to Award:

Description of Document	RFP	Submittal Requirements	Checklist
W-9 (Appendix F)	§1.15	Upon notification of award	
Fidelity Bond	§1.21	Upon notification of award	
E-pay (Appendix G)	§2.10	Upon notification of award	
Sales & Use Tax (Appendix H) • ST220-CA (submit to Lottery) • ST220-TD (submit to DTF)	§2.11	Within seven calendar days of notification of award	
Insurance Documentation	§2.13	Proof of Additional Insured.	

Equal Employment Opportunity (EEO) (Appendix I) • Utilization Report (I-3)	§2.14.A	I-3: quarterly if devoted staff; semi-annually if entire staff.	
Minority and Women-Owned Business Enterprise Program (Appendix I) • Utilization Plan Form (I-4) • Quarterly Activity Report (I-5)	§2.14.B	I-4: Utilization Plan - within 14 days after notification of award; I-5: 10 days following the end of the previous quarter.	

FIRM NAME: _____

REPRESENTATIVE SIGNATURE: _____

NEW YORK STATE OF OPPORTUNITY. Gaming Commission
One Broadway Center, P.O. Box 7500, Schenectady, NY 12301-7500
www.gaming.ny.gov

Mark D. Gearan, Chair
John A. Crotty, Commissioner
Peter J. Moschetti, Jr., Commissioner
John J. Poklemba, Commissioner
Barry Sample, Commissioner
Todd R. Snyder, Commissioner

Robert Williams, Executive Director
Edmund C. Burns, General Counsel

Intent to Bid Form

In order to release proprietary information to assist bidders with the preparation of their proposals, the New York State Gaming Commission requires that any potential bidder indicate their intent to bid on RFP #C150003 – Examination of Financial Statements, Performance of Agreed Upon Procedures and Other Engagements or C150004 – Observation of Studio Drawings and Ball Weight Certifications and Other Engagements, by completing this form and submitting no later than 3:00 P.M, Eastern Daylight Time, June 16, 2015 to the following address:

New York State Gaming Commission
Attn: Stacey Relation
One Broadway Center
Schenectady, NY 12301-7500

Submittal of these forms in no way obligates your company to submit a bid but **failure to submit these forms will preclude your company from receiving an award for this contract**.

Company Name: _____

Contact Person: _____

Mailing Address:_____

Phone Number:_____

Email Address:_____

We currently plan to participate in the following bid(s):

_____ C150003 – Examination of Financial Statements, Performance of Agreed Upon Procedures and Other Engagements
_____ C150004 – Observation of Studio Drawings and Ball Weight Certifications and Other Engagements

We understand that submittal of these forms in no way obligates us to participate in the bid.

_____ _____
Signature of Officer Title

_____ _____
Printed Name Date

RFP C150003 and C150004: Certified Public Accounting Services

Confidentiality and Non-Disclosure Agreement

Pursuant to Section 1.10 of the RFP, the attached Confidentiality and Non-Disclosure Agreement is required along with the Intent to Bid Letter for any potential bidder who may be interested in submitting a proposal.

The New York State Gaming Commission, Division of Lottery, has compiled the following Exhibits, as described in the RFP, to assist with the preparation of proposals. This information is confidential, and completion of the enclosed Confidentiality and Non-Disclosure agreement (the "Agreement") is required prior to issuance of the Exhibits.

LOT 1
Exhibit 1: New York Lottery Financial Statements for Fiscal Year 2013-14
Exhibit 2a: Description of processing of Instant Lottery ticket transactions
Exhibit 2b: Description of processing of Video Lottery gaming transactions
Exhibit 3: Sample Fixed Prize Analysis Report

LOT 2
Exhibit 4: Executive Directives prescribing the drawing procedures
Exhibit 5: Ball weighing procedures for each game
Exhibit 6: Sample Ball Weight Report
Exhibit 7: Level of Effort for Drawing Observations

LOTS 1 and 2
Exhibit 8: Vendor Relationships with the Gaming Commission

The Agreement must be signed, notarized and returned by the date and time specified in RPF Section 1.14 to:

New York State Gaming Commission
Contract Unit, 4th Floor
Attn: Stacey Relation
One Broadway Center
Schenectady, NY 12301-7500

NEW YORK STATE GAMING COMMISSION
CONFIDENTIALITY AND NON-DISCLOSURE AGREEMENT

Bidder: _____

Bidder Representative: _____
(Name/Title)

Address: _____

_____

Telephone Number: _____

Facsimile Number: _____

E-mail Address: _____

The New York State Gaming Commission, Division of Lottery, an executive agency of the State of New York with its principal place of business located at One Broadway Center, Post Office Box 7500, Schenectady, New York, 12301-7500 (the "Commission"), issued a Request for Proposals (the "RFP") for C150003 and C150004 for Certified Public Accounting (CPA) Services. To assist with the preparation of proposals, the Commission will provide relevant data (the "Data") to potential bidders ("Bidder"). Such Data includes certain confidential and proprietary information relative to the Commission's operations; therefore, it is critical and essential to the Commission that such information be secured and held confidential by the Bidder. Therefore, in order to receive the Data, the Bidder must agree with and accept this Confidentiality and Non-Disclosure Agreement (the "Agreement"). By signature of this Agreement, the Bidder agrees to keep the Data secure and confidential in accordance with the terms and conditions of this Agreement.

The parties agree as follows:

1. **Confidential Information.** "Confidential Information" means any information not generally known to the public, whether oral or written, to which access is provided to Bidder by the Commission for the business purposes set forth above and which is claimed confidential by the disclosing party, the Commission, at the time of disclosure.

2. **Exempt Information.** Information not subject to this Agreement is any Confidential Information, or any other information, whether oral or written, which at the time of disclosure: (a) is already in the public domain or becomes publicly known through no act of the Bidder, the receiving party; (b) is already known by the Bidder free of any confidentiality obligations; (c) is information that the Commission has approved in writing for disclosure; or (d) is required to be disclosed by the Bidder pursuant to law so long as the Bidder provides the Commission with notice of such requirement and opportunity to defend prior to any such disclosure.

3. **Permitted Use.** Bidder may use Confidential Information solely for the purposes of participation in this RFP process or for Lottery business if awarded a contract under this RFP process. Bidder

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 Bidder 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.

Bidder shall identify by name, title and location, individuals that will have access to such Confidential Information and the purpose for such access and attach such list to this Agreement. Bidder will need prior written approval from the Commission in the event that Bidder deems it necessary to provide access to other parties to Confidential Information. The Commission may deny such additional access.

4. **Protections.** Bidder 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.

5. **Return of Confidential Information.** Upon written request by the Commission, the Contractor shall return all written Confidential Information to the Commission or certify in writing that the Confidential Information in its possession has been destroyed.

6. **Limitations**. Neither party shall be liable to the other hereunder for amounts representing loss of profits, loss of business or indirect, consequential, or punitive damages of the other party in connection with the provision or use of Confidential Information to the other party. Nothing contained in this Agreement shall be construed as granting or conferring any rights by license or otherwise in the Information except as provided herein.

7. **Media Releases.** All media releases and public announcements or disclosures by the Bidder relating to this Agreement shall be coordinated with and approved by the Commission in writing prior to the release thereof.

8. **Miscellaneous.** Any notices required by this Agreement shall be given in hand, sent by first class mail, via facsimile or by e-mail to the applicable addresses set forth herein. The parties' obligations under this Agreement shall survive the completion of the RFP process, and shall bind the parties' employees, subcontractors, agents, heirs, successors and assigns. The parties agree that this Agreement is (a) the complete and exclusive statement between the parties with respect to the protection of the relevant Confidential Information; (b) may only be modified in writing by authorized representatives of the parties; and (c) shall be governed by the laws of the State of New York.

9. **Agreement Term**. The effective date of this agreement shall be June 17, 2015, the date on which the Data will be released to the Bidder, and shall continue unless the Data is returned or destroyed as provided in paragraph 5 of this Agreement.

IN WITNESS WHEREOF, the Commission and Bidder have each caused this Agreement to be signed and delivered by its duly authorized officer, all as of the date first set forth above.

BIDDER	**NEW YORK STATE GAMING COMMISSION**
By:_____	**By:**_____
Name:	**Name:**
Title:	**Title:**
Bidder Firm Name:	
Federal Tax Identification #:	

Acknowledgement

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

On this _____ day of _____, 2015, 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 _____, the corporation which executed this contract, and that he or she was authorized to execute this contract on behalf of said corporation.

_____

Notary Public

Attachment 5

RFP: Certified Public Accounting Services

STATEMENT OF WORK

This Statement of Work ("SOW") includes requested services in accordance with the Certified Public Accounting Services Contract #C150003 and C150004 entered into by and between the New York State Gaming Commission (the "Commission"), and [CONTRACTOR].

Commencement Date: Upon approval of the Office of State Comptroller
Estimated Completion Date:
Estimated Cost:

Detailed description of work to be performed, staffing, pricing, and deliverable:

[CONTRACTOR]	NEW YORK STATE GAMING COMMISSION
By: _____	By: _____
Title: _____	Title: _____
Date: _____	Date: _____

OFFICE OF THE STATE COMPTROLLER
Thomas P. DiNapoli

By: _____

Title: _____

Date: _____

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

On this _____ day of _____, 20__, 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