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## **DIVISION OF LOTTERY**

### **REQUEST FOR PROPOSALS**

**FOR**

**C140008 – CREATIVE & MARKETING  
COMMUNICATIONS SERVICES**

**AND**

**C140009 – MEDIA PLANNING & BUYING SERVICES**

**MAY 12, 2014**

P.O. Box 7500, Schenectady, NY 12301-7500  
[www.gaming.ny.gov](http://www.gaming.ny.gov)

**When New Yorkers Play Responsibly, We All Win.**

## **PART 1 – GENERAL INFORMATION**

### **1.1 INTRODUCTION**

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

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

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

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

#### **LOT 1 – CREATIVE & MARKETING COMMUNICATION SERVICES**

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

N. Annual Agency Review

## **LOT 2 – MEDIA PLANNING & BUYING SERVICES**

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

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

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

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

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

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

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

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

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

## 1.2 BACKGROUND INFORMATION

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

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

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

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

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

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

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

### 1.3 MINIMUM QUALIFICATIONS

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

#### **LOT 1 – CREATIVE & MARKETING COMMUNICATION SERVICES**

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

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

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

**LOT 2 – MEDIA SERVICES**

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

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

**1.4 SCHEDULE**

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

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

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

## 1.5 RFP EXHIBITS, APPENDICES AND ATTACHMENTS

The following documents are incorporated into this RFP:

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

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

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

## 1.6 VENDOR/CONTRACTOR DIFFERENTIATION

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

## 1.7 HEADINGS

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

## 1.8 PERMISSIBLE CONTACTS

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

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

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

Gail P. Thorpe, Supervisor of Contract Administration  
[gail.thorpe@gaming.ny.gov](mailto:gail.thorpe@gaming.ny.gov)

or

Stacey Relation, Contract Management Specialist  
[Stacey.relation@gaming.ny.gov](mailto:Stacey.relation@gaming.ny.gov)

## 1.9 PROCUREMENT LOBBYING RESTRICTIONS

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

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

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

award. In the event of two determinations within a four-year period, a bidder will be debarred for a period of four years from obtaining a governmental procurement Contract award. Further information about these requirements can be found at:  
<http://www.ogs.state.ny.us/aboutOgs/regulations/defaultAdvisoryCouncil.html>.

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

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

#### 1.10 BIDDER ORAL PRESENTATIONS

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

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

#### 1.11 QUESTIONS AND INQUIRIES

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

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

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

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

#### 1.12 FORM OF CONTRACTUAL AGREEMENT

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

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

#### 1.13 NON-COLLUSIVE BIDDING REQUIREMENT

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

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

#### 1.14 NEW YORK STATE STANDARD VENDOR RESPONSIBILITY QUESTIONNAIRE

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

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

#### 1.15 VENDOR IDENTIFICATION NUMBER

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

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

#### 1.16 FREEDOM OF INFORMATION LAW

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

#### 1.17 PROPOSALS

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

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

**A. Proposal Contents:**

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

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

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

**B. Proposal Format:**

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

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

**PHASE ONE**

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

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

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

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

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

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

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

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

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

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

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

2. Technical Proposal Submittal Checklist – Attachment 4.

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

### **Volume II – Pricing Proposal**

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

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

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

**Hard copy: Two originals and six copies.**

**Digital: Two USB Memory Sticks containing a PDF file.**

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

➤ The contents of the Pricing Proposal volume must follow this outline:

1. Transmittal letter.
2. Pricing in the format provided as Attachment 2.
3. Pricing in the format provided as Attachment 3.

## **PHASE TWO**

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

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

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

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

**Hard copy: Two originals and Six copies.**

**Digital: Six USB memory sticks containing a PDF file.**

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

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

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

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

### **C. Proposal Submission:**

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

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

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

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

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

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

**D. Proposal Receipt:**

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

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

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

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

**E. Late Proposal:**

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

**F. Joint Proposals:**

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

**G. Multiple Proposals from One Bidder Prohibited:**

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

**H. Costs Associated with Preparation of Proposals:**

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

**1.18 CLARIFICATION PROCESS**

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

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

#### 1.19 SITE VISITS

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

#### 1.20 LITIGATION BOND

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

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

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

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

#### 1.21 FIDELITY BOND

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

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

## 1.22 DISCLOSURE AND INVESTIGATIONS DURING PROPOSAL EVALUATION

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

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

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

## 1.23 DISCLOSURE OF LITIGATION AND OTHER INFORMATION

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

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

## 1.24 CHANGE IN FINANCIAL CONDITION

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

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

#### 1.25 CHANGE IN OWNERSHIP

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

#### 1.26 MEDIA RELEASES

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

#### 1.27 ADVERTISING

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

#### 1.28 METHOD OF AWARD

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

#### 1.29 STATE'S RESERVED AUTHORITY

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

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

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

### 1.30 PROTEST OR APPEAL

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

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

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

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

## **PART 2 – CONTRACTUAL PROVISIONS**

### **2.1 GOVERNING LAW**

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

### **2.2 STANDARD CLAUSES FOR NEW YORK STATE CONTRACTS**

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

### **2.3 CONTRACT ELEMENTS**

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

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

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

### **2.4 COMPETITIVE BIDDING PURCHASING REQUIREMENT**

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

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

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

## 2.5 SEVERABILITY

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

## 2.6 TERM OF CONTRACT AND CONTRACT EXTENSIONS

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

## 2.7 CONTRACT TRANSITION

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

## 2.8 COMPENSATION

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

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

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

are provided in Attachment 2 – Pricing Proposal.

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

- a. **Agency Performance Evaluation (35 points)** – Based on written qualitative evaluation by the Lottery staff working directly with the Agency, the performance of the Agency will be reviewed at the Annual Agency Review based on the Agency’s ability to meet established client expectations. The Agency will be scored on a variety of subject matters based on a 5-point scale, and a total composite score of up to 35 points will be generated. The Agency Review Questionnaire that will be used in the Annual Agency Review process is included in Exhibit A for reference. It indicates how the scores will be calculated.
  
- b. **Agency Metrics (50 points)** – As the second component of the Annual Agency Review process, the Agency will be evaluated on their ability to drive consumer attitudes and behaviors that can be attributed to marketing. Specific metrics / KPI’s to be achieved will be established up front for each project initiative to be carried out by the Agency during each Fiscal Year. At the Annual Agency Review, the Lottery will determine if the specific predetermined KPI’s were met for each project initiative completed during the year. The Agency will be scored on a 5-point scale for each project initiative completed during the Fiscal Year, and it will be determined how many points were earned against the total possible points. A copy of the Agency Metrics Evaluation Form is attached for reference as Exhibit A. Metrics to be evaluated could include, but are not limited to, the following:

**CREATIVE**

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

**MEDIA**

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

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

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

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

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

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

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

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

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

## 2.9 CONTRACT INVOICING AND PAYMENT

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

## 2.10 ELECTRONIC PAYMENT (EPAY) PROGRAM

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

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

## 2.11 TAX LAW SECTION 5-A

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

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

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

[http://www.tax.state.ny.us/pdf/publications/sales/pub223\\_606.pdf](http://www.tax.state.ny.us/pdf/publications/sales/pub223_606.pdf)

**Appendix I – ST-220-TD**

[http://www.tax.state.ny.us/pdf/2006/fillin/st/st220td\\_606\\_fill\\_in.pdf](http://www.tax.state.ny.us/pdf/2006/fillin/st/st220td_606_fill_in.pdf)

**Appendix I – ST-220-CA**

[http://www.tax.state.ny.us/pdf/2006/fillin/st/st220ca\\_606\\_fill\\_in.pdf](http://www.tax.state.ny.us/pdf/2006/fillin/st/st220ca_606_fill_in.pdf)

**2.12 SURETY AND INSURER QUALIFICATIONS**

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

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

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

**2.13 INSURANCE REQUIREMENTS**

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

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

### **General Conditions**

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

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

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

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

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

Certificates of Insurance shall:

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

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

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

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

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

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

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

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

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

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

The following ISO forms must be endorsed to the policy:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

2.15 SUCCESSFUL VENDOR RESPONSIBILITIES AS PRIMARY CONTRACTOR

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

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

2.16 APPROVAL OF STAFFING

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

## 2.17 NEW YORK STATE SUB-CONTRACTORS AND SUPPLIERS

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

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

## 2.18 SUB-CONTRACT APPROVAL

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

## 2.19 DELEGATION AND/OR ASSIGNMENT

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

## 2.20 CODE OF CONDUCT FOR VENDOR

The Lottery is an extremely sensitive enterprise because of the nature of the business and because it is government operated. Therefore, it is essential that its operation, and the operation of other enterprises which would be linked to it in the public mind, avoid not only impropriety but also the appearance of impropriety. Due to this, Contractors associated with the Lottery are expected to:

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

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

#### 2.21 NON EXCLUSIVE RIGHTS

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

#### 2.22 OWNERSHIP OF MATERIALS

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

#### 2.23 PARTISAN POLITICAL ACTIVITY

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

#### 2.24 COMMISSION SECURITY REQUIREMENTS

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

##### A. Physical Security During the Delivery of Contracted Services

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

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

#### B. Access by Personnel

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

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

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

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

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

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

## **LOT 1**

### **CREATIVE & MARKETING COMMUNICATIONS SERVICES**

#### **PART 3 THROUGH PART 5**

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

**PART 3- SCOPE OF WORK**

**3.1 WORK AND DELIVERABLES**

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

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

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

**3.2 SCOPE**

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

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

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

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

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

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

2. **Creative Concepts** – The Agency shall develop advertising and marketing creative that represents the Lottery brand in a positive light and in a manner consistent with the brand identity, and where there is a relevant existing campaign platform (e.g., Powerball’s “Yeah, That Kind of Rich”) consistent with that campaign platform. For new campaigns, the Agency shall present overarching 360<sup>0</sup> big idea platforms, with at least 3 creative routes for each potential platform, with at least 3 creative options for each medium in the campaign. For existing campaigns, the Agency shall present at least 3 creative options for each medium that fit with the campaign’s overarching 360<sup>0</sup> big idea platform. Storyboards shall be prepared and presented for television executions developed for the approved campaign concept before commercials can be submitted for bid by directors.
3. **Creative Timelines** – The Agency shall plan creative development schedules that allow sufficient time for developing and presenting integrated creative solutions, editing and revising selected options, obtaining final approvals from the Lottery staff, producing the final product, and distributing the finished product according to Lottery specifications. Creative development timescales should also allow for concept and script refinement, through qualitative testing ensuring target audience message clarity, general comprehension and appeal. Additionally, Agency time plans need to allow for a signed off 360<sup>0</sup> big idea platform, creative route and executional style guides for use by the Lottery in-house creative department. Unless otherwise approved by the Lottery, all timelines shall include a minimum of 5 working days for approval by the Lottery at every stage of each job or project. The Agency shall provide detailed production schedules with task milestones for each job. Prior to conference calls between the Agency and the Lottery, all required materials must be sent via email no later than 1 hour before the call unless otherwise approved by the Lottery. The Lottery will not be responsible for any additional costs incurred as a result of the Agency’s not adhering to set timelines.
4. **Casting** – Talent recommendations must be made to the Lottery for any and all advertising and marketing creative. Casting auditions must be provided for all On-camera or Voice-over talent and must be presented with alternates, allowing the Lottery a minimum of 2 business days for review and approval.
5. **Artwork Changes** – The Agency shall only be allowed to charge the Lottery one time for artwork that is used in multiple forms, except for the reduction or enlargement of the artwork. Artwork required for

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

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

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

**G. Digital Marketing & Advertising** – Create innovative digital marketing campaigns to effectively communicate with target audiences through all digital consumer touch points. There will be an emphasis placed on creativity and effectiveness of digital initiatives, with KPIs and measurement tools established with the Lottery prior to the development of any campaign. Digital programs must work synergistically with other advertising communications to achieve stated goals. The Agency must remain current on all emerging technologies and provide the Lottery with timely recommendations for digital marketing opportunities.

1. **Digital Marketing Manager** – The Agency will be responsible for providing a full-time individual to work at the Lottery offices in Schenectady to serve as a technical consultant to the Marketing Unit on all things digital, including website development, email marketing, social management issues, app development, mobile marketing, etc. This individual will act as a liaison between the Agency, Lottery's Marketing Unit and Technology Service Providers. The individual will be accountable to the Director of Sales & Marketing and will be hired and salaried through the contracted Agency.

**H. Social Media Management** – Work with the Director of Advertising to manage the Lottery's comprehensive social media communications platform. The goals of the social program are to increase engagement with the Lottery brand among existing players and future players; to communicate brand and product news; and reinforce the Lottery's advertising and marketing initiatives in the social arena. Agency responsibilities include strategic development, content & creative development, community management, optimization and performance analysis through monthly reporting.

**I. State & Local Marketing Efforts** – The Agency will be responsible for the development, management and fulfillment of State & Local Marketing Programs, including sports marketing, experiential marketing, local events and promotions. Working with the Media Planning & Buying agency, the Agency shall bring forward new and viable opportunities to build brand awareness and promote Lottery products. Agency will develop and provide creative assets for these state & local marketing programs and ensure that they work synergistically with the overall marketing and advertising plans. The Agency may be responsible for designing promotional giveaways and interactive and experiential activities in support of the Lottery's brand and products. This may include contracted services with third party vendors, equipment, supplies or other components required to conduct the promotional event/activity.

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

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

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

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

### 3.3 LOTTERY RESPONSIBILITY AND PROJECT CONTROL

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

### 3.4 REPORTS

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

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

## **PART – 4 INFORMATION REQUIRED FROM BIDDERS**

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

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

### **PHASE ONE**

#### **4.1 BUSINESS ORGANIZATION & EXPERIENCE**

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

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

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

#### 4.2 FINANCIAL VIABILITY

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

#### 4.3 PROJECT MANAGEMENT AND STAFFING

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

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

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

4.4 REFERENCES:

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

4.5 SUB-CONTRACTORS

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

4.6 CREDENTIALS PRESENTATIONS

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

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

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

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

## PHASE TWO

### 4.7 SCENARIOS FOR EVALUATION

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

#### **A. CREATIVE ASSIGNMENT: "GROWING LOTTO"**

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

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

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

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

The challenge today is to reverse the decline of Lotto, targeting a 15% sales growth in the first year of the campaign. Each Bidder shall develop a creative marketing and advertising program that will positively move the needle on Lotto not only in sales but in levels of frequency of play, too. The primary goal of the program is to drive sales of Lotto across all existing sales channels throughout New York State. As part of the submission, the bidder must prepare a marketing and advertising strategy grounded in consumer insight and supporting creative 360<sup>0</sup> Big Idea and associated campaign(s) that will meet the stated objective. In addition to showcasing the Agency's creative product for this Lotto assignment, each Bidder must also clearly define in their written and oral presentations how they approached the following areas as they relate to the creative campaign(s) being presented:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

#### 4.8 PRICING PROPOSAL

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

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

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

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

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

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

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

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

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

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

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

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

#### 4.9 ADDITIONAL INFORMATION AND COMMENTS

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

## **PART 5 – EVALUATION AND SELECTION**

### **5.1 INTRODUCTION**

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

### **5.2 EVALUATION METHODOLOGY**

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

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

### **5.3 EVALUATION AND AWARD STEPS**

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

#### **PHASE ONE**

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

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

## **PHASE TWO**

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

### **5.4 INFORMATION FROM OTHER SOURCES**

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

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

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

## 5.5 EVALUATION & SELECTION CRITERIA

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

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

### PHASE ONE - CREDENTIALS

#### **TECHNICAL PROPOSAL**

##### **A. Relevant Experience & Capabilities (15 Points)**

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

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

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

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

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

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

## **PHASE TWO**

### **A. Technical Proposal – Challenge Assignments (40 Points)**

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

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

### **B. Cost Proposal (20 Points)**

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

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

**The cost will be scored in two steps as follows:**

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

## 5.6 FINAL COMPOSITE SCORE/DETERMINATION OF AWARD PROCESS

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

## 5.7 NOTICE OF AWARD

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

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

## 5.8 DEBRIEFINGS

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

## **LOT 2 – MEDIA PLANNING & BUYING SERVICES**

### **PART 3 THROUGH PART 5**

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

## PART 3- SCOPE OF WORK

### 3.1 WORK AND DELIVERABLES

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

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

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

### 3.2 SCOPE

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

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

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

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

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

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

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

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

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

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

### 3.3 LOTTERY RESPONSIBILITY AND PROJECT CONTROL

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

### 3.4 REPORTS

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

## **PART – 4 INFORMATION REQUIRED FROM BIDDERS**

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

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

### **PHASE ONE**

#### **4.1 BUSINESS ORGANIZATION & EXPERIENCE**

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

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

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

#### 4.2 FINANCIAL VIABILITY

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

#### 4.3 PROJECT MANAGEMENT AND STAFFING

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

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

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

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

#### 4.4 REFERENCES

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

#### 4.5 SUB-CONTRACTORS

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

#### 4.6 CREDENTIALS PRESENTATIONS

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

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

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

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

## PHASE TWO

### 4.7 SCENARIOS FOR EVALUATION

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

#### **A. MEDIA ASSIGNMENT —“GROWING LOTTO”**

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

- Lotto Sales by Region (past 5 years)

## **B. STRATEGIC ASSIGNMENT – “SEGMENTING THE STATE”**

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

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

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

- Lottery Player Demographics & Usage
- NY Lottery Regional Map

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

#### 4.8 PRICING PROPOSAL

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

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

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

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

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

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

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

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

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

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

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

#### 4.9 ADDITIONAL INFORMATION AND COMMENTS

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

## **PART 5 – EVALUATION AND SELECTION**

### **5.1 INTRODUCTION**

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

### **5.2 EVALUATION METHODOLOGY**

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

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

### **5.3 EVALUATION AND AWARD STEPS**

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

#### **PHASE ONE**

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

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

## **PHASE TWO**

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

### **5.4 INFORMATION FROM OTHER SOURCES**

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

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

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

## 5.5 EVALUATION & SELECTION CRITERIA

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

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

### PHASE ONE - CREDENTIALS

#### **TECHNICAL PROPOSAL (40 points)**

##### **A. Relevant Experience & Capabilities (15 Points)**

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

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

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

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

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

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

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

**PHASE TWO**

**A. Technical Proposal - Media Assignments (40 Points)**

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

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

**B. Cost Proposal (20 Points)**

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

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

**The cost will be scored in two steps as follows:**

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

5.6 FINAL COMPOSITE SCORE/DETERMINATION OF AWARD PROCESS

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

5.7 NOTICE OF AWARD

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

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

5.8 DEBRIEFINGS

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