



RFP: C190001 – New York Lottery Video Lottery Central System

BIDDER ACKNOWLEDGEMENT OF ADDENDUM

Amendment Number: Three
Date Issued: May 23, 2019
Summary: Attached

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

FIRM NAME	
REPRESENTATIVE SIGNATURE	

**New York Lottery Video Lottery Central System
Question and Answer Summary
Issued: May 23, 2019**

Section 2

Q1: Section 2.12 - Bond Requirements

- a. Is there a required Proposal bond form or required language?
 - i. If a specific form is not required, can a commonly-used bid bond form (attached Draft Proposal Bond.docx) be used?
- b. Is there a required Litigation bond form or required language?
 - i. If a specific form is not required, can a commonly-used bid bond form (attached Draft Litigation Bond.docx) be used?
 - ii. Can the Litigation Bond be cancelled by the proposer or their surety if the proposer or their surety waives its right to sue?
- c. Is there a required Performance Bond form or required language?
 - i. If a specific form is not required, can a commonly-used performance bond form (attached Draft Performance Bond.docx) be used?
- d. Alternate forms of security to a Performance Bond:
 - i. Will the Commission share the rationale for and method used to arrive at the requirement for the Performance Bond as specified in Appendix Q, Bond Requirements, as a bond of this amount and term length is not in conformance with existing contractual practices and potentially puts undue financial burden on the Bidder?
 - ii. Will the Commission allow for a Performance Bond more in line with previously established contractual practices in the amount of \$5 Million for the first year of the contract?
 - iii. Alternatively, if 1.d.ii is denied, will the Commission allow for a Performance Bond in the amount of \$10 Million with an annual renewable option after the initial three (3) year term be accepted?
 - iv. Alternatively, if 1.d.ii and 1.d.iii are denied, will the Commission allow for an irrevocable letter of credit in lieu of Appendix Q, Bond Requirements for \$3 Million?
 - v. Alternatively, if 1.d.ii, 1.d.iii, and 1.d.iii are denied, will the Commission allow for a Performance Bond in the amount of \$15 Million with an annual renewable option after the initial three (3) year term be accepted?
 - vi. Alternatively, if 1.d.ii, 1.d.iii, 1.d.iii, and 1.d.v are denied, securement of financial instrument will place excessive burden on the Bidder. In addition to the required price worksheet, will the Commission consider allowing the bidder to include an alternate price worksheet that does not include the bond requirement as specified in Appendix Q, Bond Requirements?

A.1:

a.i.: There is no required form for a Proposal Bond. The Draft Proposal Bond submitted does not fully comply with the requirements outlined in 2.12. Any Proposal Bond needs to address all requirements in 2.12.

b. i. – ii.: There is no required form for a Litigation Bond. The Draft Litigation Bond form submitted is acceptable. The Litigation Bond maybe cancelled by the proposer if the proposer waives its right to sue on behalf of itself, its successors and assigns, in a written release acceptable to the Commission.

c. i.: There is no required form for a Performance Bond. The draft Annually Renewable Performance Bond form submitted is acceptable.

d. i.: The Bond Requirements specified in Appendix Q are based on anticipated damages caused by the Successful Bidder's failure to perform the resulting Contract.

d. ii.: No.

d. iii.: No.

d. iv.: No.

d. v.: No.

d. vi.: No.

Q.2: Section 2.13 – FAILURE TO PROVIDE ENCHANCEMENTS

Would the Commission consider revising Section 2.13, "Liquidated Damages," sub section "Failure to Provide Enhancements" as follows:

"During the term of the Contract, the Commission and the Contractor shall agree in writing to a schedule for developing, testing, and implementing or installing a modification or enhancement to support an existing game or an addition of a new game.

Once the Commission's request for an agreed upon modification or enhancement has been issued to the Contractor, the Contractor has ~~15~~ 45 working days to respond with a written Proposal for delivery of the modification or enhancement. The Commission has the option to make the binding determination of a delivery date of not less than 90 days for modifications and enhancements.

If the Contractor fails to meet any date specified in such a schedule, the Commission may assess liquidated damages of \$5,000 per day for each day of delay regarding the modification, enhancement, or addition of a game."

A.2: The Commission declines to amend this section as proposed.

Q.3: Section 2.13 – PRODUCTION ACCEPTANCE TEST FOLLOWING AWARD

Would the Commission consider revising Section 2.13, “Liquidated Damages,” sub section “Production Acceptance Test Following Award” as follows:

“The Commission will conduct a series of acceptance tests to fully determine pass or fail of the installation or transition in accordance with the specifications of this RFP and the winning Proposal. Failure of the Bidder to pass these tests will result in the Bidder forfeiting liquidated damages caused by such failure from the performance bond; provided, however, that if Bidder provides continued operation of the existing central system and such failure causes no financial damages to the Commission, then such forfeiture shall not apply.

The central system will be tested for each requirement in this RFP. Until all tests are deemed successful by the Commission, no operational date will be approved. The Bidder's assistance in arranging tests will be necessary. The Commission may utilize the service of an independent contractor to assist in acceptance testing.”

A.3: The Commission hereby amends RFP Section 2.13 as follows:

The Commission will conduct a series of acceptance tests to fully determine pass or fail of the installation or transition in accordance with the specifications of this RFP and the winning Proposal. Failure of the Bidder to pass these tests, resulting in its failure to finalize the conversion process by December 31, 2019, will result in the Bidder forfeiting the Performance Bond; provided, however, that if continued operation of the existing central system occurs, then damages shall be limited to actual damages incurred by the Commission.

The central system will be tested for each requirement in this RFP. Until all tests are deemed successful by the Commission, no operational date will be approved. The Bidder's assistance in arranging tests will be necessary. The Commission may utilize the service of an independent contractor to assist in acceptance testing.

Q.4: Section 2.13(D) – LIQUIDATED DAMAGES

Would the Commission consider revising Section 2.13, “Liquidated Damages,” item “D,” so as to be in conformance with the existing contractual practices, as follows:

“D. The Commission may, therefore, in its discretion, deduct liquidated damages from the compensation otherwise due to the Contractor in the amount of \$1,000, unless otherwise stated herein. All assessments of the liquidated damages shall be within the discretion of the Commission and shall be ~~in addition to, and not~~ in lieu of, ~~the right of the Commission to terminate the Contract or pursue other appropriate remedies as set forth in this RFP, including the right to pursue in a court of competent jurisdiction a claim for actual damages arising from the Contractor's failure to fulfill its obligations under the terms of this Contract.~~”

A.4: The Commission declines to amend this section as proposed.

Q.5: Section 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 & Appendix J

In the Minority and Women-owned Business Enterprise and Equal Employment Opportunity Policy Statement, Form #4, specified in Appendix J, will the 3 percentages in the goals sections be added together for a total percentage? Or, if we specify 1 goal for Minority and Women’s Business Enterprise Participation (the first line), could we satisfy that goal with either MBE or WBE vendors?

M/WBE CONTRACT GOALS

_____ % Minority and Women’s Business Enterprise Participation

_____ % Minority Business Enterprise Participation

_____ % Women’s Business Enterprise Participation

A.5: All Bidders must document good faith efforts to provide meaningful participation by New York State Certified MWBEs as subcontractors or suppliers in the performance of this Contract.

Proposals may be submitted with the total percentage on the “%Minority and Women’s Business Enterprise Participation” line. Any combination may be used; however, participation must be based on the current availability of New York State Certified and qualified MBEs and WBEs.

It is the Bidder’s responsibility to demonstrate good faith efforts to support participation of New York State Certified MWBEs and the distribution of participation of those qualified vendors.

Section 2.24 – MOST FAVORED NATION

Q.6: Section 2.24 – MOST FAVORED NATION

- a. Would the Commission consider deleting and omitting the entirety of Section 2.24, “Most Favored Nations,” so as to be in conformance with the existing contractual practices? Bidder asserts that “Most Favored Nations” clauses are very burdensome and can potentially implicate antitrust concerns because of the risk of anticompetitive effects. Additionally, Bidder’s corporate “Signature Authority Policy” requires approval by Bidder’s Board of Directors for any contract that contains a “Most Favored Nations” clause.
- b. Alternatively, if omitting Section 2.24 is denied, then would the Commission consider revising that provision as follows:

“During the term of the Contract, ~~The benefits and pricing~~ terms granted by Bidder are at least as favorable as the ~~benefits and terms~~ granted by Bidder to any ~~previous~~ other buyer of **a substantially similar combination and volume of** the

equipment, hardware, software, and services described in the Proposal; **provided the term length for such other buyer is equal to or greater than the term length of the Contract with the Commission.** Should Bidder enter into any such subsequent agreement with any other buyer during the term of the Contract, which provides for ~~benefits or pricing~~ terms more favorable than those contained in the Contract, then the Contract shall be deemed to be modified to provide the Commission with those more favorable ~~benefits and~~ terms.

“Bidder shall notify the Commission promptly of the existence of such more favorable ~~benefits and~~ terms, and the Commission shall have the right to receive the more favorable ~~benefits and~~ terms immediately. If requested in writing by the Commission, Bidder shall amend the Contract to contain the more favorable terms and conditions.”

A.6: The Commission hereby amends the RFP to delete Section 2.24 Most Favored Nations, in its entirety.

Q.7: Section 2.25 – OWNERSHIP OF MATERIALS

- a. Would the Commission consider renaming Section 2.25, “Ownership of Materials,” to the following, “Ownership of **Documentary** Materials”?
- b. Additionally, in order to clarify the intent of Section 2.25, would the Commission consider deleting the word “products” in the second sentence of Section 2.25? It is Bidder’s understanding that the intent of Section 2.25 is for the Commission to own data and documentary-type materials that result from the services, as opposed to owning the “products” that Bidder provides?

A.7 The Commission hereby amends RFP Section 2.25 as follows:

Section 2.25 Ownership of Documentary Materials

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

Q.8: Section 2.28 (D) – OWNERSHIP OF AND TITLE TO CONTRACT DELIVERABLES

With regards to Section 2.28 (D), “Ownership of and Title to Contract Deliverables,” Bidder is mindful that the Commission needs a license to use each such deliverable that Bidder provides pursuant to the Contract. However, Bidder needs to maintain intellectual property ownership to each of its proprietary deliverables, inventions, creations, products, etc. Thus, would the Commission consider revising Section 2.28 (D) consistent with existing contractual practices, as follows:

“Contractor acknowledges that it is seeking to be commissioned by the Commission to perform the services detailed in this RFP, which may include the development of intellectual property by Contractor, its subcontractors, partners, employees, or agents, for the Commission ("Custom Products"). Unless otherwise specified in writing in this RFP, if awarded the Contract, and upon the creation of such Custom Products, Contractor grants a non-exclusive license during the term of the Contract to use, execute, reproduce, display, perform, adapt, and distribute Custom Products as necessary to fully effect the general business purpose(s) as stated in the RFP and corresponding Contract~~conveys, assigns, and transfers to the Commission the sole and exclusive rights, title, and interest in the Custom Products, whether preliminary, final, or otherwise, including all trademarks and copyrights.~~ Contractor agrees to take all necessary and appropriate steps to ensure that the Custom Products are protected against unauthorized copying, reproduction, and marketing by or through Contractor and its agents, employees, or subcontractors. Nothing herein shall preclude Contractor from otherwise using the related or underlying general knowledge, skills, ideas, concepts, techniques, and experience developed in performing services under the Contract in the course of Contractor's business.~~The Commission may, by providing written notice thereof to Contractor, elect in the alternative to take a non-exclusive perpetual license to Custom Products in lieu of taking exclusive ownership and title to such Products. In such case, the Commission shall be granted a non-exclusive perpetual license to use, execute, reproduce, display, perform, adapt, and distribute Custom Products as necessary to fully effect the general business purpose(s) as stated in the RFP and corresponding Contract.~~”

A.8: The Commission hereby amends RFP Section 2.28 (D) to read as follows:

Contractor acknowledges that it is seeking to be commissioned by the Commission to perform the services detailed in this RFP, which may include the development of intellectual property by Contractor, its subcontractors, partners, employees, or agents, for the Commission ("Custom Products"). Unless otherwise specified in writing in this RFP, if awarded the Contract, and upon the creation of such Custom Products, Contractor grants a non-exclusive license during the term of the Contract to use, execute, reproduce, display, perform, adapt, and distribute Custom Products as necessary to fully effect the general business purpose(s) as stated in the RFP and corresponding Contractor agrees to take all necessary and appropriate steps to ensure that the Custom Products are protected against unauthorized copying, reproduction, and marketing by or through Contractor and its agents, employees, or subcontractors. Nothing herein shall preclude Contractor from otherwise using the related or underlying general knowledge, skills, ideas, concepts, techniques, and experience developed in performing services under the Contract in the course of Contractor's business.

Q.9: Section 2.28 (E) – OWNERSHIP OF AND TITLE TO EXISTING SOFTWARE

With regards to Section 2.28 (E), “Ownership of and Title to Existing Software,” Bidder is mindful that the Commission requires a license to use each software product that Bidder provides pursuant to the Contract. However, the license period for such term should run

conterminously with the term of the Contract. Thus, would the Commission consider revising Section 2.28 (E) consistent with existing contractual practices, as follows:

“Title and ownership to existing software delivered by Contractor under the Contract, which software is normally distributed commercially by the Contractor or a third-party proprietary owner, whether or not embedded in, delivered, or operating in conjunction with hardware or Custom Products, shall remain with the Contractor or the third-party. Effective upon acceptance, such existing software shall be licensed to the Commission and must, at a minimum, grant the Commission a non-exclusive, ~~perpetual~~ license during the term of the Contract to use, execute, reproduce, display, perform, adapt (unless Contractor advises the Commission as part of its Proposal that adaptation will violate existing agreements or statutes and demonstrates such to the Commission's satisfaction), and distribute existing software to the Commission up to the license capacity stated in the Contract with all license rights necessary to fully effect the general business purposes stated in the RFP. With regard to third-party software, the Contractor shall be responsible for obtaining these rights at its sole cost and expense.”

A.9: The Commission hereby amends RFP Section 2.28 (E) to read as follows:

Title and ownership to existing software delivered by Contractor under the Contract, which software is normally distributed commercially by the Contractor or a third-party proprietary owner, whether or not embedded in, delivered, or operating in conjunction with hardware or Custom Products, shall remain with the Contractor or the third-party. Effective upon acceptance, such existing software shall be licensed to the Commission and must, at a minimum, grant the Commission a non-exclusive license during the term of the Contract to use, execute, reproduce, display, perform, adapt (unless Contractor advises the Commission as part of its Proposal that adaptation will violate existing agreements or statutes and demonstrates such to the Commission's satisfaction), and distribute existing software to the Commission up to the license capacity stated in the Contract with all license rights necessary to fully effect the general business purposes stated in the RFP. With regard to third-party software, the Contractor shall be responsible for obtaining these rights at its sole cost and expense.

Section 3:

Q.10: Section 3.6 (F) – SYSTEM MONITORING AND DATA MAINTENANCE

Would the Commission consider revising Section 3.6 (F), “System Monitoring and Data Maintenance,” as follows:

“F. The Contractor ~~must provide any and all safeguards~~ will use technology best practices to identify and prevent illegal activities regarding the play on gaming devices, including, but not limited to, attempts to "launder money", as identified by the Commission.”

A10: The Commission hereby amends RFP Section 3.6 (F) as follows:

The Contractor must provide any and all safeguards available through the use of technology best practices to identify and prevent illegal activities regarding the play on gaming devices, including, but not limited to, attempts to "launder money".

APPENDIX B – VIDEO LOTTERY GAMING CENTRAL SYSTEM PROVIDER CONTRACT:

Q.11: Section 17 - CONFIDENTIALITY AND DISCLOSURE

a. Would the Commission consider revising Section 17, "Confidentiality and Non-Disclosure," to make the language mutually beneficial for the protection of Contractor's confidential information, as follows:

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

"(b) Confidential Information does not include information that, at the time of **Commissiondisclosing party's** disclosure to the **receiving partyContractor**:

- "(i) is already in the public domain or becomes publicly known through no act of the **Contractorreceiving party**;
- "(ii) is already known by the **receiving partyContractor** free of any confidentially obligations;
- "(iii) is information that the **disclosing partyCommission** has approved in writing for disclosure; or
- "(iv) is required to be disclosed by the **receiving partyContractor** pursuant to law or applicable professional standards, so long as the **receiving partyContractor** provides the **disclosing partyCommission** with notice of such disclosure requirement and an opportunity to defend prior to any such disclosure.

"(c) The **receiving partyContractor** may use Confidential Information solely ~~for the purposes of providing services to the Commission~~ pursuant to this Contract. The **receiving partyContractor** shall not make copies of any written

Confidential Information, except as ~~necessary to perform the services~~ required by this Contract, without the express written permission of the ~~disclosing party~~ **Commission**. The ~~disclosing party~~ **Commission's** disclosure of Confidential Information to the ~~receiving party~~ **Contractor** shall not convey to the ~~receiving party~~ **Contractor** any right or interest in such Confidential Information and the ~~receiving party~~ **Contractor** shall retain all right and title to such Confidential Information at all times.

- (d) The ~~receiving party~~ **Contractor** shall hold Confidential Information confidential to the maximum extent permitted by law. The ~~receiving party~~ **Contractor** shall safeguard Confidential Information with at least the same level of care and security, using all reasonable and necessary security measures, devices, and procedures that the ~~receiving party~~ **Contractor** uses to maintain its own confidential information.
- (e) Upon written request by the ~~disclosing party~~ **Commission**, the ~~receiving party~~ **Contractor** shall return all written Confidential Information to the ~~disclosing party~~ **Commission**."

A.11: The Commission declines amending this section as proposed because the Commission, as a State agency, cannot maintain confidentiality of documents when disclosure is required under the New York State Freedom of Information Law ("FOIL") or other State law.

Q.12: Section 20 - LIABILITY AND INDEMNIFICATION

- a. Would the Commission consider add the following clause to Section 20, "Liability and Indemnification," to make the language mutually beneficial, as follows:

"The Commission shall be responsible for all damages to life and property due to the activities of the Commission, as well as the activities of the agents or employees of the Commission, in connection with this Contract. The Commission shall indemnify, defend, and save harmless the Contractor and its officers, employees, agents, assigns, and retailers from and against any and all third-party claims, liabilities, losses, damages, costs, or expenses, including reasonable attorneys' fees, which may be incurred, suffered, or required in whole or in part by an actual or alleged act or omission of the Commission or its officers, employees, agents, successors and assigns."

A.12: The Commission hereby amends Section 20 of Appendix B as follows:

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

- i. The Contractor, its officers, employees, agents, successors and assigns, and/or
- ii. A Subcontractor, its officers, employees, agents, successors and assigns.

Subject to the availability of lawful appropriations and consistent with Section 8 of the State Court of Claims Act, the State of New York shall hold the Contractor harmless from and indemnify it for any final judgment of a court of competent jurisdiction to the extent attributable to the negligence of the State of New York or of its officers or employees when acting within the course and scope of their employment.

Q13. Section 22 - FORCE MAJEURE

- a. Would the Commission consider add[sic] the following to Section 22, "Force Majeure," to make the language mutually beneficial and in conformance with existing contractual practices, as follows:

"A Force Majeure occurrence is an event or effect that cannot be reasonably anticipated or controlled. As herein used, "Force Majeure" means fire, explosion, action of the elements, governmental interference **(excluding acts of the New York Lottery which have the effect of excusing its own performance under this Contract)**, rationing, or any other cause that is beyond the control of the party affected and that, by the exercise of reasonable diligence, said party is unable to prevent, **including, by way of illustration and without limitation, power outages at the facilities and the cessation of communications over the network due to events outside the control of the Contractor.**

Neither the Contractor nor the Commission shall be liable to the other for any delay in or failure of performance under the Contract resulting from this RFP due to a Force Majeure occurrence. Any such delay in or failure of performance shall not constitute a default or give rise to any liability for damages. The existence of such causes of such delay or failure shall extend the period for performance **so long as those circumstances persist, provided that the delaying party notifies the other party promptly of the delay and its causes to such extent as determined by the Commission to be necessary to enable complete performance by the Contractor if reasonable diligence is exercised after the cause of delay or failure has been removed.**"

A.13: The Commission declines amending this section as proposed.

LITIGATION BOND

KNOW ALL BY THESE PRESENTS: That we, _____, as Principal (hereinafter referred to as "Principal") and the _____, as Surety (hereinafter referred to as "Surety") are held and firmly bound jointly and severally unto the _____, as Obligee (hereinafter referred to as "Obligee") in the sum of One Million and 00/100 Dollars (\$1,000,000.00) to which payment will and truly to be made, we hereby bind ourselves, our successors, and assigns, firmly by these presents.

WHEREAS, the _____ (Obligee) issued a Request for Proposal (hereinafter referred to as "RFP") dated _____ for _____ and in response to the RFP the Principal has submitted a proposal to the Obligee.

WHEREAS, the RFP requires the Principal to submit with its proposal a litigation bond in the amount of One Million and 00/100 Dollars (\$1,000,000.00).

NOW, THEREFORE, the condition of this obligation is such that in the event that: (i) Principal brings any legal action against the Obligee (including any individual member thereof or any employees of the Obligee) related to the award of the contract pursuant to the RFP; and (ii) the Obligee is the prevailing party at the conclusion of the litigation, then the Obligee shall have reason to file claim against this bond to recover damages due to such suit brought by the Principal.

This obligation shall remain in full force and effect for two (2) years from the bid submission date; however, the Principal may request and the Obligee may grant (but shall not be required to grant) a release of the bond after six (6) months from the bid submission date in return for a release and covenant not to sue in a form acceptable to the Obligee.

In no event shall the liability of the Surety exceed the penal sum stated herein.

IN WITNESS WHEREOF, the above parties have executed this instrument under their seals this _____ day of _____, _____.

WITNESS:

Principal _____

BY: _____

WITNESS

BY: Attorney in Fact

Annually Renewable Performance Bond
BOND # _____

KNOW ALL MEN BY THESE PRESENTS: That _____
(hereinafter called the Principal), and _____ (hereinafter called the Surety), are held and
firmly bound unto _____
(hereinafter called the Oblige), in the full and just sum of _____
Dollars (\$_____), the payment of which sum, well and truly to be made, the said
Principal and Surety bind themselves, and each of their heirs, administrators, executors, and
assigns, jointly and severally, firmly by these presents.

WHEREAS, the Principal and Oblige have entered into a written Contract dated the ____ day of
_____, _____ with the Oblige for _____
for a period of _____ years which Contract is hereby referred to and made a part hereof.

WHEREAS, the Oblige has agreed to accept a bond guaranteeing the performance of said
Contract for a period of one year.

NOW, THEREFORE, THE CONDITIONS OF THE ABOVE OBLIGATION IS SUCH, that if
the Principal shall well and truly perform each and every obligation in said Contract at the time
and in the manner specified during the term of this bond, and shall reimburse said Oblige for any
loss which said Oblige may sustain by reason of failure or default on the part of said Principal,
than this obligation shall be void, otherwise to remain in full force and effect.

PROVIDED, HOWEVER, that this bond is subject to the following conditions:

1. This bond is for the term beginning _____ and ending _____.
The bond may be renewed for additional terms at the option of the Surety, by
continuation certificate executed by the Surety. Neither non-renewal by the Surety, nor
failure, nor inability of the Principal to file a replacement bond shall constitute a loss to
the Oblige recoverable under this bond.
2. In the event of default by the Principal, Oblige shall deliver to Surety by certified mail, a
written statement of the facts of such default, within thirty (30) days of the occurrence.
In the event of default, the Surety will have the right and opportunity, at its sole
discretion, to: a) cure the default; b) assume the remainder of the Contract and to perform
or sublet same; c) or to tender to the Oblige funds sufficient to pay the cost of
completion less the balance of the Contract price up to an amount not to exceed the penal
sum of the bond. In no event shall the Surety be liable for fines, penalties, liquidated
damages, or forfeitures assessed against the Principal.
3. No claim, action, suit or proceeding, except as hereinafter set forth, shall be had or
maintained against the Surety on this instrument unless same be brought or instituted
upon the Surety within one year from termination or expiration of the bond term.
4. No right of action shall accrue on this bond to or for the use of any person or corporation
other than the Oblige named herein or the heirs, executors, administrator or successors
of Oblige.

5. The aggregate liability of the Surety is limited to the penal sum stated herein regardless of the number or amount of claims brought against this bond and regardless of the number of years this bond remains in force.
6. If any conflict or inconsistency exists between the Surety's obligations or undertakings as described in this bond and as described in the underlying Contract, then the terms of this bond shall prevail.
7. This bond shall not bind the Surety unless the bond is accepted by the Obligee. If the Obligee objects to any language contained herein, within 30 days of the date this bond is signed and sealed by the Surety, Obligee shall return this bond, certified mail or express courier, to the Surety at its address at:

Failure to return the bond as described above shall constitute Obligee's acceptance of the terms and conditions herein.

Signed and sealed this _____ day of _____, _____.

PRINCIPAL:

_____ (seal)

(Name & Title)

SURETY:

_____ (seal)

Attorney-in-Fact

Proposal Bond

KNOW ALL MEN BY THESE PRESENTS, That _____ (hereinafter called the **Principal**), as Principal, and _____, a corporation duly organized under the laws of _____ (hereinafter called the **Surety**), as Surety, are held and firmly bound unto _____ (hereinafter called the **Obligee**), in the sum of (\$ _____) for the payment of which we, the said Principal and the said Surety, bind ourselves, our heirs, executors, administrators, successors and assigns, jointly and severally, firmly by these presents.

WHEREAS, the Principal has submitted a bid, dated _____, for:

NOW, THEREFORE, THE CONDITION OF THE OBLIGATION IS SUCH, that if the Obligee shall accept the bid of the Principal and the Principal shall enter into a contract with the Obligee in accordance with such bid and give bond with good and sufficient surety for the faithful performance of such contract, or in the event of the failure of the Principal to enter into such contract and give such bond, if the Principal shall pay to the Obligee the difference, not to exceed the penalty hereof, between the amount specified in said bid and the amount for which the Obligee may legally contract with another party to perform the work covered by said bid, if the latter amount be in excess of the former, then this obligation shall be null and void, otherwise to remain in full force and effect. This obligation expires eighteen (18) months from the effective date of the bid.

Signed and sealed this _____ day of _____, _____.

Principal

Witness

By: _____ (SEAL)

Witness

By: _____ (SEAL)
_____, Attorney-in-Fact