



**Request for Proposal
#50079**

Hispanic Agency Advertising Services

January 28, 2019

**CALIFORNIA STATE LOTTERY
700 North 10th Street
Sacramento, California 95811-0393**

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I. GENERAL INFORMATION

A. Purpose

The California State Lottery (Lottery) is inviting responses through this Request for Proposal (RFP) from qualified agencies to provide advertising and marketing services for the California Hispanic consumer market (HCM) to maximize contributions to public education. The initial term of the proposed contract resulting from this RFP will be five years. The contract will also provide that the Lottery may unilaterally extend the contract term of the contract under the same terms and conditions, including pricing terms, for up to two additional one-year terms.

B. Background

The Lottery's mission is to generate supplemental funding for public education in the State of California. Fiscal Year 2017/18 was another strong year for the Lottery, with sales of approximately \$7 billion and nearly \$1.7 billion contributed to California public schools. Lottery products are sold statewide at more than 23,000 retail locations, from independent neighborhood shops to convenience stores, liquor stores to supermarkets, and more. The Lottery's retail product offerings include Scratchers® instant games and several draw games, including jackpot games such as Powerball®, Mega Millions®, and SuperLotto Plus®, and daily games such as Fantasy 5 and Hot Spot®. Through the alignment of product plans, marketing campaigns, and sales team efforts, the Lottery has grown to be the second largest lottery in the U.S. The Lottery's goal is to become the largest lottery in the U.S.

The Lottery's current Hispanic market agency partner is Casanova/McCann; Casanova's contract expires October 1, 2019.

Additionally, the Lottery has contracts with the following agencies:

- David & Goliath as lead agency for consumer advertising in partnership with Horizon Media for media planning and buying.
- Time Advertising for Asian in-language consumer advertising.
- Muse Communications for African American consumer advertising/marketing.
- Alcone Marketing Group for point-of-sale and promotional marketing.
- ICF Next for digital services.

C. The Opportunity

The Lottery is seeking a strategic Hispanic agency partner (Agency) capable of helping it to successfully motivate the Hispanic consumer in an innovative and effective way. The Agency must be able to address critical issues facing the Lottery, including but not limited to the following:

1. How should the Lottery communicate with and reach California's diverse Hispanic population through marketing and advertising efforts?

2. How can the Lottery segment its Hispanic audience more effectively and broaden its player base?
3. How can the Lottery increase sales among Hispanics and, in turn, maximize contributions to public education?
4. How can the Lottery increase frequency of play by casual Hispanic players and introduce new Hispanic players to the Lottery?
5. How can the Lottery re-engage lapsed Hispanic players?
6. How can the Lottery ensure that it continues to be relevant in the ever-changing marketplace and with new generations of California Hispanic adults?
7. How can the Lottery improve its brand perception among Hispanic adults and position itself as a fun and entertaining brand?

D. The Challenge

As technology continues to change consumer media behavior and marketing realities, it will be critical for the Lottery's Hispanic Advertising Agency to understand the Hispanic consumer segment to better differentiate and position the Lottery's games and its various brands, with the goal of enhancing product consideration and increasing sales. The Agency must be able to combine rigorous and insightful account planning and strategic development with brilliant creative solutions that drive sales and stand out in a post-digital, fragmented media world where consumers need to be continually re-engaged and re-motivated to play. The Lottery expects the Agency to function as a true partner, challenge the status quo, and develop meaningful insight-driven strategy combined with breakthrough creative solutions that drive brand and product demand while maximizing contributions to public education through increased sales.

Optimization of the Lottery's analytics and tools working in conjunction with other Agency teams is critical for maximizing return on investment (ROI). The Lottery seeks to increase the alignment of its creative and media strategies and use industry leading technology to meet the ongoing and evolving expectations of today's empowered Hispanic consumer.

E. Summary of Wants, Needs and Expectations

The Lottery needs a data-driven, strategically-based, highly creative Hispanic Advertising Agency with best-in-class capabilities across all channels, including traditional, digital, social, and mobile. The Lottery is seeking an Agency capable of developing breakthrough work and highly-integrated omnichannel strategies that deliver contextually-relevant communications and consumer experiences across all relevant touchpoints that elevate the Lottery's brand, drive sales, and position the Lottery for the future.

The Lottery seeks a Hispanic Advertising Agency that will:

1. Foster an environment where partnering with the Lottery, and its agency partners and challenging status quo are part of the Agency culture;

2. Partner with the Lead Agency, Media Agency, other agency partners and internal teams across all Lottery platforms and touchpoints on developing and executing culturally relevant and impactful advertising/marketing plans. Demonstrate strong involvement in the strategic process, ensuring integration across all projects to show consistency and excellence in the Agency's work product;
3. Apply unequivocal Hispanic marketplace success by building and sustaining Lottery brands;
4. Leverage its deep expertise and established connections with the Hispanic advertising and marketing community to foster relationships and build partnerships on the Lottery's behalf;
5. Demonstrate expertise in leveraging data-driven consumer insights to inform Hispanic dedicated strategies;
6. Deliver strategically-based creative that is impactful and relevant to generate results;
7. Demonstrate outstanding creative capabilities across all marketing touchpoints (traditional/non-traditional/digital/mobile/social);
8. Be on the cutting edge and utilize the latest advertising and marketing technology to bring solutions to the Lottery;
9. Commit a team of experienced professionals to the account that is fully-immersed in the HCM, takes initiative, and continually strives to improve; and
10. Provide high-quality Spanish-language translation services using the appropriate dialect, grammar, and other language nuances for Spanish-speaking Californians.

The ideal Agency will represent the voice of California Hispanic consumers when working with the Lottery and other agencies on:

1. Developing and executing innovative brand- and transaction-focused Hispanic creative;
2. Developing highly-integrated, consumer-centric communications programs across different media and channels with a significant digital/new-technologies focus; and
3. Developing best-in-class digital and social media programs.

Additional Requirements:

Digital & Mobile: The Lottery expects its Agency to be on the cutting edge of Hispanic marketing/advertising and the latest technologies in digital, mobile, and emerging platforms to reach Hispanic consumers. The Agency will be responsible for recommending developing, executing, and tracking integrated digital campaigns. Please note that the Lottery's website and mobile app are managed in-house.

Social Media: To maximize the effectiveness of the Lottery's Hispanic marketing social media programs, the Agency needs to create real-time, data-driven strategic plans and creative, including content production and influencer marketing for existing and future platforms.

Production: The Lottery is seeking best-in-class digital and broadcast television/video production capabilities and experience, including off-line editing, talent, and business affairs.

Research: Assess, recommend, develop, and/or conduct HCM research studies (e.g. recall tests, copy and motivation tests, and attitudinal studies), that assist the Lottery in the areas of strategic planning, creative development, and other initiatives. These studies may be qualitative or quantitative and may be ad hoc or ongoing projects.

Media Capabilities (Optional): Plan, buy, and implement holistic Hispanic media plans and/or select media vehicles as necessary which may include: television, radio, print, outdoor, digital social and in-store/retail advertising.

Promotions and Experiential Marketing (Optional): The Lottery needs an Agency that can bring fresh thinking and big ideas outside of traditional advertising and media channels to its marketing efforts. The Agency may be responsible for developing experiential and promotional programs that forge deeper engagement between the Lottery and its players.

Public Relations (Optional): The Lottery may require its Agency to provide integrated PR capabilities in the areas of media relations, crisis communications, event management, and cross-cultural outreach.

F. Minimum Agency Qualifications

This RFP is open to all agencies that, at the time Phase I Submittals are due, meet the following minimum qualifications. Joint proposals from more than one qualified agency are acceptable, provided they meet the requirements set forth in Section **. Qualified agencies must:

1. Have a minimum of three years' experience within Hispanic Market. Must include providing deep cultural and consumer behavior insights, developing relevant strategies, and impactful creative;
2. Have had at least \$8 million in annual billings;
3. Have a minimum of 25% of the agency's work product in Hispanic dedicated marketing efforts;
4. Be legal business entities licensed to do business in California;
5. Have an existing office in California and maintain it for the duration of the contract;
6. Have the ability to fulfill the insurance requirements outlined in Exhibit B, Draft Contract Terms and Conditions; and

7. Meet the requirements as set forth in Section II, Phase I Submittals.

G. Issuing Office and Agency-Initiated Contact

This RFP is issued by the Lottery's Contract Development Services office. The issuing office is the sole point of contact regarding this RFP. All notices or questions pertaining to this RFP must be directed to:

California State Lottery
Contract Development Services
Attention: Laura Lee Rogers
700 North 10th Street
Sacramento, California 95811
Phone: (916) 822-8063
TDD: (800) 345-4275
Email: lrogers@calottery.com

No contact regarding this RFP will be allowed between agencies or potential agencies and members of the Evaluation Team, Lottery Commissioners, or Lottery staff after issuance of the RFP, with the exception of the Lottery contact person named above. Any such contact may disqualify an agency from further consideration. Requests for clarification from agencies will be allowed, provided such requests are made through the above contact.

H. Projected Timetable

The following projected timetable is subject to change and is provided for informational and planning purposes only. The Lottery may change these dates without amending this RFP.

| <u>Action</u> | <u>Date</u> | <u>Time</u> |
|---------------------------------------|------------------------|--------------------|
| RFP Issued | January 28, 2019 | |
| Intents to Bid/Written Questions Due | February 15, 2019 | 5:00 pm PT |
| Responses to Written Questions | As Needed | |
| Phase I Submittals Due | March 28, 2019 | 3:00 pm PT |
| Identify Semi Finalists (Phase II) | Week of April 5, 2019 | |
| Issue Semi Finalist Brief | Week of April 12, 2019 | |
| Conduct Semi Finalist Meetings | Week of May 10, 2019 | |
| Announce Finalists (Phase III) | May 20, 2019 | |
| Conduct Briefing Day | Week of May 31, 2019 | |
| Conduct Work Sessions | Week of June 28, 2019 | |
| Phase III Submittals Due | June 3, 2019 | 3:00 pm PT |
| Staff Plan/Compensation Proposals Due | June 3, 2019 | 3:00 pm PT |
| Conduct Finalists' Presentations | Week of July 26, 2019 | |
| Identify Apparent Successful Agency | September 2019 | |

| <u>Action</u> | <u>Date</u> | <u>Time</u> |
|---------------------------------------|-----------------|-------------|
| Commission Approval to Award Contract | September 2019 | |
| Effective Date of Contract | October 1, 2019 | |

I. Verbal Communication

Any verbal communication with a Lottery employee concerning this RFP is not binding on the Lottery and will in no way alter a specification, term, or condition of this RFP or of any resulting contract.

J. Examination of All Requirements

Agencies are strongly encouraged to examine this document thoroughly and become familiar with the RFP’s requirements, including but not limited to those set forth in Exhibit A, Scope of Services, and Exhibit B, Draft Contract Terms and Conditions, each of which will be incorporated into and made a part of the determinative contract. Agencies’ proposals must be based solely on the information and materials contained in the RFP and any amendments thereto and on other written communications regarding the RFP that are issued by the Lottery contact person named above. Agencies must disregard all other information, including draft material, newspaper advertisements or articles, and verbal representations.

If an agency discovers an error in this RFP but fails to notify the Lottery of that error, the agency submits a proposal at its own risk. If awarded the Contract, the agency will not be entitled to additional compensation or time due to the error or its subsequent correction.

The Lottery may, in its sole discretion, refuse to accept a proposal if it fails to furnish all required information or follow the format specified in this RFP.

K. Amendments to the RFP

The Lottery may cancel or amend this RFP at any time. Notice of amendment or cancellation will be sent to agencies that submitted a written Intent to Bid if the amendment or cancellation occurs prior to proposal submission, and to agencies that submitted a proposal if the amendment or cancellation occurs after proposal submission.

L. Written Questions

Questions regarding the content of this RFP must be submitted in writing via email or U.S. mail to the Lottery contact person specified above by the due date and time specified in the Projected Timetable. It is the agency’s sole responsibility to verify receipt of submitted questions. The Lottery may, in its sole discretion, respond to written questions received after the specified due date and time. Questions and responses will be provided to firms that submitted a written Intent to Bid and will also be posted on the Lottery’s website at www.calottery.com/Vendor.

M. Written Intent to Bid

Interested agencies must submit an Intent to Bid in writing via email or U.S. mail to the Lottery contact person by the date and time specified in the Projected Timetable in order to receive direct communications from the Lottery about this RFP.

The written Intent to Bid must include the agency contact person's name, email address, mailing address, telephone number, and fax number (if applicable).

An agency that does not submit a written Intent to Bid may still submit a proposal. However, RFP notices and amendments issued by the Lottery will only be sent directly to agencies with a written Intent to Bid on file. **After the proposal due date, only agencies that have submitted proposal packages in accordance with Section II, Proposal Requirements, and Section IV, Proposal Packaging and Delivery, to the Lottery contact person specified in Item G, will receive direct RFP communication and notices.**

All interested parties may access such notices and amendments on the Lottery's website at www.calottery.com/Vendor.

N. Property of the Lottery

All proposals become the property of the Lottery upon receipt and will not be returned to bidding agencies.

O. Proposals are Public Records

Pursuant to the California Public Records Act, California Government Code §§ 6250 et seq., all data, materials, information, and documents submitted to the Lottery by an agency may be incorporated into a publicly-available contract and may otherwise be subject to disclosure upon request by competitors and members of the public after the apparent successful bidder has been announced. The Lottery will process all Public Records Act requests in accordance with the laws of the State of California. An agency's labeling of any proposal materials as "confidential" or otherwise exempt from disclosure is not binding on the Lottery, and the Lottery will not be liable to the agency or to any other person or entity for disclosing information as required by law.

P. Acceptance Period

As a condition of submission, each agency's proposal constitutes an unconditional offer to the Lottery and is irrevocable for 180 days from the date submissions are due.

Q. Conditions of Submission

Responses to the RFP and any subsequent presentations must be submitted with the most favorable terms the agency can offer. Agencies will be allowed to withdraw their responses only when a written request for withdrawal is actually received by the Lottery prior to the deadline for final bid submission. Requests for bid withdrawal must be filed in the same manner as proposals. After the submission deadline, agencies cannot replace,

change, or modify their proposals in any way except as specified in this RFP or any subsequent amendment to this RFP.

R. Nonmaterial Deviation

The Lottery may waive any deviation in a proposal that the Lottery determines to be nonmaterial. The Lottery's waiver of a nonmaterial deviation in no way modifies the RFP's requirements or excuses agencies from full compliance with the Contract's requirements.

S. Rejection of Proposals

The Lottery reserves the right to reject any or all responses to this RFP. The Lottery may reject any response that is conditional, contains additions not called for, is incomplete, contains erasures or irregularities of any kind, or contains material deviations. Any provisions of this RFP that are defined as requirements will be considered mandatory. In the interest of promoting competition, the Lottery may allow an agency to correct an inaccuracy in its proposal. If all agencies fail to meet one or more of the mandatory requirements, the Lottery reserves the right to continue evaluation of the proposals and to select the response that most closely meets the requirements specified in this RFP.

T. Contract Execution

The Lottery Director or designee will make the final determination of contract award, subject to California Lottery Commission approval, if applicable. In making this determination, the Lottery Director or designee may be assisted by an Evaluation Committee.

The Lottery, in its sole discretion, may treat failure or refusal by the intended contract awardee to begin performance within ten state working days of contract execution as repudiation of the contract. The Lottery may then either (1) select another proposal which conforms to the requirements of this RFP and represents, in the Lottery's sole discretion, the best value; or (2) reject all proposals. The Lottery may also seek compensation for any damages associated with repudiation of the contract.

The Lottery reserves the right to cancel all elements of this solicitation or rescind the announced award at any time before execution of the contract. **Issuance of this RFP does not constitute a commitment by the Lottery to award a contract.**

U. Hiring of Lottery Personnel

At all times during the proposal evaluation period and continuing through contract award or rejection of all proposals, agencies are prohibited from officially or unofficially making any employment offer or proposing any business arrangement whatsoever to any Lottery employee involved in the evaluation of proposals. An agency making such an offer or proposition will be disqualified from further consideration.

V. Governing Law and Regulations

The Lottery's governing law and regulations, including the California State Lottery Act and the Lottery's procedures for procurement of goods and services, are available on the Lottery's website (www.calottery.com). It is each agency's responsibility to be familiar with these laws and regulations.

W. Joint Proposals

The Lottery will accept joint proposals from more than one agency in response to this RFP that, if successful, will result in the award of one indivisible contract. Each agency submitting the joint proposal will be jointly and severally liable for the performance of the entire contract.

Agencies submitting a joint proposal must include a written statement with their Mandatory Submittals that clearly identifies the agencies submitting the joint proposal and that designates a single person who is authorized to represent all agency parties in all matters relating to the RFP. The statement must be signed by a representative identified in Attachment 2, Certification, as legally authorized to contractually bind the agency. **At least one of the agencies must independently meet all of the Minimum Bidder Qualifications listed in Item C.**

II. PROPOSAL REQUIREMENTS

Proposals submitted in response to this RFP must comply with the requirements of this section. **Failure to complete and submit the information listed in this section in the specified format may result in disqualification of the agency's proposal.**

Agencies must submit seven copies of their proposals, in both electronic and hard copy, in accordance with section IV. Phase I Submittals Packaging and Delivery; proposals must be organized in the same order and with the same lettering/numbering and format as shown in the following sections and subsections

In order for the Lottery to award a contract, agencies' proposals must, at a minimum, be fully responsive to the specific requirements stated in this RFP. Agencies must identify any requirements of this RFP they cannot satisfy.

A. Mandatory Submittals Phase I

Agencies must complete and submit the following, as described below:

1. Table of Contents
2. Introduction Letter
3. Attachment 1, Agency Fact Sheet
4. Agency Profile
5. Three Full Campaign Case Histories
6. Attachment 2, Certification
7. Attachment 3, Agency Mandatory Submittal Checklist

1. Table of Contents

Agencies must submit a Table of Contents that includes all requested documents, forms, rated submittal sections, sub sections, and page numbers.

2. Introduction Letter

Agencies must submit an introduction letter, indicating that they are responding to the RFP and that all the RFP requirements have been met. The letter must be signed by a representative identified in Attachment 2, Certification, as legally authorized to contractually bind the agency. The introduction letter must confirm the agency's qualifications and interest in participating in this solicitation. The introduction letter must explain the following:

- a. The basis for the agency's interest in the Lottery's business;
- b. The agency's particular strengths with respect to the basic qualifications as well as the Lottery's wants, needs, and expectations;
- c. Agency positioning and vision: How does the agency differ from competing agencies? What is the agency's vision and where/what will it be doing five years from now? What is the agency's overall philosophy or credo;
- d. Hispanic market approach: Please indicate at high level and as appropriate how the agency approaches the HCM and the role it plays within the overall marketing plan;
- e. Work process: Describe the agency's work process (if it uses a specific discipline), and any practices it employs that help produce consistently-effective advertising and marketing. How does the agency collaborate with other agencies including media and as a part of a larger roster of agencies? Describe the agency's vision of the Lottery's role in its strategic and creative development processes;
- f. The backgrounds of the agency's key personnel, if identified, who will be assigned to handle this account;
- g. A summary of the key contributions the agency believes it can bring to the Lottery's advertising and marketing communications efforts; and
- h. Contact information, including name, phone number, and email address, for the representative who will be the main contact person between the agency and the Lottery during the evaluation process. This contact person will also be identified in Attachment 2, Certification.
- i. The agency must disclose in this Introduction Letter any potential, actual, or apparent conflicts of interest that may arise between any current client and the Lottery. Because of the complexities involved in defining conflicts of interest, please identify any potential conflicts, and the Lottery will make a final determination as to whether a disqualifying conflict exists. **If no potential, actual, or apparent conflicts exist, then make a statement to that effect.**
- j. If the agency is submitting a joint proposal, the agency must disclose this in the Introduction Letter and submit detailed information for each of the entities

submitting the joint proposal. The agency must identify the name of the representative who is legally authorized to contractually bind all entities submitting the joint proposal.

3. Agency Fact Sheet (Attachment 1)

Agency Fact Sheet, Attachment 1, must be completed by each agency and included in its Mandatory Submittals and Review Criteria Phase I package. Agencies submitting a joint proposal must each complete and submit an Agency Fact Sheet.

4. Agency Profile

Agencies must submit, in accordance with section IV. Phase I Submittals Packaging and Delivery, an agency profile that includes a recent video creative, not to exceed 10 minutes in length and provide a written version/transcript of the content. This should be a story about the agency illustrated by its work, which is not limited to TV. Please include some video examples that run in their entirety. Context is the key to helping the Lottery better assess the agency's relevant work and experience.

5. Three Full Campaign Case Histories

Agencies must submit, in accordance with section IV. Phase I Submittals Packaging and Delivery, three case histories of recent and relevant campaign work that showcase the agency's HCM expertise to demonstrate that the agency has the strategic and creative skills the Lottery seeks. One of the case histories must be a transcreation. For each case history, include the following:

- a. Case overview (including objectives, strategy, consumer/creative insight, and results) for each ad or campaign add a notation of the timeframe in which the work ran, a description of the agency's role in this project, and how it was implemented. The succinct description must not exceed two pages in length for each campaign.
- b. Multiple creative elements from each campaign that show how the agency incorporates a brand across multiple platforms.
- c. Video, audio, and visual representations of print, outdoor, collateral, or promotional material as well as any viral, non-traditional, or social media elements.
- d. For the transcreation case study, include brief description and creative elements used to support the campaign in the general market. Include a detailed account of the thinking behind the adaptation for the Hispanic market.

Case histories must represent the submitting office's work. **If materials are in Spanish, please provide an English translation.**

6. Certification (Attachment 2)

Certification, Attachment 2, must be completed by each agency and included in its Phase I Submittal Package.

7. Agency Mandatory Submittal Checklist (Attachment 3)

The Agency Mandatory Submittal Checklist must be completed and included in its Phase I Submittal Package.

8. Flash Drives

Agency must submit all materials on flash drives, as described in section IV. Phase I Submittals Packaging and Delivery.

B. Phase I Rated Evaluation

Submission of all requested materials is Mandatory, as stated above in section A. Mandatory Submittals, Phase I.

Failure to submit the information listed in section A. Mandatory Submittals Phase I, may, at the sole discretion of the Lottery, result in the disqualification of the proposal. If all agencies fail to meet one or more of the Mandatory Submittals, Phase I, the Lottery reserves the right to continue evaluating the proposals.

| <i>Evaluation Criteria for Mandatory Submittals – Phase I</i> | <i>Pass/Fail</i> |
|---|-------------------------|
| <ul style="list-style-type: none">➤ Table of Contents;➤ Certification (Attachment 2);➤ Agency Mandatory Submittal Checklist (Attachment 5). | |

The Lottery Evaluation Team will review and evaluate the submittals using the evaluation criteria stated below for below Mandatory Submittals and will rate using the Rating Chart shown in section III.

- The Introduction Letter;
- Agency Fact Sheet;
- Agency Profile; and
- The Three Full Campaign Case Histories.

| <i>Evaluation Criteria for Mandatory Submittals – Phase I</i> | <i>Rated</i> |
|--|---------------------|
| <ul style="list-style-type: none">➤ Demonstrated Agency positioning, vision, and philosophy aligned with the Lottery values;➤ Relevant experience with gaming, entertainment, and/or low-cost consumer goods;➤ Quality of client list;➤ Depth and breadth of agency's organizational qualifications and experience;➤ Strategic capabilities; | |

- Demonstrated experience and knowledge providing Hispanic Advertising and Marketing Services;
- Creativity and innovation;
- Integrated marketing capabilities;
- Digital and social media capabilities; and
- Media, PR, promotions and experiential marketing capabilities.

After review and evaluation of the Phase I submittals, those agencies receiving a minimum overall rating of “Significantly Exceeds” will advance to Phase II as Semi-Finalists. Agencies receiving a minimum of “Meets” or “Exceeds” may, at the sole discretion of the Lottery Evaluation Team, advance to the Semi-Finalist phase.

The Lottery reserves the right to change the solicitation process from three to two phases and will notify the agencies of the change once Phase I submittals have been received.

C. Phase II Semi-Finalist

The Lottery will identify Semi-Finalists, schedule Semi-Finalist meetings, and release the following:

Semi-Finalist Brief
Semi-Finalist Evaluation Criteria

D. Phase II Semi-Finalist Competition

Phase II of the RFP process will include face-to-face meetings between the Lottery Evaluation Team and the Semi-Finalists. The meetings will be scheduled by the Lottery and will take place at the agency’s office **located in California**.

The objective of these meetings is to give the Lottery Evaluation Team a sense of the agency that goes beyond the work and credentials that were evaluated in Phase I. The Lottery Evaluation Team wants to meet the people who run the agency and the team that would lead the Lottery’s account. The Lottery Evaluation Team wants to assess the depth of the agency’s resources, measure its strategic “smarts,” and evaluate the intensity of the agency’s interest and commitment to the Lottery’s business.

E. Phase II Semi-Finalist Evaluation

The Semi-Finalist Competition will be reviewed and evaluated by the Lottery Evaluation Team using the Rating Chart shown in Section III.

After review and evaluation of the Semi-Finalist Meetings, those agencies receiving a minimum overall rating of “Significantly Exceeds” will advance to Phase III as Finalists. Agencies receiving a minimum of “Meets” or “Exceeds” may, at the sole discretion of the Lottery Evaluation Team, advance to the Finalist phase.

F. Phase III Finalist Submittals

Upon identification of the Finalists, the Lottery will provide specific instructions for submitting the forms listed under Phase III Submittals. Finalists will ensure Phase III Finalist Submittals are received at the Lottery's headquarters on the date specified in Section I, H, Projected Timetable.

Only agencies identified as Finalists will be required to submit the following Phase III Submittals:

Attachment 4, Disabled Veteran Business Enterprise Participation (if applicable)

Attachment 5, Small and Microbusiness Participation (if applicable)

Attachment 6, Non-Disclosure Agreement

Attachment 7, Major Agency Disclosure

1. Disabled Veteran Business Enterprise (DVBE) Participation (Attachment 4 – Optional)

Finalists Bidders who are participating in this program are required to complete and submit the forms contained in Attachment 3, Disabled Veteran Business Enterprise Participation.

2. Small and Microbusiness Participation (SMP) (Attachment 5 – Optional)

Based upon the nature of the goods and services to be utilized under this solicitation (as outlined in the Scope of Services, Exhibit A), the Lottery has set a Small and Microbusiness Participation goal of 25%, excluding media placement costs, for utilization of small or microbusinesses as subcontractors under the contract resulting from this solicitation. Only Finalists will have the option to participate in this program.

3. Non-Disclosure Agreement (Attachment 6)

Prior to being provided any confidential Lottery materials for purposes of completing the Finalist Work Assignment, Finalists will be required to complete and submit a non-disclosure agreement.

4. Major Agency Disclosure (Attachment 7)

Finalists will be required to complete and submit the forms in Attachment 7, Major Agency Disclosure. Finalists will be required to disclose certain information pursuant to California Government Code section 8880.57. Any individual or entity in an agency's organizational chain and any of the agency's subcontractors may also be required to disclose similar information. The Lottery may refuse to enter into a contract based on the results of these disclosures, as provided in California Government Code section 8880.57.

In order to ensure integrity, security, and honesty in its operation, the Lottery will conduct a thorough background check of the Finalists. This may include fingerprinting and review of financial information. The Lottery may disqualify any Finalist if its related

entities or their directors, officers, employees, or owners refuse to participate. The successful agency will be required to notify the Lottery of the identity of potential subcontractors and may be required to periodically update other disclosure requirements during the term of the contract.

Note: The disclosures provided in these forms will be considered confidential.

G. Phase III Finalist Competition

The Lottery will identify the Finalists, schedule Briefing Day, Work Sessions and Finalist Presentations, and release the following:

1. Finalist Work Assignment
2. Request for Staff Plan and Compensation Proposal
3. Finalist Evaluation Criteria

Finalist Work Assignment: In Phase III, Finalist agencies will be asked to complete and present a strategic, creative, and integrated work assignment including media and online components.

At the beginning of the Finalist Phase, there will be a group briefing day for the agencies identified as Finalists. Following the group briefing, Finalist agencies will have an opportunity to present questions to the Lottery staff.

Finalist Request for Staff Plans and Compensation Proposals: In Phase III, each Finalist will receive a packet outlining the proposed Sample Description of Work (for bidding purposes only) for the Lottery account. The packet will include an excel spreadsheet and instructions for organizing the proposed staff plan and corresponding cost information. The objective of this portion of the Finalist Phase is to evaluate Finalists' anticipated staff proposal and proposed compensation on both a stand-alone and comparative basis to facilitate an "agency-to-agency" evaluation. **The Lottery prefers an all-inclusive, labor-based Annual Agency Fee arrangement where production and any media costs would be billed at net. The Annual Agency Fee will be paid in 12 equal monthly installments and prorated for partial service months.**

H. Phase III Finalist Evaluation

The Finalist Competition will be reviewed and evaluated by the Lottery Evaluation Team using the Rating Chart shown in Section III.

III. PROPOSAL EVALUATION PROCESS

A. Ratings

The Lottery will fairly and impartially evaluate proposals received in response to this RFP. Proposals may be evaluated in comparison with other submitted proposals. **Clarification may be requested from participating agencies during any phase of the evaluation process.**

All materials and/or portions not identified as pass/fail will be evaluated using the Rating Chart shown below, in accordance with the provisions stated in this RFP.

| Rating | Definition |
|-----------------------|---|
| Superior | Proposal exceptionally exceeds performance or capability requirements; proposal demonstrates extraordinary strengths that will more than significantly benefit the Lottery. |
| Significantly Exceeds | Proposal significantly exceeds performance or capability requirements; proposal demonstrates exceptional strengths that will significantly benefit the Lottery. |
| Exceeds | Proposal exceeds performance or capability requirements; proposal has one or more strengths that will benefit the Lottery. |
| Meets | Proposal meets specified minimum performance or capability requirements necessary for acceptable contract performance. |
| Meets with Exceptions | Proposal demonstrates weak performance or capability standards necessary for minimum contract performance; proposal has one or more weaknesses that offset any strengths. |
| Does Not Meet | Proposal fails to meet specified minimum performance or capability requirements. Proposals earning an overall “does not meet” rating are not awardable. |

B. Best Value Analysis

If the Lottery elects to award a contract, such contract will be awarded to the agency that submits the best value proposal. The best value proposal will be the proposal that provides maximum benefits to the Lottery in the areas of security, competence, experience, qualifications, performance, and price. The proposal with the lowest price may not be selected if a higher-priced proposal provides greater overall benefits to the Lottery.

As part of the best value evaluation process, the Lottery may award a contract based on the proposals submitted or establish a competitive range and hold discussions with each agency in the competitive range. The competitive range will be comprised of the highest-rated proposals, consistent with the need for an efficient competition. Discussions may include bargaining. Bargaining includes persuasion, alteration of assumptions and positions, and give-and-take, and may apply to price, technical requirements, type of contract, or other terms of a proposed contract.

The Lottery may discuss with each agency in the competitive range, weaknesses, deficiencies, and other areas of concern in its proposal such as price, technical approach, and other terms that, if altered, may materially-enhance the proposal’s potential for award. If discussions are conducted, each agency will be given the opportunity to revise the specific areas of its proposal that were identified by the Lottery. The scope and extent of discussions are matters solely within the Lottery’s discretion.

IV. PHASE I SUBMITTALS PACKAGING AND DELIVERY

A. Packaging

RFP Attachments and/or forms that require a signature must be signed by a person who is authorized and identified on Attachment 2, Certification, to contractually bind the Agency.

Agencies' proposal responses are to be structured in the same format as the RFP, with the same heading, numbering, and bullet format for all sections and subsections. Proposals and all requested documents must be submitted in a loose-leaf binder, on 8½" by 11" paper, single- or double-sided, using at least 12-point Arial font, consecutively numbered, and sections clearly marked or labeled.

In addition, proposals and all requested documents must be submitted on flash drives. Each flash drive must contain a table of contents. Agencies' responses on the flash drive must be a mirror image of the hard copy proposal following the same format, with the same heading(s), numbering, and bullet format for all sections and subsections of the RFP. A paper copy of the table of contents must be provided with the flash drive.

Responses must be submitted in a sealed package(s) addressed as stated in section IV. B. and clearly identify the Agency making the submission.

Package 1: will contain seven copies of:

- Table of Contents
- Introduction Letter
- Attachment 1, Agency Fact Sheet
- Attachment 2, Certification
- Attachment 3, Agency Mandatory Submittal Check List
- Seven flash drives, each containing a copy of the five documents listed above.

Package 2: will contain seven copies of:

- Table of Contents
- Agency Profile
- Three Full Campaign Case Histories
- Seven flash drives, each containing a copy of the Agency Profile and three Full Campaign Case Histories

B. Delivery

Proposal packages must be received by the Lottery no later than 3 p.m. PT on **March 28, 2019**. Fax or electronic transmissions will not be accepted. Mail or deliver proposal packages to:

California State Lottery
Contract Development Services
700 North 10th Street
Sacramento, California 95811-0393
Attention: Laura Lee Rogers
Response to RFP #50079
DO NOT OPEN IN MAILROOM

Postmark date will not constitute timely delivery. **Proposal packages received after the above date and time will not be considered.** Agencies are solely responsible for ensuring timely receipt of their proposal packages.

EXHIBIT A – SCOPE OF SERVICES

Hispanic Advertising and Marketing Services

The Agency plays a critical role collaborating with the Lottery and partner agencies while providing services that include but are not limited to the following:

1. Hispanic Market Expertise:

- a. Plan, coordinate, and execute the Lottery's annual marketing and advertising plan in the Hispanic Consumer Market (HCM) and integrate with the Lottery's overall advertising and marketing plans in partnership with Lottery staff, the Lead Agency, and other partner agencies.
- b. Provide overall market analysis, strategy development, and positioning of the Lottery brand and its products, programs, and services within the HCM.
- c. Provide deep cultural insights, audience segmentation, market intelligence, and trends for the HCM. Regularly monitor and assess developments in the segment and their implications for the Lottery. Provide recommendations to help futureproof the Lottery.
- d. Utilize data and apply HCM insights to actionable strategic and tactical recommendations across the Lottery's earned, owned, and paid marketing efforts. Provide input into the Lottery long-range strategic and annual business plans.
- e. Partner with the Lottery's media agency to develop and execute culturally-relevant and impactful advertising plans.

2. Creative:

- a. Create and produce Hispanic dedicated advertising and marketing materials for the Lottery's brand, products, and programs. Develop and execute creative to fulfill paid media plans.
- b. Collaborate with other partner agencies to develop total market executions and transcreations.
- c. Provide Hispanic cultural insights and input (i.e. cultural relevance, casting, copy, red flags, etc.) on creative developed and produced by other entities.
- d. Provide high-quality Spanish-language translation services as needed for Lottery materials (e.g. website, research materials, business documents, marketing collateral, etc.) using the appropriate dialect, grammar, and other language nuances for Spanish-speaking Californians.

3. Integrated Marketing:

- a. Collaborate with the Lottery, media agency and other partners to develop Hispanic advertising and marketing plans across all channels and platforms.

- b. Analyze opportunities and recommend strategies and tactics (advertising, promotions, digital and social media, retail marketing, experiential, grass-roots, etc.) for effectively reaching the HCM.
- c. As needed, manage relationships with Hispanic media partners. May include planning and buying on a case-by-case basis.
- d. Pursue, develop, and execute strategic marketing partnerships.
- e. Provide HCM insights and recommendations for enhancing player acquisition, engagement, and retention. Consult on the Lottery's digital marketing platforms including website, mobile app, social media, email marketing, promotions, and loyalty programs. Develop and execute initiatives as needed.

4. Research and Analytics:

- a. Recommend, develop, and/or manage HCM research initiatives such as audience segmentation, product testing, creative testing, awareness, etc.
- b. Ensure marketing effectiveness and demonstrate maximum ROI through analytics and tools working in conjunction with Lottery and Agency teams.

5. Optional Associated Services:

- a. Media – plan, buy, and implement holistic Hispanic media plans and/or select media vehicles as necessary which may include: television, radio, print, outdoor, digital, social, and in-store/retail advertising.
- b. Promotions – develop and execute retail communications, consumer promotions, and experiential marketing initiatives.
- c. PR – provide PR programs including media relations and crisis communications.

EXHIBIT B – DRAFT CONTRACT TERMS AND CONDITIONS

1.0 GENERAL PROVISIONS

1.1 Parties and Authorization

The parties to this contract (Contract) are the California State Lottery (Lottery) and _____ (Agency). Each party acknowledges that it has read the Contract, understands it, and agrees to be bound by its terms. The person signing this Contract on behalf of Agency further warrants that he/she is an agent of Agency and is duly authorized to enter into this Agency on its behalf.

1.2 Initial Contract Term

The initial Contract Term is five years.

1.3 Option to Extend

The Lottery may unilaterally extend the Contract Term under the same terms and conditions, including pricing, for up to two, one-year periods (the "Option Period").

1.4 Emergency Extended Service

In the event of an urgent and compelling need, Agency agrees to provide up to nine months of additional emergency extended services at the Lottery's request, under the same terms and conditions, including pricing, upon expiration of the Contract term and any extensions.

1.5 Transitional Service for Agency Change

The Lottery may require continuation of the Contract under the same terms and conditions, upon 30 days' notice, for multiple 90-day periods to facilitate transition to a new agency. Agency agrees to maintain the service in a state of readiness for any such periods after the completion of the Contract.

1.6 Full Force and Effect

This Contract is of no force or effect until it is signed by all parties and all approvals are secured ("execution"). Agency operates at its own risk if it commences performance before execution. Each party's signature hereon constitutes a representation that all necessary approvals have been obtained by that party.

1.7 Amendment

No alteration or variation of the terms of this Contract will be valid or binding unless memorialized pursuant to a written formal amendment to this Contract, and no oral understanding or agreement not incorporated into the Contract is binding on the parties.

1.8 Agency Consideration

As consideration for the compensation provided to Agency under this Contract, Agency agrees to perform all services and to fulfill all responsibilities as duly authorized by the Lottery and as detailed in Exhibit A, Scope of Services.

2.0 RELATIONSHIP AND AUTHORITY

2.1 Governing Law

This Contract is governed by and will be interpreted in accordance with California law. Agency acknowledges that the Commission has the sole authority to exercise all powers necessary to effectuate the Lottery's purpose, and that the Commission retains all such authority under the Contract, but only to the extent that such audits and oversight, in the auditor's opinion, do not violate applicable professional standards or undermine the integrity of the audit. Agency understands and agrees that its performance is subject to Lottery audit and oversight. Subject to these limitations, Agency has the power, authority, and discretion to act as may be necessary or desirable to properly, efficiently, fully, and completely perform the Contract.

2.2 Jurisdiction and Venue

The proposal process, the award procedure, and any contract resulting from the solicitation will be governed by and interpreted in accordance with this section. By signing the Contract, Agency acknowledges and specifically agrees that the jurisdiction for any action hereunder will be the Superior Court, State of California, and the venue for any action hereunder will be Sacramento County. As consideration for entering into the Contract, Agency waives access to any other court that may have concurrent jurisdiction inside or outside of California and also agrees to exhaust all contractual and administrative remedies before instituting litigation relating to the Contract.

3.0 THE PARTIES' OBLIGATIONS

3.1 Contract Managers

The Lottery and Agency Contract Managers are responsible for ensuring compliance with the terms and conditions of the Contract and, unless otherwise specified in the Contract, will have the authority to act for and bind their respective party in connection with the Contract. Any change in Agency's Contract Manager shall be subject to Lottery approval.

3.2 Key Personnel

A. The personnel specifically identified in Agency's Staff Plan and Compensation Proposal Worksheet (Plan) are considered essential to the work being performed under the Contract. Before removing, replacing, or diverting any of the listed or specified personnel, Agency shall: (1) notify the Lottery's Contract Manager in writing; and (2) submit justification (including proposed substitutions) in sufficient detail to permit evaluation of the impact on the Contract.

- B. Except for changes as a result of the departure of personnel from the Agency, the Agency may not remove, replace, or divert personnel listed in Agency's Plan without the Lottery Contract Manager's consent.

3.3 Prior Lottery Approval

The Lottery has no liability for payment for any work that Agency commences without prior approval from the Lottery's Contract Manager.

3.4 Business and Professional Licenses

Agency must be licensed to do business in California and must obtain, at Agency's expense, all licenses and permits required by law for accomplishing any work required in connection with this Contract. Agency must, upon request, provide the Lottery with copies of all required licenses/permits. In the event any licenses or permits expire at any time during the term of this Contract, Agency agrees to renew and provide the Lottery, upon request, with copies of the renewed licenses or permits.

3.5 Office in California

Agency must maintain an office in California for the entirety of the Contract term.

3.6 Confidentiality

- A. Agency must keep confidential all information and materials related to the Contract and/or obtained through the course of work and must not disclose any such information or materials to third parties unless such disclosure is approved in writing by the Lottery, specifically required by court subpoena or order, or applicable professional standards, or otherwise specifically permitted by the Contract.
- B. The California Public Records Act requires public disclosure, upon request, of documents that pertain to state business. Exceptions to this requirement are limited. The Lottery may, in its discretion, withhold Agency material specifically and conspicuously identified by Agency as confidential if Agency has provided sufficient legal justification for doing so. The Lottery is under no obligation to inform Agency that a request for information has been made or that documents are being released. However, the Lottery may, in its discretion, allow Agency the opportunity to provide the Lottery with further legal justification for withholding specific information. Unless it receives a court order to the contrary, the Lottery retains the right to determine whether an exemption to the Public Records Act applies to Agency information being sought. Under no circumstance will the Lottery be liable to Agency or to any other person or entity for disclosing any Agency material, regardless of its designation by Agency as trade secret or confidential information.

3.7 News Releases

Agency must not issue news releases or make any statement to the media pertaining to this Contract without the prior written approval of the Lottery, and then only in cooperation with the Lottery.

3.8 Fiduciary Duty

Unless otherwise expressly agreed in writing, Agency will always act as a fiduciary and in the best interest of the Lottery.

3.9 Rebates and Incentives

A. Full Disclosure

Agency and Holding Company Members (defined as any company created to buy, possess, and control shares of other companies, and all of its affiliates, as well as any person who has a financial interest or investment in any of the foregoing) must be transparent and fully disclose to the Lottery the flow of the Lottery's funds entrusted to Agency, and any rebates and incentives (defined as any and all third party payments including cash rebates or other incentives) received by Agency and Holding Company Members; Agency volume discounts or compensation from media buys; discounted or unpaid media space or inventory; volume, early payment or other discounts; commissions; compensation; refunds or bonuses; bonus inventory, free or discounted media, sponsorship or promotional space; consulting or research agreements; service level agreements or any other source of financial or other benefit receivable directly or indirectly by Agency and Holding Company Members from third parties that are either directly or indirectly related to: the Lottery's media placements (which means all advertising, sponsorship or promotional media purchased by Agency, either directly or indirectly from third parties or Holding Company Members, in connection with the provision of services under this Contract; payments for media placements may take any form, including cash, credits, or the transfer of funds by digital means).

B. No Direct or Indirect Benefits

Agency and Holding Company Members must at no time, without disclosure to and written approval by the Lottery, receive or retain any rebates, incentives, or other benefits of any value from third parties, as a direct or indirect result of the Lottery's spending under this Contract.

C. Reporting

Agency must provide to the Lottery, upon request, throughout the Contract Term and any extension thereof a full and accurate report of:

1. Each rate card and terms of payment offered to Agency or Holding Company Members between the Agency or Holding Company Members (before any rebates and/or incentives have been applied) and any third party for any media placements made by Agency or Holding Company Members on behalf of the Lottery;

2. The gross amounts of rebates and/or incentives Agency or any Holding Company Member directly or indirectly receives or is entitled to receive in sufficient detail to permit an accurate assessment by the Lottery of the rebates and incentives due to the Lottery;
3. Any actions by the Lottery, Agency, or Holding Company Members that are required in order for the rebates and/or incentives to accrue; and
4. Any early payment discounts received by or eligible to be received by Agency or Holding Company Members from a third party. The Lottery is entitled to receive any early payment discounts received by Agency or Holding Company Members on account of the Lottery's media placements, unless the Lottery expressly chooses not to receive such discounts or Agency notifies the Lottery with reasonable advanced notice of the deadline to qualify for such early payment discounts and the Lottery fails to pay Agency for such media placement within the qualification period to receive such discounts.

D. Return of Rebates and Incentives to the Lottery

After the Lottery determines that rebates and/or incentives are to be refunded to the Lottery, the Lottery will notify the Agency of the amount that must be refunded to the Lottery (assessment). The Lottery will send the assessment notice to the Agency by certified mail, return receipt requested, or by any other method that provides evidence of receipt. At the Lottery's discretion, the assessment notice may direct payment of the assessment by the Agency. If payment is so directed, the Agency must pay the assessment within 30 days from receipt of the assessment notice.

Any assessments may also be collected, at the Lottery's discretion, by withholding the funds from any payment(s) due the Agency after the date the assessment is determined.

E. Available Discounted Media Placements

Agency must keep the Lottery fully informed of any relevant media placements available to the Lottery on account of Agency's dealings with third parties, together with any dates by which such discounted media space must be used by the Lottery in order to take advantage of the discount.

4.0 GENERAL WARRANTIES AND REPRESENTATIONS

Agency warrants and represents the following:

A. Authority

Agency is authorized and prepared to enter into and fully perform the terms and conditions of the Contract. Agency has secured, or will have secured, at its own expense, and will maintain throughout the Contract term, all necessary rights, clearances, permits, governmental approvals, and licenses with respect to all

material and elements embodied in, or used in connection with, the performance of the Contract;

B. Compliance with Law

Agency will comply with all federal, state, and local laws, ordinances, rules, and regulations applicable to its activities and obligations under the Contract;

C. No Infringement

The goods and services provided do not and will not, to the best of Agency's knowledge, infringe any copyright, trademark, or other third-party owned intellectual property;

D. Performance Standards

All services that Agency provides under the Contract will be performed in a prompt, competent manner by properly-trained individuals in accordance with applicable professional standards of Agency's industry.

E. Minimum Staffing Levels

Agency will maintain the minimum staffing levels set forth in its Plan.

5.0 FISCAL PROVISIONS

5.1 Reduction of Funds

The obligations of the parties under this Contract are subject to the availability of funds appropriated by the Commission.

5.2 Payment

A. Out-of-Pocket Costs

For performing day-to-day media and production services, the Agency will be paid for its actual out-of-pocket costs (no mark-up) in accordance with Exhibit C, Cost Audit Guidelines.

B. Annual Agency Fee

The Lottery will pay compensation to Agency in the form of an all-inclusive, labor-based annual Agency fee arrangement (Annual Fee). The Annual Fee will be determined in advance for the initial period of the Contract from the Contract effective date through June 30, 2020 (Initial Period) and each Lottery fiscal year (July 1 – June 30) (fiscal year) thereafter (or such other period as mutually agreed) during the Term, based on agreed-upon deliverables set forth in the Key Marketing Initiative Deliverables Worksheet. The Annual Fee for the Initial Period will be set forth in the Plan, the parties' agreed-upon plan for such period, attached hereto as

Attachment 1, and for subsequent periods, as set forth in the applicable revised Plan, revised by mutual agreement of the parties in accordance with Section 5.5 or 5.6 below, using the following method of calculation:

Grand Total of Estimated Direct Labor Cost + Overhead Mark-Up = Total Cost

Total Cost + Profit Mark-Up = Annual Agency Fee

With respect to any additional yearly deliverables not contemplated in Attachment 2, further compensation will be negotiated and agreed to by the parties, as necessary. Any agreement for additional yearly deliverables will be acknowledged in a writing signed by the parties. Such writing will identify each additional yearly deliverable and the amount of compensation to be paid.

C. Blended Hourly Rate

The blended hourly rate is the Annual Fee (including overhead mark-up and profit mark-up) divided by the total hours set forth in the Plan.

D. Annual Fee Payment

The agreed-upon Annual Fee and compensation for any additional yearly deliverables will be paid in arrears in 12 monthly installments and prorated for partial service months.

E. Specialized Programs

At the Contract Manager's discretion, Agency may be required to provide as-needed services in support of specialized programs that are within the Contract's scope of services but are not addressed in the current Plan. Compensation for specialized program services will be in addition to the Annual Fee and will be paid using an agreed-upon billing rate for each proposed specialized program service. With prior approval by the Contract Manager or designee, a portion of a project may be "pre-billed." Documentation shall verify that no more than 50% of the specialized service estimate with "pre-bill" backup, shall be billed prior to service. Documentation shall verify that the remaining amount of the estimate was invoiced after service was completed and shall include backup for the entire specialized program. All specialized program services will require submission of an estimate prior to the start of any work and must be approved in writing by the Lottery Contract Manager or designee.

5.3 Full Compensation

The compensation to be paid to Agency, except as otherwise provided herein, is in consideration for all of Agency's services and administrative expenses, including all taxes.

5.4 Invoicing

The Agency shall submit invoices for each installment of the Fee in triplicate on or about the 15th day of the month noting the Contract number and listing the services rendered. The Agency shall submit invoices for the expenses incurred by the Agency on the Lottery's behalf (including, but not limited to, production) in triplicate in arrears on or about the first and 15th of the month noting the PO number and listing the services rendered, goods provided, and reimbursement claimed. The Lottery Contract Manager will review each invoice for completeness and accuracy. Unless disputed, payment will be made as approved by the Lottery Contract Manager within 45 days of receipt of the invoice. Contractor shall comply with Exhibit C, Cost Audit Guidelines. Invoices shall be submitted to:

California State Lottery
Accounting Operations
700 North 10th Street
MS: 4-3
Sacramento, CA 95811

Documents necessary to support and substantiate each invoice shall accompany the invoice. Production invoices shall be submitted within 60 days from date service was provided. Media invoices shall be submitted within 60 days of the completion of the flight. After all invoices have been submitted for both production and media, the Agency shall provide a closeout report detailing billing history and actual dollars spent per job. If no final invoice is received within 180 calendar days after the termination of the Contract or expiration of the Contract by its own terms, the Agency waives the right to receive any further payments under this Contract.

5.5 As-Needed Changes

On an as-needed basis, upon request of either party, or if there are changes to the deliverables, the parties shall in good faith discuss revisions to the Plan. The then-current fiscal year Plan shall remain in full force and effect until such time as a revised Plan is agreed upon by the parties in writing.

5.6 Staff Plan and Compensation Proposal Worksheet Update

The scope and rates of the Annual Fee set forth in the then-current, agreed upon Plan shall apply to Contractor's Fee until an updated Plan is agreed upon in writing between the parties (and, notwithstanding Section 1.7, provided that the revised Plan does not cause an increase in the maximum Contract amount listed on page 1 of the Contract, the revised Plan and revisions to the Key Marketing Initiative Deliverables Worksheet may be approved in writing by the Lottery Contract Manager or his/her designee). Prior to the end of each fiscal year during the term of this Contract, the parties agree to discuss, in good faith, and agree to in writing, revisions to the Plan for the next fiscal year, including the Annual Fee, based on the Lottery's Key Marketing Initiative Deliverables Worksheet for the same period. However, in no event may the aggregate direct labor cost used to derive the Annual Fee increase by more than 5 percent per year, nor may the percentage of overhead mark-up or percentage profit mark-up increase from the initial Plan.

When agreed upon by the parties and formalized in writing, a Plan and Key Marketing Initiative Deliverables Worksheet will be added to the Contract as Attachments 1 and 2 for each successive fiscal year. For each fiscal year, the Plan then in effect shall remain in full force and effect until such time as a revised Plan is agreed upon by the parties in writing.

5.7 Notice of Monies Due

The Lottery will notify Agency in writing when and if any monies are due the Lottery. Any monies Agency owes the Lottery must be paid to the Lottery within 30 days after the postmark of the notice of the amount due or the amount due will be deducted from compensation otherwise due Agency by the Lottery.

5.8 Tie-In Promotion

The parties agree that it is in the Lottery's best interest to pay the lowest price for media. To that end, if the Lottery directly negotiates a tie-in promotion with a third party, depending on that party's contractual obligations with its own advertising Agency and that Agency's cost, and if Agency's cost is the lowest, the Lottery may recommend to the tie-in partner that Agency buy the media. The Lottery has final approval of media buys.

5.9 Tax Reporting

Agency is notified that Internal Revenue Code section 6041 and California Revenue and Taxation Code section 18646 require the Lottery to report certain payments. No claims for payment will be processed by the Lottery without the necessary information specified therein. Agency agrees to abide by these reporting requirements and to provide that information to the Lottery.

5.10 Withholds

- A. The Lottery has the right to withhold or delay payments to Agency, in whole or in part, if Agency fails to perform its material obligations under the Contract.
- B. Should Agency cure the performance failure giving rise to the withheld or delayed payment, the Lottery will review the matter with Agency and determine, within its sole discretion, whether the Lottery will continue to withhold payment or otherwise offset money due Agency.

6.0 LOSS PREVENTION

- A. Agency must acquire and maintain insurance policies, bonds, and securities (Coverage) and indemnify the Lottery as set forth herein. The required Coverage must remain in force throughout the term of the Contract and any extensions thereto, and copies certificates of insurance, must be provided to the Lottery upon request. Proof of Coverage, including certificates of insurance for each required policy, must be provided to the Lottery within ten calendar days after execution of the Contract. In addition, proof of Coverage for renewals must be forwarded to the Lottery within ten calendar days of Coverage expiration. Each insurance policy

must be issued by a company that is rated A-minus or better by the AM Best Company or meet the approval of the Lottery. If Agency's Coverage provider cancels any required policy or other Coverage, Agency must immediately notify the Lottery and obtain replacement Coverage. Failure to provide and maintain any required Coverage may result in termination of the Contract.

- B. Agency may not perform services or incur expenses until proof of Coverage, including certificates of insurance for the required policies, are received by the Lottery.
- C. Agency may request adjustment to Coverage requirements by submitting a request in writing to the Lottery Contract Manager. Agency may not adjust Coverage amounts or insurance liability limits below the amounts listed in this Contract without prior written approval by the Lottery.

6.1 Workers' Compensation

Agency must maintain Workers' Compensation insurance for all of its employees who will be engaged in the performance of the Contract pursuant to the requirements of the California Labor Code.

6.2 Insurance

A. Commercial General Liability

Agency shall maintain Commercial General Liability insurance with limits of at least \$2,000,000 for any one person and \$4,000,000 for any one occurrence for death or bodily injury, and \$2,000,000 for any one occurrence for property damage. The policy shall include, but not be limited to, coverage for liabilities for premises, operations, products, advertising injury, and subcontractor operations. The policy must include the Lottery, Commission members, and Lottery officers and employees as additional insured, insofar as operations under the Contract are concerned.

B. Professional Liability/Errors & Omissions

The Agency will maintain professional liability or errors & omissions Insurance covering any damages caused in connection with this Contract by the Agency's error, omission, or negligent act. Limits of not less than \$1,000,000 must be provided.

6.3 Indemnification

- A. Agency shall indemnify and hold harmless, at Agency's expense, the State of California, the California State Lottery, the California State Lottery Commission, and all California State Lottery officers and employees and their respective successors, heirs, representatives, administrators and assigns, from and against any and all responsibilities, suits, judgments, awards, costs, damages, claims, demands, actions, losses, settlements, costs and expenses (including attorneys'

fees and expenses), expenses or liabilities of every nature, threatened or brought against, sustained or incurred by any of them, whether joint, several, or individual (hereafter referred to as "claims") resulting or arising from or in any way connected with (1) any act or omission of Agency or any of its officers, employees, subcontractors, or agents, negligent, unauthorized, intentional, or otherwise; (2) any infringing use of third-party intellectual property; (3) the inaccuracy or breach of any covenants, representations and warranties made by Agency as they occur; and (4) the breach of a term or condition of the Contract by Agency. The provisions of this Section shall survive the termination or expiration of the Contract.

- B. Agency shall provide the Lottery's Contract Manager with immediate written notice of any action or suit threatened or filed against Agency that is related in any way to the Contract.
- C. The indemnities set forth herein are in addition to, and not in lieu of, any other indemnities provided hereunder or by law.
- D. If the use of any element of advertising or other creative works developed, provided, used, or prepared by Agency is enjoined as a result of any such action or proceeding, Agency shall, at its own expense and at the Lottery's option:
 - 1. Procure for the Lottery the right to continue to use said element;
 - 2. Replace said element with a comparable element which is non-infringing or is not a trade secret;
 - 3. Modify said element so it becomes non-infringing or no longer is such a trade secret; or
 - 4. Remove said element and pay to the Lottery any damages incurred by the Lottery as a result of the infringement.

6.4 Clearances, Releases, Waivers, Contracts and Licenses

Agency is solely responsible for securing, during the preparation of advertising materials and prior to the execution, printing, and/or airing of any advertising materials, any necessary searches, rights, clearances, releases, waivers, contracts and/or licenses with respect to any and all elements used in the materials, including but not limited to third-party intellectual property, names, likenesses, testimonials, scripts, musical compositions, creative and/or similar materials, elements, or rights embodied or to be embodied in materials developed, provided, used, or prepared by Agency under this Contract. Agency is solely responsible for obtaining trademark, trade name, service mark, house mark, copyright, slogan, and/or logo (collectively referred as "mark") searches on marks which are to be used as an element in a campaign theme, slogan, logo, or other advertising or promotional purpose by the Lottery. These responsibilities continue throughout the Contract term and any extension. Agency shall provide the Lottery with a written assessment of all searches. The Lottery shall advise Agency of its decision on whether or not to use the mark. Agency shall deliver to the Lottery, immediately upon request,

written documentation (a) evidencing Agency's exclusive ownership rights or (b) its licensed rights as set forth above.

6.5 Media Liability

Agency must include a clause in its media purchase contracts providing that Agency, not the Lottery, will be solely responsible for payment of all media invoices.

6.6 Nonexclusive Rights

Agency understands and agrees that the Lottery does not grant Agency exclusive rights to provide to the Lottery those services listed in Exhibit A, Scope of Services, during the period covered by this Contract or any extension thereto. The Lottery reserves the right, during the Contract term, to acquire these services through another Agency. The Lottery's good faith exercise of this right will not constitute a breach of the Contract.

7.0 CONTRACT OVERSIGHT

7.1 Background Investigations and Approval of Agency Staffing

The Lottery may investigate Agency, its officers, directors, principals, investors, owners, employees, or other associates, and/or the officers, directors, principals, investors, owners, employees, and other associates of Agency's parent entity, subsidiaries, and/or subcontractors at any time during the life of the Contract, at the discretion of the Deputy Director, Security Law Enforcement Division. The Lottery may reject a bid or terminate the Contract based on the results of these investigations as provided by California law and the Lottery Act.

Furthermore, Agency understands and agrees that, in furtherance of the Lottery's full disclosure requirements, any person associated with the performance of the Contract may be fingerprinted and may be required to complete a Personal History Statement and an Authorization to Release Personal Background Information form.

The Lottery reserves the right to disapprove any Agency and/or subcontractor personnel assigned to the Lottery Contract. Any personnel deemed unacceptable to the Lottery shall immediately be removed from the Lottery's account. All subcontracts shall include a provision implementing this right.

Agency and/or subcontractor personnel shall not be assigned to the Lottery account if they have ever been convicted of a felony, gambling-related offense, or a crime involving dishonesty, fraud, or moral turpitude or the underlying facts of the crime involve dishonesty, fraud, moral turpitude, or a felony DUI (driving under the influence), or any crime for which employment of such personnel may reasonably impugn Agency's business or reputation. This Contract may be subject to termination if Agency knowingly assigns to or fails to remove from the Lottery account, personnel with criminal convictions as described above.

Agency may be required to reimburse the Lottery for necessary and reasonable costs incurred by the Lottery in conducting background investigations pursuant to the terms and

conditions of the Contract, including travel, lodging, per diem, document procurement, site inspections, fingerprinting, and any other necessary and reasonable expenses.

7.2 Agency Evaluation

The Parties' Contract Managers may meet as often as necessary to review and evaluate progress and performance. Review and evaluation criteria will be established by the Lottery Contract Manager and may include problem areas, future performance under the Contract, and any other subject relating to completion of tasks under this Contract.

7.3 Project Monitoring

The Lottery will have access to all internal and external reports and documents used by Agency in the performance and administration of this Contract.

7.4 Disabled Veteran Business Enterprise/Small Business Participation Monitoring

Where applicable, the Lottery will monitor Agency's disabled veteran business enterprise and small business participation. Documentation may be requested from Agency at any time.

7.5 Access to Financial and Accounting Records

Agency and its subcontractors for this Contract are required to maintain financial and accounting records and other documents and evidence, including but not limited to electronic versions, hereinafter "documents," pertaining to the fulfillment of the Contract obligations, in accordance with generally accepted accounting principles and other procedures that may be specified by the Lottery, for four years from the date of final payment under the Contract. Agency shall make these documents available to the Lottery upon request. All duly authorized representatives of the Lottery may examine, audit, and copy all the information described in this section.

7.6 Audit Provisions

The Lottery reserves the right to audit Agency records, procedures, and operations as they relate to the Lottery. Audits may include both announced and unannounced inspections and on-site audits. Audits may include the place(s) where duties under the Contract are being performed. The Lottery's auditors, the State Controller's Office, or an independent firm specified by the Lottery may conduct the audits.

Agency shall ensure that the subcontractors providing services under the Contract, if any, fully comply with the inspections and on-site audits referenced in this subsection.

7.7 Dispute Resolution

A. If a dispute arises out of the Contract that remains unresolved after good faith negotiations between the Lottery and Agency, the parties will submit the dispute to binding arbitration, unless the parties mutually agree to another form of alternative

dispute resolution. Notwithstanding any dispute, Agency will proceed diligently with performance of the Contract.

- B. Arbitration will be conducted under the Commercial Arbitration Rules of the American Arbitration Association. The parties to the arbitration will share equally in the costs of arbitration. Each party will be responsible for its own attorney's fees and costs. The arbitration must be held in Sacramento County before an arbitrator who is acceptable to both parties. In the event that the parties cannot agree on an arbitrator, one will be appointed after either party petitions the court pursuant to California law. The arbitrator's decision will be final and binding and will be provided in the proper form to be entered as a judgment in a court of competent jurisdiction in Sacramento County.
- C. In the event that the parties agree on another form of alternative dispute resolution to address a particular dispute, this section will not be construed to limit the parties' ability to utilize such a process. Any alternative dispute resolution process that is mutually agreed upon by the parties will be considered final and binding on both parties, and no further process will be permitted.

7.8 Notice of Delay

Whenever Agency has knowledge that any actual or potential situation, including but not limited to labor disputes, will delay or threatens to delay timely performance of the work under this Contract, Agency shall immediately provide the Lottery Contract Manager written notice including any relevant information.

8.0 EXPIRATION OR TERMINATION OF CONTRACT

8.1 Expiration of the Contract

Absent early termination of the Contract as provided in this subsection, the Contract will expire at the end of its term and any applicable extension(s).

8.2 Termination for Default

- A. The Lottery may, by written notice of default to Agency, terminate the Contract in whole or in part if:
 - 1. Agency fails to perform any material provision of this Contract;
 - 2. Agency fails to deliver goods, materials, products, deliverables, services and advertising, or other items within the Scope of Work, within the time specified by the Lottery;
 - 3. Agency breaches the Contract's standard of confidentiality;
 - 4. Agency fails to sustain a level of economic viability in its overall operations such that the Lottery can reasonably be assured of its ability to continue to

comply with all operational requirements of this Contract, including those provisions relating to loss prevention;

5. A court of competent jurisdiction finds that Agency or any of its principals or assigned personnel has failed to adhere to any law, ordinance, rule, regulation, or order that may reasonably impugn Agency's business in such a way as to call into question the security, integrity, or competence of Agency or the Lottery;
 6. Agency files a case under the Federal Bankruptcy Code or is seeking relief under any provision of any bankruptcy, reorganization, arrangement, insolvency, readjustment of debt, dissolution, receivership, or liquidation law of any jurisdiction, whether now or hereafter in effect, or consents to the filing of any case or petition against it under any such law; or
 7. Agency has knowingly, or acting with a reckless disregard of the truth, furnished any material statement, representation, warranty, or certification to the Lottery which is false, deceptive, or incomplete.
- B. In the event of termination for breach under this subsection, the Lottery may obtain a replacement Agency on an emergency or interim basis to provide the services and/or goods which Agency agreed to provide under this Contract. The Lottery will collect from Agency the difference between the compensation stated in this Contract and the actual cost to the Lottery of obtaining and utilizing an interim replacement Agency. The Lottery will also collect actual costs, including administrative expenses and re-procurement costs, incurred to process and procure a permanent replacement Agency. The Lottery will collect sums it is due by offsetting the amount from any payments due to Agency or by any other means.
- C. If the Lottery terminates the Contract for default, the Lottery requires Agency to transfer title and deliver to the Lottery any and all: (1) completed or partially-completed goods, materials, products, deliverables, services, and advertising; and (2) license rights to any intellectual property that Agency has produced or acquired for the Contract, in addition to any other property in Agency's control in which the Lottery has an ownership interest. Agency shall protect and preserve all Lottery property in its possession.
- D. The rights and remedies of the Lottery in this subsection are in addition to any other rights and remedies provided by law or under the Contract.

8.3 Termination Based on Determination of Illegality

The Lottery may terminate, in whole or in part, and reduce Agency's future compensation (on a pro-rata basis, based on the reduction in services to be provided by the Agency) under the Contract immediately upon its determination that an activity or operation supported by the Contract is no longer lawful for reasons including, but not limited to, court decision, legislative action, administrative decision, or advice of counsel. Upon receipt of notice of termination or reduction based on a finding of illegality, Agency shall immediately cease performance of such activity or operation and mitigate its damages.

8.4 Termination for Convenience

The Lottery retains the option to immediately terminate the contract for the Lottery's convenience upon 30 days' written notice. Upon receipt of Notice of Termination, Agency shall cease performance and mitigate damages. Agency will be entitled to compensation upon submission of invoices and proper proof of claim for that portion of the services that were satisfactorily rendered or provided before the effective date of termination. For purposes of clarity, the Agency shall be entitled to its monthly fees through the termination date; if termination falls on a date other than the last day of the month, the final monthly fee will be pro-rated. The Lottery may, in its sole discretion, compensate Agency for expenses incurred as a result of binding commitments made in connection with Agency's performance of the contract. Agency shall submit proof of such expenses incurred to the Lottery's satisfaction. In the event of termination for convenience, Agency shall furnish copies of all materials related to performance hereunder at the time of termination.

9.0 MISCELLANEOUS PROVISIONS

9.1 Force Majeure

Neither Agency nor the Lottery will be liable for any delay in, or performance failure under the Contract due to a Force Majeure occurrence, provided that Agency uses reasonably-diligent efforts to avoid or otherwise minimize the impact of an event of Force Majeure on Agency's performance. Any such delay in or performance failure will not constitute default or give rise to any liability for damages. The existence of a delay or failure will extend the period for performance to the extent determined by the Lottery's Contract Manager.

For purposes of this Contract, "Force Majeure" means an act of God or public enemy, earthquake, fire, flood, explosion, epidemic, quarantine restriction, strike, freight embargo or closure of all major access roads to geographic area, action of the elements, governmental interference, rationing, or any other cause which is beyond the control of the party affected, and which, by the exercise of reasonable diligence, a party is unable to control.

9.2 Waiver of Provisions

No term or provision of this Contract will be deemed waived and no breach excused unless such waiver or consent to the breach is in writing and signed by the signatory to this Contract, or his or her successor, on behalf of the party against whom such waiver or consent is sought to be enforced. No consent by either party to a waiver or a breach by the other, whether express or implied, constitutes consent to, waiver of, or excuse for any other breach or subsequent breach except as expressly provided in the written waiver or consent.

9.3 Contract Documents

The Contract consists of three documents. If there are inconsistencies or ambiguities in the Contract, the following documents shall be used to interpret the Contract together in the following order of precedence in interpretation:

- A. Contract Terms and Conditions and all attachments thereto, as amended from time to time.
- B. The Lottery's Request for Proposal (RFP) #50079, dated January 28, 2019, and any amendments thereto.
- C. Agency's response to RFP #50079 and any clarifications/amendments submitted in response to requests by the Lottery.

Each party acknowledges that it has read this Contract, understands it, and agrees to be bound by its terms.

9.4 Notices in General

Any notice, request, demand, consent, waiver, or other item required or permitted under this Contract or applicable law shall be in writing and will be deemed duly given or made only: (a) if personally served upon the party intended to receive it, in which case it is effective when delivered; or (b) if sent by certified mail, return receipt requested, postage prepaid, addressed to the party at its address set forth below, in which case it is effective on receipt by any person residing at such address; or (c) is sent by FAX or email with a copy sent on the same date by first class mail, postage prepaid, addressed to the party at its address set forth below, in which case it is effective as of the date of mailing. A party may change its address for purposes of this Contract only by giving written notice to the other in the manner set forth herein.

LOTTERY

AGENCY

Name: California State Lottery
Address: 700 North 10th Street
Sacramento, CA 95811
Phone #:
FAX #:
Email:
Attention:

9.5 Invalidity in Whole or in Part/Severability

If any provision of this Contract is held illegal, invalid, or unenforceable under any applicable rule or law, such invalidity will not affect other provisions which can be given effect without the invalid provisions, and to this end, such provision(s) is declared to be severable.

9.6 Execution of Counterparts

The parties deem an executed copy of this Contract as having the same force and effect as the original document.

9.7 Sections and Subsection Headings

The section and subsection headings contained herein are for convenience in reference and are not intended to define the scope of any provision of the Contract.

9.8 Assignment

- A. Agency may not assign any performance of or payment for the Contract or any portion of the Contract without the prior written consent of the Lottery. Any attempt by Agency to make such assignment without the prior written consent of the Lottery will be void and will constitute a material breach of the Contract.
- B. Agency shall submit requests to assign the contract in writing, to the Lottery Contract Manager. Agency shall not take any action to complete assignment of the Contract without prior written approval from the Lottery.

9.9 Subcontracting

Agency may enter into subcontracts (subject to the requirements set forth in this section) pursuant to the Lottery's competitive bidding procedures as outlined in the Lottery regulations, which can be found at www.calottery.com. Agency must solicit and obtain proposals from at least three potential subcontractors if the subcontract involves an expenditure of more than \$100,000 to a single subcontractor. This requirement may be waived by the Lottery in writing.

Upon request, Agency must provide: (1) verification that each subcontractor agrees to be bound to Agency in the same manner and in all respects as Agency is bound to the Lottery; (2) a detailed description of the work to be subcontracted; and (3) a copy of each proposed, written subcontract. The Lottery Contract Manager may approve or disapprove a subcontractor at any time.

Nothing contained in any Agency subcontract may create any contractual relationship between the Lottery and subcontractors. Agency agrees to be as fully responsible to the Lottery for the acts and omissions of its subcontractors and persons either directly or indirectly employed by them as it is for the acts and omissions of persons directly employed by Agency.

Agency's obligation to pay its subcontractors is an independent obligation from the Lottery's obligation to make payment to Agency. As a result, the Lottery will have no obligation to pay or to secure payment for any Agency subcontractors.

9.10 Independent Agency

Agency will be an independent agent of the Lottery in the performance of the Contract. Agency will have the sole, absolute, and exclusive control of the manner and means of its performance under the terms of this Contract, except as expressly set forth herein.

9.11 Joint Proposals – Joint and Several Liability

Each participant in a joint proposal is jointly and severally liable for the performance of the entire Contract, and each participant shall designate, in writing, one individual having authority to represent Agency in all matters relating to the Contract. The Lottery assumes no responsibility or obligation for the division of orders, purchases, or payments among participants.

9.12 Travel and Expenses

Reimbursement for travel expenses is subject to pre-approval by the Lottery Contract Manager. If approved, travel and expenses (including air travel and car rental) will be reimbursed at the then-current California Department of Human Resources approved travel rates for excluded employees (available at www.calhr.ca.gov). (See also Exhibit C, Cost Audit Guidelines.) All travel reimbursements incurred by Agency will count against the maximum amount obligated under the Contract.

9.13 Standards of Conduct

Agency shall be responsible for maintaining satisfactory standards of employee competency, conduct, appearance, and integrity. Agency is responsible for ensuring that employees do not disturb papers on desks, open desk drawers or cabinets, or use Lottery telephones, except as authorized.

9.14 Audit Requirements for Media Purchases

The Lottery Internal Audits Office or its designee may, with reasonable notice, audit selected media purchase invoices and other related documents to confirm media purchase costs. Agency shall, upon request, provide copies of documentation to the Lottery Internal Audits Office or its designee.

Agency must obtain vendor billings logs or other documentation to verify spots aired or other media placements and maintain the documentation for four years after Contract expiration and, upon 15 days' notice, the Lottery's Internal Audits Office or designee may require access to the logs and/or video verification to verify spots or other media placements billed.

9.15 Internal Control Audit

Agency shall, upon approval of the Lottery Contract Manager, retain an independent certified accounting firm(s) to conduct an independent Internal Control Audit of Agency's control systems. The cost of the external certified accounting firm(s) shall be reimbursed by the Lottery, provided it results in the type of report specified by the Lottery's Contract Manager and covers the control examined objectives and the time period he or she sets forth. Audits required pursuant to this section shall occur no more frequently than once every two years.

9.16 Samples

Samples of items, work, goods, materials, products, deliverables, services, advertising, and similar products and efforts may be required by the Lottery for inspection and shall be furnished free of expense to the Lottery.

10.0 OWNERSHIP AND DEVELOPMENT

10.1 Lottery Intellectual Property

- A. Intellectual property owned by the Lottery, including, but not limited to, trademarks, logos, trade secrets, and copyrights, is hereinafter collectively referred to as "Lottery Property."
- B. Lottery Property is and shall remain at all times the sole and exclusive property of the Lottery.
- C. Unless approved by the Lottery Contract Manager in writing, Lottery Property may not be revised or altered by Agency in any way, and shall be displayed as provided and approved by the Lottery.
- D. Lottery Property shall be used by Agency in a professional manner and solely in connection with the activities authorized under the Contract. Agency shall not permit any third party to use Lottery Property without the express prior written approval of the Lottery. Lottery Property may not be used by Agency in any manner that: diminishes the value of, or otherwise dilutes the Lottery's trademarks; discredits the Lottery or tarnishes the Lottery's reputation or goodwill; is false, misleading or likely to cause confusion; is fake or deceptive; violates the rights of others; violates any federal, state, or local law, regulation, or other public policy; or mischaracterizes the relationship between the parties, including but not limited to the fact that the Lottery is a separate and distinct legal entity from Agency.
- E. The Lottery shall have the right, from time to time, to request complete samples of use of Lottery Property by Agency from which the Lottery may determine compliance with these terms and conditions.
- F. Use of Lottery Property by Agency shall create no rights for Agency in or to such Property or for its use beyond the terms and conditions of this Contract. All usage of Lottery Property by Agency shall terminate immediately upon the termination or expiration of this Contract. Agency's obligations to protect Lottery property shall survive the termination or expiration of this Contract.

10.2 Ownership of Work Product

- A. The Lottery shall own and retain all right, title and interest in and to all goods, materials, products, deliverables, services and advertising, including all tangible and intangible objects, things, and concepts, outcomes to be achieved, hardware, software, or design products, concepts, media, social networking, or documents and all other results and proceeds of the services hereunder, in all stages of

completion, including without limitation any and all graphics, designs, artwork, images, reports, documents, materials, techniques, ideas, concepts, logos, slogans, specifications, user interfaces, data, data templates, database structures and fields, outlines, drafts, derivatives, scripts, know-how, algorithms, software, computer code, routines or subroutines, specifications, plans, notes, drawings, designs, text, audiovisual works, inventions, data, information, and other items, expressions, works of authorship, or work product of any kind that are authored, produced, created, conceived, collected, developed, discovered, or made by Agency in connection with the services or which relate in any manner to the services or the deliverables or which result from any work performed by Agency for Lottery, including without limitation any and all copyrights, database rights, and other intellectual property rights therein (collectively the "Work Product"). To the maximum extent permitted by law, the Lottery shall be deemed to be the "author" of all copyrightable Work Product and all such Work Product will constitute "works made for hire" under the U.S. Copyright Act (17 U.S.C. §§ 101 et seq.) and any other applicable copyright law. Agency hereby waives any and all moral rights or equivalent rights under the laws of any applicable jurisdiction (including without limitation rights of integrity and attribution) in and to the Work Product. To the extent that any Work Product does not constitute a work made for hire, Agency hereby irrevocably transfers and assigns to Lottery all right, title, and interest in and to the Work Product, including without limitation all copyrights, patent rights and patents, trademarks, and other intellectual property and proprietary rights therein throughout the world.

B. Agency acknowledges and agrees that without limiting any section herein, the rights vested in and transferred to Lottery in and to the Work Product include without limitation the following:

1. Copyright. The Lottery shall be the sole owner of the undivided interest in all copyrights and all similar or equivalent rights throughout the world in the Work Product, whether vested, contingent, or future, including without limitation all economic rights and the exclusive rights to reproduce, fix, adapt, modify, translate, create derivative works from, manufacture, market, introduce in circulation, publish, make available, distribute, sell, license, sublicense, transfer, rent, lease, transmit or provide access electronically, broadcast, display, perform, enter into computer memory, and use the Work Product, all modified and derivative works thereof, and all portions and copies thereof in any form.
2. Moral Rights. Agency and all employees, persons, agents and subcontractors, and other entities who may have claims of moral rights (or similar or equivalent rights under the laws of any jurisdiction) in any part of the Work Product, have agreed or Agency will obtain their agreement that (a) they shall have no objection to publication, use, and exploitation of the Work Product as contemplated by this Contract; (b) they shall remain anonymous authors without attribution or credit, acknowledging that the Lottery or its designees may be designated as author; (c) the Lottery or its successors, assigns, or licensees may make future modifications and adaptations to the Work Product, and may make disclosure and disposal of

the Work Product, and any modifications thereof, in the manner that the Lottery or its successors, assigns, or licensees see fit, without any right of approval, withdrawal, or public renunciation by such persons; and (d) their remuneration for the Work Product is complete, adequate, and reasonable. For any and all such rights in the nature of moral rights or otherwise that are not capable of vesting in or transfer to the Lottery under applicable law, Agency waives and agrees never to assert such rights against the Lottery or its successors, assigns, or licensees, and to cause its employees and subcontractors to agree to the foregoing covenants.

3. Patent, Design, Trademark Rights. The Lottery shall be the sole owner of all rights in and to any inventions, designs, database rights, and marks conceived, created or developed in the course of creation of the Work Product, including without limitation, all utility and design patent rights and equivalent rights in and to such inventions and designs, and all trade and service mark rights, throughout the world.
4. Exclusive Worldwide License. In the event that by operation of law, notwithstanding the provisions of this Contract and/or Agency's execution of any further documents to effectuate the transfer of rights to the Lottery hereunder, Agency is deemed to have retained rights in any portion of the Work Product, Agency grants to the Lottery, its successors, assigns, and licensees, an exclusive, irrevocable, worldwide, fully-paid, royalty-free license to reproduce, fix, adapt, modify, translate, create derivative works from, manufacture, have manufactured, introduce into circulation, publish, distribute, make available, sell, license, sublicense, transfer, rent, lease, transmit or provide access electronically, broadcast, display, perform, enter into computer memory and use and otherwise exploit the Work Product, all modified and derivative works thereof, all portions and copies thereof in any form, and all inventions, designs and marks embodied therein, throughout the world in all media whether now known or hereafter devised.
5. Rights in Tangible Media. The Lottery shall be the sole owner of all tangible and intangible copies, documents, magnetic or optical media, or other materials, chattel, or personal property created by or for Agency in connection with this Contract. Upon written notice from the Lottery, Agency shall deliver to the Lottery all embodiments of the Work Product in electronic and tangible formats as specified by the Lottery, and/or destroy and certify destruction of all copies of the Work Product in Agency's possession or control. Agency shall maintain the Work Product and other materials of the Lottery in accordance with the Lottery's information security requirements and will certify in writing compliance with such requirements upon request.
6. Applications, Renewals, Further Assignments and Transfers. The rights vested in, assigned to, transferred, and/or licensed to the Lottery hereunder include without limitation: (a) the exclusive right to make and secure applications and registrations of copyright and other intellectual property rights; (b) the exclusive exercise of such intellectual property rights for the unlimited, entire period of such rights throughout the world; (c) the exclusive right to renewals, reversions, and extensions of such intellectual property

rights; (d) the exclusive right to authorize, transfer, license, sublicense, deal in, dispose of and assign others to own or exercise such rights, title, and interests; and (e) the exclusive right to initiate, pursue, prosecute, and settle past, present and future claims of infringements relating to such intellectual property rights. Without limitation, Agency acknowledges that all rights of every kind and nature whatsoever in the Work Product may be exploited, assigned, and licensed by the Lottery to such third parties as it sees fit, and the Work Product is expressly acknowledged to be specially ordered and commissioned by the Lottery.

10.3 Acknowledgments

Agency acknowledges and agrees that the Lottery is the exclusive holder of all copyright, trademark, patent, and other intellectual property and proprietary rights in the Work Product worldwide and that Agency has no right to and will not directly or indirectly reproduce, fix, adapt, modify, translate, create derivative works from, manufacture, market, introduce into circulation, publish, distribute, sell, license, sublicense, transfer, rent, lease, transmit or provide access electronically, broadcast, perform, display, enter into computer memory, or use or exploit the Work Product, or any portion or copy thereof in any form, or any such rights, or authorize or assign others to do so, or derive any other work from concepts, information, or elements of the Work Product, or permit any third party to do any of the foregoing, except as permitted by this Contract. In the event that the Lottery provides Agency with technology, software, resource files, tools, and other materials with which to prepare the Work Product, Agency will safeguard and use such materials only for the purpose of preparing the Work Product and return such materials and all copies thereof at any time upon request of the Lottery.

10.4 Further Assurances

At the Lottery's expense, but without payment of additional compensation, Agency shall execute all documents and take all actions necessary or reasonably requested by the Lottery to document, obtain, maintain, perfect or assign its rights to the Work Product. Agency shall also cause its employees, agents, and subcontractors to execute such documents and take such actions as described above. If Agency fails or refuses to execute any such instruments within 10 business days after the Lottery's request, Agency hereby appoints the Lottery as Agency's attorney-in-fact (this appointment to be irrevocable and a power coupled with an interest) to act on Agency's behalf and to execute such documents. Agency will not contest the validity of the Lottery's rights in the Work Product and will cause its employees, agents, and subcontractors to comply with the foregoing. All such Work Product will be deemed to be the confidential, proprietary, and trade secret information of the Lottery.

10.5 Third-Party Materials

Agency will not disclose to the Lottery or use in its work any trade secrets or confidential information of a third party which Agency is not lawfully entitled to disclose or use in such manner. Agency will not use any equipment, supplies, facilities, computer code, work product, inventions, materials, or intellectual property of any other party (the "Third-Party Materials") in any Work Product or in Agency's performance under this Contract unless:

(a) Agency has the full right and authority to do so without violating any rights of any third party; (b) Agency has obtained all necessary rights to enable Agency to perform its obligations under the Contract and grant the rights granted herein and to permit the Lottery to utilize the Third-Party Materials as contemplated under this Contract at no additional cost to the Lottery; (c) the Lottery's use of such Third-Party Materials will not restrict or impair in any manner its use, in perpetuity, of any deliverables or Work Product or subject the Lottery to any obligation or liability; and (d) such Third-Party Materials are specifically identified to the Lottery in writing in advance of any use and the Lottery has agreed in writing to such use.

10.6 Transfers and Consents

Agency shall secure in writing in form satisfactory to the Lottery all transfers of rights and other consents necessary for Agency to make the assignments, licenses and other transfers set forth in this section. Without limitation, Agency shall secure written agreements and consents from its employees and subcontractors that all works created pursuant to this Contract (including the Work Product) fall within the scope of their employment duties or engagement, as applicable, and that all economic rights in such works vest in Agency as the employer and are fully transferable, and Agency shall secure such written transfers of rights and all other required consents from all other persons or entities whose services were, are or will be rendered in connection with the Work Product. Upon request, Agency will provide the Lottery with copies of all such contractual documentation and shall include the Lottery as a third-party beneficiary of such agreements or cause such parties to execute a further acknowledgment and assignment for the benefit of the Lottery if requested.

11.0 CALIFORNIA LOTTERY INFORMATION SECURITY STANDARDS

11.1 Information Security

Information security is the protection of the integrity, availability and confidentiality of information and the resources used to enter, store, process, and communicate the information.

11.2 Agency Responsibilities

Information security must be ensured by the Agency as the Agency may have physical or electronic access to the Lottery's sensitive or confidential information, and this information may be contained in systems that directly support the Lottery's mission. This includes physical access to IT hardware and software, and the services associated with computer systems, networks, and telecommunications. This also includes access or exposure to printed materials and other paper records.

The Agency and all Agency personnel must not use or redistribute any Lottery information, except as specified in the Contract or upon written Lottery approval.

11.3 Information Security Breach

An information security breach is defined as the unauthorized acquisition of information or computerized data that compromises the security, integrity, confidentiality, privacy, or

availability of information associated with the Lottery Contract and maintained by the Agency.

The Agency must comply with the notification requirements of California Civil Code section 1798.82, et seq. in the event of an information security breach.

The Agency must disclose to the Lottery any breach of the security of any information system, data, or system containing personal information (PI) or personally identifiable information (PII), including a breach where the information system, data, or system information was or is reasonably believed to have been acquired by an unauthorized person. The Agency must notify the Lottery Contract Manager within two hours of any confirmed or suspected security incident or breach.

If the Agency maintains computerized data pursuant to the Scope of Services for the Contract and the Agency does not own this data, the Agency must also notify the owner or licensee of the information of any breach of the security of the data immediately following discovery, if the PI or PII was, or is reasonably believed to have been acquired by an unauthorized person.

The disclosure of the breach will be made in the most expedient time possible and without unreasonable delay, consistent with any measures necessary to determine the scope of the breach and restore the reasonable integrity of the data system.

Security Breach Contact Information:

Lottery Contract Manager

Name:

Email:

Phone:

11.4 Information Security Audit

The Agency must keep audit logs of any access or other activities associated with Lottery information. The Lottery has the right to audit the Agency's information security controls and associated plans and processes to verify compliance with the Contract.

EXHIBIT C – COST AUDIT GUIDELINES

This section supplements the requirements of Exhibit B, Draft Contract Terms and Conditions, section 5.4, Invoicing.

1. Estimate Requirements. The Lottery must have an approved and signed estimate on file prior to Agency beginning any work and for all invoices received. All estimates must include the following information either on the estimate, or on an attachment to the estimate. If the information is provided as an attachment, the attachment must be referenced on the estimate.
 - Estimate/Job Number
 - Product/Project Name
 - Job Description and/or Special Requirements
 - Estimated Deliverable Cost
 - Air Dates (if applicable)
2. Subcontracted Work. All estimates for subcontracted work must be submitted from the Agency, specifying Agency job number and product/project. The Agency is solely responsible for processing of all subcontractor estimates. Agency must retain and make available upon request documentation verifying cost breakdowns. All subcontractor documentation is subject to the same guidelines set for Agency invoicing.
3. Production. All production estimates of \$100,000 or more must be submitted with copies of competitive bids obtained and, if not using the lowest bid, a justification of why the lowest bid is not being used must be attached. Line item descriptions will reflect only those line items included in the job estimate. Line item documentation that includes line items not on original or revised estimate will not be reimbursed.

Documentation must verify that no more than 50 percent of a TV advertising production estimate with “pre-bill” backup will be billed prior to service. Documentation must verify that the remaining 50 percent was invoiced after service was performed and must include backup for the entire job.

“Pre-bill” refers to the TV advertising production subcontractor’s invoice which states the estimated cost for production and requires 50 percent advance payment. Agency is obligated to pay the 50 percent of the production estimate upon presentation of a pre-bill by the subcontractor. Agency shall retain the pre-bill as backup to its own invoice without commission for payment under this Exhibit.
4. Media. Agency must maintain documentation that supports invoices and which includes an industry standard summary report (i.e. Mediaocean or any similar report). Agency must submit such documentation to the Lottery upon request. Media invoices will only be paid upon completion of the broadcast months. All media credits must be submitted to the Lottery as soon as possible. Media invoices must be submitted within 60 days from the last day of the flight. After the final invoice is submitted, Agency must provide a closeout report, signed by both parties, detailing billing history and actual dollars spent.

Individuals designated by the Lottery must, with reasonable notice, have access to review verification documentation required by this Exhibit, as well as, selected Agency media purchase invoices and other related documents (e.g., station affidavits, video verification) to confirm media purchase costs. These reviews may take place at the Agency's office during regular business hours or may be conducted by submission of written materials to the Lottery.

5. Shipping/Freight Charges. Agency is expected to utilize lowest cost modes and carriers to safely transport their shipment. Shipping costs should be submitted on a separate invoice from all other production costs in order to expedite payment. Shipping/Freight charges included in production invoices may delay full payment of the invoice. All shipping/freight charges over \$25.00 must have supporting pre-paid freight bills available upon request.
6. Travel. **Agency must obtain prior approval from the Lottery**. Pre-approved travel and expenses (including air travel and car rental) will be reimbursed at the then-current California Department of Human Resources approved travel rates for excluded employees (available at www.calhr.ca.gov). All travel reimbursements incurred by the Agency will count against the maximum amount obligated under the Contract.
7. Miscellaneous Costs. Must be itemized with backup receipts.
8. Revised Estimates. A revised estimate reflecting all services or charges which may amount to more than 10 percent of the original estimate must be approved by the Lottery prior to additional performance and must be accompanied by a written justification stating why the increase in cost was necessary. The requirement for a written justification will apply to multiple revised estimates where each revised estimate is less than 10 percent of the original estimate, but the combined total exceeds 10 percent of the original estimate. Revised estimates should also include previous approved amounts and/or history of amounts. Total fiscal year expenditures cannot exceed the designated total fiscal year budget without prior approval from the Lottery Contract Manager or designee.

All mutually-agreed to changes relating to any of the following areas must be followed by a revised estimate reflecting the changes:

- Job Description and/or Special Requirements
- Estimated Deliverable Cost
- Air Dates (if applicable)
- Revision History

9. Revised Estimates for Specialized Programs. Costs for specialized programs may not exceed their original estimated cost in any amount without prior Lottery approval and prior submission of a revised estimate.
10. Closeout Report. All closed jobs must be followed by a closeout report signed by both parties' Contract Managers reflecting the invoices paid, product/project name, purchase order number and the actual closing amount. Once a closeout report is received and signed by both parties, no further billing can be submitted, with the exception of credits. Agency may not change Lottery-assigned estimate or invoice numbers after Lottery

approval without prior approval by the Lottery Contract Manager. All canceled jobs must be followed by a closeout report reflecting all canceled portions of the job and any expenses actually incurred prior to cancellation.

ATTACHMENT 1 – AGENCY FACT SHEET
(Page 1 of 3)

Agency: _____

Address: _____

A. Agency History, Ownership and Key Employees

1. Founding Date- When was your agency established?
2. Mergers and Acquisitions- List any subsequent mergers, acquisitions, or name changes.
3. Current Ownership- Who are the current owners of your agency?
4. Key Executives- Provide a short biography of no more than six of your office's key executives and describe their current roles.
5. Principals- Provide names and titles of principals and a short biography for each.
6. Parent Company/Affiliations- Provide a listing of all companies/agencies that are owned or affiliated with your company and/or parent company.

B. Current Clients, Account Gains and Losses

1. Current Clients- List all current clients—brands, products, and services—managed by your office. Rank them by size, indicate the services provided, the dates they were acquired, and, if possible, approximate budget ranges for each.
2. Account Gains-Please describe why your agency was chosen to service any accounts acquired within the past two years.
3. Account Losses- Please explain why any accounts lost within the past two years left or were resigned by the agency.

C. Current Size and Current Distribution

1. Current Size- Summarize the total revenue and billings for calendar years 2015, 2016, and 2017, number of employees, and number of accounts currently being handled directly by your office. Provide estimated/projected revenue and billings for calendar year 2018. Revenue and billings must be reflective of the submitting agency only. **If the agency wishes the Lottery to treat as confidential any financial information that qualifies as a trade secret (in general, information that meets the following criteria: 1) is not known or available to the public; 2) provides the company with an economic edge over its competitors; and 3) the company actively protects from disclosure through reasonable efforts to maintain its status as a "secret"), it must submit such information on a separate sheet of paper clearly marked "confidential".**

**ATTACHMENT 1 – AGENCY FACT SHEET
(Page 2 of 3)**

| Calendar Year | Total Revenue/Year | Total Billings/Year | Number of Employees | Number of Accounts |
|---------------|--------------------|---------------------|---------------------|--------------------|
| 2015 | | | | |
| 2016 | | | | |
| 2017 | | | | |
| 2018 | | | | |

D. Scope and Nature of Agency Services

1. Agency Services- List the various services offered by your agency, the number of full-time employees dedicated to each department and indicate how many are dedicated to Hispanic market services. Please include account management, strategic services, creative, media planning and buying, production, data analytics, and experiential marketing, as well as any unique in-culture Hispanic expertise.
2. Creative- list the types of services offered including Hispanic-dedicated advertising and marketing materials created (in-culture, in-language, transcreations, etc.). Please include information regarding any in-house production services and capabilities
3. Digital Services- In addition to any digital services listed above, please describe established strengths and capabilities in the digital realm (e.g. website development, ecommerce, CRM, etc.)
4. Other Specialized Services- List any other specialized services your agency offers to its clients, either directly or indirectly through its parent or sister companies, subsidiaries, or network of affiliations.
5. Media- Describe your capabilities and strengths in media (e.g. research, analytics, planning, buying, monitoring, overall stewardship of your clients' funds) highlighting HCM and California expertise.

Additionally, chart your agency's current spending by media— television, radio, outdoor, digital, social, etc. Provide rough figures and percentages using the grid below.

Agency

**ATTACHMENT 1 – AGENCY FACT SHEET
(Page 3 of 3)**

PERCENTAGE BREAKDOWN BY SERVICES:

| <u>Television</u> | | <u>Print</u> | | <u>Digital</u> | | <u>Other</u> | |
|-------------------|-----------|---------------|-----------|---------------------|-----------|--------------|-----------|
| Network | <u>X%</u> | Newspaper | <u>X%</u> | Display/Interactive | <u>X%</u> | Outdoor | <u>X%</u> |
| Spot | <u>X%</u> | Consumer Pubs | <u>X%</u> | Mobile | <u>X%</u> | Direct mail | <u>X%</u> |
| Syndication | <u>X%</u> | Trade Pubs | <u>X%</u> | Video | <u>X%</u> | Experiential | <u>X%</u> |
| Cable | <u>X%</u> | | | Social | <u>X%</u> | Audio | <u>X%</u> |
| | | | | Search | <u>X%</u> | | |
| | | | | Other | <u>X%</u> | | |

E. References

Client references- List four client references (name, title, company, address, telephone, email and fax number). Lottery representatives may speak with your references about your performance and the effectiveness of the creative.

The Lottery reserves the right to fact-check any submitted information.

ATTACHMENT 2 – CERTIFICATION
(Page 1 of 6)

I. AGENCY INFORMATION

Name of Agency: _____

Address: _____

City/State/Zip Code: _____

Contact Person: _____ Telephone: _____

Email: _____

List person(s) legally authorized to contractually bind the agency.

1. _____
(Name) (Title)

(Address)

2. _____
(Name) (Title)

(Address)

(Attach additional pages if needed)

II. AGENCY CERTIFICATION

By executing this Certification, the agency acknowledges that failure to comply with any of this Certification's terms may result in disqualification from participation in the solicitation process. The agency has reviewed, agrees to, and certifies the following:

- a. The agency meets all minimum qualifications specified in the section entitled "Minimum Agency Qualifications."
- b. The agency agrees the Lottery will not be liable for any of the costs incurred by agency in preparing, submitting, or otherwise participating in a response to this solicitation.
- c. The agency's response to the solicitation constitutes an irrevocable offer for 180 days following the date proposals are due to the Lottery.
- d. The agency has made no attempt to induce any other person or entity to submit or not to submit a proposal.

**ATTACHMENT 2 – CERTIFICATION
(Page 2 of 6)**

- e. The prices in the proposal have been developed and calculated independently, without consultation, communication, or agreement on any matter relating to such prices with any other agency or competitor for the purpose of restricting competition or providing a competitive advantage.
- f. The agency has read the solicitation, understands it, and agrees to comply with all Terms and Conditions.
- g. The agency agrees to provide insurance/bond coverage as described in the Contract Terms and Conditions.
- h. Recognizing that initial payments to the agency may be delayed approximately 45 days, the agency has sufficient resources to meet its obligations during this period.

III. CONTRACTOR CERTIFICATION CLAUSES

By executing this Certification, the prospective agency or its authorized representative certifies under penalty of perjury that the prospective agency has reviewed and agrees to be bound to the Contract Terms and Conditions and the following Agency Certification Clauses:

- A. NONDISCRIMINATION CLAUSE: During the performance of this Contract, Agency and its subcontractors will not unlawfully discriminate, harass, or allow harassment, against any employee or applicant for employment because of sex, sexual orientation, race, color, ancestry, religious creed, national origin, disability (including HIV and AIDS), medical condition (cancer), age, marital status, and denial of family care leave. Agency and its subcontractors will insure that the evaluation and treatment of their employees and applicants for employment are free from such discrimination and harassment. Agency and subcontractors will comply with the provisions of the Fair Employment and Housing Act (Government Code, Section 12990 et seq.) and the applicable regulations promulgated thereunder (California Code of Regulations, Title 2, Section 7285.0 et seq.). The applicable regulations of the Fair Employment and Housing Commission implementing Government Code Section 12990 (a-f), set forth in Chapter 5 of Division 4 of Title 2 of the California Code of Regulations are incorporated into the Contract by reference and made a part thereof as if set forth in full. Agency and its subcontractors will give written notice of their obligations under this clause to labor organizations with which they have a collective bargaining or other agreement. Agency will include the nondiscrimination and compliance provisions of this clause in all subcontracts to perform work under the Contract.
- B. DRUG-FREE WORKPLACE REQUIREMENTS: Agency will comply with the requirements of the Drug-Free Workplace Act of 1990 and will provide a drug-free workplace by taking the following actions:

**ATTACHMENT 2 – CERTIFICATION
(Page 3 of 6)**

1. Publish a statement notifying employees that unlawful manufacture, distribution, dispensing, possession, or use of a controlled substance is prohibited and specifying actions to be taken against employees for violations.
 2. Establish a Drug-Free Awareness Program to inform employees about:
 - a. the dangers of drug abuse in the workplace;
 - b. the agency's policy of maintaining a drug-free workplace;
 - c. any available counseling, rehabilitation, and employee assistance programs; and,
 - d. penalties that may be imposed upon employees for drug abuse violations.
 3. Every employee who performs work under the Contract must receive a copy of the agency's drug-free workplace policy statement and agree to abide by the terms of the agency's statement.
 4. Failure to comply with these requirements may result in suspension of payments under the Contract or termination of the Contract, and the agency may be ineligible for award of any future state contracts if the agency has made false certification, or violated the certification by failing to carry out the requirements as noted above.
- C. NATIONAL LABOR RELATIONS BOARD CERTIFICATION: The agency certifies that no more than one final unappealable finding of contempt of court by a federal court has been issued against the agency within the immediately preceding two-year period because of the agency's failure to abide by a federal court order to comply with a directive of the National Labor Relations Board.
- D. DOMESTIC PARTNERS: For contracts executed or amended after July 1, 2004, the agency may elect to offer domestic partner benefits to the agency's employees. Agency cannot require an employee, on the basis of marital or domestic partner status, to cover the costs of providing any benefits which have otherwise been provided to all employees.

IV. DOING BUSINESS WITH THE STATE OF CALIFORNIA

The following laws apply to persons or entities doing business with the State of California.

- A. CONFLICT OF INTEREST: Agency is aware of the following provisions regarding current or former state employees. If the agency has any questions about the status of any person rendering services or involved with the Contract, the Lottery will be contacted immediately for clarification.

**ATTACHMENT 2 – CERTIFICATION
(Page 4 of 6)**

Current State Employees:

1. No state officer or employee may engage in any employment, activity, or enterprise from which the officer or employee receives compensation or has a financial interest, and which is sponsored or funded by any state agency, unless the employment, activity, or enterprise is required as a condition of regular state employment.
2. No state officer or employee may contract as an independent contractor with any state agency to provide goods or services.

Former State Employees:

1. For the two-year period from the date he or she left state employment, no former state officer or employee may enter into a contract in which he or she engaged in any of the negotiations, transactions, planning, arrangements, or any part of the decision-making process relevant to the Contract while employed in any capacity by any state agency.
 2. For the 12-month period from the date he or she left state employment, no former state officer or employee may enter into a contract with any state agency if he or she was employed by that state agency in a policy-making position in the same general subject area as the proposed contract within the 12-month period prior to his or her leaving state service.
 3. If the agency violates any of the above provisions, such action by agency will render this Contract void.
 4. Members of boards and commissions are exempt from this section if they do not receive payment other than payment for each meeting of the board or commission, payment for preparatory time, and payment for per diem.
- B. LABOR CODE/WORKERS' COMPENSATION: Agency is aware of the provisions which require every employer to be insured against liability for Worker's Compensation and the agency agrees to comply with such provisions before commencing work on this Contract.
- C. AMERICANS WITH DISABILITIES ACT: Agency assures the Lottery that it complies with the Americans with Disabilities Act (ADA) of 1990, which prohibits discrimination on the basis of disability, as well as all applicable regulations and guidelines issued pursuant to the ADA and all California accessibility statutes and regulations.

**ATTACHMENT 2 – CERTIFICATION
(Page 5 of 6)**

D. CORPORATE QUALIFICATIONS TO DO BUSINESS IN CALIFORNIA:

1. Agency certifies it is currently qualified to do business in California.
2. Agency certifies that it is in good standing with the California Secretary of State's Office.

E. AIR OR WATER POLLUTION VIOLATION: Agency will not be: (1) in violation of any order or resolution not subject to review promulgated by the State Air Resources Board or an air pollution control district; (2) subject to cease and desist order not subject to review issued pursuant to Section 13301 of the Water Code for violation of waste discharge requirements or discharge prohibitions; or (3) finally determined to be in violation of provisions of federal law relating to air or water pollution.

F. PAYEE DATA RECORD FORM STD. 204: This form will be completed by all agencies except state agencies or other governmental entities.

V. CONFIDENTIALITY STATEMENT

- A. I warrant that neither the agency nor its employees will disclose any document, diagram, or information made available to it by the Lottery. I warrant that only those employees who are authorized and required to use such information will have access to it.
- B. I further warrant that all materials provided by the Lottery will be returned promptly after use and all copies or derivations of the materials will be physically and/or electronically destroyed. I will include with the returned materials a letter attesting to the complete return of materials and documenting the destruction of copies and derivations. Failure to comply may subject the agency to criminal and civil liability. I authorize the Lottery to inspect and verify the above.
- C. I further warrant that if awarded the Contract, the agency will not disclose to any third party information pertaining to the Contract prior to receiving the written consent of the Lottery.

Agency

ATTACHMENT 2 – CERTIFICATION
(Page 6 of 6)

I, the official named below, CERTIFY UNDER PENALTY OF PERJURY that I am duly authorized to legally bind the agency and prospective Contractor to the clause(s) above and that the signature affixed below and dated constitutes a certification that all information provided by the agency and prospective Contractor is true and correct.

| |
|---|
| <i>Agency Firm Name (Printed)</i> |
| <i>By (Authorized Signature)</i> |
| <i>Printed Name and Title of Person Signing</i> |
| <i>Date Executed</i> |

Agency

ATTACHMENT 3 – AGENCY MANDATORY SUBMITTAL CHECK LIST

The following documents must be submitted on flash drive and in hard copy, as outlined in section IV. Phase I Submittals Packaging and Delivery.

- 1. Table of Contents
- 2. Introduction Letter
- 3. Attachment 1, Agency Fact Sheet
- 4. Agency Profile
- 5. Three Full Campaign Case Histories
- 6. Attachment 2, Certification
- 7. Attachment 3, Agency Mandatory Submittal Check List

**ATTACHMENT 4 – DISABLED VETERAN BUSINESS ENTERPRISE PARTICIPATION
Incentive Program
(Page 1 of 4)**

The Lottery recognizes disabled veterans for their service by establishing a Disabled Veteran Business Enterprise (DVBE) Participation Program. The program is intended to further veterans’ participation in Lottery contracting, promote competition, and encourage greater economic opportunity.

The Lottery has established participation goals for DVBEs, as defined in the California Military and Veterans Code, of at least 3% of overall dollars expended for Lottery contracts annually. The Lottery determines whether to include DVBE participation requirements in specific solicitations based on the availability of contracting or subcontracting opportunities within the scope of services of the particular contract.

While the Lottery has not established a DVBE participation requirement for this solicitation, in order to encourage DVBE participation, the Lottery has applied a DVBE incentive as follows:

| <u>Confirmed DVBE Participation</u> | <u>DVBE Incentive</u> |
|-------------------------------------|-----------------------|
| 5% or Over | 5% |
| 4% to 4.99% | 4% |
| 3% to 3.99% | 3% |
| 2% to 2.99% | 2% |
| 1% to 1.99% | 1% |

A bidder may achieve participation by qualifying as a DVBE and/or by contracting with DVBE subcontractors. **DVBEs must perform a commercially useful function, excluding media placement costs, related to the bid specifications as required by Military and Veterans Code section 999 (b)(5)(B).** The Lottery will determine whether bidders have achieved qualifying levels of participation by comparing each bidder’s verified DVBE percentage to the Bidder’s Price Sheet.

The incentive is applied in determining the lowest monetary bid or best value by reducing the qualified bidder’s price by the amount of the incentive as computed based on the lowest price submitted by a responsive bidder. This reduction is applied solely for evaluation purposes. However, where the bidder with the lowest monetary bid or best value prior to application of the incentive is a California certified small business, only other certified small businesses will be eligible to receive the incentive bonus. If after application of incentives, two or more responsive bids tie for lowest monetary bid or best value, the contract will be awarded to the bidder with the highest level of DVBE participation.

A DVBE may also qualify as a small business if it independently meets the Small Business Participation Program requirements. (See Attachment 5)

For certification purposes, a “disabled veteran” must be a veteran of the U.S. military, naval, or air service, have a service-connected disability of 10% or more, and reside in California.

**ATTACHMENT 4 – DISABLED VETERAN BUSINESS ENTERPRISE PARTICIPATION
PROGRAM
Incentive Program
(Page 2 of 4)**

To be eligible for certification as a Disabled Veteran Business Enterprise:

- At least 51% of the business must be owned by one or more disabled veterans;
- Daily business operations must be managed and controlled by one or more disabled veterans; and
- The home office must be located in the United States. (The home office cannot be a branch or subsidiary of a foreign corporation, foreign firm, or other foreign-based business.)

In order to count toward DVBE participation, DVBEs must be certified as such by the Department of General Services at the time the bid is submitted to the Lottery. Agencies must submit with their bids (1) a copy of the DVBE certification for each DVBE and (2) the attached DVBE forms, completed and signed as indicated. Contact the Department of General Services, Office of Small Business and DVBE Services with certification questions, or visit DGS's Website at www.dgs.ca.gov.

During the term of the Contract, the Agency must provide annual DVBE reports to the Lottery's Contract Development Services Section showing DVBE participation at the levels committed to in the bid documents. In addition, the Agency must provide a final report at the end of the Contract.

Instructions:

Bidders must complete DVBE Attachment 3 "DVBE Subcontractors to be Utilized," for each DVBE subcontractor to be counted toward DVBE participation and include the form as part of their bids. [Please duplicate this page for additional DVBE businesses.] Any bidder that is a certified DVBE and wishes to be counted toward DVBE participation must complete DVBE Attachment 3 "DVBE Bidder" and submit it as part of its bid.

For questions regarding these instructions or attachments, please contact the Lottery's Small and DVBE Program Specialist at (916) 822-8069.



**ATTACHMENT 4 – DISABLED VETERAN BUSINESS
ENTERPRISE (DVBE)
SUBCONTRACTORS TO BE UTILIZED
(Page 3 of 4)**

This form must be completed and signed by the bidder and the DVBE subcontractor to be utilized. Please duplicate this page for additional DVBE businesses.

Name of DVBE _____ **Contact Person** _____

DVBE Certification # _____ **DVBE Address** _____

City/State/Zip _____ **Email** _____

Telephone _____ **Fax** _____

Goods/Services to be provided _____

Percentage Participation _____ % (percent of the total contract price to be paid to the DVBE subcontractor for goods and/or services identified above)

By signing below, the bidder indicates its intent to utilize the DVBE identified above as a supplier/subcontractor of the goods and/or services indicated, for the dollar amount represented by the percentage set forth above. The bidder also certifies that all information contained herein is true and correct. This form must be signed by a person legally authorized to contractually bind the bidder.

Bidder's Authorized Signature

Date

Printed Name

Company Name

By signing below, the DVBE certifies it has submitted a bid to the above-referenced Bidder and is ready, willing, and able to provide the goods and/or services identified above. This form must be signed by a person legally authorized to contractually bind the DVBE.

DVBE's Authorized Signature

Date

Printed Name

Company Name

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**ATTACHMENT 4 – DISABLED VETERAN BUSINESS ENTERPRISE
(DVBE) BIDDER
(Page 4 of 4)**

Bidder must complete and sign this form if bidder is a DVBE and intends to count goods and/or services it provides towards DVBE participation on this contract.

Bidder's Name _____ **Contact Person** _____

Bidder's DVBE Certification # _____

Goods/Services to be provided _____

Percentage Participation _____% (percent of the total contract price represented by the goods/services to be provided by the DVBE Bidder [pass-through goods and/or services do not count])

By signing below, the bidder indicates that it will provide the goods and/or services indicated for the dollar amount represented by the percentage set forth above. The bidder also certifies that all information contained herein is true and correct. This form must be signed by a person legally authorized to contractually bind the bidder.

Bidder's Authorized Signature

Date

Printed Name

Company Name

CSL 1175 (R04/16)

ATTACHMENT 5 – SMALL AND MICRO BUSINESS PARTICIPATION (SMP)
(Page 1 of 6)

Small Business Preferences/Definition

The Small Business Procurement and Contract Act (Gov. Code section 14835 et seq.) requires that a fair share of the state's purchases and contracts for goods, information technology, services and construction be placed with small businesses or micro businesses. In order to facilitate the participation of these businesses, the Act requires state agencies to: (1) establish small business participation goals; (2) provide a 5% small business preference; and (3) provide a non-small business preference of up to a maximum of 5% for agencies utilizing small businesses or micro businesses as subcontractors.

SMP Goal and Preference

Based upon the nature of the goods/services to be utilized under this solicitation (as outlined in the Scope of Services, Exhibit A), the Lottery has set a SMP Goal of 25%. Agencies that qualify as a small or micro business have met this participation goal by virtue of their small business status.

For bid evaluation purposes, where there is at least one non-small business bidder subcontracting at least 25% of its bid amount to one or more small businesses, the Lottery will calculate the preference by computing an amount not to exceed 5% from the lowest responsible bid of a non-small business bidder that is not subcontracting to a small business. The preference amount will be deducted from the bids of the non-small business bidders subcontracting at least 25% of their bid amounts to small businesses, as referenced above. Bidders that subcontract less than 25% will receive a prorated preference.

For bid evaluation purposes, where there is at least one small business bidder, the Lottery will calculate the preference by computing an amount of up to 5% of the lowest, responsible bid of a non-small business bidder that is not subcontracting to a small business. The preference amount will not exceed \$50,000 and will be deducted from the small business's bid amount as referenced above.

During the Contract term, the bidder's SMP compliance will be calculated based on the bidder's completed work, as verified by an audit of bidder's invoices and bidder's payments to designated subcontractors.

Definition

To be eligible for the SMP Preference as a "small business," a company must be an independently owned and operated business, not dominant in its field of operation, with its principal place of business located in California and officers domiciled in California, and which together with affiliates is:

ATTACHMENT 5 – SMALL AND MICRO BUSINESS PARTICIPATION PROGRAM
(Page 2 of 6)

- A business with 100 or fewer employees and average annual gross receipts of \$14,000,000 or less over the previous three years, **or**
- A manufacturer with 100 or fewer employees. A manufacturer is a business that is both:
 - (1) Primarily engaged in the chemical or mechanical transformation of raw materials or processed substances into new products; and
 - (2) Classified between Codes 31 to 339999, inclusive, of the North American Industrial Classification System (NAICS) Manual, published by the United States Census Bureau, 2007 edition.

To be eligible for the SMP Preference as a "micro business," a company must be a small business that, together with affiliates, has average annual gross receipts of \$3,500,000 or less over the previous three years, or is a manufacturer, as defined above, with 25 or fewer employees.

If a proposing bidder is currently certified as a small or micro business by the Department of General Services, Office of Small Business and DVBE Services, or any city, county, federal, or other certifying office, only a copy of that certification is required (to be certified small or micro business, visit the DGS website at www.pd.dgs.ca.gov/pd/Programs/OSDS.aspx). The successful bidder will be required to provide this information for the small or micro business enterprises to be utilized as subcontractors.

The successful bidder's SMP Goal will become part of the Contract resulting from this solicitation with the Lottery. The Lottery will monitor bidder's compliance by requiring annual reports.

Agencies requesting either of the SMP Preferences are required to complete and submit the required forms.

(Revised 04/16)

**ATTACHMENT 5 – SMALL AND MICRO BUSINESS PARTICIPATION PROGRAM
(Page 3 of 6)**

INSTRUCTIONS/FORMS

All bidders must complete this page and the “Declaration of Compliance for Small Business and Micro Business Subcontractor Participation” form. Bidders that are non-small businesses, but who subcontract with small or micro businesses, must also complete the “Small and Micro Business Subcontractor” form, and bidders that are small or micro businesses must complete the “Small and Micro Business Program” form. All forms are included in Attachment 4.

General Information

Bidder's Name _____

Contact Person _____ Telephone _____ Fax _____

Address _____

City/State/Zip _____

Declaration of Compliance for SMP Participation Form

Complete and sign this form certifying all the information is true and correct. This form must be signed by the person legally authorized to contractually bind the bidder.

Small Business and Micro Business Subcontractor Form

Complete and sign this form for each small and/or micro business subcontractor that you plan to utilize as part of your small business participation goal. Please duplicate this page for additional companies.

Small Business and Micro Business Program Form

Complete and sign this form if your company is a certified small or micro business.

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ATTACHMENT 5 – SMALL AND MICRO BUSINESS
SUBCONTRACTOR FORM
(Page 4 of 6)

**Complete and sign this form for each small and/or micro business subcontractor that you plan to utilize as part of your small business participation goal.
Please duplicate this page for additional companies.**

Name of Subcontractor: _____

Contact Person: _____

Address _____

City/State/Zip _____

Telephone _____ Fax _____

Goods/Services to be provided _____

Business Category ___ Small ___ Micro Percentage of Contract _____ %

Certifying Bidder _____ Certification # _____

By signing below, the bidder indicates its intent to utilize the small or micro business identified above as part of the Contract associated with this solicitation, as applicable; and also certifies that all information contained herein is true and correct.

Bidder's Authorized Signature

Date

Printed Name

Company Name

By signing below, the small or micro business certifies it has been contacted, has expressed interest in participating in the Contract in the area of work identified, and that all information contained herein is true and correct.

Subcontractor's Authorized Signature

Date

Printed Name

Company Name

CSL 1177 (R04/16)



**ATTACHMENT 5 – DECLARATION OF COMPLIANCE
FOR SMP PARTICIPATION
(Page 5 of 6)**

***Complete and sign this form certifying all the information is true and correct.
This form must be signed by the person legally authorized to contractually bind the bidder.***

Bidder's Name _____

Contact Person: _____ Telephone: _____

Address: _____ Fax: _____

City: _____
_____ Email _____

Declaration

I declare under penalty of perjury that the information provided in this Attachment is true and correct. (Please check one)

_____ Our firm is a small business or micro business.

_____ Our firm is not a small or micro business, but guarantees that a minimum of _____% of the total cost will be paid to small and/or micro business subcontractors for work performed under the Contract.

_____ Our firm will not participate in the SMP Participation Program.

Executed on _____
Month/Date/Year

In the city of _____ State of _____

Signature _____
Authorized Representative

Printed Name _____

Title _____

Telephone _____ Fax _____

CSL 1178 (R05/16)

ATTACHMENT 6 – NONDISCLOSURE AGREEMENT

This Nondisclosure Agreement (“Agreement”) is made and entered into as of _____, 2019 between the California State Lottery (“Company”) and _____ (“Recipient”).

1. **Purpose.** Recipient has submitted a proposal and is competing for a contract to provide Hispanic Marketing Advertising services to Company pursuant to Request for Proposal #50079 (RFP). In connection with the RFP and subject to this Agreement, Company may disclose to Recipient certain confidential and proprietary technical and business information that Company desires Recipient to treat as confidential.

2. **“Confidential Information”** means any information disclosed to Recipient by Company, directly or indirectly, in writing, orally, or by inspection of tangible objects (including documents, prototypes, samples, and Company’s plant and equipment). Confidential Information will include the items set forth in any Appendix attached to this Agreement. Confidential Information may also include information disclosed to Company by third parties. Confidential Information will not, however, include any information that Recipient can demonstrate (a) was publicly known and made generally available in the public domain prior to the time of disclosure to Recipient by Company; (b) became publicly known and made generally available after disclosure to Recipient by Company through no action or inaction of Recipient; or (c) was in the possession of Recipient, without confidentiality restrictions, at the time of disclosure by Company, as shown by Recipient’s files and records.

3. **Non-use and Nondisclosure.** Recipient will not use any Confidential Information for any purpose except to prepare its Finalist Submittals pursuant to the RFP. Recipient will not disclose any Confidential Information to third parties or to employees of Recipient, except to those employees who are required to have the Confidential Information in order to prepare the Finalist Submittals pursuant to the RFP. Recipient will not reverse engineer, disassemble, or decompile any prototypes, software, or other tangible objects that embody Company’s Confidential Information and that are provided to Recipient in accordance with this Agreement.

4. **Maintenance of Confidentiality.** Recipient will use its best efforts to protect the secrecy of and avoid disclosure and unauthorized use of the Confidential Information. Without limiting the foregoing, Recipient will take at least those measures that Recipient takes to protect its own most highly confidential information and, prior to any disclosure of Confidential Information to its employees, will have such employees sign a non-use and nondisclosure agreement that is substantially similar in content to this Agreement. Recipient will not make any copies of Confidential Information unless approved in writing by the Company. Recipient will reproduce Company’s proprietary rights notices on all approved copies. Recipient will immediately notify Company in the event of any unauthorized use or disclosure of the Confidential Information. discussions contemplated by this Agreement concerning the business opportunity.

5. **No Obligation.** Nothing in this Agreement will obligate Company or Recipient to proceed with any transaction between them, and each party reserves the right, in its sole discretion, to terminate the discussions contemplated by this Agreement concerning the business opportunity.

6. **No Warranty.** ALL CONFIDENTIAL INFORMATION IS PROVIDED “AS IS.” COMPANY MAKES NO WARRANTIES, EXPRESS, IMPLIED, OR OTHERWISE, REGARDING THE ACCURACY, COMPLETENESS, OR PERFORMANCE OF THE CONFIDENTIAL INFORMATION.

7. **Return of Materials.** All documents and other tangible objects containing or representing Confidential Information and all copies of them will be and remain the property of Company. Upon Company’s request, Recipient will (a) promptly deliver to Company all Confidential Information, without retaining any copies, and (b) promptly destroy analyses, studies, and other documents prepared based on the Confidential Information, without retaining copies.

8. **No License.** Nothing in this Agreement is intended to grant any rights to Recipient under any patent, copyright, or other intellectual property right of Company, nor will this Agreement grant Recipient any rights in or to the Confidential Information, except as expressly set forth in this Agreement.

9. **Term.** This Agreement will survive until all Confidential Information becomes publicly known and made generally available through no action or inaction of Recipient.

10. **Remedies.** Recipient acknowledges that any breach or threatened breach of this Agreement would cause irreparable harm to Company, and in addition to any other remedies at law or in equity that Company may have, Company is entitled, without the requirement of posting a bond or other security, to equitable relief, including injunctive relief and specific performance.

11. **Indemnification.** Recipient agrees to indemnify and hold harmless Company from any damage, loss, cost, or liability (including reasonable attorney fees) arising or resulting from any unauthorized use or disclosure of the Confidential Information by Recipient or any of its employees.

12. **Recipient Information.** Company does not wish to receive any confidential or proprietary information from Recipient, and Company assumes no obligation, either express or implied, with respect to any information disclosed by Recipient.

13. **Miscellaneous.** This Agreement will bind and inure to the benefit of the parties and their successors and assigns. This Agreement will be governed by the laws of the state of California, without reference to conflict of laws principles. This document contains the entire agreement between the parties with respect to the subject matter of this Agreement. Any failure to enforce any provision of this Agreement will not constitute a waiver of that provision or of any other provision. This Agreement may not be amended, nor any obligation waived, except by a writing signed by both parties. This Agreement may be executed in two or more counterparts, each of which is deemed to be an original, but all of which constitute the same agreement.

CALIFORNIA STATE LOTTERY

By: _____

Name: _____

Title: _____

RECIPIENT _____

By: _____

Name: _____

Title: _____

CONFIDENTIAL

***CALIFORNIA STATE LOTTERY
SECURITY/LAW ENFORCEMENT DIVISION***



***MAJOR CONTRACTOR
DISCLOSURE***

CONTRACTOR DISCLOSURE

INTRODUCTION

Section 8880.38 of the California Lottery Act requires the Director, Security/Law Enforcement Division, to assure the integrity, honesty, and fairness in the operation and administration of the California Lottery.

To accomplish this, the Director, Security/Law Enforcement Division, has the authority to conduct an examination of the qualifications of all prospective and current employees, prospective and current Lottery Game Retailers, and prospective and current Lottery suppliers as defined in the Section 8880.57 of the California Lottery Act. This includes the ability to access criminal history records and require fingerprinting.

This informational form is designed to fulfill this requirement, and provide the Director, Security/Law Enforcement Division, the ability to adequately determine the contractor's or prospective contractor's qualifications.

Completion of this form is a mandatory condition of contracting. Unless otherwise indicated, failure to provide all of the information requested on this questionnaire may prevent you from contracting with the California Lottery.

INSTRUCTIONS

Read each question carefully before answering. Type or neatly print an answer to each question. If a question does not apply, enter "N/A". If the space provided is insufficient, enter the information requested on a separate piece of paper and include it with the disclosure package. Be sure to reference the number of the question you are answering.

Do not misstate or omit any material fact(s). The applicant is hereby advised they are seeking the granting of a contract with the California Lottery, and that the burden of providing favorable qualification is on the applicant at all times.

Each page of this questionnaire, including attachments, must be initialed by the applicant, or by a representative who has the authority to act on the applicant's behalf and can attest to the accuracy of the information. The disclosure must be signed by the same person. This form must also be notarized.

All applicants are advised this Contractor Disclosure Form is an official document of the California Lottery, Security/Law Enforcement Division. Any misrepresentation or failure to reveal information may be deemed sufficient cause for the refusal or revocation of a contract with the California Lottery.

PRIVACY NOTICE

The California Information Practices Act of 1977 requires that this notice be provided on all state agency forms, which collect personal information.

This information is being requested in order to examine your qualifications to be a contractor for the California Lottery as required by section 8880.38 of the California Lottery Act and to ensure compliance with section 8880.57 of the Act.

The Information you provide will only be disclosed to those persons(s) who are authorized by law to have access. Confidentiality will be observed. The information you provide may be disclosed to other government and law enforcement agencies including, but not limited to: The State Controller's Office, Department of Motor Vehicles (DMV), Department of Justice (DOJ), Federal Bureau of Investigation (FBI), and other federal, state and local law enforcement agencies. You have the right of restricted access to your background investigation records pursuant to Sections 1798.38 and 1798.40 of the Information Practices Act and Sections 11080, 11081, 11105, and 11131 of the California Penal Code. For further information on accessing your record, please contact the Lottery's Information Practices Act Coordinator, Business Services Section, 600 North 10th Street, Sacramento, CA, 95814.

CONTRACTOR DISCLOSURE

| BUSINESS INFORMATION | | | | |
|---|----------------|-------|----------|-----------|
| NAME OF BUSINESS | | | | |
| TRADE NAME/DBA | | | | |
| STREET ADDRESS OF BUSINESS | CITY | STATE | ZIP CODE | TELEPHONE |
| STREET ADDRESS OF BUSINESS RECORDS | CITY | STATE | ZIP CODE | TELEPHONE |
| TYPE OF BUSINESS <input type="checkbox"/> SOLE PROPRIETORSHIP <input type="checkbox"/> CORPORATION (CORP) <input type="checkbox"/> TRUST <input type="checkbox"/> JOINT VENTURE <input type="checkbox"/> GENERAL PARTNERSHIP <input type="checkbox"/> LIMITED PARTNERSHIP <input type="checkbox"/> LIMITED LIABILITY PARTNERSHIP (LLP) <input type="checkbox"/> LIMITED LIABILITY COMPANY (LLC) <input type="checkbox"/> OTHER _____ | | | | |
| PRINCIPAL BUSINESS ACTIVITY | | | | |
| STATE OF INCORPORATION | | | | |
| IF BUSINESS IS FORMED IN A STATE OTHER THAN CALIFORNIA, HAS THE BUSINESS QUALIFIED AS A FOREIGN ENTITY WITH THE CALIFORNIA SECRETARY OF STATE? <input type="checkbox"/> YES <input type="checkbox"/> NO IF YES, ENTER FILE NUMBER HERE: _____ | | | | |
| NAME OF PARENT COMPANY | | | | |
| STREET ADDRESS OF PARENT COMPANY | CITY | STATE | ZIP CODE | TELEPHONE |
| NAME(S) AND ADDRESS(ES) OF ANY SUBSIDIARY OF THIS BUSINESS | | | | |
| NAME | STREET ADDRESS | CITY | STATE | ZIP CODE |
| | | | | |
| | | | | |
| | | | | |
| | | | | |
| | | | | |
| | | | | |
| IS COMPANY: <input type="checkbox"/> CLOSELY HELD <input type="checkbox"/> PUBLICLY HELD ***IF PUBLICLY HELD, ATTACH MOST RECENT REPORT (10K, 10Q)*** | | | | |
| BUSINESS ORGANIZATIONAL CHARTS: ATTACH A DIAGRAM DEPICTING DIRECT AND INDIRECT BUSINESS RELATIONSHIPS BETWEEN THE BUSINESS AND PARENT COMPANIES. DIAGRAM MUST IDENTIFY ALL COMPANIES UNTIL ULTIMATE OWNERSHIP HAS BEEN IDENTIFIED. | | | | |

CONTRACTOR DISCLOSURE

| | | |
|--|--------------------------------|--|
| | DIRECTOR - OFFICER LIST | |
|--|--------------------------------|--|

IF A BUSINESS IS A CORPORATION, LIST EACH DIRECTOR-OFFICER. IF YOU NEED ADDITIONAL SPACE, PLEASE MAKE PHOTOCOPIES OF THIS BLANK PAGE AND ATTACH ADDITIONAL PAGES TO THE BACK OF THIS FORM. INDICATE NUMBER OF DUPLICATED PAGES: PAGE ____ OF ____
8880.57(a)(1)

| | | | | |
|--------------------------|---------------|--------------------------|----------|-----------|
| NAME | DATE OF BIRTH | SOCIAL SECURITY NUMBER | | |
| RESIDENCE STREET ADDRESS | CITY | STATE | ZIP CODE | TELEPHONE |
| BUSINESS STREET ADDRESS | CITY | STATE | ZIP CODE | TELEPHONE |
| POSITION HELD | | PERCENTAGE OF STOCK HELD | | |

| | | | | |
|--------------------------|---------------|--------------------------|----------|-----------|
| NAME | DATE OF BIRTH | SOCIAL SECURITY NUMBER | | |
| RESIDENCE STREET ADDRESS | CITY | STATE | ZIP CODE | TELEPHONE |
| BUSINESS STREET ADDRESS | CITY | STATE | ZIP CODE | TELEPHONE |
| POSITION HELD | | PERCENTAGE OF STOCK HELD | | |

| | | | | |
|--------------------------|---------------|--------------------------|----------|-----------|
| NAME | DATE OF BIRTH | SOCIAL SECURITY NUMBER | | |
| RESIDENCE STREET ADDRESS | CITY | STATE | ZIP CODE | TELEPHONE |
| BUSINESS STREET ADDRESS | CITY | STATE | ZIP CODE | TELEPHONE |
| POSITION HELD | | PERCENTAGE OF STOCK HELD | | |

| | | | | |
|--------------------------|---------------|--------------------------|----------|-----------|
| NAME | DATE OF BIRTH | SOCIAL SECURITY NUMBER | | |
| RESIDENCE STREET ADDRESS | CITY | STATE | ZIP CODE | TELEPHONE |
| BUSINESS STREET ADDRESS | CITY | STATE | ZIP CODE | TELEPHONE |
| POSITION HELD | | PERCENTAGE OF STOCK HELD | | |

INITIALS: _____

CONTRACTOR DISCLOSURE

| | | |
|--|--|--|
| | OWNERS- PARTNERS – STOCKHOLDERS | |
|--|--|--|

LIST ALL OWNERS-PARTNERS-STOCKHOLDERS WHO HOLD INTEREST IN THE BUSINESS OR CORPORATE STOCK. IF A PUBLICLY HELD CORPORATION, LIST THE STOCKHOLDERS KNOWN TO OWN 5% OR MORE OF THE CORPORATE STOCK. A COMPLETE CONTRACTOR DISCLOSURE MAY BE REQUIRED FOR EACH ENTITY THAT HOLDS A CONTROLLING INTEREST IN THE BUSINESS.

IF YOU NEED ADDITIONAL SPACE, PLEASE MAKE PHOTOCOPIES OF THIS BLANK PAGE AND ATTACH ADDITIONAL PAGES TO THE BACK OF THIS FORM. INDICATE NUMBER OF DUPLICATED PAGES: PAGE ____ OF ____ 8880.57(a)(1)

| | | | | |
|--------------------------|---------------|--------------------------|----------|-----------|
| NAME | DATE OF BIRTH | SOCIAL SECURITY NUMBER | | |
| RESIDENCE STREET ADDRESS | CITY | STATE | ZIP CODE | TELEPHONE |
| BUSINESS STREET ADDRESS | CITY | STATE | ZIP CODE | TELEPHONE |
| POSITION HELD | | PERCENTAGE OF STOCK HELD | | |

| | | | | |
|--------------------------|---------------|--------------------------|----------|-----------|
| NAME | DATE OF BIRTH | SOCIAL SECURITY NUMBER | | |
| RESIDENCE STREET ADDRESS | CITY | STATE | ZIP CODE | TELEPHONE |
| BUSINESS STREET ADDRESS | CITY | STATE | ZIP CODE | TELEPHONE |
| POSITION HELD | | PERCENTAGE OF STOCK HELD | | |

| | | | | |
|--------------------------|---------------|--------------------------|----------|-----------|
| NAME | DATE OF BIRTH | SOCIAL SECURITY NUMBER | | |
| RESIDENCE STREET ADDRESS | CITY | STATE | ZIP CODE | TELEPHONE |
| BUSINESS STREET ADDRESS | CITY | STATE | ZIP CODE | TELEPHONE |
| POSITION HELD | | PERCENTAGE OF STOCK HELD | | |

| | | | | |
|--------------------------|---------------|--------------------------|----------|-----------|
| NAME | DATE OF BIRTH | SOCIAL SECURITY NUMBER | | |
| RESIDENCE STREET ADDRESS | CITY | STATE | ZIP CODE | TELEPHONE |
| BUSINESS STREET ADDRESS | CITY | STATE | ZIP CODE | TELEPHONE |
| POSITION HELD | | PERCENTAGE OF STOCK HELD | | |

INITIALS: _____

CONTRACTOR DISCLOSURE

LEGAL PROCEEDINGS

DOES THE BUSINESS, ANY OWNER, OFFICER, DIRECTOR, OR STOCKHOLDER ANTICIPATE BEING A PARTY TO A LAWSUIT? IN THE EVENT OF A PUBLICLY HELD CORPORATION, LIST ONLY THOSE STOCKHOLDERS KNOWN TO OWN 5% OR MORE OF THE CORPORATE STOCK. 8880.57(b)(10)

YES NO

IF YES, PROVIDE THE INFORMATION REQUESTED BELOW. PROVIDE, ON A SEPARATE PIECE OF PAPER, A DETAILED EXPLANATION OF THE ALLEGATIONS. INCLUDE SPECIFICS AS TO THE CURRENT, KNOWN STATUS OF THE LAWSUIT.

| | DATE | DEFENDANT(S) NAME, POSITION HELD IN BUSINESS | PLAINTIFF'S NAME NAME, ADDRESS OF PRESIDING COURT | NATURE OF PROCEEDINGS. PROVIDE DOCKET #/CASE/FILE/OTHER IDENTIFIER |
|---|------|---|--|---|
| A | | | | |
| B | | | | |
| C | | | | |
| D | | | | |
| E | | | | |
| F | | | | |

HAS THE BUSINESS OR ANY OWNER, OFFICER, DIRECTOR OR STOCKHOLDER OF THE BUSINESS, OR, IN THE EVENT OF A PUBLICLY HELD CORPORATION, THOSE STOCKHOLDERS OWNING 5% OR MORE OF THE CORPORATE STOCK, EVER BEEN SUBPOENAED AND/OR TESTIFIED BEFORE ANY MUNICIPAL COURT, PROVINCIAL, STATE, FEDERAL, OR NATIONAL COURT, AGENCY, COMMITTEE, GRAND JURY OR INVESTIGATORY OR REGULATORY BODY, OTHER THAN IN RESPONSE TO A TRAFFIC SUMMONS? 8880.57(b)(10)

YES NO

IF YES, PROVIDE THE INFORMATION REQUESTED BELOW. PROVIDE, ON A SEPARATE PIECE OF PAPER, A DETAILED EXPLANATION OF THE PROCEEDINGS. INCLUDE SPECIFICS AS TO THE CURRENT, KNOWN STATUS OF THE PROCEEDINGS.

| | DATE | DEFENDANT(S) NAME, HELD IN BUSINESS (IF APPLICABLE) | NAME, ADDRESS OF PRESIDING COURT | NATURE OF PROCEEDINGS. PROVIDE DOCKET #/CASE/FILE/OTHER IDENTIFIER |
|---|------|--|----------------------------------|---|
| A | | | | |
| B | | | | |
| C | | | | |
| D | | | | |
| E | | | | |
| F | | | | |

CONTRACTOR DISCLOSURE

LEGAL PROCEEDINGS

HAS THE BUSINESS, ANY OWNER, OFFICER, DIRECTOR OR STOCKHOLDER OF THE BUSINESS, OR, IN THE EVENT OF A PUBLICLY HELD CORPORATION, THOSE STOCKHOLDERS OWNING 5% OR MORE OF THE CORPORATE STOCK, EVER BEEN THE SUBJECT OF AN INVESTIGATION CONDUCTED BY A GOVERNMENTAL INVESTIGATORY AGENCY FOR ANY REASON? 8880.57(b)(10)

YES NO

IF YES, PROVIDE THE INFORMATION REQUESTED BELOW. PROVIDE, ON A SEPARATE PIECE OF PAPER, A DETAILED EXPLANATION OF THE ALLEGATIONS. INCLUDE SPECIFICS AS TO THE CURRENT, KNOWN STATUS OF THE INVESTIGATION.

| | DATE | DEFENDANT(S) NAME, POSITION HELD IN BUSINESS | NAME, ADDRESS OF GOVERNMENT AGENCY | NATURE OF PROCEEDINGS. PROVIDE DOCKET #/CASE/FILE/OTHER IDENTIFIER |
|---|------|---|------------------------------------|---|
| A | | | | |
| B | | | | |
| C | | | | |
| D | | | | |
| E | | | | |
| F | | | | |

HAS THE BUSINESS ENTITY, OR ANY OWNER, OFFICER, DIRECTOR OR STOCKHOLDER OF THE BUSINESS ENTITY, OR, IN THE EVENT OF A PUBLICLY HELD CORPORATION, THOSE STOCKHOLDERS OWNING 5% OR MORE OF THE CORPORATE STOCK, EVER BEEN NAMED AS A DEFENDANT OR CO-CONSPIRATOR IN ANY CRIMINAL PROCEEDING IN THIS STATE OR ANY OTHER JURISDICTION? 8880.57(b)(10)

YES NO

IF YES, PROVIDE THE INFORMATION REQUESTED BELOW. PROVIDE, ON A SEPARATE PIECE OF PAPER, A DETAILED EXPLANATION OF THE ORIGINAL CHARGE/ALLEGATIONS AS WELL AS ANY AMENDED CHARGES. INCLUDE SPECIFICS AS TO THE CURRENT, KNOWN, STATUS OF THE CRIMINAL PROCEEDINGS.

| | DATE | DEFENDANT(S) NAME, POSITION HELD IN BUSINESS | NAME, ADDRESS OF PRESIDING COURT | NATURE OF PROCEEDINGS. PROVIDE DOCKET #/CASE/FILE/OTHER IDENTIFIER |
|---|------|---|----------------------------------|---|
| A | | | | |
| B | | | | |
| C | | | | |
| D | | | | |
| E | | | | |
| F | | | | |

CONTRACTOR DISCLOSURE

LEGAL PROCEEDINGS

HAS THE BUSINESS, OR ANY OWNER, OFFICER, DIRECTOR OR STOCKHOLDER OF THE BUSINESS, OR, IN THE EVENT OF A PUBLICLY HELD CORPORATION, THOSE STOCKHOLDERS OWNING 5% OR MORE OF THE CORPORATE STOCK OR ANY SUBSIDIARY, EVER BEEN A DEFENDANT OR RESPONDENT IN ANY OF THE FOLLOWING: 8880.57(b)(10)

YES NO

IF YES, PROVIDE SPECIFICS OF EACH INCIDENT AS WELL AS THE CURRENT STATUS/DISPOSITION.

- ANTI-TRUST CASE
- TRADE REGULATION VIOLATIONS
- SECURITY JUDGEMENTS
- LICENSE DENIALS, SUSPENSIONS OR DISPLAINARY ACTION
- ANY TAX LIENS
- FRANCHISE TAX BOARD SUSPENSIONS

HAS THE BUSINESS, OR ANY OWNER, OFFICER, DIRECTOR OR STOCKHOLDER OF THE BUSINESS, OR, IN THE EVENT OF A PUBLICLY HELD CORPORATION, THOSE STOCKHOLDERS OWNING 5% OR MORE OF THE CORPORATE STOCK, EVER BEEN DEEMED LEGALLY BANKRUPT OR FILED A PETITION FOR ANY TYPE OF BANKRUPTCY OR INSOLVENCY, UNDER ANY BANKRUPTCY OR INSOLVENCY LAW? 8880.57(b)(5)

YES NO

IF YES, PROVIDE THE INFORMATION REQUESTED BELOW. PROVIDE, ON A SEPARATE PIECE OF PAPER, A DETAILED EXPLANATION OF THE ALLEGATIONS. INCLUDE SPECIFICS AS TO THE CURRENT, KNOWN STATUS OF THE INVESTIGATION.

| | DATE | DOCKET # | NAME, ADDRESS PRESIDING COURT | NAME, ADDRESS FILING PARTY | NAME, ADDRESS OF TRUSTEE |
|---|------|----------|-------------------------------|----------------------------|--------------------------|
| A | | | | | |
| B | | | | | |
| C | | | | | |
| D | | | | | |
| E | | | | | |
| F | | | | | |

CONTRACTOR DISCLOSURE

GAMING GOODS/SERVICES

HAS THE BUSINESS EVER ENTERED INTO A JOINT VENTURE OR OTHER CONTRACTUAL ARRANGEMENT TO SUPPLY ANY STATE OR JURISDICTION WITH GAMING GOODS OR SERVICES, INCLUDING, BUT NOT LIMITED TO LOTTERY GOODS AND SERVICES. (8880.57(b)(8))

YES NO

IF YES, PROVIDE A LIST OF THE STATE OR JURISDICTIONS IN WHICH THE GOODS OR SERVICES WERE PROVIDED, INCLUDING A DESCRIPTION OF THE GOODS OR SERVICES PROVIDED AND THE DATES.

| | DATE | STATE/JURISDICTION | GOODS AND SERVICES PROVIDED | TERM OF CONTRACT |
|---|------|--------------------|-----------------------------|------------------|
| A | | | | |
| B | | | | |
| C | | | | |
| D | | | | |
| E | | | | |
| F | | | | |
| G | | | | |
| H | | | | |
| I | | | | |
| J | | | | |
| K | | | | |
| L | | | | |

INITIALS: _____

CONTRACTOR DISCLOSURE

| | | |
|--|-----------------------|--|
| | FINANCIAL INFORMATION | |
|--|-----------------------|--|

LIST ALL FINANCIAL INSTITUTIONS WITH WHICH YOUR BUSINESS OR SUBSIDIARIES DOES BUSINESS.

| | BUSINESS/SUBSIDIARY NAME | NAME, ADDRESS FINANCIAL INSTITUTION | LENGTH WITH INSTITUTION | AUTHORIZED SIGNATURE |
|---|--------------------------|-------------------------------------|-------------------------|----------------------|
| A | | | | |
| B | | | | |
| C | | | | |
| D | | | | |
| E | | | | |
| F | | | | |
| G | | | | |
| H | | | | |

LIST ALL MORTGAGES OR OTHER HOLDERS OF LONG-TERM DEBT THAT THE BUSINESS OR ANY SUBSIDIARY HAS OUTSTANDING.

| | BUSINESS/SUBSIDIARY NAME | NAME, ADDRESS OF HOLDER | MORTGAGE OR DEBT | MORTGAGE/DEBT AMOUNT |
|---|--------------------------|-------------------------|------------------|----------------------|
| A | | | | |
| B | | | | |
| C | | | | |
| D | | | | |
| E | | | | |
| F | | | | |
| G | | | | |
| H | | | | |

INITIALS: _____

CONTRACTOR DISCLOSURE

DONATIONS

LIST ALL REPORTABLE CONTRIBUTIONS BY THE BUSINESS TO ANY LOCAL, STATE OR FEDERAL POLITICAL COMMITTEE IN CALIFORNIA FOR THE PAST FIVE YEARS THAT IS REPORTABLE UNDER ANY EXISTING STATE OR FEDERAL LAW. (8880.57(b)(7))

| | CANDIDATE'S NAME | CANDIDATE'S OFFICE/JURISDICTION | DATE OF CONTRIBUTION | AMOUNT CONTRIBUTED |
|---|------------------|---------------------------------|----------------------|--------------------|
| A | | | | |
| B | | | | |
| C | | | | |
| D | | | | |
| E | | | | |
| F | | | | |
| G | | | | |
| H | | | | |

SUBCONTRACTORS

LIST ALL KNOWN SUBCONTRACTORS THE BUSINESS INTENDS TO UTILIZE WITH THE CSL CONTRACT IF AWARDED THE CONTRACT. LIST THE NAME(S), ADDRESS(ES), AND CONTACT PERSON(S) FOR EACH SUBCONTRACTOR. IDENTIFY IN DETAIL THE SERVICE EACH SUBCONTRACTOR IS TO PROVIDE, INCLUDING THE MONETARY VALUE OF THE SUB-CONTRACT. ALSO PROVIDE COPIES OF PERTINENT AGREEMENTS MADE WITH EACH SUBCONTRACTOR. 8880.57(a)(7)

ATTACHMENT CHECK LIST

PLEASE ATTACH COPIES OF THE BELOW LISTED DOCUMENTS TO YOUR DISCLOSURE PACKAGE. PLACE "N/A" TO THE LEFT OF THE DOCUMENT NAME IF THE DOCUMENT DOES NOT APPLY. FAILURE TO PROVIDE A REQUIRED DOCUMENT MAY BE DEEMED SUFFICIENT CAUSE FOR REJECTING A BID.

- Initial Formation/Registration Documents
(Articles of Incorporation/Organization, Certificate of Limited Partnership, LLP Registration, etc...)
- All Amendment Documents
- Annual Statement of Information
(last change and current, if current reports no change of information) (Corp or LLC Only)
- Corporate Disclosure Statement (Publicly Traded Corp)
- Partnership Agreement (Limited and General Partnerships)
- Trust Agreement
- Joint Venture Agreement
- Charter
- By Laws
- Organization Chart

- Annual Reports
- Quarterly Reports
- Interim Reports
- Financial Reports (last 3 years)

- Bankruptcy Filings, Receivership Proceedings

STATE OF: _____

COUNTY OF: _____

I, _____, have read the foregoing disclosure documentation and know the contents thereof; that the statements contained herein are true and correct and contain a full and true account of information requested; that this statement is executed with the knowledge that misrepresentation or failure to reveal information requested may be deemed sufficient cause for rejecting the submitted bid. Further, that I am aware that later discovery of an omission or misrepresentation made in the above statements may be grounds for denying or canceling a contract. I also understand that public disclosure of this application is governed by the California Public Records Act, which law mandates disclosure of this application, upon request, except for information concerning personal worth, personal financial data, criminal history, military discipline, and personal information such as home telephone number, home address, social security number, driver's license number, etc.

**I swear under penalty of perjury that
the foregoing is true and correct.**

Signature of Applicant

Subscribed and Sworn to before me this _____ day

Of _____, 20_____.

Notary Public

(SEAL)

