

REQUEST FOR PROPOSALS

RFP NUMBER: CSP900210  
INDEX NUMBER: LOT012K  
UNSPSC CATEGORY: 80141600

The state of Ohio, through the Department of Administrative Services, Office of Procurement Services, on behalf of the Ohio Lottery Commission, is requesting proposals for:

INTEGRATED MARKETING SERVICES FOR THE OHIO LOTTERY COMMISSION

RFP ISSUED: November 12, 2008  
INQUIRY PERIOD BEGINS: November 12, 2008  
PRE-PROPOSAL CONFERENCE: December 2, 2008  
INQUIRY PERIOD ENDS: December 16 2008 at 8:00 A.M.  
PROPOSAL DUE DATE: January 7, 2009 by 1:00 P.M.  
ORAL PRESENTATION NOTIFICATION: February 6, 2009

Proposals received after the due date and time will not be evaluated.

OPENING LOCATION: Department of Administrative Services  
Office of Procurement Services  
4200 Surface Road  
Columbus, OH 43228-1395

This RFP consists of five (5) parts and eleven attachments, totaling 59 consecutively numbered pages. Please verify that you have a complete copy.

## PART ONE: EXECUTIVE SUMMARY

**PURPOSE.** This is a Request for Competitive Sealed Proposals (RFP) under Section 125.071 of the Ohio Revised Code (the Revised Code) and Section 123:5-1-08 of the Ohio Administrative Code (the Ohio Administrative Code). The Ohio Lottery Commission (OLC) asked the Ohio Department of Administrative Services (DAS), Office of Procurement Services to solicit competitive sealed proposals (Proposals) for Integrated Marketing Services for the Ohio Lottery Commission, and this RFP is the result of that request. If a suitable offer is made in response to this RFP, the state of Ohio (State), through DAS, may enter into a contract (the Contract) to have the selected Offeror (the Contractor) perform all or part of the Project. This RFP provides details on what is required to submit a Proposal for the Work, how the State will evaluate the Proposals, and what will be required of the Contractor in performing the Work.

This RFP also gives the estimated dates for the various events in the submission process, selection process, and performance of the Work. While these dates are subject to change, prospective Offerors must be prepared to meet them as they currently stand.

Once awarded, the initial term of the Contract will be from the award date through June 30, 2011. The State may renew all or part of this Contract subject to the satisfactory performance of the Contractor and the needs of the agency. The State's decision to exercise renewal of the Contract is subject to the discretionary decision of the Ohio General Assembly to enact authorizing legislation and to appropriate funds for this Contract in each new biennium, and, as necessary, for the Governor to issue an executive order authorizing an extension of the program. The State may renew the Contract for three (3) additional one-year periods.

Any failure to meet a deadline in the submission or evaluation phases and any objection to the dates for performance of the Project may result in the State refusing to consider the Proposal of the Offeror.

**BACKGROUND.** In 1973, Ohio voters approved a referendum supporting the implementation of a state-run lottery. In August 1974, the OL's first game, Buckeye 300, went on sale. A board composed of nine Commissioners advises the Lottery with the Executive Director of the Lottery overseeing daily operations. The Executive Director serves at the pleasure of the Governor of the State of Ohio. The Governor appointed Michael Dolan, the OL's 18th Director, in 2007. Also appointed by the Governor are the nine board members who constitute the Ohio Lottery. The OL is headquartered in Cleveland and employs approximately 350 people statewide.

The Ohio Lottery is among the largest lotteries in the United States with average annual sales exceeding \$2 billion. In addition to instant (scratch style) games, the Lottery currently offers the following on-line games: Pick 3; Pick 4; Rolling Cash 5; Classic Lotto™; Kicker; Ten-OH!™ and the multi-jurisdictional game, Mega Millions. In addition, the OLC has recently launched two new games:

1. EZPLAY™ Games are instant play-style games generated through the lottery terminal. The first two games launched in the spring of 2008 were a \$1 Tic Tac Toe game with a \$3,000 top prize and a \$2 Bingo game with a \$20,000 top prize. In October \$3.00 bingo was added. Every EZPLAY™ Games ticket is generated at time of purchase with a set of numbers/symbols on it. Players simply match their play numbers/symbols to see if they have won, no drawing is required. Since this category of games is new to Ohio, the OLC will be working to create more themed games under the EZPLAY™ Games umbrella which will be rotated throughout the year.

2. KENO was launched in August of 2008 into approximately 1,000 retail locations that have a Class D liquor license, the OLC is currently expanding this retail base and seeks to have 2,000 retail locations by the end of the calendar year. Keno plays like other online lottery games, except it draws every four (4) minutes and the winning numbers are displayed on TV monitors placed in retailer locations. Typically, players choose from one (1) to ten (10) numbers from a field of 80 with the lottery randomly drawing 20 numbers.

Currently, the OL conducts drawings seven (7) days a week. The OL also produces one of the top rated shows in its time slot, the Cash Explosion® Double Play TV Game Show every Saturday at 7:30 p.m.

Critical to the structure and organization of the OL are approximately 9,100 "sales agent" retailers who are the distributors of Lottery products. These retailers are compensated with bonuses and commissions based on their sales of lottery products. retailer compensation averages \$15,000 per year; however, some retailers earn as much as \$200,000 per year from the sales of Lottery products.

More than 100 field sales representatives provide inventory, training, and merchandise support to retailers. The field sales representatives work out of OL regional offices located in population centers around the State. The Regional offices are located in Athens, Canton, Cincinnati, Cleveland, Columbus, Dayton, Lorain, Toledo, and Youngstown.

**OBJECTIVES.** The purpose of this RFP is to solicit Proposals that fulfill the requirements, performance expectations, and deliverables as outlined in the scope of work (SOW). It shall be the successful Offeror's obligation to ensure that personnel involved with this Project are qualified to perform their portions of the Work.

The OLC is seeking qualified Ohio-based, full service advertising agency(s) and/or joint ventures to provide statewide advertising and marketing services in support of Lottery products.

It is the intent of the State to award multiple Contracts as a result of this RFP, a primary Contract and up to four (4) secondary Contracts. The primary Contractor will be the prime source of all integrated marketing services and will be required to bid on all creative concepts/special projects on jobs throughout the Contract. Except where specifically noted, the secondary Contractors must be capable of meeting all of the specifications set forth in this RFP, and will minimally be required to submit proposals on four (4) creative campaigns and/or special projects per year and serve as a backup to the primary contractor for any reason. The Lottery will have the sole option of determining the number of additional campaigns that the secondary Contractors will be asked to bid on, but the OLC does not guarantee that a secondary Contractor will be awarded the campaign.

As there may be multiple awards for this RFP, an Offer may submit a Proposal for the entire award or as the primary or secondary Contractor. The Offeror that is selected to be the primary Contractor under this RFP will be ineligible to be selected as the secondary Contractor. The Offeror must indicate, with its response, whether it is offering for the primary Contract, the secondary Contract or both. The Lottery, however, encourages Offerors to provide pricing for both possibilities.

By submitting a proposal to this RFP, the Offeror acknowledges and agrees to the following:

The Lottery will not grant the successful Offeror(s) exclusive rights to any advertising and marketing services contemplated under this RFP. In the event the Lottery decides that the acquisition of advertising and marketing services by another Offeror or that the acquisition of advertising and marketing services by the Lottery itself is in the Lottery's best interest, the Lottery reserves the right to contract and purchase said advertising and marketing services and said action does not infringe upon, nor terminate, the Contract(s) resulting from this RFP.

Other marketing or advertising accounts of an Offeror may conflict with the interests of the Lottery. The successful Offeror(s) selected as a result of this solicitation/evaluation process must agree to resign any accounts if the Lottery, within its sole discretion, so directs. Examples of such conflicts include, but are not limited to, accounts that are in direct competition with the Lottery's business. Furthermore, during the term of the Contract(s) issued as a result of this solicitation, the successful Offeror(s) shall agree not to accept the account of any other client having a conflicting product/service (such as another legal gaming entity) without the prior written consent of the Lottery's Director.

After the RFP technical proposals have been scored and the pricing has been evaluated, the State will invite the top scoring firms to submit creative concepts with oral presentations. The total score will consist of the technical, cost and oral presentation and will determine the successful Offeror(s).

#### ADVERTISING MESSAGES.

The Lottery is a for-profit governmental entity entrusted with maximizing gross and net revenue to benefit K through 12 education in Ohio. The Lottery advertising messages focus on three (3) key areas:

1. SALES/PRODUCT SUPPORT.

The Lottery provides information on all Lottery games and products, including how-to-play, payouts, prize structures and odds. In addition, advertising is periodically created that highlight the winners of prize awards of the various games offered by the Lottery. The purpose is to maximize sales through coordinated Point of Purchase (POP) and Point of Sale (POS) items and media campaigns.

2. BRANDS AND BENEFICIARY MESSAGING.

It is important for the Lottery, through advertising, to explain the benefits of Lottery operations to the state of Ohio. This includes recognizing annual contributions to the Lottery Profits Education Fund; recognition of outstanding students and teachers, special production; and the impact of the Lottery on the economy of Ohio.

3. CORPORATE RESPONSIBILITY.

The Lottery recognizes that gambling can become a problem for some people and considers awareness about both the problem and treatment a priority. The Lottery has sponsored training programs for those who treat compulsive gamblers and provides education for individuals ranging from young people to senior citizens about financial responsibility and gambling. Advertising elements of the program may include point-of-sale (POS) material with a play responsibly message, print advertising and television and radio public service announcements (PSAs) on compulsive gambling.

All segments of Ohio's population shall be represented in advertising. The successful Offeror will be responsible for making sure that all advertising meets, at a minimum, these guidelines as well as all advertising requirements outlined in the Ohio Revised Code and the National Association of State and Provincial Lotteries Advertising Standards.

#### COPYRIGHTS AND PROPOSALS AS PROPERTY OF THE STATE.

The Lottery shall have the right to use ideas or adaptations of ideas presented in submitted proposals if deemed "non-original" or "previously submitted". However, the Offeror must understand that the State may copy the Proposal for purposes of facilitating its evaluation or to respond to requests for public records. The Offeror also must understand that such copying will not violate any copyrights in the materials submitted.

CALENDAR OF EVENTS. The schedule for the Project is given below, and is subject to change. The State may change this schedule at any time. If the State changes the schedule before the Proposal due date, it will do so through an announcement on the State Procurement Web site area for this RFP. The Web site announcement will be followed by an addendum to this RFP, also available through the State Procurement Web site. After the Proposal due date and before the award of the Contract, the State will make scheduled changes through the RFP addendum process. The State will make changes in the Project schedule after the Contract award through the change order provisions located in the general terms and conditions of the Contract. It is each prospective Offeror's responsibility to check the Web site question and answer area for this RFP for current information regarding this RFP and its calendar of events through award of the Contract. No contact shall be made with agency/program staff until contract award is announced.

#### DATES:

##### Firm Dates

RFP Issued:	November 12, 2008
Inquiry Period Begins:	November 12, 2008
Pre-Proposal Conference:	December 2, 2008
Inquiry Period Ends:	December 16, 2008 at 8:00 a.m.
Proposal Due Date:	January 7, 2008 by 1:00 p.m.

##### Estimated Dates

Oral Presentations Notification:	February 6, 2009
Contract Award Notification:	April 3, 2009
Issuance of Purchase Order:	June 4, 2009
Commencement of Work:	July 1, 2009

NOTE: These dates are subject to change.

There are references in this RFP to the Proposal due date. Prospective Offerors must assume, unless it is clearly stated to the contrary, that any such reference means the date and time (Columbus, OH local time) that the Proposals are due. Proposals received after 1:00 P.M. on the due date will not be evaluated.

PRE-PROPOSAL CONFERENCE. A pre-proposal conference will be held at the Ohio Lottery Commission, 615 W. Superior Avenue, Cleveland, OH 44113 on December 2, 2008, 11:00 AM to 1:00 PM Eastern Standard Time. The purpose of this conference is to discuss the RFP and Project with prospective Offerors and to allow them to ask questions arising from its initial review of this document. Attendance at the Pre-Proposal Conference is encouraged, but not mandatory to submit a Proposal. The State will answer questions to the best of its abilities. The State reserves the right to take questions under advisement and respond through the inquiry process. Offerors are responsible for any and all information exchanged at the site visit or via the Internet inquiry process.

To facilitate access to this site, please provide the names, organization and telephone numbers of representatives that will attend the pre-proposal conference and send this information to: Ross A. Leider, Ohio Department of Administrative Services, no later than 12:00 PM, December 1, 2008 by email to: [ross.leider@das.state.oh.us](mailto:ross.leider@das.state.oh.us) or fax to: 1-614-644-1785 attention: Ross Leider.

PART TWO: STRUCTURE OF THIS RFP

ORGANIZATION. This RFP is organized into five (5) parts and eleven attachments. The parts and attachments are listed below.

PARTS:

Part One	Executive Summary
Part Two	Structure of this RFP
Part Three	General Instructions
Part Four	Evaluation of Proposals
Part Five	Award of the Contract

ATTACHMENTS:

Attachment One	Work Requirements and Special Provisions
Part One	Work Requirements
Part Two	Special Provisions
Attachment Two	Requirements for Proposals
Attachment Three	General Terms and Conditions
Part One	Performance and Payment
Part Two	Work & Contract Administration
Part Three	Ownership & Handling of Intellectual Property & Confidential Information
Part Four	Representations, Warranties, and Liabilities
Part Five	Acceptance and Maintenance
Part Six	Construction
Part Seven	Law & Courts
Attachment Four	Contract
Attachment Five	Offeror Profile Summary
5-A	Offeror Profile Form
5-B	Offeror Prior Project Form
5-C	Offeror Prior Project Form
5-D	Offeror Prior Project Form
Attachment Six	Offeror References
Attachment Seven	Offeror's Candidate Summary
7-A	Offeror's Candidate References
7-B	Offeror's Candidate Information: Education and Training
7-C	Offeror's Candidate Experience Requirement
Attachment Eight	Offeror Performance Form
Attachment Nine	Proposal Labels
Attachment Ten	Sample Project
Attachment Eleven	Cost Summary Form

### PART THREE: GENERAL INSTRUCTIONS

The following sections provide details on how to get more information about this RFP and how to respond to this RFP. All responses must be complete and in the prescribed format.

CONTACTS. The following person will represent the State:

Ross A. Leider, CPPB  
Ohio Department of Administrative Services  
Office of Procurement Services  
4200 Surface Road  
Columbus, OH 43228-1395

During the performance of the Work, a State representative (the "Agency Project Representative") will represent the Agency and be the primary contact for matters relating to the Work. The Agency Project Representative will be designated in writing after the Contract award.

INQUIRIES. Offerors may make inquiries regarding this RFP any time during the inquiry period listed in the Calendar of Events. To make an inquiry, Offerors must use the following process:

1. Access the State Procurement Web site at <http://www.ohio.gov/procure>.
2. From the Navigation Bar on the left, select "Find It Fast".
3. Select "Doc/Bid/Schedule #" as the Type.
4. Enter the RFP Number found on Page 1 of the document. (RFP numbers begin with the letters "CSP")
5. Click "Find It Fast" button.
6. On the document information page, click "Submit Inquiry".
7. On the document inquiry page, complete the required "Personal Information" section by providing:
  - a. First and last name of the prospective Offeror's representative who is responsible for the inquiry.
  - b. Name of the prospective Offeror.
  - c. Representative's business phone number.
  - d. Representative's e-mail address.
8. Type the inquiry in the space provided including:
  - a. A reference to the relevant part of this RFP.
  - b. The heading for the provision under question.
  - c. The page number of the RFP where the provision can be found.
9. Click the "Submit" button.

Offerors submitting inquiries will receive an immediate acknowledgement that its inquiry has been received as well as an e-mail acknowledging receipt of the inquiry. Offerors will not receive a personalized e-mail response to its question, nor will they receive notification when the question has been answered.

Offerors may view inquiries and responses using the following process:

1. Access the State Procurement Web site at <http://www.ohio.gov/procure>.
2. From the Navigation Bar on the left, select "Find It Fast".
3. Select "Doc/Bid/Schedule #" as the Type.
4. Enter the RFP Number found on Page 1 of the document. (RFP numbers begin with the letters "CSP")
5. Click "Find It Fast" button.
6. On the document information page, click the "View Q & A" button to display all inquiries with responses submitted to date.

The State will try to respond to all inquiries within 48 hours of receipt, excluding weekends and State holidays. The State will not respond to any inquiries received after 8:00 A.M. on the inquiry end date.

Offerors are to base their RFP responses, and the details and costs of their proposed projects, on the requirements and performance expectations established in this RFP for the future contract, not on details of any other potentially related contract or project. If Offerors ask questions about existing or past contracts using the Internet Q&A process, the State will use its discretion in deciding whether to provide answers as part of this RFP process.

The State is under no obligation to acknowledge questions submitted through the Q&A process if those questions are not in accordance with these instructions or deadlines.

ADDENDA TO THE RFP. If the State decides to revise this RFP before the Proposal due date, addenda will be announced on the State Procurement Web site.

Offerors may view addenda using the following process:

1. Access the State Procurement Web site at <http://www.ohio.gov/procure>;
2. From the Navigation Bar on the left, select "Find It Fast";
3. Select "Doc/Bid/Schedule #" as the Type;
4. Enter the RFP Number found on Page 1 of the document (RFP numbers begin with the letters "CSP");
5. Click "Find It Fast" button;
6. On the document information page, click on the addendum number to display the addendum.

When an addendum to this RFP is necessary, the State may extend the Proposal due date through an announcement on State Procurement Web site. Addenda announcements may be provided any time before 5:00 p.m. on the day before the proposal is due. It is the responsibility of each prospective Offeror to check for announcements and other current information regarding this RFP.

After the submission of Proposals, addenda will be distributed only to those Offerors whose submissions are under active consideration. When the State issues an addendum to the RFP after Proposals have been submitted, the State will permit Offerors to withdraw their Proposals. This withdrawal option will allow any Offeror to remove its Proposal from active consideration should the Offeror feel that the addendum changes the nature of the transaction to the extent that the Offeror's Proposal is no longer in its interests. Alternatively, the State may allow Offerors that have Proposals under active consideration to modify their Proposals in response to the addendum, as described below.

Whenever the State issues an addendum after the Proposal due date, the State will tell all Offerors whose Proposals are under active consideration whether they have the option to modify their Proposals in response to the addendum. Any time the State amends the RFP after the Proposal due date, an Offeror will have the option to withdraw its Proposal even if the State permits modifications to the Proposals. If the Offerors are allowed to modify their Proposals, the State may limit the nature and scope of the modifications. Unless otherwise stated in the State's notice, modifications and withdrawals must be made in writing and must be submitted within ten (10) business days after the addendum is issued. If this RFP provides for a negotiation phase, this procedure will not apply to changes negotiated during that phase. Withdrawals and modifications must be made in writing and submitted to the State at the address and in the same manner required for the submission of the original Proposals. Any modification that is broader in scope than the State has authorized may be rejected and treated as a withdrawal of the Offeror's Proposal.

PROPOSAL SUBMITTAL. Each Offeror must submit a Technical Proposal and a Cost Proposal as part of its Proposal package. Proposals must be submitted as two separate components (Cost Proposal and Technical Proposal) in separate sealed envelopes/packages. Each Technical Proposal package must be clearly marked "CSP900210 RFP – Technical Proposal" on the outside of each Technical Proposal package's envelope. Each Cost Proposal package must be clearly marked "CSP900210 RFP – Cost Proposal" on the outside of each Cost Proposal package's envelope. Each Offeror must submit one (1) original, completed and signed in blue ink, and eight (8) copies for a total of nine (9) Proposal packages.

The Offeror must also submit, in the sealed package, a copy of the Proposals on CD-ROM in Microsoft Office (Word, Excel, or Project) 2003, or higher, format and/or PDF format as appropriate. In the event there is a discrepancy between the hard copy and the electronic copy, the hard copy will be the official Proposal. Proposals are due no later than the proposal due date, at 1:00 P.M. Proposals submitted by e-mail or fax are not acceptable and will not be considered. Proposals must be submitted to:

Department of Administrative Services  
State Procurement Bid Desk  
4200 Surface Road  
Columbus, OH 43228-1395

The State will reject any Proposals or unsolicited Proposal addenda that are received after the deadline. An Offeror that mails its Proposal must allow adequate mailing time to ensure its timely receipt. The State recommends that Offerors submit proposals as early as possible. Proposals received prior to the deadline are stored, unopened, in a secured area until 1:00 P.M. on the due date. Offerors must also allow for potential delays due to increased security. The State will reject late proposals regardless of the cause for the delay.

Each Offeror must carefully review the requirements of this RFP and the contents of its Proposal. Once opened, Proposals cannot be altered, except as allowed by this RFP.

By submitting a Proposal, the Offeror acknowledges that it has read this RFP, understands it, and agrees to be bound by its requirements. The State is not responsible for the accuracy of any information regarding this RFP that was gathered through a source different from the inquiry process described in the RFP.

ORC Section 9.24 prohibits the State from awarding a Contract to any Offeror(s) against whom the Auditor of State has issued a finding for recovery if the finding for recovery is "unresolved" at the time of award. By submitting a Proposal, the Offeror warrants that it is not now, and will not become subject to an "unresolved" finding for recovery under Section 9.24, prior to the award of a Contract arising out of this RFP, without notifying DAS of such finding. ORC Section 9.231 applies to this contract.

The State may reject any Proposal if the Offeror takes exception to the Terms and Conditions of this RFP, fails to comply with the procedure for participating in the RFP process, or the Offeror's Proposal fails to meet any requirement of this RFP. Any question asked during the inquiry period will not be viewed as an exception to the Terms and Conditions.

All Proposals and other material submitted will become the property of the State and may be returned only at the State's option. Proprietary information should not be included in a Proposal or supporting materials because the State will have the right to use any materials or ideas submitted in any Proposal without compensation to the Offeror. Additionally, all Proposals will be open to the public after the award of the Contract has been posted on the Office of Procurement Service's web-site.

The State will retain all Proposals, or a copy of them, as part of the Contract file for at least ten (10) years. After the retention period, the State may return, destroy, or otherwise dispose of the Proposals or the copies.

WAIVER OF DEFECTS. The State may waive any defects in any Proposal or in the submission process followed by an Offeror. The State will only do so if it believes that it is in the State's interests and will not cause any material unfairness to other Offerors.

MULTIPLE OR ALTERNATE PROPOSALS. The State accepts multiple Proposals from a single Offeror, but the State requires each such Proposal be submitted separately from every other Proposal the Offeror makes. Additionally, the Offeror must treat every Proposal submitted as a separate and distinct submission and include in each Proposal all materials, information, documentation, and other items this RFP requires for a Proposal to be complete and acceptable. No alternate Proposal may incorporate materials by reference from another Proposal made by the Offeror or refer to another Proposal. The State will judge each alternate Proposal on its own merit.

ADDENDA TO PROPOSALS. Addenda or withdrawals of Proposals will be allowed only if the addendum or withdrawal is received before the Proposal due date. No addenda or withdrawals will be permitted after the due date, except as authorized by this RFP.

PROPOSAL INSTRUCTIONS. Each Proposal must be organized in an indexed binder ordered in the same manner as the response items are ordered in Attachment Two of this RFP.

The State wants clear and concise Proposals. Offerors should, however, take care to completely answer questions and meet the RFP's requirements thoroughly. All Offerors, including current contract holders, if applicable, must provide detailed and complete responses as Proposal evaluations, and subsequent scores, are based solely on the content of the Proposal. No assumptions will be made or values assigned for the competency of the Offeror whether or not the Offeror is a current or previous contract holder.

The requirements for the Proposal's contents and formatting are contained in an attachment to this RFP.

The State will not be liable for any costs incurred by an Offeror in responding to this RFP, regardless of whether the State awards the Contract through this process, decides not to go forward with the Project, cancels this RFP for any reason, or contracts for the Project through some other process or by issuing another RFP.

## PART FOUR: EVALUATION OF PROPOSALS

DISCLOSURE OF PROPOSAL CONTENTS. The State will seek to open the Proposals in a manner that avoids disclosing their contents. Additionally, the State will seek to keep the contents of all Proposals confidential until the Contract is awarded. The State will prepare a registry of Proposals containing the name and address of each Offeror. That registry will be open for public inspection after the Proposals are opened.

REJECTION OF PROPOSALS. The State may reject any Proposal that is not in the required format, does not address all the requirements of this RFP, or that the State believes is excessive in price or otherwise not in its interests to consider or to accept. In addition, the State may cancel this RFP, reject all the Proposals, and seek to do the Project through a new RFP or other means.

EVALUATION OF PROPOSALS GENERALLY. The evaluation process may consist of up to four (4) distinct phases:

1. The procurement representative's initial review of all Proposals for defects;
2. The State's evaluation of the Proposals;
3. Request for more information (interviews, presentations, and/or demonstrations); and
4. Negotiations.

CLARIFICATIONS & CORRECTIONS. During the evaluation process, the State may request clarifications from any Offeror under active consideration and may give any Offeror the opportunity to correct defects in its Proposal if the State believes doing so does not result in an unfair advantage for the Offeror and it is in the State's interests. Any clarification response that is broader in scope than what the State has requested may result in the Offeror's proposal being disqualified.

REFERENCE CHECKS. The state may conduct reference checks to verify and validate the Offeror's or proposed candidate's past performance. Reference checks indicating poor or failed performance by the Offeror or proposed candidate may be cause for rejection of the proposal. In addition, failure to provide requested reference contact information may result in the State not including the reference experience in the evaluation process.

The reference evaluation will measure the criteria contained in this part of the RFP as it relates to the Offeror's previous contract performance including, but not limited to its performance with other local, state, and federal entities. The State reserves the right to check references other than those provided in the Offeror's Proposal. The State may obtain information relevant to criteria in this part of the RFP, which is deemed critical to not only the successful operation and management of the Project, but also the working relationship between the State and the Offeror.

To maintain fairness in the evaluation process, all information sought by the State will be obtained in a manner such that no Offeror is provided an unfair competitive advantage.

INITIAL REVIEW. The procurement representative will review all Proposals for their format and completeness. The procurement representative normally rejects any incomplete or incorrectly formatted Proposal, though he or she may waive any defects or allow an Offeror to submit a correction.

The procurement representative will forward all timely, complete, and properly formatted Proposals to an evaluation committee, which the procurement representative will chair.

COMMITTEE REVIEW OF THE PROPOSALS. The evaluation committee will evaluate each Proposal that the procurement representative has determined is timely, complete, and properly formatted. The evaluation will be according to the criteria contained in this Part of the RFP. An attachment to this RFP may further refine these criteria, and the State has a right to break these criteria into components and weight any components of a criterion according to their perceived importance.

The committee may also have the Proposals or portions of them reviewed and evaluated by independent third parties or various State personnel with technical or professional experience that relates to the Work or to a criterion in the evaluation process. The committee may also seek reviews of end users of the Work or the advice or evaluations of various State committees that have subject matter expertise or an interest in the Work. In seeking such reviews, evaluations, and advice, the committee will first decide how to incorporate the results in the scoring of the Proposals. The committee may adopt or reject any recommendations it receives from such reviews and evaluations.

The evaluation will result in a point total being calculated for each Proposal. At the sole discretion of the State, any Proposal, in which the Offeror received a significant number of zeros for sections in the technical portions of the evaluation, may be rejected. Those Offerors submitting the highest-rated Proposals may be scheduled for the next phase. The number of Proposals forwarded to the next phase will be within the committee's discretion, but regardless of the number of Proposals selected for the next phase, they will always be the highest rated Proposals from this phase.

At any time during this phase, the State may ask an Offeror to correct, revise, or clarify any portion(s) of its Proposal. The evaluation committee will document all major decisions in writing and make these a part of the Contract file along with the evaluation results for each Proposal considered.

PROPOSAL EVALUATION CRITERIA.

MANDATORY REQUIREMENTS. In the proposal evaluation phase, the committee will rate the Proposals submitted in response to this RFP based on the following criteria and the weight assigned to each criterion. If the Offeror meets the mandatory requirements in the Table 1, the Offeror's Proposal will be included in the next part of this evaluation phase in Table 2.

In the event of a case where no Proposal meets all the mandatory requirements, it may be that an upper ranking Proposal contains a failure to meet a mandatory requirement that the State believes is critical to the success of the RFP's objectives. When this is so, the State may reject that Proposal and consider lower ranking Proposals. Before doing so, the State must notify the Offeror of the situation and give the Offeror an opportunity to cure the critical mandatory requirement.

If the Offeror cures its failure to meet a critical mandatory requirement, its Proposal will continue to be considered. If the Offeror is unwilling or unable to cure the failure, its Proposal may be rejected. The State may then continue to consider the other remaining Proposals including, if the State so chooses, proposals that ranked lower than the rejected Proposal.

TABLE 1 – MANDATORY REQUIREMENTS

PRIMARY OFFEROR MANDATORY REQUIREMENTS	ACCEPT	REJECT
1. Provide documentation of the Offeror's prior experience detailing a minimum of three (3) years experience providing comprehensive integrated marketing services with over \$5 million dollars in annual billings per year for the past three (3) years.		
2. Provide documentation that applicable bonds and insurance will be procured and presented to the State, if selected, prior to performance of any work.		
3. Provide a list of at least one (1) financial institution as a credit reference. The list must include contact name(s), address, e-mail address and phone number(s).		
4. Provide copies of audited or reviewed financial statements for the two (2) most recent fiscal years.		
5. Demonstrate the ability to obtain and maintain a line of credit of at least \$1.25 million dollars throughout the life of this contract dedicated to the OLC account.		
6. Provide a three (3) year history of billings by Client. These Clients names should be the same as those provided throughout the RFP.		
7. The Offeror must be an Ohio-based company in conjunction with the Think Ohio First initiative.		
8. The Offeror shall provide a summary of any billing disputes within the past two (2) years relating to a claim of non-performance or failure to perform in accordance with the terms of a contract and which involve an amount of \$10,000 or more.		
9. If the responding Offeror is a subsidiary and will rely on the financial resources of the parent company to perform this Contract, the parent company must certify, in writing, the availability of its resources to the responding Offeror.		

SECONDARY OFFEROR MANDATORY REQUIREMENTS	ACCEPT	REJECT
1. Provide documentation of the Offeror's prior experience detailing a minimum of three (3) years experience providing comprehensive integrated marketing services with over \$750,000.00 dollars in annual billings per year for the past three (3) years..		
2. Provide documentation that applicable bonds and insurance will be procured and presented to the State, if selected, prior to performance of any work.		
3. Provide a list of at least one (1) financial institution as a credit reference. The list must include contact name(s), address, e-mail address and phone number(s).		
4. Provide copies of audited or reviewed financial statements for the two (2) most recent fiscal years.		
5. Demonstrate the ability to obtain and maintain a line of credit of at least \$350,000 throughout the life of this contract dedicated to the OLC account.		
6. Provide a three (3) year history of billings by Client. These Clients names should be the same as those provided throughout the RFP.		

7. Must be an Ohio-based company in conjunction with the Think Ohio First initiative.		
8. The Offeror shall provide a summary of any billing disputes within the past two (2) years relating to a claim of non-performance or failure to perform in accordance with the terms of a contract and which involve an amount of \$10,000 or more.		
9. If the responding Offeror is a subsidiary and will rely on the financial resources of the parent company to perform this Contract, the parent company must certify, in writing, the availability of its resources to the responding Offeror.		

TECHNICAL REQUIREMENTS, EVALUATION AND SCORING

Does Not Meet	Weak	Weak to Meets	Meets	Meets to Strong	Strong
0 Points	1 Points	2 Points	3 Points	4 Points	5 Points

The scale (0-5) will be used to rate each proposal on the criteria listed in Table 2.

The Evaluation Committee will rank the Proposals by multiplying the score received in each category by its assigned weight and add all categories together for the Offeror's total technical score. Representative numerical values are defined as follows.

Does Not Meet (0) – Proposal does not comply substantially with requirements.

Weak (1) – Response was poor related to meeting the objectives.

Weak to Meets (2) - Proposal meets most requirements, and any weaknesses or deviations from requirements are minor, acceptable and may be readily corrected or minimized in terms of material impact.

Meets (3) – Proposal generally meets the objectives (or expectations).

Meets to Strong (4) – Proposal exceeds objectives (or expectations) in ways that are beneficial to the State and meets objectives (or expectations) and contains at least one enhancing feature that provides some benefit to the State. Weaknesses are minor and are more than offset by the enhancing feature.

Strong (5) – Proposal significantly exceeds objectives (or expectations) in ways that provide tangible benefits or meets objectives (or expectations) and contains at least one enhancing feature that provides significant benefits.

TABLE 2 – TECHNICAL PROPOSAL EVALUATION

CRITERION	WEIGHT	RATING (0-5)
<b>Primary Offeror Technical Proposal Scoring</b>		
<b>Capabilities</b>		
1. The Offeror directly performs/provides the number of required services directly by the Offeror. (Do not include sub-contractor data). (Page 17 -19 Scope of Work, number 1, paragraph A, B and C).	5	
2. The Offeror's Ohio headquarters is within 50 miles of the Ohio Lottery's Cleveland offices.	5	
<b>Financial and Organizational Strength</b>		
1. The Offeror must provide its length of time in business. (Page 27, paragraph 5)	5	
2. The Offeror must provide its average annual billings/number and size of current clients. (Page 27, section 6)	10	
3. The Offeror must provide its proposed Staffing Plan to include key account members, background, experience and expertise and their role/time dedicated to this account. (Page 28, section 7)	15	
<b>Marketing Expertise</b>		
1. Marketing Programs. The Offeror must demonstrate their ability to develop and execute detailed integrated marketing programs. The Offeror must describe and provide examples of how the Offeror meets this requirement with existing clients. Include creative samples and	15	

campaigns.(Page 28, section 6)		
2. Marketing Strategies. The Offeror must demonstrate and provide examples of marketing strategies with existing or past clients. (Page 28, section 6)	15	
3. Marketing Approach. The Offeror must describe and provide detailed examples of how the Offeror would concept, plan and complete marketing assignments for the Ohio Lottery. (Page 28, section 6)	15	
Measurement		
1. Metrics. The Offeror must provide proposed metrics/plans to measure advertising campaign Effectiveness. The Offeror should include specifics on what will be measured and how it will be done. (Page 18, section, 1 c 2)	10	
Administrative Effort		
1. Billing and Invoicing. The Offeror must provide the description of process and documentation that will be used to prepare and submit invoices. (Page 19, 1 d)	5	

CRITERION	WEIGHT	RATING (0 -5)
Secondary Offeror Technical Proposal Scoring		
Capabilities and Location		
1. The Offeror directly performs/provides the number of required services provided/performed directly by the Offeror. (Do not include sub-contractor data). (Page 17 -19 Scope of Work). (Scope of Work, number 1, paragraph B and C).	5	
Financial and Organizational Strength		
1. The Offeror must provide its length of time in business. (Page 27, paragraph 05)	5	
2. The Offeror must provide its average annual billings/number and size of current clients. (Page 27, section 6)	5	
3. The Offeror must provide its proposed Staffing Plan to include key account members, background, experience and expertise. (Page 28, section 7)	10	
Marketing Expertise		
1. Marketing Programs. The Offeror must demonstrate their ability to develop and execute detailed integrated marketing programs. The Offeror must describe and provide examples of how the Offeror meets this requirement with existing clients. Include creative samples and campaigns. (Page 28, section 6)	20	
2. Marketing Strategies. The Offeror must demonstrate and provide examples of marketing strategies used with existing or past clients. (Page 28, section 6)	20	
3. Marketing Approach. The Offeror must describe and provide detailed examples of how the Offeror would concept, plan and complete marketing assignments for the Ohio Lottery. (Page 28, section 6)	20	
Measurement		
1. Metrics. The Offeror must provide proposed metrics/plans to measure advertising campaign effectiveness. The Offeror should include specifics on what will be measured and how it will be done. (Page 18, section 1 c 2)	10	
Administrative Effort		
1. Billing and Invoicing. The Offeror must provide the description of process and documentation that will be used to prepare and submit invoices. (Page 19, 1 d)	5	

500 points for each of the Primary and Secondary Offeror technical scorer are attainable by scoring 5 ("greatly exceeds") points, multiplied by corresponding weight, for each of the items in the Technical Proposal section of Table 2.

PROPOSAL EVALUATION AND ORAL PRESENTATION. Once the technical merits of a Proposal are considered, the costs of that Proposal will be considered. It is within the State's discretion to wait to factor in a Proposal's cost until after any interviews, presentations, demonstrations or discussions. Also, before evaluating the technical merits of the Proposals, the State may do an initial review of costs to determine if any Proposals should be rejected because of excessive cost. The State may reconsider the excessiveness of any Proposal's cost at any time in the evaluation process.

#### COST POINT CALCULATION

The Offeror's cost points are calculated using the following formula: Cost points = (lowest Offeror's cost/Offeror's cost) x 300 possible cost points.

The number of points assigned to the cost evaluation will be prorated, with the lowest accepted cost proposal given the maximum number of points possible for this criterion. Other acceptable cost proposals will be scored as the ratio of the lowest price proposal to the proposal being scored, multiplied by the maximum number of points possible for this criterion.

#### TOTAL POINTS

The Offeror with the highest point total from all phases of the evaluation (Technical Merit Points + Cost Points) will be recommended for the next phase of the evaluation. If the committee finds that one or more Proposals should be given further consideration, the committee may select one or more of the highest scoring Proposals to move to the next phase. The committee may alternatively choose to bypass any or all subsequent phases and make an award based solely on the evaluation phase.

TABLE 3 – COMBINED SCORES

The values for technical and cost points will be calculated and applied to Table 3.

CRITERIA	POSIBLE POINTS	OFFEROR'S SCORE
TECHNICAL REQUIREMENTS	500	
COST	300	
ORAL PRESENTATION (See Attachment Ten)	200	
TOTAL	1000	

SELECTION PROCESS. One or more of the Proposals will then be selected for further consideration in the next phase of the evaluation process. The Proposal(s) selected to be considered in the next phase will always be the highest ranking Proposal(s) based on this analysis. The committee may not move a lower ranking Proposal(s) to the next phase unless all the Proposal(s) that rank above it are also moved to the next phase, excluding any proposals that the committee disqualifies because of excessive cost or other reasons. Alternatively, if there are to be no more phases because the committee feels they are unnecessary or inappropriate, the highest ranking Proposal will be awarded the Contract.

This RFP asks for responses and submissions from Offerors, most of which represent components of the above criteria. While each criterion represents only a part of the total basis for a decision to award the Contract to an Offeror, a failure by an Offeror to make a required submission or meet a mandatory requirement will normally result in a rejection of that Offeror's Proposal. The value assigned above to each criterion is only a value used to determine which Proposal is the most advantageous to the State in relation to the other Proposals that the State received. It is not a basis for determining the importance of meeting any requirement to participate in the Proposal process.

If the State does not receive any Proposal that meets all the mandatory requirements, the State may cancel this RFP. Alternatively, if the State believes it is in the State's interest, the State may evaluate Proposals despite their failure to meet all the mandatory requirements. In doing this, the State may consider one or more of the highest-ranking Proposals. The State may not consider any lower-ranking Proposals unless all Proposals ranked above it are also considered, except as provided below.

In any case where no Proposal meets all the mandatory requirements, it may be that an upper ranking Proposal contains a failure to meet a mandatory requirement that the committee believes is critical to the success of the RFP's objectives. When this is so, the committee may reject that Proposal and consider lower ranking Proposals. Before doing so, the committee must notify the Offeror of the situation and give the Offeror an opportunity to cure the critical mandatory requirement.

If the Offeror cures its failure to meet a mandatory requirement, the Proposal will continue to be considered. If the Offeror is unwilling or unable to cure the failure, its Proposal may be rejected. The committee then may continue to consider the other remaining Proposals, including, if the committee so chooses, proposals that ranked lower than the rejected Proposal.

FINANCIAL ABILITY. Part of the Proposal evaluation criteria is the qualifications of the Offeror which include, as a component, the Offerors financial ability to perform the Contract. This RFP may expressly require the submission of financial statements from all Offerors in the Proposal contents attachment. If the Proposal does not make this an expressed requirement, the State may still insist that an Offeror submit reviewed or audited financial statements if the State is concerned that an Offeror may not have the financial ability to carry out the Contract.

In evaluating an Offeror's financial ability, the weight the State assigns, if any, to that financial ability will depend on whether the Offeror's financial position is adequate or inadequate. That is, if the Offeror's financial ability is adequate, the value assigned to the Offeror's relative financial ability in relation to other Offerors may or may not be significant, depending on the nature of the Work. If the State believes the Offeror's financial ability is not adequate, the State may reject the Proposal despite its other merits.

DETERMINATION OF RESPONSIBILITY. The State may review the highest-ranking Offeror or its key team members to ensure that the Offeror is responsible. The Contract may not be awarded to an Offeror that is determined not to be responsible. The State's determination of an Offeror's responsibility may include the following factors: the experience of the Offeror and its key team members; past conduct and past performance on previous contracts; ability to execute this contract properly; and management skill. The State will make such determination of responsibility based on the Offeror's Proposal, reference evaluations, and any other information the State requests or determines to be relevant.

CLARIFICATIONS AND CORRECTIONS. During the evaluation process, the State may request clarifications from any Offeror under active consideration and may give any Offeror the opportunity to correct defects in its Proposal if the State believes doing so does not result in an unfair advantage for the Offeror and it is in the State's interests. Any clarification response that is broader in scope than what the State has requested may result in the Offeror's proposal being disqualified.

INTERVIEWS, DEMONSTRATIONS, AND PRESENTATIONS. The State may require top Offerors to be interviewed. Such presentations, demonstrations, and interviews will provide an Offeror with an opportunity to clarify its Proposal and to ensure a mutual understanding of the Proposal's content. This will also allow the State an opportunity to test or probe the professionalism, qualifications, skills, and work knowledge of the proposed candidates. The presentations, demonstrations, and interviews will be scheduled at the convenience and discretion of the State. The State may record any presentations, demonstrations, and interviews.

The State normally will not rank interviews, demonstrations, and presentations. Rather, the State may decide to revise its existing proposal evaluations based on the interviews, demonstrations, and/or presentations.

CONTRACT NEGOTIATIONS. The final phase of the evaluation process may be contract negotiations. It is entirely within the discretion of the State whether to permit negotiations. An Offeror must not submit a Proposal assuming that there will be an opportunity to negotiate any aspect of the Proposal. The State is free to limit negotiations to particular aspects of any Proposal, to limit the Offerors with whom the State wants to negotiate, and to dispense with negotiations entirely. Negotiations will be scheduled at the convenience of the State. The selected Offeror(s) are expected to negotiate in good faith.

Negotiations may be conducted with any Offeror who submits a competitive Proposal, but the State may limit discussions to specific aspects of the RFP. Any clarifications, corrections, or negotiated revisions that may occur during the negotiations phase will be reduced to writing and incorporated in the RFP or the Offeror's Proposal, as appropriate. Any Offeror whose response continues to be competitive will be accorded fair and equal treatment with respect to any clarification, correction, or revision of the RFP and will be given the opportunity to negotiate revisions to its Proposal based on the amended RFP. Should the evaluation process have resulted in a top-ranked Proposal, the State may limit negotiations to only that Offeror and not hold negotiations with any lower-ranking Offeror. If negotiations are unsuccessful with the top-ranked Offeror, the State may then go down the line of remaining Offerors, according to rank, and negotiate with the next highest-ranking Offeror. Lower-ranking Offerors do not have a right to participate in negotiations conducted in such a manner.

If the State decides to negotiate with all the remaining Offerors, or decides that negotiations with the top-ranked Offeror are not satisfactory and negotiates with one or more of the lower-ranking Offerors, the State will then determine if an adjustment in the ranking of the remaining Offerors is appropriate based on the negotiations. The Contract award, if any, will then be based on the final ranking of Offerors, as adjusted.

Auction techniques that reveal one Offeror's price to another or disclose any other material information derived from competing Proposals are prohibited. Any oral modification of a Proposal will be reduced to writing by the Offeror as described below.

Following negotiations, the State may set a date and time for the submission of best and final Proposals by the remaining Offeror(s) with which the State conducted negotiations. If negotiations were limited and all changes were reduced to signed writings during negotiations, the State need not require the submissions of best and final Proposals.

If best and final Proposals are requested, they may be submitted only once, unless the State makes a written determination that it is in the State's interest to conduct additional negotiations. In such cases, the State may require another submission of best and final Proposals. Otherwise, discussion of or changes in the best and final Proposals will not be allowed. If an Offeror does not submit a best and final Proposal, the Offeror's previous Proposal will be considered the Offeror's best and final Proposal.

The State generally will not rank negotiations. The negotiations will normally be held to correct deficiencies in the preferred Offeror's Proposal. If negotiations fail with the preferred Offeror, the State may negotiate with the next Offeror in ranking.

Alternatively, the State may decide that it is in the interests of the State to negotiate with all the remaining Offerors to determine if negotiations lead to an adjustment in the ranking of the remaining Offerors.

From the opening of the Proposals to the award of the Contract, everyone working on behalf of the State to evaluate the Proposals will seek to limit access to information contained in the Proposals solely to those people with a need to know the

information. They will also seek to keep this information away from other Offerors, and the evaluation committee will not be allowed to tell one Offeror about the contents of another Offeror's Proposal in order to gain a negotiating advantage.

Before the award of the Contract or cancellation of the RFP, any Offeror that seeks to gain access to the contents of another Offeror's Proposal may be disqualified from further consideration.

**FAILURE TO NEGOTIATE.** If an Offeror fails to provide the necessary information for negotiations in a timely manner, or fails to negotiate in good faith, the State may terminate negotiations with that Offeror and collect on the Offeror's bid bond, if a bid bond was required in order to respond to this RFP.

PART FIVE: AWARD OF THE CONTRACT

CONTRACT AWARD. The State intends to award the Contract based on the schedule in the RFP, if the State decides the Project is in its best interests and has not changed the award date.

The signature page for the Contract is included as Attachment Four of this RFP. In order for an Offeror's Proposal to remain under active consideration, the Offeror must sign, the two (2) copies enclosed, in blue ink and return the signed Contracts to the State with its response. Submittal of a signed Contract does not imply that an Offeror will be awarded the Contract. In awarding the Contract, the State will issue an award letter to the selected Contractor. The Contract will not be binding on the State until the State's duly authorized representative signs both copies and returns one (1) to the Contractor, the State issues a purchase order, and all other prerequisites identified in the Contract have occurred.

The State expects the Contractor to commence work upon receipt of a state issued purchase order. If the State awards a Contract pursuant to this RFP and the Contractor is unable or unwilling to commence the work, the State reserves the right to cancel the Contract and return to the original RFP process and evaluate any remaining Offeror Proposals reasonably susceptible of being selected for award of the Contract. The evaluation process will resume with the next highest ranking, viable Proposal.

CONTRACT. If this RFP results in a Contract award, the Contract will consist of this RFP including all attachments, written addenda to this RFP, the Contractor's accepted Proposal and written authorized addenda to the Contractor's Proposal. It will also include any materials incorporated by reference in the above documents and any purchase orders and change orders issued under the Contract. The general terms and conditions for the Contract are contained in Attachment Three of this RFP. If there are conflicting provisions between the documents that make up the Contract, the order of precedence for the documents is as follows:

1. This RFP, as amended;
2. The documents and materials incorporated by reference in the RFP;
3. The Offeror's proposal, as amended, clarified, and accepted by the State; and
4. The documents and materials incorporated by reference in the Offeror's Proposal.

Notwithstanding the order listed above, change orders and amendments issued after the Contract is executed may expressly change the provisions of the Contract. If they do so expressly, then the most recent of them will take precedence over anything else that is part of the Contract.

ATTACHMENT ONE: WORK REQUIREMENTS AND SPECIAL PROVISIONS  
PART ONE: WORK REQUIREMENTS

This attachment describes the Project and what the Contractor must do to get the job done. It also describes what the Offeror must deliver as part of the completed Project (the "Deliverables"), and it gives a detailed description of the Project's schedule.

CAPABILITIES/UNDERSTANDING AND APPROACH OF THE OFFEROR.

Offerors shall provide a complete and detailed explanation of their organization's understanding of the services required under the Scope of Work section of this RFP. Be specific regarding the interaction of various marketing disciplines in this process. Include in your description an explanation of the processes or tools you would use to develop recommendations to the Lottery and indicate for each whether their staff, joint venture partners or outside suppliers/subcontractors would perform the service, and the location (i.e. Cleveland, Ohio, elsewhere in Ohio, outside Ohio, etc.) where they would be performed.

SCOPE OF WORK. The Primary Contractor will be required to provide integrated marketing services that will enable the agency to increase overall game sales, support the evolving brand and meet the changing needs of the consumers. These services will include, but are not limited to:

1. Providing traditional, electronic and non-traditional marketing solutions.
2. Creating advertising concepts and programs.
3. Producing concepts and programs for all advertising mediums.
4. Securing marketing support services, materials and items.
5. Performing strategic planning, brand development and product analysis.
6. Designing and/or implementing communication plans.
7. Measuring marketing/advertising effectiveness.
8. Developing in-store messaging strategies and displays.

The Secondary Contractor(s) will be required to provide creative presentations for at least four (4) creative campaigns and/or special projects each year. These presentations may include, but not be limited to campaigns for traditional, electronic and non traditional marketing mediums and in-store marketing campaigns.

1. Creating advertising concepts and programs.
2. Producing concepts and programs for all advertising mediums.
3. Securing marketing support services, materials and items
4. Measuring marketing/advertising effectiveness.
5. Developing in-store messaging strategies and displays.

The successful Offeror(s) will work closely with, and under the direction of, the Lottery. It is anticipated that the Deputy Director of Marketing will be responsible for the final plans and implementation of all marketing and advertising functions of the Lottery. The primary responsibility of the successful Offeror(s) will be to develop advertising programs and provide marketing services following direction provided by the Lottery.

The successful Offeror(s) will be included in marketing planning and idea generation in order that the successful Offeror(s) are provided with as much information as possible and so that the Lottery may benefit from the successful Offeror experience, creativity and knowledge. In addition to the successful Offerors account manager(s), its staff members whose have expertise in creative development, media, promotion, and research shall also be asked to regularly participate in planning sessions.

Because of the nature of the services to be provided by the successful Offeror(s), especially the extensive and direct communication that is critical to the success of the Lottery's marketing/advertising programs, it is essential that the successful Offeror(s) have an Ohio presence. The State intends to award contracts that will commence July 1, 2009 and expire June 30, 2011, with three (3) additional one-year periods.

1. SCOPE OF SERVICES.

The successful Offeror(s) must demonstrate its understanding of the marketing field and provide examples of delivering consistent product/brand messages across multiple mediums and platforms. The ideal Offeror(s) will have the capability to perform all Marketing Services functions in-house. However, a Contractor may use qualified sub-contractors to provide any requested Marketing Services not directly available within its organization.

The primary Contractor will be responsible for all services listed. The secondary Contractor(s) will be responsible for services listed in section B, C, D1 through E.

A. Marketing Services.

Marketing services categories and mediums may include, but are not limited to:

1. Traditional Services. TV, radio, print, Point of Sale/Point of Purchase, and direct mail.
2. Electronic Services. Web, interactive, mobile pod casting, social networking, user-generated content, advergames and any/all other forms of electronic and digital marketing opportunities developed over the course of the contract period.
3. Non-Traditional Services. Street, viral, one-to-one, club and any/all other current and future marketing methods developed over the course of this contract period that do not fall within the before mentioned categories.
4. Public Relations Services. Services should include: communications planning; corporate image positioning and support; program development and execution.
5. Shopper Marketing.
  - a. In-store Communication Strategy. Develop in-store messaging strategy for the Lottery's retail channels.
  - b. Key Accounts. Customized in-store messaging and marketing solutions for individual key accounts.
  - c. New Accounts/New Channels. Speculative in-store displays, messaging and marketing solutions designed for a new account and a new channel.
6. Reporting – Create a system to measure the results of all marketing, advertising and promotional programs undertaken by the agency.

B. Creative Development.

1. Creative Development – Advertising concepts shall include the artwork, design, planning, methodology, presentation and deliverables across any/all mediums.
2. Production – Responsible for the production and execution of marketing campaigns and programs. Production will include any services required to run full-scale advertising programs across any/all combinations of traditional, electronic and non-traditional mediums and platforms. Production can include, but is not limited to:
  - a. Talent, music/graphic selection;
  - b. Scouting, directing and filming;
  - c. Audio/visual mixing and editing;
  - d. Digital, interactive product/program creation;
  - e. Web-based program applications and solutions.
  - f. Printing fulfillment, delivery and distribution.

C. Planning. An agency of record for media planning develops the OLC's media plan in conjunction with the OLC. The Primary and Secondary Contractor(s) will be required to work closely with the media planning agency.

1. Planning – Write and submit annual plans. Plans to include: annual advertising campaign strategies, objectives and ideas; promotional and event planning; routine presentations to include industry trends and new media opportunities.
2. Metrics – Provide quantitative and qualitative data analysis, as requested, to support and measure marketing plans, strategies, opportunities and spending.
3. Procurement of Goods and Services – Acquire necessary goods and/or services to launch, activate or sustain marketing and advertising programs.

D. Lottery Knowledge.

1. The successful Offeror(s) shall demonstrate and maintain current knowledge of the lottery industry including games, advertising, research, and resources, throughout the term of the Contract.
2. The primary Contractor shall participate in a minimum of one (1) lottery industry conference/trade show per year to keep informed of industry trends. The number of participants in each conference shall be at the successful Offeror(s) discretion. The successful Offeror(s) will be responsible for expenses related to attending these conferences.

E. BILLING AND INVOICE REQUIREMENTS.

1. The successful Offeror(s) shall provide timely and accurate billing for all awarded projects and shall maintain appropriate accounting records. Billings shall be submitted on a monthly basis.
2. The successful Offeror(s) shall bill the Lottery for work performed within thirty (30) days of completion. Subcontractor bills should be forwarded as soon as possible, but no longer than forty-five (45) days from receipt of an invoice from the subcontractor.
3. The successful Offeror(s) shall receive written authorization from the Lottery before purchasing any goods or services. For each good and/or service to be procured, a format needs to be developed by the successful Offeror(s) in conjunction with the Lottery that shall be completed and submitted for review/approval. The Lottery currently utilizes an Oracle database which assigns authorization numbers to track estimates and invoices
4. The Lottery recognizes that, for much of the above-designated acquisitions, selections and commitments, the selection of a subcontractor will be largely determined on the basis of market research, target audience analyses, single source partners, or some other analytical basis. The Lottery further recognizes that, for these acquisitions, there may be limited or no opportunity to seek competitive pricing in order to assure optimal use of contract funding.
5. In those acquisitions where competitive pricing for subcontracted services can be obtained, the successful Offeror(s) shall obtain competitive offers and select a subcontractor that is most advantageous to the Lottery. Acceptable methods are documented quotes (telephone/fax quotes), formal proposals, and direct negotiation. For each such acquisition, records will be kept of the potential subcontractors that were contacted, name of contact person, date of contact, and pricing offered. These records are to be submitted to the Lottery with every proposal and the successful Offeror(s) shall maintain them for the full duration of the contract period and for three years thereafter. The Lottery encourages utilization of small, minority-owned, and women-owned businesses for procurement of these goods and services whenever appropriate. All subcontracts are subject to prior written approval by the Lottery.
6. The successful Offeror(s) shall pay for and submit reimbursement for all goods and services purchased for the Lottery. The successful Offeror(s) shall bill all goods and services purchased net without markup, and shall pass to the Lottery any discounts earned in conjunction with such purchases. If any non-cash incentives or rewards are offered for the purchase of goods and services, the successful Offeror(s) shall attempt to negotiate a reduction in cost to be passed on to the Lottery. In no event shall the successful Offeror(s) accept non-cash incentives or rewards for its own use or on behalf of the Lottery unless so directed.

ATTACHMENT ONE: WORK REQUIREMENTS AND SPECIAL PROVISIONS  
PART TWO: SPECIAL PROVISIONS

THE OFFERORS FEE STRUCTURE. The Contractor will be paid as proposed on the Cost Summary Form after the OLC approves the receipt of product(s) or Services.

REIMBURSABLE EXPENSES. None, other than those specifically listed in the Proposal.

TRAVEL EXPENSES. Any travel or per diem by the prospective Offeror to carry out its obligations under the Contract shall be at the successful Offeror's expense.

PAYMENT OF INVOICES. Estimates - No Contractor shall incur any liability on the OLC's behalf for any item of space or time in any advertising medium, or for any production services, without having first prepared and presented an estimate to the Director or his designee for written approval utilizing the Lottery's job numbers.

Approvals - No Contractor shall initiate any work or jobs without first submitting a purchase order and obtaining Lottery approval, in writing, of the estimated costs for same.

Reimbursements for Costs Incurred – Each Contractor shall be responsible for payment of all costs associated with providing any and all services in conjunction with it's Contract except as outlined in the Compensation and Non-reimbursement items of Expense. Upon submission of appropriate invoices, the OLC will reimburse each Contractor for costs incurred and will pay the appropriate commissions due at that time. Each Contractor shall be responsible for reviewing and confirming all invoices pertaining to the OLC are valid and accurate prior to their submission for payment. The Contractors are expected to review and forward for reimbursement any/all subcontractor invoices within 45 days of receipt from the subcontractor.

The OLC shall be invoiced monthly by each Contractor for services rendered. Such invoices shall be verified for accuracy and all undisputed invoices, or undisputed portions thereof, shall be paid by the OLC within 30 days of their receipt. Payment on undisputed invoices made subsequent to 30 days from receipt will include an additional amount of interest, to be calculated in accordance with, and subject to, the statutory requirements of the current fiscal year, as administered by the Ohio Office of Budget and Management (OBM).

All bills invoiced by the Contractor for services rendered on behalf of the OLC and received by the OLC before the 15<sup>th</sup> of the month will be paid the following month. The exception to the above is in the case of disputed invoices; invoices received without proof of performance; invoices that differ from the original subcontract; or invoices being questioned for the benefit of the OLC. The OLC shall pay interest as allowed by State law pursuant to Ohio Revised Code Section 126.30 on all non-disputed invoices that have been properly, accurately and promptly submitted by the Contractor and not paid within 30 days.

BILLINGS/INVOICING. Each invoice must be net without mark-up and shall contain the following information:

1. Contractor's name and address.
2. Contractor's federal tax identification number as designated in the Contract.
3. Agency purchase order number.
4. Job Number.
5. The name of the promotion or game.
6. The form of advertising (i.e. radio, television, newspaper, etc.).
7. Supporting documentation including copies of the original invoices and standard back-up documentation.
8. Summary recap of all invoices and charges by media, game and/or category of expense.
9. Itemized billing as shown on the agency purchase order.
10. Service provided.
11. Dates of services.
12. Remit to address.

The Lottery will not reimburse the Contractor for any expenses or services incurred or performed without adequate documentation concerning approved subcontractors. Invoices for subcontracted-for services shall include the federal tax identification or social security number of the Contractor and subcontractor along with the project name, subcontract purchase order number and job number(s).

Original invoices from subcontractors are to be available for inspection by the Lottery upon demand within a reasonable time.

Invoices may be mailed or hand delivered to the following address:

Ohio Lottery Commission  
Attn: Accounts Payable  
615 W. Superior Avenue  
Cleveland, OH 44113

CHANGE OF FINANCIAL CONDITION.

If an Offeror that has submitted a Proposal in response to this RFP experiences a substantial change in financial condition prior to the award of a Contract pursuant to this RFP, or if a successful Offeror experiences a substantial change in financial condition during the term of a Contract with the State, the State must be notified in writing at the time the change occurs or is identified.

BONDING AND INSURANCE. The following bonding information is required for this Project. Except for the litigation bond and bid bond, which must be submitted with the Proposal, the Offerors are to acknowledge they will provide the required bonding with its proposal submission after notification from the State they are to be awarded a Contract with effective dates as of the date of the Contract. The effective dates of the litigation and bid bonds shall be the date of submission of the Proposal. Proof of the ability to obtain the required bonds and/or insurance must be provided with the submission of the Proposal.

BOND AND INSURANCE REQUIREMENTS FOR THE PRIMARY OFFEROR

1. Litigation Bond.

In lieu of the litigation bond required in this subsection, an Offeror may submit with the proposal an acceptable written statement to the State guaranteeing that it will not file any litigation, claims, demands, protests or causes of action seeking a contract award, damages or judgments of any kind whatsoever against the state of Ohio, the Lottery or any of its officers or employees, Commissioners or other Offerors with regard to any matter relating to the award of a Contract pursuant to this RFP.

If the above statement is not provided, each Offeror must submit with its Proposal a litigation bond in the amount of \$350,000.00. A claim upon the bond may be made by the Lottery if:

- A. The Offeror sues the state of Ohio, or any of its officers, employees, other Offerors, or Commissioners with regard to any matter relating to the award of a Contract pursuant to this RFP; and the Lottery or other defendant is the prevailing party in such suit; or the court determines that such suit or any portion thereof was frivolous, was commenced in bad faith, or was not based upon reasonable grounds.
- B. The purpose of the bond is to discourage unwarranted litigation by permitting the Lottery or other defendants to recover damages, including reasonable attorneys' fees, resulting from such litigation. The litigation bond shall remain in effect for a period of two (2) year from the date of submission of the Proposal. Failure to submit either the statement requested or the litigation bond required in lieu of the statement, may be cause for rejection of an Offerors Proposal.

2. Bid Bond.

- A. Each Offeror must submit with the Proposal a Bid Bond, in form and substance and issued by an issuer acceptable to the State, in the amount of \$250,000.00 to guarantee for one (1) year after submission of the proposal the availability of the goods and services at the price(s) quoted in the proposal. The bid bond (a check is acceptable) shall be payable to the state of Ohio.
- B. The bid bond will be returned to all but the successful Offerors upon the execution of the Contract. The bid bond of the successful Offerors will be retained until the Contract is executed and the State is furnished with an acceptable performance bond. The check or bond will be forfeited to the State if the successful Offeror fails to submit in a timely fashion the performance bond or other security, as required, or fails to execute the Contract when required to do so by the State.

3. Fidelity Bond. The State requires a Fidelity Bond in the amount of \$1,500,000.00 covering any loss to the Lottery due to any fraudulent or dishonest act(s) on the part of any Contractor or any subcontractor, or any officer, employee or agent thereof, to be submitted upon the awarding of the Contract resulting from the Integrated Marketing Services RFP. A fidelity bond from an insurance company authorized to conduct business within the state of Ohio that is rated "A-/VI" or better, and on a bond form that is specific to the contract (advertising production business), is acceptable. The bond shall be made payable to the state of Ohio, and shall specifically reference the Contract. The bond shall be in effect for the duration of the Contract and/or any approved extension periods as listed in the RFP or ensuing Contract.

4. Errors and Omissions Insurance. Each Contractor shall provide errors and omissions insurance with limits of not less than \$2,500,000.00 per occurrence/\$2,500,000.00 in annual aggregate which shall be maintained in force during the term of each Contract, and any renewals or extensions thereof, against the losses, damages or expenses that are incurred as a result of the wrongful acts and/or errors or omissions of each Contractor, or any subcontractor or any officers, employees or agents thereof.
5. PERFORMANCE BOND/PROPOSAL GUARANTEE. The Contractor must provide a performance bond. The amount of the performance bond must be \$900,000.00 and must remain in place through the term of the Contract and may be renewed or continued annually with the approval of the State. Each Offeror must enclose a letter of commitment from a bonding company for the performance bond with its Proposal. A standard bond form, from any company authorized to do business within the state of Ohio, is acceptable. The bond shall be made payable to the Treasurer, State of Ohio, referencing the applicable CSP number. The performance bond must be submitted to the Office of Procurement Services, state of Ohio within five (5) business days of receipt of a purchase order from the agency.

#### BOND AND INSURANCE REQUIREMENTS FOR THE SECONDARY OFFEROR

- A. LITIGATION BOND. In lieu of the litigation bond required in this subsection, an Offeror may submit with the proposal an acceptable written statement to the Director guaranteeing that it will not file any litigation, claims, demands, protests or causes of action seeking a contract award, damages or judgments of any kind whatsoever against the State of Ohio, the Lottery or any of their officers or employees, Commissioners or other Offerors with regard to any matter relating to the award of a Contract pursuant to this RFP.

If the above statement is not provided, each Offeror must submit with its Proposal a litigation bond in the amount of \$350,000.00. A claim upon the bond may be made by the OLC if:

1. The Offeror sues the OLC, the state of Ohio, or any of their officers, employees, other Offerors, or Commissioners with regard to any matter relating to the award of a Contract pursuant to this RFP; and the Lottery or other defendant is the prevailing party in such suit; or the court determines that such suit or any portion thereof was frivolous, was commenced in bad faith, or was not based upon reasonable grounds.
2. The purpose of the bond is to discourage unwarranted litigation by permitting the Lottery or other defendants to recover damages, including reasonable attorneys' fees, resulting from such litigation. The litigation bond shall remain in effect for a period of two (2) year from the date of submission of the Proposal. Failure to submit either the statement requested or the litigation bond required in lieu of the statement, may be cause for rejection of an Offerors Proposal.

- B. BID BOND. Each Offeror must submit with the Proposal a Bid Bond, in form and substance and issued by an issuer acceptable to the State, in the amount of \$250,000.00 to guarantee for one (1) year after submission of the proposal the availability of the goods and services at the price(s) quoted in the proposal. The bid bond (a check is acceptable) shall be payable to the State of Ohio.

The bid bond will be returned to all but the successful Offerors upon the execution of the Contract. The bid bond of the successful Offerors will be retained until the Contract is executed and the State is furnished with an acceptable performance bond. The check or bond will be forfeited to the State if the successful Offeror fails to submit in a timely fashion the performance bond or other security, as required, or fails to execute the Contract when required to do so by the State.

- C. FIDELITY BOND. The State requires a Fidelity Bond in the amount of \$500,000.00 covering any loss to the Lottery due to any fraudulent or dishonest act(s) on the part of any Contractor or any subcontractor, or any officer, employee or agent thereof, to be submitted upon the awarding of the Contract resulting from the Integrated Marketing Services RFP. A fidelity bond from an insurance company authorized to conduct business within the State of Ohio that is rated "A-/VI" or better, and on a bond form that is specific to the contract (advertising production business), is acceptable. The bond shall be made payable to the State of Ohio, and shall specifically reference the Contract. The bond shall be in effect for the duration of the Contract and/or any approved extension periods as listed in the RFP or ensuing Contract.
- D. ERRORS AND OMISSIONS INSURANCE. Each Contractor shall provide errors and omissions insurance with limits of not less than \$750,000.00 per occurrence/\$750,000.00 in annual aggregate which shall be maintained in force during the term of each Contract, and any renewals or extensions thereof, against the losses, damages or expenses that are incurred as a result of the wrongful acts and/or errors or omissions of each Contractor, or any subcontractor or any officers, employees or agents thereof.
- E. PERFORMANCE BOND/PROPOSAL GUARANTEE. The Contractor must provide a performance bond. The amount of the performance bond must be \$300,000.00 and must remain in place through the term of the Contract and may be renewed or continued annually with the approval of the State. Each Offeror must enclose a letter of commitment from a bonding company for the performance bond with its Proposal. A standard bond form, from any company authorized to do business

within the state of Ohio, is acceptable. The bond shall be made payable to the Treasurer, state of Ohio, referencing the applicable CSP number. The performance bond must be submitted to the Office of Procurement Services, state of Ohio within five (5) business days of receipt of a purchase order from the agency.

OWNERSHIP OF MATERIALS, COPYRIGHTS AND TRADEMARKS. The successful Offeror shall agree that the OL shall have complete and sole ownership, during the term of the Contract and thereafter, of all working papers, files, logos, tapes (audio, video and graphic), discs, records, cassettes, sets, props, devices and all other items placed into the possession of the successful Offeror by virtue of the Contract.

The successful Offeror agrees that neither it nor its subcontractors shall use any ideas or materials, at any time, during the term of the Contract, to advertise any competitive product(s).

TRADEMARKS OF NAMES AND LOGOS. The Lottery reserves the right to trademark all game names and logos that any Contractor develops or assists in developing during the term of its Contract. In no event, will any Contractor, at any time, have any intellectual rights whatsoever in any Lottery products or any elements thereof, or in any of the concepts that any Contractor may design in its performance under the Contract. However, the Lottery, with each Contract, grants permission to the Contractor to utilize the trademarked logos of the Lottery solely for the purposes of providing the general marketing/advertising services contemplated in the RFP. Each Contractor agrees not to use the Lottery names, logos, images, nor any data or results arising from the procurement process or Contracts as a part of any commercial advertising without prior approval by the Lottery.

COPYRIGHTS. The Lottery shall, at all times, possess the exclusive copyright to all Lottery advertising produced by any Contractor for the Lottery. Upon termination of any Contract, that Contractor shall be deemed to have released and relinquished to the Lottery any and all claim or right it might otherwise have to common law or statutory copyright with respect to all or any part of unpublished material prepared or created by that Contractor in the course of its performance under its Contract. No extra compensation is to be paid to that Contractor for its services in connection with any preparation of such materials.

LAYOUTS. All layouts, sketches, art, photos and "copy" used in advertisements placed or to be placed by any Contractor for the Lottery, or for which any Contractor shall have been reimbursed by the Lottery, shall remain the exclusive property of the Lottery.

CODE OF CONDUCT FOR CONTRACTOR(S). The Lottery is an extremely sensitive enterprise because of the nature of the business and because it is government operated. Therefore, it is essential that its operation, and the operation of other enterprises that would be linked to the Lottery in the public mind, avoid any appearance of impropriety. Because of these concerns, Contractors associated with the Lottery are expected to:

1. Offer goods and services only of the highest standards.
2. Use its best efforts to uphold the integrity of the lottery industry and prevent the lottery industry from becoming embroiled in unfavorable publicity.
3. Make sales presentations in a responsible manner and, when it is necessary, point out the superiority of its goods or services over those of its competitors in a manner as to avoid unfavorable publicity to the lottery industry.
4. Avoid promotional activities that could be interpreted as improper and produce embarrassment to the lottery industry.

LOTTERY APPROVAL OF STAFFING, BACKGROUND CHECKS, AND PROHIBITION AGAINST PLAYING THE LOTTERY. The Lottery shall require each successful Offeror to provide no less than the minimum levels of staffing or service necessary to meet the requirements as set forth in any Contract. Further, the Primary Offeror shall provide a senior staff member as account representative dedicated to the OLC account. The Lottery reserves the right to reject any staff assigned to any Contract by each successful Offeror.

The Lottery reserves the right to review and, if perceived necessary, disapprove of any employee of any successful Offeror who is assigned to any Lottery Contract, either at Contract inception or during the term. Each successful Offeror shall supply résumés for all individuals it intends to utilize in providing Contract services for the Lottery. The Lottery may interview and may require that any successful Offeror's officers, directors, members, principals, investors, owners, subcontractors, employees, or any other individuals or entities associated with the successful Offeror, as it deems appropriate, be held in compliance with the provisions of Ohio Rev. Code Sec. 3770.051 as they apply to Lottery Contractors, and specifically as they relate to initiating background checks, and provisions against playing the Lottery.

Background investigations may be conducted with the assistance of the Ohio State Highway Patrol and the Federal Bureau of Investigation or any other agency selected by the Lottery. With its signing of a Contract, each selected Offeror consents to such investigations, and to cooperate with such investigations. The Lottery may terminate any successful Offerors Contract

based upon the results of these background checks.

Each selected Offeror understands that its principals, officers and/or employees working on any OLC Contract are prohibited from purchasing any Ohio Lottery tickets or claiming OLC prizes during the term of that Contract or any extension hereto.

FORCE MAJEURE. Except as otherwise provided herein, neither each successful Offerors nor the Lottery shall be liable to the other for any delay or failure of performance of any provisions contained herein, nor shall any such delay or failure of performance constitute default under any Contract, to the extent that such delay or failure is caused by force majeure. The term force majeure, as used herein, shall mean without limitation: acts of God, such as epidemics; lightning; earthquakes; fire; storms; hurricanes; tornadoes; floods; washouts; droughts; or other severe weather conditions; strikes; walkouts or other labor disputes; acts of public enemies; war; insurrection; riots; civil disturbances; explosions; restraint of government and people; and other such events or any other cause which could not be reasonably foreseen in the exercise of ordinary care, and which is beyond the reasonable control of the party affected and which said party is unable to prevent. The existence of such causes of delay or failure shall extend the period for performance to such extent as may be necessary to enable complete performance in the exercise of reasonable diligence after the cause of delay or failure have been removed.

## ATTACHMENT TWO: REQUIREMENTS FOR PROPOSALS

**PROPOSAL FORMAT.** Each Proposal must include sufficient data to allow the State to verify the total cost for the Project and all of the Offeror's claims of meeting the RFP's requirements. Each Proposal must respond to every request for information in this attachment whether the request requires a simple "yes" or "no" or requires a detailed explanation. Simply repeating the RFP's requirement and agreeing to comply will be an unacceptable response and may cause the Proposal to be rejected.

These instructions describe the required format for a responsive Proposal. The Offeror may include any additional information it believes is relevant. An identifiable tab sheet must precede each section of a Proposal, and each Proposal must follow the format outlined below. All pages, except pre-printed technical inserts, must be sequentially numbered. Any material deviation from the format outlined below may result in a rejection of the non-conforming Proposal.

Each Proposal must contain the following information, chronologically in order, as listed below:

1. Cover Letter
2. Certification
3. Offeror Disclosure of Location of Services and Data
4. Signed Contracts
5. Offeror Profile and Prior Projects
6. Offeror References
7. Staffing Plan
8. Personnel Profile Summary
9. Work Plan
10. Support Requirements
11. Performance Bond
12. Conflict of Interest Statement
13. Assumptions
14. Proof of Insurance
15. Payment Address
16. Contract Performance
17. W-9 Form and Additional Vendor Information Form
18. Declaration Regarding Material Assistance/Non-assistance to a Terrorist Organization (DMA)
19. Affirmative Action Plan
20. Cost Summary Form

### REQUIREMENTS:

1. Cover Letter. The cover letter must be in the form of a standard business letter and must be signed by an individual authorized to legally bind the Offeror. The cover letter will provide an executive summary of the solution the Offeror plans to provide. The letter must also have the following:
  - a. A statement regarding the Offeror's legal structure (e.g., an Ohio corporation), Federal tax identification number, and principal place of business.
  - b. A statement regarding which part of the proposal they are bidding on, primary, secondary or both.
  - c. A list of the people who prepared the Proposal, including their titles.
  - d. The name, phone number, fax number, e-mail address, and mailing address of a contact person who has authority to answer questions regarding the Proposal.
  - e. A list of all subcontractors, if any, that the Offeror will use on the Project if the Offeror is selected to do the Work.
  - f. For each proposed subcontractor, the Offeror must attach a letter from the subcontractor, signed by someone authorized to legally bind the subcontractor, with the following included in the letter:
    - 1) The subcontractor's legal status, tax identification number, and principal place of business address.
    - 2) The name, phone number, fax number, e-mail address, and mailing address of a person who is authorized to legally bind the subcontractor to contractual obligations.
    - 3) A description of the work the subcontractor will do.
    - 4) A commitment to do the work if the Offeror is selected.
    - 5) A statement that the subcontractor has read and understood the RFP and will comply with the requirements of the RFP.
    - 6) A statement that the Subcontractor will maintain any permits, licenses, and certifications required to perform work.

- g. A statement that the Offeror's proposed solution for the Project meets all the requirements of this RFP.
- h. A statement that the Offeror has not taken any exception to the Terms and Conditions.
- i. A statement that the Offeror does not assume there will be an opportunity to negotiate any aspect of the proposal.
- j. A statement indicating the Offeror will comply with all Federal and Ohio (Ohio Revised Code) Laws and Rules of the Ohio Administrative Code as those law and rules are currently enacted and promulgated, and as they may subsequently be amended and adopted.
- k. A statement that the Contractor shall not substitute, at Project start-up, different personnel from those evaluated by the State except when a candidate's unavailability is no fault of the Contractor (e.g. Candidate is no longer employed by the Contractor, is deceased, etc.).
- l. A statement that the Offeror is not now, and will not become subject to an "unresolved" finding for recovery under Revised Code Section 9.24, prior to the award of a Contract arising out of this RFP, without notifying DAS of such finding.
- m. A statement that all of the Offeror's personal and business associates are in compliance with Chapter 3517 of the Ohio Revised Code regarding limitations on political contributions and will remain in compliance for the duration of the Contract and with all applicable provisions that extend beyond the expiration of the Contract. Refer to the Political Contributions paragraph in Attachment Three, Part Seven of this RFP document.
- n. All contractors from whom the state or any of its political subdivisions make purchases in excess of \$2500.00 shall have a written affirmative action program for the employment and effective utilization of economically disadvantaged persons, as referred to in division (E)(1) of section 122.71 of the Revised Code. Annually, each such contractor shall file a description of the affirmative action program and a progress report on its implementation with the Equal Employment Opportunity office of the Department of Administrative Services. Provide a statement that the offeror has been approved through this affirmative action program. You must visit the Website at <http://www.das.ohio.gov/Eod/AAEEO.htm> to make the submission for approval.

All Offerors who seek to be considered for a contract award must submit a response that contains an affirmative statement using the language in paragraph(s) a. through m. above.

2. Certification. Each proposal must include the following certification on company letterhead signed by an individual authorized to legally bind the Offeror.

*(Insert Contractor name)* affirms they are the prime Offeror.

*(Insert Contractor name)* affirms it shall not and shall not allow others to perform work or take data outside the United States without express written authorization from the Department of Administrative Services.

*(Insert Contractor name)* affirms that all personnel provided for the Project, who are not United States citizens, will have executed a valid I-9 form and presented valid employment authorization documents.

*(Insert Contractor name)* affirms that any small business program participants will provide necessary data to ensure program reporting and compliance.

*(Insert Contractor name)* agrees that it is a separate and independent enterprise from the state of Ohio, the Ohio Lottery Commission and the Department of Administrative Services. *(Insert Contractor name)* has a full opportunity to find other business and has made an investment in its business. Moreover *(insert Contractor name)* will retain sole and absolute discretion in the judgment of the manner and means of carrying out its obligations and activities under the Contract. This Contract is not to be construed as creating any joint employment relationship between *(insert Contractor name)* or any of the personnel provided by *(insert Contractor name)*, the Ohio Lottery Commission or the Department of Administrative Services.

*(Insert Contractor name)* affirms that the individuals supplied under the Contract are either (1) employees of *(insert Contractor name)* with *(insert Contractor name)* withholding all appropriate taxes, deductions or contributions required under law or (2) independent Contractors to *(insert Contractor name)*.

*If the Offeror's personnel are independent Contractors to the Offeror, the certification must also contain the following sentence:*

*(Insert Contractor name)* affirms that it has obtained a written acknowledgement from its independent Contractors that they are separate and independent enterprises from the state of Ohio, the Ohio Lottery Commission and the Department of Administrative Services for all purposes including the application of the Fair Labor Standards Act, Social Security Act, Federal Unemployment Tax Act, Federal Insurance Contributions Act, the provisions of the Internal Revenue Code, Ohio tax law, worker's compensation law and unemployment insurance law.

3. Offeror Disclosure of Location of Services and Data.

As part of the Proposal, the Offeror must disclose the following:

- a. The location(s) where all services will be performed;
- b. The location(s) where any state data applicable to the contract will be maintained or made available; and
- c. The principal location of business for the Contractor and all subcontractors.

During the performance of the Contract, the Offeror must not change the location(s) of the county where the services are performed or change the location(s) of the county where the data are maintained or made available without prior written approval of the Department of Administrative Services.

4. Signed Contracts. The Offeror must provide two (2) originally signed, blue ink copies of the included Contract, Attachment Four (4). Offeror must complete, sign and date both copies of the Contract and include it with its Proposal. (Attachment Four).
5. Offeror Profile and Prior Projects. Each Proposal must include a profile of the Offeror's capability, capacity, and relevant experience working on projects similar to this Work. The profile must also include the Offeror's legal name; address; telephone number; fax number; e-mail address; home office location; date established; number of years in business in Ohio, ownership (such as public firm, partnership, or subsidiary); firm leadership (such as corporate officers or partners); number of employees; major clients, changes in business structure, corporate trade affiliates, number of employees engaged in tasks directly related to the Work; and any other background information that will help the State gauge the ability of the Offeror to fulfill the obligations of the Contract. The financial stability of the company should also be described and is considered a necessary component of this portion of the Proposal's response. This RFP includes Offeror Profile Summary Form as Attachment Five A which must be completed for the Offeror. The Offeror must use this form and fill it out completely to provide the Offeror requirement information.

The Offeror shall also provide information on the firm's background as well as evidence that it has in place the personnel, internal procedures, and any other resources required under the terms of the Contract to ensure successful performance and contract compliance. Offerors must describe current operational capacity of the organization and the Offeror's ability to absorb the additional workload resulting from this Project. Failure to recreate the form accurately to include all fields, may lead to the rejection of the Offeror's Proposal.

This RFP also includes three (3) Offeror Profile Prior Project Forms as Attachments Five B, C and D which must be filled out to describe prior completed projects similar to this Work. The Offeror must use these forms and fill them out completely to provide the Offeror requirement information. Failure to recreate the form accurately to include all fields, may lead to the rejection of the Offeror's Proposal.

6. Offeror References. The Offeror must include a minimum of three (3) references for organizations and/or clients for whom the Offeror has successfully provided services on projects that were similar in its nature, size, and scope to the Work. These references must relate to work that was completed within the past five (5) years. This RFP includes an Offeror Reference Form as Attachment Six. Failure to recreate the form accurately may lead to the rejection of the Offeror's Proposal.

The State does not assume that since the experience requirement is provided at the top of the page that all descriptions on that page relate to that requirement. Offerors must reiterate the experience being described, including the capacity in which the experience was performed and the role of the Offeror on the Project. It is the Offeror's responsibility to customize the description to clearly substantiate the qualification. Previous experience must include the conduct, management, and coordination of projects. Incumbents must ensure specifics are addressed. Evaluations will not be based on intrinsic knowledge of evaluation committee members.

The description of the related service shows the Offeror's experience, capability, and capacity to develop this Project's deliverables and/or to achieve this Project's milestones. Details such as the size of the contracting organizations, duration of involvement, level of responsibility, significant accomplishments, as well as a thorough description of the nature of the experience will be required for appropriate evaluation by the committee.

- a. Contact Information. The contact name, title, phone number, e-mail address, company name, and mailing address must be completely filled out. If the primary contact cannot be reached, the same information must be included for an alternate contact in lieu of the primary contact. Failure to provide requested contact information may result in the State not including the reference in the evaluation process.
- b. Project Name. The name of the project where the mandatory experience was obtained and/or service was provided.
- c. Dates of Experience. Must be completed to show the length of time the Offeror performed the experience being described, not the length of time the Offeror was engaged for the reference. The Offeror must complete these dates with a beginning month and year and an ending month and year.

- d. Description of the Related Service Provided. The State does not assume that since the experience requirement is provided at the top of the page that all descriptions on that page relate to that requirement. Offerors must reiterate the experience being described, including the capacity in which the experience was performed and the role of the Offeror on the Project. It is the Offeror's responsibility to customize the description to clearly substantiate the qualification.
- e. Description of how the related service shows the Offeror's experience, capability and capacity to develop this Project's deliverables and/or to achieve this Project's milestones.
- f. The Offeror's project experience must be listed separately and completely every time it is referenced, regardless of whether it is on the same or different pages of the form.

When contacted, each reference must be willing to discuss the Offeror's previous performance on projects that were similar in its nature, size, and scope to the Work.

Experience of the Offeror. The Offeror must fully describe the following:

- a. Experience in marketing products or services similar to lottery products. Please list specific examples of the advertising/marketing accounts on which the Offeror(s) has worked that give it insight into and understanding of the Lottery, particularly in the area of consumer spending, entertainment spending, and discretionary consumer products.
  - b. Experience the Offeror(s) or its staff has working with an advertising/marketing account for a government lottery or other lottery experience. If applicable, briefly describe the role those individuals would have with the Lottery account.
  - c. All current accounts with any Offeror(s) under contract with the federal, state or local government within the last three (3) years. If the company or any party named above contracted with the State of Ohio, indicate the name of the governmental agency or department, the contract number and/or any other information available to identify the contract.
  - d. The Offeror's top five (5) marketing/advertising accounts for local, statewide and national accounts with a description of the work performed for each account. Indicate the following for each: client; services rendered; budget; status and completion dates; objectives and strategies; and a reference contact, including address and phone number.
  - e. Submit the following creative samples representative of your work on multiple campaigns for multiple clients. The campaigns should appeal to a variety of demographics. All samples should be from the office that will service the Lottery account. Offeror's shall provide only one (1) copy of each of the following:
    - i. Five 00:30 TV spots on a DVD.
    - ii. Five radio spots on a CD.
    - iii. Five print pieces (newspaper, magazine, billboard, POS).
    - iv. Three point-of-purchase collateral materials; and
    - v. Three additional items (any medium) that illustrate the responding Offeror's unique creative strength.
7. Staffing Plan. The Offeror must provide a staffing plan that identifies all key personnel required to do the Project and its responsibilities on the Project. The State is seeking a staffing plan that matches the proposed Project personnel and qualifications to the activities and tasks that will be completed on the Project. In addition, the plan must have the following information:
- a. A matrix matching each key team member to the staffing requirements in this RFP.
  - b. A contingency plan that shows the ability to add more staff if needed to ensure meeting the Project's due date(s).
  - c. A discussion of the Offeror's ability to provide qualified replacement personnel.
  - d. The Primary Offeror must submit a statement and chart that clearly indicate the time commitment of the proposed Work team, including the Account Representative, to this Work and any other, non-related work during the term of the Contract. The Offeror must also include a statement indicating to what extent, if any, the Account Representative may be used on other projects during the term of the Contract. The Evaluation Committee may reject any Proposal that commits the proposed Work Manager to other work during the term of the Contract if the committee believes that doing so will be detrimental to the Offeror's performance.
8. Personnel Profile Summary. This RFP includes Offeror Candidate Forms as Attachments Seven A, B and C. The Offeror must use these forms and fill them out completely for each key candidate referenced. The forms must be completed using typewritten or electronic means. The forms may be recreated electronically, but all fields and formats must be retained. Failure to recreate the forms accurately may lead to the rejection of the Offeror's Proposal.

All candidate requirements must be provided using the Offeror Candidate Forms (See Attachments Seven A, B and C.) The various sections of the form are described below:

- a. Candidate References. If fewer than three (3) projects are provided, the Offeror must include information as to why fewer than three (3) projects were provided. The State may disqualify the proposal if fewer than three (3) projects are given. (Refer to Attachment Seven A.)

For each reference the following information must be provided:

- i. Candidate's Name.
  - ii. Contact Information. The contact name, title, phone number, e-mail address, company name, and mailing address must be completely filled out. If the primary contact can not be reached, the same information must be included for an alternate contact in lieu of the primary contact. Failure to provide requested contact information may result in the State not including the reference experience in the evaluation process.
  - iii. Dates of Experience. Must be completed to show the length of time the candidate performed the technical experience being described, not the length of time the candidate worked for the company. The Offeror must complete these dates with a beginning month and year and an ending month and year.
  - iv. Description of the Related Service Provided. The State does not assume that since the technical requirement is provided at the top of the page that all descriptions on that page relate to that requirement. Contractors must reiterate the technical experience being described, including the capacity in which the experience was performed and the role of the candidate in the reference project as it relates to this RFP Project. It is the Contractors' responsibility to customize the description to clearly substantiate the candidate's qualification.
- b. Education and Training. This section must be completed to list the education and training of the proposed candidates and will demonstrate, in detail, the proposed candidate's ability to properly execute the Contract based on the relevance of the education and training to the requirements of the RFP. The Offeror must include copies of any pertinent licenses and or certificates. (Refer to Attachment Seven B)
- c. Required Experience and Qualifications. This section must be completed to show how the candidate meets the required experience requirements. If any candidate does not meet the required requirements for the position the candidate has been proposed to fill, the Offeror's Proposal may be rejected as non-responsive. (Refer to Attachment Seven C.)

The candidate's project experience must be listed separately and completely every time it is referenced, regardless of whether it is on the same or different pages of the form.

One of the criteria on which the State may base the award of the Contract is the quality of the Offeror's Work Team. Switching personnel after the award will not be accepted without due consideration. The Offeror must propose a Work Team that collectively meets all the requirements in this RFP. Additionally, each team member may have mandatory requirements listed in this RFP that the team member must individually meet. All candidates proposed must meet the technical experience for the candidate's position and be named.

9. Work Plan. Offeror must fully describe its current capacity, approach, methods, and specific work steps for doing the Work on this Project. The State encourages responses that demonstrate a thorough understanding of the nature of the Project and what the Contractor must do to complete the Project satisfactorily. To this end, the Offeror must submit for this section of the Proposal the Project plan that will be used to create a consistent, coherent management plan of action that will be used to guide the Project. The Project plan should include detail sufficient to give the State an understanding of the Offeror's knowledge and approach.

The State seeks insightful responses that describe proven state-of-the-art methods. Recommended solutions should demonstrate that the Offeror would be prepared to immediately undertake and successfully complete the required tasks. The Offeror's Work Plan should clearly and specifically identify key personnel assignments. (NOTE: The staffing plan should be consistent with the Work plans).

Additionally, the Offeror should address potential problem areas, recommended solutions to the problem areas, and any assumptions used in developing those solutions.

10. Support Requirements. The Offeror must describe the support it wants from the State other than what the State has offered in this RFP. Specifically, the Offeror should address the following:
- a. Nature and extent of State support required in terms of staff roles, percentage of time available, etc.;
  - b. Assistance from State staff and the experience/qualification level required; and
  - c. Other support requirements.

The State may not be able or willing to provide the additional support the Offeror lists in this part of its Proposal. The Offeror must therefore indicate whether its request for additional support is a requirement for its performance. If any part

of the list is a requirement, the State may reject the Offeror's Proposal if the State is unwilling or unable to meet the requirements.

11. Proposal Guarantee/Performance Bond. See Page 22, paragraph 5.
12. Conflict of Interest Statement. Each Proposal must include a statement indicating whether the Offeror or any people that may work on the Project through the Offeror have a possible conflict of interest (e.g., employed by the state of Ohio, etc.) and, if so, the nature of that conflict. The State has the right to reject a Proposal in which a conflict is disclosed or cancel the Contract if any interest is later discovered that could give the appearance of a conflict.
13. Assumptions. The Offeror must provide a comprehensive listing of any and all of the assumptions that were made in preparing the proposal. If any assumption is unacceptable to the State, it may be cause for rejection of the Proposal. No assumptions shall be included regarding negotiation, terms and conditions, and requirements.
14. Proof of Insurance. In this section, the Offeror must provide the certificate of insurance required by the General Terms & Conditions, Attachment Three, Part Two. The policy may be written on an occurrence or claims made basis.
15. Payment Address. The Offeror must give the address to which payments to the Offeror will be sent. DAS requires a 30-day notice to change the "bill to address".
16. Contract Performance. The Offeror must complete Attachment 8, Offeror Performance Form.
17. W-9 Form and Additional Vendor Information Form. The Offeror must complete Federal Form W-9, Request for Taxpayer Identification Number and Certification form and the Vendor Information Form (OBM-3456) in their entirety. At least one (1) original of each (signed in blue ink) must be submitted. All other copies of a Proposal may contain copies of these forms. Please indicate on the outside of the binder which Proposal contains the original, blue ink signature. If a subsidiary company is involved, Offerors must have an original W-9 and OBM-3456 for both the parent and subsidiary companies. These documents and directions can be found on the OBM Web site at <http://www.obm.ohio.gov/forms>
18. Declaration Regarding Material Assistance/Non-assistance to a Terrorist Organization (DMA). The Offeror being awarded this Contract must be registered with the Ohio Business Gateway (OBA) at <http://obg.ohio.gov> to file for DMA pre-certification; if you are not already registered you must:
  - a. register with the Ohio Business Gateway (OBG) at <http://obg.ohio.gov>;
  - b. review the Terrorist Exclusion List at: [http://www.homelandsecurity.ohio.gov/DMA\\_Terrorist/terrorist\\_exclusion\\_list.pdf](http://www.homelandsecurity.ohio.gov/DMA_Terrorist/terrorist_exclusion_list.pdf);
  - c. complete the Declaration Regarding Material Assistance/Non-Assistance to a Terrorist Organization (DMA) form [http://www.homelandsecurity.ohio.gov/DMA\\_Terrorist/HLS\\_0038\\_Contracts.pdf](http://www.homelandsecurity.ohio.gov/DMA_Terrorist/HLS_0038_Contracts.pdf) and submit this with your RFP response.

Failure to complete the certification may result in the Offeror being deemed not responsive and/or may invalidate any Contract award. If not submitted with the proposal response, the Offeror will have seven (7) calendar days, after notification, to submit the form.

19. Equal Employment Opportunity. The Offeror will comply with all state and federal laws regarding equal employment opportunity, including Ohio Revised Code Section 125.111 and all related Executive Orders.

Before a contract can be awarded or renewed, an Affirmative Action Program Verification Form must be submitted to the DAS Equal Opportunity Division to comply with the affirmative action requirements. Affirmative Action Verification Forms and approved Affirmative Action Plans can be found by going to the Equal Opportunity Departments web site: <http://www.das.ohio.gov/Eod/AAEEO.htm>

20. Cost Summary Form. This RFP includes a Cost Summary Form provided as Attachment Eleven and must be included as part of the Offeror's Proposal. Offerors may not reformat this form. Each Offeror must complete the Cost Summary Form in the exact format provided. Any reformatting may cause the State to reject the Proposal. Attachment Eleven must be completed and returned in a separate envelope as required.

The State will not be liable for any costs the Offeror does not identify in its Proposal. The Cost Proposal must not include any exceptions to the Contract Terms and Conditions or any additional assumptions.

ATTACHMENT THREE: GENERAL TERMS AND CONDITIONS  
PART ONE: PERFORMANCE AND PAYMENT

STATEMENT OF WORK. The RFP and the Offeror's Proposal (collectively referred to as the "RFP") are a part of this Contract and describe the Work (the "Project") the Contractor will do and any materials the Contractor will deliver (the "Deliverables") under this Contract. The Contractor will do the Project in a professional, timely, and efficient manner and will provide the Deliverables in a proper fashion. The Contractor will also furnish its own support staff necessary for the satisfactory performance of the Project.

The Contractor will consult with the appropriate State representatives and others necessary to ensure a thorough understanding of the Project and satisfactory performance. The State may give instructions to or make requests of the Contractor relating to the Project. The Contractor will comply with those instructions and fulfill those requests in a timely and professional manner. Those instructions and requests will be for the sole purpose of ensuring satisfactory completion of the Project and will not amend or alter the scope of the Project.

TERM. Unless this Contract is terminated, or expires without renewal, it will remain in effect until the Project is completed to the satisfaction of the State and the Contractor is paid. The current General Assembly cannot commit a future General Assembly to an expenditure. Therefore, this Contract will automatically expire at the end of each biennium. The State however, may renew this Contract in the next biennium by issuing written notice to the Contractor of the decision to do so. This expiration and renewal procedure will also apply to the end of any subsequent biennium during which the Project continues. Termination or expiration of this Contract will not limit the Contractor's continuing obligations with respect to Deliverables that the State paid for before termination or limit the State's rights in such.

It is understood that the State's funds are contingent upon the availability of lawful appropriations by the Ohio General Assembly. If the General Assembly fails at any time to continue funding for the payments and other obligations due as part of this Contract, the State's obligations under this Contract are terminated as of the date that the funding expires without further obligation of the State

The Project has a completion date that is identified in the RFP. The RFP may also have several dates for delivery of Deliverables or reaching certain milestones in the Project. The Contractor must make those deliveries, meet those milestones, and complete the Project within the times the RFP and the mutually agreed to Work Plan requires. If the Contractor does not meet those dates, the Contractor will be in default, and the State may terminate this Contract under the termination provision contained below. The State may also have certain obligations to meet. Those obligations, if any, are also listed in the RFP. If the State agrees that the Contractor's failure to meet the delivery, milestone, or completion dates in the RFP is due to the State's failure to meet its own obligations in a timely fashion, then the Contractor will not be in default, and the delivery, milestone, and completion dates affected by the State's failure to perform will be extended by the same amount of time as the State's delay. The Contractor may not rely on this provision unless the Contractor has in good faith exerted all professional management skill to avoid an extension and has given the State meaningful written notice of the State's failure to meet its obligations within five (5) business days of the Contractor's realization that the State's delay will impact the Project. The notice to the State must be directed at making the State aware of its delay and the impact of its delay. It must be sent to the Agency Project Representative and the State Procurement Representative. Remedies resulting from the State's delay will be at the State's discretion.

The State seeks a complete Project. Any incidental items omitted in the RFP will be provided as part of the Contractor's not-to-exceed fixed price. The Contractor must fully identify, describe, and document all systems that are delivered as a part of the Project. All hardware, software, supplies, and other required components (such as documentation, conversion, training, and maintenance) for the Project to be complete and useful to the State are included in the Project and the not-to-exceed fixed price.

ECONOMIC PRICE ADJUSTMENT. The Contract prices(s) will remain firm for the first (1<sup>st</sup>) fiscal year of the Contract. Thereafter, price increases must be supported by a general price increase in the cost of the materials/services rendered due to documented increases in the cost of related materials/services. Detailed documentation, to include a comparison list of the Contract items and proposed price adjustments must be submitted to support the requested adjustment. Supportive documentation should include, but is not limited to: copies of the old and the current price lists or similar documents which indicate the original base cost of the product to the Contractor and the corresponding adjustment, and/or copies of correspondence sent by the Contractor's supplier on the supplier's letterhead, which contain the above price information and explains the source of the adjusted costs in such areas as raw materials, freight, fuel or labor, etc. Fuel adjustment after the first year based on Department of Energy website for fuel price trends for the Midwest region. Price increase requests must be supported by this website.

Should there be a decrease in the cost of the finished product due to a general decline in the market or some other factor, the Contractor is responsible to notify DAS immediately. The price decrease adjustment will be incorporated into the Contract and will be effective on all purchase orders issued after the effective date of the decrease. If the price decrease is a temporary decrease, such should be noted on the invoice. In the event that the temporary decrease is revoked, the Contract pricing will

be returned to the pricing in effect prior to the temporary decrease. Failure to comply with this provision will be considered as a default and will be subject to the Suspension and Termination section contained herein.

COMPENSATION. In consideration of the Contractor's promises and satisfactory performance, the State will pay the Contractor the amount(s) identified in the RFP (the "Fee"), plus any other expenses identified as reimbursable in the RFP. In no event will payments under this Contract exceed the "not-to-exceed" amount in the RFP without the prior, written approval of the State and, when required, the Ohio Controlling Board and any other source of funding. The Contractor's right to the Fee is contingent on the complete and satisfactory performance of the Project or, in the case of milestone payments or periodic payments of an hourly, daily, weekly, monthly, or annual rate, all relevant parts of the Project tied to the applicable milestone or period. Payment of the Fee is also contingent on the Contractor delivering a proper invoice and any other documents required by the RFP.

The Contractor will send all invoices under this Contract to the "bill to" address in the RFP or in the applicable purchase order.

The State will pay the Contractor interest on any late payment as provided in Section 126.30 of the Ohio Revised Code (the "Revised Code"). If the State disputes a payment for anything covered by an invoice, within 15 business days after receipt of that invoice, the State will notify the Contractor, in writing, stating the grounds for the dispute. The State may then deduct the disputed amount from its payment as a non-exclusive remedy. If, in the opinion of the State, a material breach has occurred by the Contractor, the State retains the right to withhold payment from the Contractor. Both parties agree that an attempt at resolution of any claims or material breach or disputes will first be made jointly by the Contractor Project Manager, the Contractor Project Principal, the Agency Project Representative and the State Procurement Administrator. If, within 30 calendar days following the above notification, the claim or dispute has not been resolved, only then will it be submitted to non-binding mediation (pursuant to the rules as stipulated by the American Arbitration Association). A claim or dispute must be submitted to non-binding mediation prior to the initiation of any formal legal process. The State will consult with the Contractor as early as reasonably possible about the nature of the claim or dispute and the amount of payment affected. When the Contractor has resolved the matter to the State's satisfaction, the State will pay the disputed amount within 30 business days after the matter is resolved. No payments are required to be made by the State until the matter is resolved.

If the State has already paid the Contractor on an invoice but later disputes the amount covered by the invoice, and if the Contractor fails to correct the problem within 30 calendar days after written notice, the Contractor will reimburse the State for that amount at the end of the 30 calendar days as a non-exclusive remedy for the State. On written request from the Contractor, the State will provide reasonable assistance in determining the nature of the problem by giving the Contractor reasonable access to the State's facilities and any information the State has regarding the problem.

REIMBURSABLE EXPENSES. The State will pay all reimbursable expenses identified in the RFP, if any, in accordance with the terms in the RFP and, where applicable, Section 126.31 of the Revised Code. The Contractor will assume all expenses that it incurs in the performance of this Contract that are not identified as reimbursable in the RFP.

In making any reimbursable expenditure, the Contractor will always comply with the more restrictive of its own, then-current internal policies for making such expenditures or with the State's then-current policies.

CERTIFICATION OF FUNDS. None of the rights, duties, or obligations in this Contract will be binding on the State, and the Contractor will not begin its performance, until all the following conditions have been met.

1. All statutory provisions under the Revised Code, including Section 126.07, have been met.
2. All necessary funds are made available by the appropriate state agencies.
3. If required, approval of this Contract is given by the Ohio Controlling Board.

If the State is relying on Federal or third-party funds for this Contract, the State gives the Contractor written notice that such funds have been made available.

EMPLOYMENT TAXES. Each party will be solely responsible for reporting, withholding, and paying all employment related taxes, payments, and withholdings for its own personnel, including, but not limited to, Federal, state and local income taxes, social security, unemployment or disability deductions, withholdings, and payments (together with any interest and penalties not disputed with the appropriate taxing authority). All people the Contractor provides to the State under this Contract will be deemed employees of the Contractor for purposes of withholdings, taxes, and other deductions or contributions required under the law.

SALES, USE, EXCISE, AND PROPERTY TAXES. The State is exempt from any sales, use, excise, and property tax. To the extent sales, use, excise, or any similar tax is imposed on the Contractor in connection with the Project, such will be the sole and exclusive responsibility of the Contractor. The Contractor will pay such taxes, together with any interest and penalties not disputed with the appropriate taxing authority, whether they are imposed at the time the services are rendered or at a later time.

ATTACHMENT THREE: GENERAL TERMS AND CONDITIONS  
PART TWO: WORK & CONTRACT ADMINISTRATION

RELATED CONTRACTS. The Contractor warrants that the Contractor has not and will not enter into any contracts without written approval of the State to perform substantially identical services for the State such that the Project duplicates the work done or to be done under the other contracts.

SUBCONTRACTING. The Contractor may not enter into subcontracts for the Work after award without written approval from the State. The Contractor will not need the State's written approval to subcontract for the purchase of commercial goods that are required for satisfactory completion of the Work. All subcontracts will be at the sole expense of the Contractor unless expressly stated otherwise in the RFP.

The State's approval of the use of subcontractors does not mean that the State will pay for them. The Contractor will be solely responsible for payment of its subcontractor and any claims of subcontractors for any failure of the Contractor or any of its other subcontractors to meet the performance schedule or performance specifications for the Project in a timely and professional manner. The Contractor will hold the State harmless for and will indemnify the State against any such claims.

The Contractor will assume responsibility for all Deliverables whether it, a subcontractor, or third-party manufacturer produces them in whole or in part. Further, the State will consider the Contractor to be the sole point of contact with regard to contractual matters, including payment of all charges resulting from the Contract. The Contractor will be fully responsible for any default by a subcontractor, just as if the Contractor itself had defaulted.

If the Contractor uses any subcontractors, each subcontractor must have a written agreement with the Contractor. That written agreement must incorporate this Contract by reference. The agreement must also pass through to the subcontractor all provisions of this Contract that would be fully effective only if they bind both the subcontractor and the Contractor. Among such provisions are the limitations on the Contractor's remedies, the insurance requirements, record keeping obligations, and audit rights. Some sections of this Contract may limit the need to pass through its requirements to subcontracts to avoid placing cumbersome obligations on minor subcontractors. This exception is applicable only to sections that expressly provide exclusions for small-dollar subcontracts. Should the Contractor fail to pass through any provisions of this Contract to one of its subcontractors and the failure damages the State in any way, the Contractor will indemnify the State for the damage.

RECORD KEEPING. The Contractor will keep all financial records in accordance with generally accepted accounting procedures consistently applied. The Contractor will file documentation to support each action under this Contract in a manner allowing it to be readily located. The Contractor will keep all Project-related records and documents at its principal place of business or at its office where the work was performed.

AUDITS. During the term of this Contract and for three (3) years after the payment of the Contractor's Fee, on reasonable notice and during customary business hours, the State may audit the Contractor's records and other materials that relate to the Project. This audit right will also apply to the State's duly authorized representatives and any person or organization providing financial support for the Project.

Unless it is impracticable to do so, all records related to this Contract must be kept in a single location, either at the Contractor's principle place of business or its place of business where the work was done. If this is not practical, the Contractor will assume the cost of collecting, organizing, and relocating the records and any technology needed to access the records to the Contractor's office nearest Columbus whenever the State or anyone else with audit rights requests access to the Contractor's Project records. The Contractor will do so with all due speed, not to exceed five (5) business days.

If any audit reveals any material deviation from the Project's specifications, any misrepresentation, or any overcharge to the State, the State will be entitled to recover damages, as well as the cost of the audit.

For each subcontract in excess of \$25,000, the Contractor will require its subcontractors to agree to the requirements of this section and of the record-keeping section. Subcontracts with smaller amounts involved need not meet this requirement. The Contractor may not artificially break up contracts with its subcontractors to take advantage of this exclusion.

INSURANCE. The Contractor will provide the following insurance coverage at its own expense throughout the term of this Contract.

Workers' compensation insurance, as required by Ohio law, and, if some of the Project will be done outside Ohio, the laws of the appropriate state(s) where work on the Project will be done. The Contractor will also maintain employer's liability insurance with at least a \$1,000,000 limit.

Commercial General Liability insurance coverage for bodily injury, personal injury, wrongful death, property damage. The defense cost shall be outside of the policy limits. Such policy shall designate the state of Ohio as an additional insured, as its

interest may appear. The policy will also be endorsed to include a blanket waiver of subrogation. At a minimum, the limits of the insurance shall be:

\$2,000,000 General Aggregate  
\$2,000,000 Products/Completed Operations Aggregate  
\$1,000,000 Per Occurrence Limit  
\$1,000,000 Personal and Advertising Injury Limit  
\$100,000 Fire Legal Liability  
\$10,000 Medical Payments

The policy shall also be endorsed to provide the State with 30-day prior written notice of cancellation or material change to the policy. It is agreed upon that the Contractor's Commercial General Liability shall be primary over any other insurance coverage.

Commercial Automobile Liability insurance with a \$1,000,000.00 per occurrence/\$1,000,000.00 annual aggregate for bodily injury and property damage.

STATE PERSONNEL. During the term of this Contract and for one (1) year after completion of the Project, the Contractor will not hire or otherwise contract for the services of any state employee involved with the Project.

REPLACEMENT PERSONNEL. If the Offeror's Proposal contains the names of specific people who will work on the Project, then the quality and professional credentials of those people were material factors in the State's decision to enter into this Contract. Therefore, the Contractor will use all commercially reasonable efforts to ensure the continued availability of those people. Also, the Contractor will not remove those people from the Project without the prior, written consent of the State except as provided below.

The Contractor may remove a person listed in its Proposal from the Project if doing so is necessary for legal or disciplinary reasons. The Contractor must make a reasonable effort to give the State 30 calendar days' prior, written notice of the removal.

The Contractor must have qualified replacement people available to replace any people listed by name in its Proposal. When the removal of a listed person is permitted under this Section, or if a person becomes unavailable, the Contractor will submit the resumes for two (2) replacement people for each person removed or who otherwise becomes unavailable. The Contractor will submit the two (2) resumes, along with such other information as the State may reasonably request, within five (5) business days after the decision to remove a person is made or the unavailability of a listed person becomes known to the Contractor.

The State will select one of the two proposed replacements or will reject both of them within ten business days after the Contractor has submitted the proposed replacements to the State. The State may reject the proposed replacements for any legal reason(s). Should the State reject both replacement candidates due to their failure to meet the minimum qualifications identified in the RFP, or should the Contractor fail to provide the notice required under this Section or fail to provide two qualified replacement candidates for each removed or unavailable person, the Contractor will be in default and the cure period for default specified elsewhere in this Contract will not apply. In the event of such a default, the State will have the right to terminate this Contract and to have the damages specified elsewhere in this Contract for termination due to default.

The State may determine that proposed replacement candidates meet the minimum qualifications of this Contract and still substantially reduce the value the State perceived it would receive through the work of the original individual(s) the Contractor proposed and on whose credentials the State decided to enter into this Contract. Therefore, the State will have the right to reject any candidate that the State determines will provide it with diminished value. Should the State reject both proposed candidates for any legal reason other than their failure to meet the minimum qualifications identified in the RFP, then such rejection may be deemed a termination for convenience.

The State has an interest in providing a healthy and safe environment for its employees and guests at its facilities. The State also has an interest in ensuring, and right to ensure, that its operations are carried out in an efficient, professional, legal, and secure manner. The State, therefore, will have the right to require the Contractor to remove any individual working on the Project if the State determines that any such individual has or may interfere with the State's interests identified above. In such a case, the request for removal will be treated as a case in which an individual providing services under this Contract has become unavailable, and the Contractor will follow the procedures identified above for replacing unavailable people. This provision applies to people engaged by the Contractor's subcontractors if they are listed as key people in the Proposal.

CONTRACT NON-COMPLIANCE. A primary goal of the Agency is to assure that the program receives high quality services from the Contractor. To this end, the Agency will work in partnership with the Contractor(s) to meet this goal. The partnership is defined by the Contract and it is important that communication between the Contractor and state agencies be open and supportive. Should contract non-compliance be an issue, the Agency shall make every effort to resolve the problem.

1. Non-Compliance Issues. Contractor non-compliance with the specifications and terms and conditions outlined in the Contract may result in the imposition of remedies as explained below in paragraph 2.

The Agency must be promptly notified of any procedural changes outside the technical requirements listed herein.

2. Resolution for Contract Non-Compliance. The Agency will be responsible for monitoring the Contractor's performance and compliance with the terms, conditions, and specifications of the contract.
  - a. For any infractions not immediately remedied by the Contractor, the Agency will notify DAS through a Complaint to Vendor (CTV) to help resolve the infraction.
  - b. DAS will impose upon the Contractor remedies for non-compliance regarding contract specifications and terms and conditions. Remedies imposed will be in proportion with the severity of the non-compliance and may be progressive in nature.

SUSPENSION AND TERMINATION. The State may terminate this Contract if the Contractor defaults in meeting its obligations under this Contract and fails to cure its default within the time allowed by this Contract, or if a petition in bankruptcy (or similar proceeding) has been filed by or against the Contractor. The State may also terminate this Contract if the Contractor violates any law or regulation in doing the Project, or if it appears to the State that the Contractor's performance is substantially endangered through no fault of the State. In any such case, the termination will be for cause, and the State's rights and remedies will be those identified below for termination for cause.

On written notice, the Contractor will have 30 calendar days to cure any breach of its obligations under this Contract, provided the breach is curable. If the Contractor fails to cure the breach within 30 calendar days after written notice or if the breach is not one that is curable, the State will have the right to terminate this Contract. The State may also terminate this Contract in the case of breaches that are cured within 30 calendar days but are persistent. "Persistent" in this context means that the State has notified the Contractor in writing of the Contractor's failure to meet any of its obligations three (3) times. After the third notice, the State may terminate this Contract without a cure period if the Contractor again fails to meet any obligation. The three (3) notices do not have to relate to the same obligation or type of failure. Some provisions of this Contract may provide for a shorter cure period than 30 calendar days or for no cure period at all. Those provisions will prevail over this one. If a particular section does not state what the cure period will be, this provision will govern.

The State may also terminate this Contract for its convenience and without cause or if the Ohio General Assembly fails to appropriate funds for any part of the Project. If a third party is providing funding for the Project, the State may also terminate this Contract should that third party fail to release any Project funds. The RFP identifies any third party source of funds for the Project.

The notice of termination, whether for cause or without cause, will be effective as soon as the Contractor receives it. Upon receipt of the notice of termination, the Contractor will immediately cease all work on the Project and take all steps necessary to minimize any costs the Contractor will incur related to this Contract. The Contractor will also immediately prepare a report and deliver it to the State. The report must be all-inclusive; no additional information will be accepted following the initial submission. The report must detail the work completed at the date of termination, the percentage of the Project's completion, any costs incurred in doing the Project to that date and any Deliverables completed or partially completed but not delivered to the State at the time of termination. The Contractor will also deliver all the completed and partially completed Deliverables to the State with its report. If delivery in that manner would not be in the State's interest, then the Contractor will propose a suitable alternative form of delivery.

If the State terminates this Contract for cause, it will be entitled to cover for the Project by using another Contractor on such commercially reasonable terms as it and the covering contractor may agree. The Contractor will be liable to the State for all costs related to covering for the Project to the extent that such costs, when combined with payments already made to the Contractor for the Project before termination, exceed the costs that the State would have incurred under this Contract. The Contractor will also be liable for any other direct damages resulting from its breach of this Contract or other action leading to termination for cause.

If the termination is for the convenience of the State, the Contractor will be entitled to compensation for any work on the Project that the Contractor has performed before the termination. Such compensation will be the Contractor's exclusive remedy in the case of termination for convenience and will be available to the Contractor only once the Contractor has submitted a proper invoice for such, with the invoice reflecting the amount determined to be owing to the Contractor by the State. The State will make that determination based on the lesser of the percentage of the Project completed or the hours of work performed in relation to the estimated total hours required to perform the entire applicable unit(s) of Work.

The State will have the option of suspending rather than terminating the Project where the State believes that doing so would better serve its interests. In the event of a suspension for the convenience of the State, the Contractor will be entitled to receive payment for the work performed before the suspension. In the case of suspension of the Project rather than

termination for cause, the Contractor will not be entitled to any compensation for any work performed. If the State reinstates the Project after suspension for cause, rather than terminating this Contract after the suspension, the Contractor may be entitled to compensation for work performed before the suspension, less any damage to the State resulting from the Contractor's breach of this Contract or other fault. Any amount due for work before or after the suspension for cause will be offset by any damage to the State from the default or other event giving rise to the suspension.

In the case of a suspension for the State's convenience, the amount of compensation due to the Contractor for work performed before the suspension will be determined in the same manner as provided in this section for termination for the State's convenience. The Contractor will not be entitled to compensation for any other costs associated with a suspension for the State's convenience. No payment under this provision will be made to the Contractor until the Contractor submits a proper invoice.

Any notice of suspension, whether with or without cause, will be effective immediately on the Contractor's receipt of the notice. The Contractor will prepare a report concerning the Project just as is required by this Section in the case of termination. After suspension of the Project, the Contractor will perform no work without the consent of the State and will resume work only on written notice from the State to do so. In any case of suspension, the State retains its right to terminate this Contract rather than to continue the suspension or resume the Project. If the suspension is for the convenience of the State, then termination of the Contract will be a termination for convenience. If the suspension is with cause, the termination will also be for cause.

The State will not suspend the Project for its convenience more than once during the term of this Contract, and any suspension for the State's convenience will not continue for more than 30 calendar days. If the Contractor does not receive notice to resume or terminate the Project within the 30-day period, then this Contract will terminate automatically for the State's convenience at the end of the 30 calendar day period.

Any default by the Contractor or one of its subcontractors will be treated as a default by the Contractor and all of its subcontractors. The Contractor will be solely responsible for satisfying any claims of its subcontractors for any suspension or termination and will indemnify the State for any liability to them. Each subcontractor will hold the State harmless for any damage caused to them from a suspension or termination. They will look solely to the Contractor for any compensation to which they may be entitled.

The Contractor may, at its discretion, request termination with a minimum 60 day notice in writing. The State will review the request and respond in writing to the Contractor with its findings.

#### CONTRACT REMEDIES.

- a. Actual Damages. Contractor is liable to the state of Ohio for all actual and direct damages caused by Contractor's default. The State may buy substitute supplies or services, from a third party, for those that were to be provided by Contractor. The State may recover the costs associated with acquiring substitute supplies or services, less any expenses or costs saved by Contractor's default, from Contractor.
- b. Liquidated Damages. If actual and direct damages are uncertain or difficult to determine, the State may recover liquidated damages in the amount of 1% of the value of the order, deliverable or milestone that is the subject of the default, for every day the default is not cured by Contractor.
- c. Deduction of Damages from Contract Price. The State may deduct all or any part of the damages resulting from Contractor's default from any part of the price still due on the contract, upon prior written notice being issued to the Contractor by the State.

REPRESENTATIVES. The State's representative under this Contract will be the person identified in the RFP or a subsequent notice to the Contractor as the "Agency Project Representative". The Agency Project Representative will review all reports made in the performance of the Project by the Contractor, will conduct all liaison with the Contractor, and will accept or reject the Deliverables and the complete Project. The Agency Project Representative may assign to a manager, responsibilities for individual aspects of the Project to act as the Agency Project Representative for those individual portions of the Project.

The Contractor's Project Manager under this Contract will be the person identified in the Proposal as the "Project Manager." The Project Manager will conduct all liaisons with the State under this Contract. Either party, upon written notice to the other party, may designate another representative. The Project Manager may not be replaced without the approval of the State if that individual is identified in the Proposal as a key individual on the Project.

WORK RESPONSIBILITIES. The State will be responsible for providing only those things expressly identified, if any, in the RFP. If the State has agreed to provide facilities or equipment, the Contractor, by signing this Contract, warrants that the Contractor has either inspected the facilities and/or equipment or has voluntarily waived an inspection and will work with the equipment and/or facilities on an "as is" basis.

The Contractor will assume the lead in the areas of management, design, and development of the Project under the direction of the OLC. The Contractor will coordinate the successful execution of the Project and direct all Project activities on a day-to-day basis, with the advice and consent of the Agency Project Representative. The Contractor will be responsible for all communications regarding the progress of the Project and will discuss with the Agency Project Representative any issues, recommendations, and decisions related to the Project.

If the Project, or parts of it, requires installation on the State's property, the State will provide the Contractor with reasonable access to the installation site for the installation and any site preparation that is needed. After the installation is complete, the Contractor will complete an installation letter and secure the signature of Agency Project Representative certifying that installation is complete and the Project, or applicable portion of it, is operational. The letter will describe the nature, date, and location of the installation, as well as the date it was certified as installed and operational by the Agency Project Representative.

Unless otherwise provided in the RFP, the Contractor will be responsible for obtaining all official permits, approvals, licenses, certifications, and similar authorizations required by any local, state, or Federal agency for the Project and maintaining them throughout the duration of this Contract.

CHANGES. The State may make reasonable changes, within the general scope of the Project. The State will do so by issuing a written order under this Contract describing the nature of the change ("Change Order"). Additionally, if the State provides directions or makes requests of the Contractor without a change order, and the Contractor reasonably believes the directions or requests are outside the specifications for the Project, the Contractor will have the right to request a Change Order from the State. Scope of Work changes will be managed as follows: pricing will be provided from the Contractor to the State. The State will execute a Change Order once it and the Contractor have agreed on the description of and specifications for the change as well as any equitable adjustments that need to be made in the Contractor's Fee or the performance schedule for the Work. Within five (5) business days after receiving the Change Order, the Contractor will sign it to signify agreement.

If a change causes an increase in the cost of, or the time required for, the performance of the Project, the Contractor will notify the State in writing and request an equitable adjustment in the Contractor's Fee, the delivery schedule, or both before the Contractor signs the Change Order. If the Contractor claims an adjustment under this section in connection with a change to the Project not described in a written Change Order, the Contractor must notify the State of the claim within five (5) business days after the Contractor is notified of the change and before work on the change begins. Otherwise, the Contractor will have waived the claim. In no event will the State be responsible for any increase in the Fee or revision in any delivery schedule unless the relevant change was specifically ordered in writing by the State and the Contractor has complied with the requirements of this section. Provided the State has complied with the procedure for Change Orders in this section, nothing in this clause will excuse the Contractor from proceeding with performance of the Project, as changed.

Where an equitable adjustment to the Contractor's Fee is appropriate, the State and the Contractor may agree upon such an adjustment. If the State and the Contractor are unable to agree, and the Contractor seeks an equitable adjustment in its Fee, either party may submit the dispute to the senior management of the Contractor and the State for resolution. If, within 30 calendar days following referral to senior management, the claim or dispute has not been resolved, only then will it be submitted to non-binding mediation (pursuant to the rules as stipulated by the American Arbitration Association). A claim or dispute must be submitted to non-binding mediation prior to the initiation of any formal legal process. Costs of mediation will be shared equally. Both parties further agree to use best efforts to resolve any claims or disputes arising during the performance of this Contract within 30 calendar days following the initiation of the dispute process. The resolved amount will be the not-to-exceed amount of the Change Order. If the change involves removing a requirement from the Project or replacing one part of the Project with the change, the State will get a credit for the work no longer required under the original scope of the Project. The credit will be calculated in the same manner as the Contractor's Fee for the change, and the not-to-exceed amount will be reduced by this credit.

The Contractor will be responsible for coordinating changes with its subcontractors and adjusting their compensation and performance schedule. The State will not pay any subcontractor for the Change Order. If a subcontractor will perform any work under a Change Order, that work must be included in the Contractor's not-to-exceed amount and calculated in the same manner as the Contractor's equitable adjustment for the portion of the work the Contractor will perform. The Contractor will not receive an overhead percentage for work a subcontractor will do under a Change Order.

EXCUSABLE DELAY. Neither party will be liable for any delay in its performance that arises from causes beyond its control and without its negligence or fault. The delayed party will notify the other promptly of any material delay in performance and will specify in writing the proposed revised performance date as soon as practicable after notice of delay. In the event of any such excusable delay, the date of performance or of delivery will be extended for a period equal to the time lost by reason of

the excusable delay. The delayed party must also describe the cause of the delay and what steps it is taking to remove the cause. The delayed party may not rely on a claim of excusable delay to avoid liability for a delay if the delayed party has not taken commercially reasonable steps to mitigate or avoid the delay. Things that are controllable by the Contractor's subcontractors will be considered controllable by the Contractor, except for third-party manufacturers supplying commercial

items and over whom the Contractor has no legal control.

INDEPENDENT STATUS OF THE CONTRACTOR. The parties will be acting as independent contractors. The partners, employees, officers, and agents ("Personnel") of one party, in the performance of this Contract, will act only in the capacity of representatives of that party and not as Personnel of the other party and will not be deemed for any purpose to be Personnel of the other. Each party assumes full responsibility for the actions of its Personnel while they are performing services pursuant to this Contract and will be solely responsible for paying its Personnel (including withholding of and/or paying income taxes and social security, workers' compensation, disability benefits and the like). Neither party will commit, nor be authorized to commit, the other party in any manner. The Contractor's subcontractors will be considered the agents of the Contractor for purposes of this Contract.

ATTACHMENT THREE: GENERAL TERMS AND CONDITIONS  
PART THREE: OWNERSHIP & HANDLING OF INTELLECTUAL PROPERTY & CONFIDENTIAL INFORMATION

CONFIDENTIALITY. The State may disclose to the Contractor written material or oral or other information that the State treats as confidential ("Confidential Information"). Title to the Confidential Information and all related materials and documentation the State delivers to the Contractor will remain with the State. The Contractor must treat such Confidential Information as secret if it is so marked, otherwise identified as such, or when, by its very nature, it deals with matters that, if generally known, would be damaging to the best interests of the public, other contractors or potential contractors with the State, or individuals or organizations about whom the State keeps information. By way of example, information should be treated as confidential if it includes any proprietary documentation, materials, flow charts, codes, software, computer instructions, techniques, models, information, diagrams, know-how, trade secrets, data, business records, or marketing information. By way of further example, the Contractor also must treat as confidential materials such as police and investigative records, files containing personal information about individuals or employees of the State, such as personnel records, tax records, and so on, court and administrative records related to pending actions, any material to which an attorney-client, physician-patient, or similar privilege may apply, and any documents or records expressly excluded by Ohio law from public records disclosure requirements.

The Contractor agrees not to disclose any Confidential Information to third parties and to use it solely to do the Project. The Contractor will restrict circulation of Confidential Information within its organization and then only to people in the Contractor's organization that have a need to know the Confidential Information to do the Project. The Contractor will be liable for the disclosure of such information whether the disclosure is intentional, negligent, or accidental, unless otherwise provided below.

The Contractor will not be liable for any unintentional disclosure of Confidential Information that results despite the Contractor's exercise of at least the same degree of care as it normally takes to safeguard its own secrets, except when the Contractor's procedures are not reasonable given the nature of the Confidential Information or when the disclosure nevertheless results in liability to the State.

The Contractor will not incorporate any portion of any Confidential Information into any work or product, other than a Deliverable, and will have no proprietary interest in any of the Confidential Information. Furthermore, the Contractor will cause all of its employees who have access to any Confidential Information to execute a confidentiality agreement incorporating the obligations in this section.

The Contractor's obligation to maintain the confidentiality of the Confidential Information will not apply where such: (1) Was already in the Contractor's possession before disclosure by the State, and such was received by the Contractor without obligation of confidence; (2) Is independently developed by the Contractor; (3) Is or becomes publicly available without breach of this Contract; (4) Is rightfully received by the Contractor from a third party without an obligation of confidence; (5) Is disclosed by the Contractor with the written consent of the State; or (6) Is released in accordance with a valid order of a court or governmental agency, provided that the Contractor (a) Notifies the State of such order immediately upon receipt of the order and (b) Makes a reasonable effort to obtain a protective order from the issuing court or agency limiting disclosure and use of the Confidential Information solely for the purposes intended to be served by the original order of production. The Contractor will return all originals of any Confidential Information and destroy any copies it has made on termination or expiration of this Contract.

The Contractor may disclose Confidential Information to its subcontractors on a need-to-know basis, but they will be obligated to the requirements of this section.

OWNERSHIP OF DELIVERABLES. All deliverables produced by the Contractor and covered by this Contract, including any software modifications, and documentation, shall be owned by the State, with all rights, title, and interest in all intellectual property that come into existence through the Contractor's custom work being assigned to the State. Additionally, the Contractor waives any author rights and similar retained interests in custom-developed material. The Contractor will provide the State with all assistance reasonably needed to vest such rights of ownership in the State. The Contractor will retain ownership of all tools, methods, techniques, standards, and other development procedures, as well as generic and preexisting shells, subroutines, and similar material incorporated in any custom Deliverable ("Pre-existing Materials") if the Contractor provides the non-exclusive license described in the next paragraph.

The Contractor may grant the State a worldwide, non-exclusive, royalty-free, perpetual license to use, modify, sell, and otherwise distribute all Pre-existing Materials that are incorporated in any custom-developed Deliverable rather than grant the State ownership of the Pre-existing Materials provided however, that the State may distribute such pre-existing Materials to the extent required by governmental funding mandates. The Contractor will not include in any custom Deliverable any intellectual property unless such has been created under this Contract or qualifies as Pre-existing Material. If the Contractor wants to incorporate any Pre-existing Materials in a custom Deliverable, the Contractor must first disclose this and seek the State's approval for doing so in advance. On the request of the Contractor, the State will incorporate any proprietary notice the Contractor may reasonably want for any Pre-existing Materials included in a custom Deliverable in all copies the State makes of that Deliverable.

Subject to the limitations and obligations of the State with respect to Pre-existing Materials, the State may make all custom Deliverables available to the general public without any proprietary notices of any kind.

LICENSE IN COMMERCIAL MATERIAL. As used in this section, "Commercial Material" means anything that has been developed at private expense by the Contractor or a third party, commercially available in the marketplace, subject to intellectual property rights, and readily copied through duplication on magnetic media, paper, or other media. Examples include written reports, books, pictures, videos, movies, computer programs, and computer source code and documentation.

Any Commercial Material that the Contractor intends to deliver as a Deliverable must have the scope of the license granted in such material disclosed in the RFP or as an attachment referenced in the RFP, if that scope of license is different from the scope of license contained in this section for Commercial Materials.

Except for Commercial Material that is software ("Commercial Software"), if the Commercial Material is copyrighted and published material, then the State will have the rights permitted under the Federal copyright laws for each copy of the Commercial Material delivered to it by the Contractor.

Except for Commercial Software, if the Commercial Material is patented, then the State will have the rights permitted under the Federal patent laws for each copy of the Commercial Material delivered to it by the Contractor.

Except for Commercial Software, if the Commercial Material consists of trade secrets, then the State will treat the material as confidential. In this regard, the State will assume all obligations with respect to the Commercial Material that the Contractor assumes under the Confidentiality section of this Contract with respect to State secrets. Otherwise, the State will have the same rights and duties permitted under the Federal copyright laws for each copy of the Commercial Material delivered to it by the Contractor, whether or not the material is copyrighted when delivered to the State.

For Commercial Software, the State will have the rights in items (1) through (8) of this section with respect to the software. The State will not use any Commercial Software except as provided in items (1) through (8) of this section or as expressly stated otherwise in this Contract. The Commercial Software may be:

1. Used or copied for use in or with the computer or computers for which it was acquired, including use at any State installation to which such computer or computers may be transferred.
2. Used or copied for use in or with a backup computer for disaster recovery and disaster recovery testing purposes or if any computer for which it was acquired is inoperative.
3. Reproduced for safekeeping (archives) or backup purposes.
4. Modified, adapted, or combined with other computer software, but the modified, combined, or adapted portions of the derivative software incorporating any of the Commercial Software will be subject to same restrictions set forth in this Contract.
5. Disclosed to and reproduced for use on behalf of the State by support service contractors or their subcontractors, subject to the same restrictions set forth in this Contract.
6. Used or copied for use in or transferred to a replacement computer.

However:

7. If the Commercial Software delivered under this Contract is published and copyrighted, it is licensed to the State without disclosure prohibitions.
8. If any Commercial Software is delivered under this Contract with the copyright notice in 17 U.S.C. 401, it will be presumed to be published, copyrighted, and licensed to the State without disclosure restrictions, unless a statement substantially as follows accompanies such copyright notice: "Unpublished -- rights reserved under the copyright laws of the United States." The State will treat such Commercial Software as Confidential Information to the extent that such is actually the case.

ATTACHMENT THREE: GENERAL TERMS AND CONDITIONS  
PART FOUR: REPRESENTATIONS, WARRANTIES, AND LIABILITIES

GENERAL WARRANTIES. The Contractor warrants that the recommendations, guidance, and performance of the Contractor under this Contract will: (1) Be in accordance with sound professional standards and the requirements of this Contract and without any material defects; (2) Unless otherwise provided in the RFP, be the work solely of the Contractor; and (3) No Deliverable will infringe on the intellectual property rights of any third party.

Additionally, with respect to the Contractor's activities under this Contract, the Contractor warrants that: (1) The Contractor has the right to enter into this Contract; (2) The Contractor has not entered into any other contracts or employment relationships that restrict the Contractor's ability to perform the contemplated services; (3) The Contractor will observe and abide by all applicable laws and regulations, including those of the State regarding conduct on any premises under the State's control; (4) The Contractor has good and marketable title to any goods delivered under this Contract and in which title passes to the State; (5) All hardware, software, firmware, and similar devices and materials provided under this Contract will be designed to operate without regard to the turning of a century and process dates in a manner that takes into account dates occurring before and after the turning of a century; and (6) The Contractor has the right and ability to grant the license granted in any Deliverable in which title does not pass to the State.

The warranty regarding material defects is a 1-year warranty. All other warranties will be continuing warranties. If any portion of the Project fails to comply with these warranties, and the Contractor is so notified in writing, the Contractor will correct such failure with all due speed or will refund the amount of the compensation paid for such portion of the Project. The Contractor will also indemnify the State for any direct damages and claims by third parties based on a breach of these warranties. This obligation of indemnification will not apply where the State has modified or misused the Deliverable and the claim is based on the modification or misuse. The State agrees to give the Contractor notice of any such claim as soon as reasonably practicable. If a successful claim of infringement is made, or if the Contractor reasonably believes that an infringement claim that is pending may actually succeed, the Contractor will do one (1) of the following four (4) things: (1) Modify the Deliverable so that it is no longer infringing; (2) Replace the Deliverable with an equivalent or better item; (3) Acquire the right for the State to use the infringing Deliverable as it was intended for the State to use under this Contract; or (4) Remove the Deliverable and refund the amount the State paid for the Deliverable and the amount of any other Deliverable or item that requires the availability of the infringing Deliverable for it to be useful to the State.

SOFTWARE WARRANTY. If this Contract involves software as a Deliverable, then, on acceptance and for 12 months after the date of acceptance of any Deliverable that includes software, the Contractor warrants as to all software developed under this Contract that: (a) the software will operate on the computer(s) for which the software is intended in the manner described in the relevant software documentation, the Contractor's Proposal, and the RFP; (b) the software will be free of any material defects; (c) the Contractor will deliver and maintain relevant and complete software documentation, commentary, and source code; and (d) the source code language used to code the software is readily available in the commercial market, widely used and accepted for the type of programming involved, and support programming in the language is reasonably available in the open market; and (e) the software and all maintenance will be provided in a professional, timely, and efficient manner.

For Commercial Software licensed from a third party that is incorporated in a Deliverable, the Contractor represents and warrants that it has done 1 of the following 3 things: (a) obtained the right from the third-party licensor to commit to the warranties and maintenance obligations in this Section; (b) obtained a binding commitment from the licensor to make those warranties and maintenance obligations directly to the State; or (c) fully disclosed in the RFP any discrepancies between the requirements of this section and the commitment the third-party licensor has made.

In addition, for Commercial Software that is incorporated in a Deliverable, the Contractor will: (a) maintain or cause the third-party licensor to maintain the Commercial Software so that it operates in the manner described in the RFP (or any attachment referenced in the RFP) and relevant Commercial Software documentation; (b) supply technical bulletins and updated user guides; (c) supply the State with updates, improvements, enhancements, and modifications to the Commercial Software and documentation and, if available, the commentary and the source code; (d) correct or replace the Commercial Software and/or remedy any material programming error that is attributable to the Contractor or the third-party licensee; (e) maintain or cause the third-party licensor to maintain the Commercial Software and documentation to reflect changes in the subject matter the Commercial Software deals with; (f) maintain or obtained a commitment from the third-party licensor to maintain the Commercial Software so that it will properly operate in conjunction with changes in the operating environment in which it is designed to operate.

For purposes of the warranties and the delivery requirements in this Contract, software documentation means well written, readily understood, clear, and concise instructions for the software's users as well as a system administrator. The software documentation will provide the users of the software with meaningful instructions on how to take full advantage of all of the capabilities designed for end users. It also means installation and system administration documentation for a system administrator to allow proper control, configuration, and management of the software. Source code means the uncompiled operating instructions for the entire System. The Contractor will not be obligated to provide source code for Commercial Software unless it is readily available from the licensor. The source code will be provided in the language in which it was

written and will include commentary that will allow a competent programmer proficient in the source language to readily interpret the source code and understand the purpose of all routines and subroutines contained within the source code.

**EQUIPMENT WARRANTY.** If any electrical equipment, mechanical device, computer hardware, telecommunications hardware, or other type of physical machinery ("Equipment") will be a part of any Deliverable, the following warranties apply. The Contractor warrants that the Equipment fully complies with all government environmental and safety standards applicable to the Equipment. The Contractor also warrants for 1 year from the acceptance date of the Equipment that the Equipment will perform substantially in accordance with specifications described in the RFP, the user manuals, technical materials, and related writings published by the manufacturer for the Equipment. The foregoing warranties will not apply to Equipment that is modified or damaged after title passes to the State.

The Contractor will notify the State in writing immediately upon the discovery of any breach of the warranties given above.

The Contractor's will do the following if any Equipment does not meet the above warranties:

1. Cause the Equipment to perform as required, or, if that is not commercially practicable, then;
2. Grant the State a refund equal to the amount the State paid for the Equipment or, if such has not been individually priced, the manufacturer's suggested retail price for the Equipment.

Except where the Contractor's breach of a warranty makes it not possible for the State to do so, the State will return the affected Equipment to the Contractor in the case of a refund under the previous paragraph.

**GENERAL EXCLUSION OF WARRANTIES.** The State makes no warranties, express or implied, other than those express warranties contained in this contract. The contractor also makes no warranties of merchantability or fitness for a particular purpose except as follows: If the Contractor has been engaged under the scope of work in the RFP to design something to meet a particular need for the State, then the Contractor does warrant that the contractor's work will meet the stated purpose for that work.

**INDEMNITY.** The Contractor will indemnify the State for any and all claims, damages, law suits, costs, judgments, expenses, and any other liabilities resulting from bodily injury to any person (including injury resulting in death) or damage to property that may arise out of or are related to Contractor's performance under this Contract, providing such bodily injury or property damage is due to the negligence of the Contractor, its employees, agents, or subcontractors.

The Contractor will also indemnify the State against any claim of infringement of a copyright, patent, trade secret, or similar intellectual property rights based on the State's proper use of any Deliverable under this Contract. This obligation of indemnification will not apply where the State has modified or misused the Deliverable and the claim of infringement, is based on the modification or misuse. The State agrees to give the Contractor notice of any such claim as soon as reasonably practicable and to give the Contractor the authority to settle or otherwise defend any such claim upon consultation with and approval by the Office of the State Attorney General. If a successful claim of infringement is made, or if the Contractor reasonably believes that an infringement claim that is pending may actually succeed, the Contractor will take one (1) of the following four (4) actions:

1. Modify the Deliverable so that is no longer infringing.
2. Replace the Deliverable with an equivalent or better item.
3. Acquire the right for the State to use the infringing Deliverable as it was intended for the State to use under this Contract.
4. Remove the Deliverable and refund the fee the State paid for the Deliverable and the fee for any other Deliverable that required the availability of the infringing Deliverable for it to be useful to the State.

**LIMITATION OF LIABILITY.** NOTWITHSTANDING ANY LIMITATION PROVISIONS CONTAINED IN THE DOCUMENTS AND MATERIALS INCORPORATED BY REFERENCE INTO THIS AGREEMENT, THE PARTIES AGREE AS FOLLOWS:

1. NEITHER PARTY WILL BE LIABLE FOR ANY INDIRECT, INCIDENTAL OR CONSEQUENTIAL LOSS OR DAMAGE OF ANY KIND, INCLUDING BUT NOT LIMITED TO LOST PROFITS, EVEN IF THE PARTIES HAVE BEEN ADVISED, KNEW, OR SHOULD HAVE KNOWN OF THE POSSIBILITY OF SUCH DAMAGES.
2. THE CONTRACTOR FURTHER AGREES THAT THE CONTRACTOR SHALL BE LIABLE FOR ALL DIRECT DAMAGES DUE TO THE FAULT OR NEGLIGENCE OF THE CONTRACTOR.

ATTACHMENT THREE: GENERAL TERMS AND CONDITIONS  
PART FIVE: ACCEPTANCE AND MAINTENANCE

STANDARDS OF PERFORMANCE AND ACCEPTANCE. If the RFP does not provide otherwise, the acceptance procedure will be an informal review by the Agency Project Representative to ensure that each Deliverable and the Project as a whole comply with the requirements of this Contract. The Agency Project Representative will have up to 30 calendar days to do this. No formal letter of acceptance will be issued, and passage of the 30 calendar days will imply acceptance, though the State will issue a notice of noncompliance if a Deliverable or the Project as a whole does not meet the requirements of this Contract. If the Agency Project Representative issues a letter of noncompliance, then the Contractor will have 30 calendar days to correct the problems listed in the noncompliance letter. If the Contractor fails to do so, the Contractor will be in default without a cure period. If the Agency Project Representative has issued a noncompliance letter, the Deliverables or the Project as a whole will not be accepted until the Agency Project Representative issues a letter of acceptance indicating that each problem noted in the noncompliance letter has been cured. If the problems have been fixed during the 30 day period, the Agency Project Representative will issue the acceptance letter within 15 calendar days.

If the Project fails to meet the standard of performance after 90 calendar days from the start of the performance period, the Contractor will be in default and will not have a cure period. In addition to all other remedies the State may have under this Contract, the State will have the right to request correction or replacement of the relevant portion of the Project.

PASSAGE OF TITLE. Title to any Deliverable will pass to the State only on acceptance of the Deliverable. All risk of loss, regardless of the cause, will remain with the Contractor until title to the Deliverable passes to the State.

ATTACHMENT THREE: GENERAL TERMS AND CONDITIONS  
PART SIX: CONSTRUCTION

ENTIRE DOCUMENT. This Contract is the entire agreement between the parties with respect to the subject matter and supersedes any previous statements or agreements, whether oral or written.

BINDING EFFECT. This Contract will be binding upon and inure to the benefit of the respective successors and assigns of the State and the Contractor.

AMENDMENTS – WAIVER. No change to any provision of this Contract will be effective unless it is in writing and signed by both parties. The failure of either party at any time to demand strict performance by the other party of any of the terms of this Contract will not be a waiver of those terms. Waivers must be in writing to be effective. Either party may at any later time demand strict performance.

SEVERABILITY. If any provision of this Contract is held by a court of competent jurisdiction to be contrary to law, the remaining provisions of this Contract will remain in full force and effect to the extent that such does not create an absurdity.

CONSTRUCTION. This Contract will be construed in accordance with the plain meaning of its language and neither for nor against the drafting party.

HEADINGS. The headings used herein are for the sole sake of convenience and will not be used to interpret any section.

NOTICES. For any notice under this Contract to be effective it must be made in writing and sent to the address of the appropriate contact provided elsewhere in the Contract, unless such party has notified the other party, in accordance with the provisions of this section, of a new mailing address. This notice requirement will not apply to any notices that this Contract expressly authorized to be made orally.

CONTINUING OBLIGATIONS. The terms of this Contract will survive the termination or expiration of the time for completion of Project and the time for meeting any final payment of compensation, except where such creates an absurdity.

ATTACHMENT THREE: GENERAL TERMS AND CONDITIONS  
PART SEVEN: LAW & COURTS

COMPLIANCE WITH LAW. The Contractor agrees to comply with all applicable federal, state, and local laws in the conduct of the Work.

DRUG-FREE WORKPLACE. The Contractor will comply with all applicable state and Federal laws regarding keeping a drug-free workplace. The Contractor will make a good faith effort to ensure that all the Contractor employees, while working on state property, will not have or be under the influence of illegal drugs or alcohol or abuse prescription drugs in any way.

CONFLICTS OF INTEREST. No personnel of the Contractor may voluntarily acquire any personal interest that conflicts with their responsibilities under this Contract. Additionally, the Contractor will not knowingly permit any public official or public employee who has any responsibilities related to this Contract or the Project to acquire an interest in anything or any entity under the Contractor's control if such an interest would conflict with that official's or employee's duties. The Contractor will disclose to the State knowledge of any such person who acquires an incompatible or conflicting personal interest related to this Contract. The Contractor will take steps to ensure that such a person does not participate in any action affecting the work under this Contract. This will not apply when the State has determined, in light of the personal interest disclosed, that person's participation in any such action would not be contrary to the public interest.

OHIO ETHICS AND ELECTIONS LAW.

A. Ethics Law

Contractor hereby certifies that all applicable parties listed in Division (I)(3) or (J)(3) of O.R.C. Section 3517.13 are in full compliance with Divisions (I)(1) and (J)(1) of O.R.C. Section 3517.13.

In accordance with Executive Order 2007-01S, Contractor, by signature on this document, certifies: (1) it has reviewed and understands Executive Order 2007-01S, (2) has reviewed and understands the Ohio ethics and conflict of interest laws, and (3) will take no action inconsistent with those laws and this order. The Contractor understands that failure to comply with Executive Order 2007-01S is, in itself, grounds for termination of this contract and may result in the loss of other contracts with the state of Ohio.

Contractor certifies that it is currently in compliance and will continue to adhere to the requirements of Ohio ethics laws.

B. Political Contributions

The Contractor affirms in its cover letter that, as applicable to the Contractor, all personal and business associates are in compliance with Chapter 3517 of the Revised Code regarding limitations on political contributions and will remain in compliance for the duration of the Contract and with all applicable provisions that extend beyond the expiration of the Contract.

EQUAL EMPLOYMENT OPPORTUNITY. The Contractor will comply with all state and federal laws regarding equal employment opportunity, including Ohio Revised Code Section 125.111 and all related Executive Orders.

Before a contract can be awarded or renewed, an Affirmative Action Program Verification Form must be submitted to the DAS Equal Opportunity Division to comply with the affirmative action requirements. Affirmative Action Verification Forms and approved Affirmative Action Plans can be found by going to the Equal Opportunity Departments web site: <http://www.das.ohio.gov/Eod/AAEEO.htm>

INJUNCTIVE RELIEF. Nothing in this Contract is intended to limit the State's right to injunctive relief if such is necessary to protect its interests or to keep it whole.

ASSIGNMENT. The Contractor may not assign this Contract or any of its rights or obligations under this Contract without the prior, written consent of the State.

GOVERNING LAW. This Contract will be governed by the laws of Ohio, and venue for any disputes will lie exclusively with the appropriate court in Franklin County, Ohio.

ATTACHMENT FOUR  
CONTRACT

This Contract, which results from RFP CSP900210, entitled "Integrated Marketing Services for the Ohio Lottery Commission" is between the state of Ohio, through the Department of Administrative Services, Office of Procurement Services, on behalf of the Ohio Lottery Commission (the "State") and

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(the "Contractor").

If this RFP results in a contract award, the Contract will consist of this RFP including all attachments, written addenda to this RFP, the Contractor's proposal, and written, authorized addenda to the Contractor's proposal. It will also include any materials incorporated by reference in the above documents and any purchase orders and change orders issued under the contract. The form of the Contract is this one (1) page attachment to the RFP, which incorporates by reference all the documents identified above. The general terms and conditions for the Contract are contained in another attachment to the RFP. If there are conflicting provisions between the documents that make up the contract, the order of precedence for the documents is as follows:

1. This RFP, as amended;
2. The documents and materials incorporated by reference in the RFP;
3. The Contractor's Proposal, as amended, clarified, and accepted by the State; and
4. The documents and materials incorporated by reference in the Contractor's Proposal.

Notwithstanding the order listed above, change orders and amendments issued after the Contract is executed may expressly change the provisions of the contract. If they do so expressly, then the most recent of them will take precedence over anything else that is part of the Contract.

This Contract has an effective date of the later of July 1, 2009 or the occurrence of all conditions precedent specified in the General Terms and Conditions.

IN WITNESS WHEREOF, the parties have executed this Contract as of the dates below.

_____ (Contractor)	<u>Department of Administrative Services</u> <u>(State of Ohio Agency)</u>
_____ (Signature)	_____ (Signature)
_____ (Printed Name)	<u>Hugh Quill</u> <u>(Printed Name)</u>
_____ (Title)	<u>Director, Department of Administrative Services</u> <u>(Title)</u>
_____ (Date)	_____ (Date)

ATTACHMENT FIVE A  
OFFEROR PROFILE FORM

Offeror's Legal Name:	Address:	
Phone Number:	Fax Number:	E-mail Address:
Home Office Location:	Date Established:	Ownership:
Firm Leadership:	Number of Employees:	Number of Employees Directly involved in Tasks Directly Related to the Work:
Additional Background Information:		

ATTACHMENT FIVE B  
OFFEROR PRIOR PROJECT FORM

Customer Company Name:	Contact:	
Address:	Phone Number:	
Project Name:	Beginning Date of Project (Month/Year):	Ending Date of Project (Month/Year):
Description of scope of the project in detail, including your company's role. Also explain the relevance or similarity of the project to this project.		

ATTACHMENT FIVE C  
OFFEROR PRIOR PROJECT FORM

Customer Company Name:	Contact:	
Address:	Phone Number:	
Project Name:	Beginning Date of Project (Month/Year):	Ending Date of Project (Month/Year):
Description of scope of the project in detail, including your company's role. Also explain the relevance or similarity of the project to this project.		

ATTACHMENT FIVE D  
OFFEROR PRIOR PROJECT FORM

Customer Company Name:	Contact:	
Address:	Phone Number:	
	E-mail:	
Project Name:	Beginning Date of Project (Month/Year):	Ending Date of Project (Month/Year):
Description of scope of the project in detail, including your company's role. Also explain the relevance or similarity of the project to this project.		

ATTACHMENT SIX  
OFFEROR REFERENCES

Three (3) professional references who have received services from the Offeror in the past five (5) years.

Company Name:		Contact Name:	
Address:		Phone Number:	
		E-Mail Address:	
Project Name:	Beginning Date of Project: (Month/Year)	Ending Date of Project: (Month/Year)	
Description of project size, complexity and the Offeror's role in this project.			

Company Name:		Contact Name:	
Address:		Phone Number:	
		E-Mail Address:	
Project Name:	Beginning Date of Project: (Month/Year)	Ending Date of Project: (Month/Year)	
Description of project size, complexity and the Offeror's role in this project.			

Company Name:		Contact Name:	
Address:		Phone Number:	
		E-Mail Address:	
Project Name:	Beginning Date of Project: (Month/Year)	Ending Date of Project: (Month/Year)	
Description of project size, complexity and the Offeror's role in this project.			

ATTACHMENT SEVEN A  
OFFEROR'S CANDIDATE REFERENCES

Candidate's Name: \_\_\_\_\_

Candidate's Proposed Position: \_\_\_\_\_

Three (3) professional references who have received services from the candidate in the past five (5) years.

Company Name:		Contact Name:	
Address:		Phone Number: E-mail:	
Project Name:		Beginning Date of Project: Month/Year	Ending Date of Project: Month/Year
Description of project size, complexity, and the candidate's role in this project.			
Company Name:		Contact Name:	
Address:		Phone Number: E-mail:	
Project Name:		Beginning Date of Project: Month/Year	Ending Date of Project: Month/Year
Description of project size, complexity, and the candidate's role in this project.			
Company Name:		Contact Name: E-mail:	
Address:		Phone Number:	
Project Name:		Beginning Date of Project: Month/Year	Ending Date of Project: Month/Year
Description of project size, complexity, and the candidate's role in this project.			

ATTACHMENT SEVEN B  
OFFEROR'S CANDIDATE INFORMATION:  
EDUCATION AND TRAINING

Candidate's Name: \_\_\_\_\_

Education and Training: This section must be completed to list the education and training of the proposed candidate.

Name and Address	Months/Years	Degree/Major
College		
Technical School		
Licenses		
Certifications		

ATTACHMENT SEVEN C  
OFFEROR'S CANDIDATE EXPERIENCE REQUIREMENT

Candidate's Name: \_\_\_\_\_

Candidate's Proposed Position: \_\_\_\_\_

Client Company Name:		Client's Project Supervisor Contact Name:	
Address:		Phone Number:	
		E-Mail:	
Project Name:	Beginning Date of Project: Month/Year	Ending Date of Project: Month/Year	
Description of the related services provided:			
Client Company Name:		Client's Project Supervisor Contact Name:	
Address:		Phone Number:	
		E-Mail:	
Project Name:	Beginning Date of Project: Month/Year	Ending Date of Project: Month/Year	
Description of the related services provided:			
Client Company Name:		Client's Project Supervisor Contact Name:	
Address:		Phone Number:	
		E-Mail:	
Project Name:	Beginning Date of Project: Month/Year	Ending Date of Project: Month/Year	
Description of the related services provided:			

ATTACHMENT EIGHT  
OFFEROR PERFORMANCE FORM

The Offeror must provide the following information for this section for the past seven (7) years. Please indicate yes or no in each column.

Yes/No	Description
	The Offeror has had a contract terminated for default or cause. If so, the Offeror must submit full details, including the other party's name, address, and telephone number.
	The Offeror has been assessed any penalties in excess of ten thousand dollars (\$10,000), including liquidated damages, under any of its existing or past contracts with any organization (including any governmental entity). If so, the Offeror must provide complete details, including the name of the other organization, the reason for the penalty, and the penalty amount for each incident.
	The Offeror was the subject of any governmental action limiting the right of the Offeror to do business with that entity or any other governmental entity.
	Trading in the stock of the company has ever been suspended with the date(s) and explanation(s).
	The Offeror, any officer of the Offeror, or any owner of a twenty percent (20%) interest or greater in the Offeror has filed for bankruptcy, reorganization, a debt arrangement, moratorium, or any proceeding under any bankruptcy or insolvency law, or any dissolution or liquidation proceeding.
	The Offeror, any officer of the Offeror, or any owner with a twenty percent (20%) interest or greater in the Offeror has been convicted of a felony or is currently under indictment on any felony charge.

If the answer to any item above is affirmative, the Offeror must provide complete details about the matter. While an affirmative answer to any of these items will not automatically disqualify an Offeror from consideration, at the sole discretion of the State, such an answer and a review of the background details may result in a rejection of the Offeror's proposal. The State will make this decision based on its determination of the seriousness of the matter, the matter's possible impact on the Offeror's performance on the project, and the best interests of the State.

In addition to the section above, the Offeror(s) must be financially sound and well managed. Offerors, including the Parent Corporation of any subsidiary corporation submitting a proposal or a subcontractor of the Offeror performing greater than 50 percent of the work to be performed hereunder, must provide evidence of financial responsibility and stability for performance of this magnitude. If the Offeror is a subsidiary of another corporation, the information requested below must be supplied for both the parent and subsidiary. If an Offeror is a joint venture, the information requested below must be provided for all entities comprising the joint venture. It is, however, not necessary that the joint venture existed for three years. In order to ensure the Offeror's financial ability to perform under the Contract, the Offeror must demonstrate the following minimum qualifications:

- A. Primary Awardees must have a minimum of \$5,000,000.00 in annual billings for three (3) previous consecutive years. Secondary Awardees must have a minimum of \$750,000.00 in annual billing for three (3) previous consecutive years.
- B. Audited or reviewed financial statements for the two (2) most recent fiscal years or copies of the last two (2) most recently filed tax returns. The State reserves the right to request additional financial statements or tax returns for past fiscal and/or tax years.
- C. Primary Offeror's must demonstrate ability to maintain a Line of Credit of at least \$1,250,000.00 dollars throughout the life of the contract dedicated to the OLC account. Secondary Offerors must demonstrate the ability to maintain a Line of Credit of at least \$350,000.00 dollars throughout the life of the contract dedicated to the OLC account.
- D. A three (3) year history of billing by client(s). These clients' names should coincide with those provided in response to Attachment Five A, B and C and the percentage of its total business accounted for by each of the five (5) largest accounts each year.

- E. The Offeror shall describe any billing disputes within the past two (2) years relating to a claim of non-performance or failure to perform in accordance with the terms of a contract and which involve an amount of \$10,000 or more. Please provide a summary of the dispute, including but not limited to; the status of the dispute. For purposes of this section this includes both formal and information disputes.
- F. Provide a list of one (1) or more financial institutions as a credit reference. Please include contact name(s), address, e-mail address and phone number(s) for the reference.
- G. Demonstrate the Offeror's ability to procure the bonds and the insurances required. Please provide existing certificates of insurance, and documentation from the insurer concerning the responding Offeror's ability to procure future coverage as evidence of the ability to maintain such coverage.
- H. All Offerors shall acknowledge that they are not in arrears for federal, state and local taxes of any type, and that there are no outstanding liens, levies, lawsuits, claims, causes of action or investigations of any type pending involving their corporation, partnership or joint venture for the past three (3) years. If such an acknowledgement cannot be provided, the Offeror must provide detailed information explaining such lien, levy, lawsuit or investigation.
- I. If the responding Offeror is a subsidiary and will rely on the financial resources of the parent company to perform this Contract, the parent company must certify, in writing, the availability of its resources to the responding Offeror.
- J. A list of all principals of the entity that would provide the services, including: full name, home address, telephone number and social security number. Additionally, please attach biographies of all principals and heads of each division within the company or organization. Principals of responding Offerors as well as any employees working on the Lottery account may be required to submit to a criminal background check as required pursuant to the Ohio Revised Code, Section 3770.051.

Any items provided in response to this section considered confidential shall be clearly identified as confidential and submitted in a separate sealed envelope.

ATTACHMENT NINE  
PROPOSAL LABELS

**ORIGINAL – Cost Proposal**

CSP900210- Integrated Marketing Services for the Ohio Lottery Commission  
Department of Administrative Services  
Office of Procurement Services - Bid Desk  
4200 Surface Road  
Columbus, OH 43228-1395

**ORIGINAL – Technical Proposal**

CSP900210- Integrated Marketing Services for the Ohio Lottery Commission  
Department of Administrative Services  
Office of Procurement Services - Bid Desk  
4200 Surface Road  
Columbus, OH 43228-1395

**COPY \_ of \_ – Cost Proposal**

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ATTACHMENT TEN  
SAMPLE PROJECT

This sample Project is for those Offerors that are asked to return to present an oral presentation. Based on this RFP submission, each Offeror shall demonstrate their creative capabilities by preparing and presenting three (3) marketing campaigns. The first concept shall demonstrate their understanding of the Ohio Lottery's brand; the second concept shall promote an online product; and the third concept shall promote an instant ticket product.

The Ohio Lottery has the ability to purchase and utilize all traditional and electronic mediums that exist in the marketplace. Each concept should include, but not be limited to: a creative brief, TV spot, radio spot, print ad, point of sale materials and any/all other supporting materials and mediums that an Offeror deems appropriate for a specific concept. The creative presentation may be comprised of conceptual materials e.g. storyboards, mock-ups and sketches.

An explanation of the selected mediums, spot lengths and sizes shall be included in the creative brief.

Concept 1: Brand Story

An Ohio Lottery brand story kit will be provided to each Offeror who is invited to present creative campaigns. Each Offeror shall use the information in this kit to present their marketing campaign.

Concept 2: Online Product - Rolling Cash 5

Rolling Cash 5 is a daily numbers game where a player selects one number from a pool of 39. The top prize is \$100,000 and the jackpot rolls until a winner is drawn. A game how-to-play will be provided to each Offeror. Game details can also be found on the Ohio Lottery's web site: [www.ohiolottery.com](http://www.ohiolottery.com).

Concept 3: Instant Ticket Product - Emerald 7's

Emerald 7's is an instant ticket game (scratcher) where a player removes a latex covering to reveal re-printed winning combinations. A game instruction of how-to-play will be provided to each Offeror. Game details can also be found on the Ohio Lottery's web site: [www.ohiolottery.com](http://www.ohiolottery.com)

For purposes of this creative assignment, Offerors are hereby given permission to use the trademarked/registered logos associated with each campaign. Those logos include the Ohio Lottery logo and the Rolling Cash 5 logo.

ATTACHMENT ELEVEN  
COST SUMMARY FORM

Title: Integrated Marketing Services for the Ohio State Lottery  
 RFP Number: CSP900210  
 Index Number: LOT012K  
 NIGP Number: 961-53  
 UNSPSC Number: 80141600

1. There is no reimbursement for travel and other related expenses.
2. The State will not be responsible for any expenses not identified.
3. A budget narrative should be included with the Cost Proposal.
4. All costs must be in U.S. dollars.

Budget Projection. The budget projected, for both primary and secondary awards for this project is: \$3.5 million dollars  
 The total amount of the secondary contracts will not exceed \$1 million per fiscal year.

Primary Offeror Cost Summary for performance of the Integrated marketing Services for the OLC	
1. Monthly Retainer Fee:	\$
2. Creative Production Fee: (Provide a commission percent in the format x.dd% for all creative production services listed in Attachment 1, Section B).	\$
3. Bonds: (Bond costs are not reimbursable. This is for information purposes only).	\$

Primary Offerors shall submit a fixed monthly retainer fee for Marketing Services which shall include all expenses. The estimated number of hours to be spent on marketing and creative services is 300 hours per month. (Note: The Lottery wishes to be able to call upon the successful Offerors employees who are identified in their proposal response without limitations on their availability). The number of hours is an estimated number for the contract period and the Lottery does not obligate itself to the full number of hours indicated, but may also assign work which could cause a successful Offeror to exceed 300 hours in a month. The monthly retainer proposed must accommodate fluctuations in the estimated number of hours per month.

Secondary Offeror Cost Summary for performance of the Integrated marketing Services for the OLC	
1. Time and Materials Fee: (The OLC will pay an hourly rate for concepting. No single concept may exceed \$5,000.00 and work must be documented for payment.)	\$
Creative Production Fee: (Provide a commission percent in the format x.dd% for all creative production services listed in Attachment 1, Section B)	\$
Bonds: (Bond costs are not reimbursable. This is for information purposes only).	\$

The OLC expects the successful Offerors staff, as outlined in its proposal response (including management, account managers, and creative staff) to participate in planning meetings in Cleveland, Ohio or other Lottery offices throughout the State as part of the Offeror's marketing services. Presentations and day-to-day contact meetings will usually take place in Cleveland, Ohio. There is no reimbursement for travel and other related expenses.