



STATE OF OHIO
DEPARTMENT OF ADMINISTRATIVE SERVICES
GENERAL SERVICES DIVISION
OFFICE OF PROCUREMENT SERVICES
4200 SURFACE ROAD, COLUMBUS, OH 43228-1395

MANDATORY USE CONTRACT FOR: PLAYER LOYALTY REWARDS PROGRAM AND RELATED SERVICES

CONTRACT NUMBER: CSP906114

EFFECTIVE DATES: 02/20/14 TO 06/30/15
* Renewal through 06/30/17

The Department of Administrative Services has accepted Proposals submitted in response to Request for Proposal (RFP) No. CSP906114 that opened on October 23, 2013. The evaluation of the Proposal responses has been completed. The Offeror listed herein has been determined to be the highest ranking Offeror and has been awarded a Contract for the services listed. The respective Proposal response including, Contract Terms & Conditions, any Proposal amendment, special Contract Terms & Conditions, specifications, pricing schedules and any attachments incorporated by reference and accepted by DAS become a part of this Services Contract.

This Requirements Contract is effective beginning and ending on the dates noted above unless, prior to the expiration date, the Contract is renewed, terminated, or cancelled in accordance with the Contract Terms and Conditions.

This Requirements Contract is available to the Ohio Lottery Commission as applicable.

The agency is eligible to make purchases of the contracted services in any amount and at any time as determined by the agency. The State makes no representation or guarantee that department will purchase the volume of services as advertised in the Request for Proposal.

Questions regarding this and/or the Services Contract may be directed to:

Therese Gallego, CPPB
therese.gallego@das.ohio.gov

This Requirements Contract and any Amendments thereto are available from the DAS Web site at the following address:

www.ohio.gov/procure

*Indicates renewal effective 07/01/15.

MUTUALLY AGREED-UPON CLARIFICATIONS

Financial Module. The Marcus Thomas solution uses an upgrade to the Kentico CMS solution to add eCommerce functionality. The Kentico eCommerce solution is customizable to accept any form of tender, conforming to federal stands for security and encryption. The system could tie to rewards points, PayPal, Visa/MasterCard, or any other third-party payment system. The eCommerce solution also supports credits, allowing customer balances to be managed within Kentico. Transaction fees for handling claiming and processing of prize payments would be based on volume of transactions and the specific transaction methods required by the Lottery, so cannot be estimated at this time. Marcus Thomas would work with the Lottery to determine how online payments will be used, help select the appropriate processors, and integrate the payment processor.

Messaging. Marcus Thomas shall develop a vendor partner relationship with DirectConnect separate from the current contract OLC has with DirectConnect. Based on the last RFP’s reported 433 emails per month, and the desire to add 50% additional support beyond that, the yearly costs will be:

URL	Message Cost	Yearly Cost	Yearly with 50%
DirectConnect	0.00005	\$ 259,800	\$ 389,700
Number of Subscribers	Monthly Sends	Yearly Sends	Yearly with 50%
4,300,000	433,000,000	5,196,000,000	7,794,000,000

*URLs. URLs acquired on the behalf of the Ohio Lottery Commission, such as MyLotto.com and MyLottoRewards.com become the property of the Ohio Lottery Commission if the contract expires or is terminated.

MUTUALLY AGREED-UPON ADDITIONS TO THE TERMS AND CONDITIONS

1. GENERAL REQUIREMENTS FOR HOSTING AND CLOUD SERVICES

1.1. Standards

All Service subscriptions must provide Service that maintains a redundant infrastructure that will ensure access for all of the State’s enrolled users in the event of failure at any one of the Contractor locations, with effective contingency planning (including back-up and disaster recovery capabilities) and [24x7] trouble shooting service for inquiries, outages, issue resolutions, etc. All such Services must be dependable and provide response rates that are as good as or better than industry standards. They also must meet the Service Level Contracts (“SLAs”) provided in this Contract and be supported with sufficient connectivity and computing resources to handle reasonably anticipated peak demand, and the Contractor must ensure that sufficient bandwidth and computing resources are dedicated to the Services to meet peak demand times without material degradation in performance.

The Services must also operate at the moderate level baseline] as defined in the National Institute of Standards and Technology (“NIST”) 800-53 Rev. 3 moderate baseline requirements, be consistent with Federal Information Security Management Act (“FISMA”) requirements, and offer a customizable and extendable capability based on open-standards APIs that enable integration with third party applications. Additionally, they must provide the State’s systems administrators with 24x7 visibility into the services through a real-time, web-based “dashboard” capability that enables them to monitor, in real or near real time, the Services’ performance against the established SLAs and promised operational parameters.

The Contractor has and will continue to use its best efforts through quality assurance procedures to ensure that there are no viruses or malware or undocumented features in its infrastructure and Services and that they do not contain any embedded device or code (e.g., time bomb) that is intended to obstruct or prevent any use of or access to them by the State. Notwithstanding any rights granted under the Contract or at law, the Contractor hereby waives under any and all circumstances any right it may have or may hereafter have to exercise electronic self help.

The Contractor must obtain annual Statements *on Standards for Attestation Engagements* (“SSAE”) No. 16, Service Organization Control 1 Type 2, audit. The audit must cover all operations pertaining to the Services covered by this Contract. The audit will be at the sole expense of the Contractor and a copy of it must be provided to the State within 30 days of its completion each year. At no cost to the State, the Contractor must immediately remedy any issues, material weaknesses, or other items identified in each audit as they pertain to the Services.

1.2. Object Reassignment

Any Service subscriptions that are provided by the number of items that may be used by or in conjunction with it, such as nodes, users, or connections (“Objects”), may be reassigned to other, similar Objects within the State at any time and without any additional fee or charge. For example, a named user subscription may be assigned to another user. But any such reassignment must be in conjunction with termination of use by or with the previous Object, if such termination is required to keep the total number of licensed Objects within the scope of the applicable subscription. Should the State require a special code, a unique key, or similar item to reassign the subscription as contemplated by this section, the Contractor will provide such a code, key, or similar item to the State at any time and without a fee or charge. A later section in this Contract governs assignment of the State’s subscription to any Service to a successor in interest.

*Indicates change 07/01/15.

1.3. Generated Files

"Generated Files" are files storing information, instructions, or data that the State creates or modifies using the Contractor's Services and in which the data or other information was provided or created by the State. Such Generated Files are also included in the definition of "State's Data" in a later section of this Contract. Examples of such files could include, among others, text files generated with a word processor, data tables created with a database engine, and image files created with a graphics application. Applications consisting of instruction sets created with a programming language that the Contractor provided to the State also would be considered Generated Files. As between the State and the Contractor, the State will own all Generated Files that the State prepares by using the Services, excluding such portions of the Generated Files that consist of embedded portions of the Software. The Contractor or its licensors will retain ownership of any portions of the Software embedded into Generated Files. But the Contractor grants to the State a nonexclusive, royalty-free right to reproduce and distribute to third parties any portions of the intellectual property embedded in any Generated Files that the State creates while using the Services in the manner in which the Services are designed to be used. In the State's distribution of the Generated Files, the State may not use the Contractor's name, logo, or trademarks, except to the extent that such are incorporated in such Generated Files by the design of a Service when used as intended.

1.4 Contractor Warranties

The Contractor warrants that:

- i. the Services will perform materially in accordance with the applicable user guide and the requirements of this Contract,
- ii. subject to any limitations specified in the Contract, the functionality of the Services will not be materially decreased during a subscription Term, and
- iii. it will not transmit viruses, worms, time bombs, Trojan horses and other harmful or malicious code, files, scripts, agents or programs ("Malicious Code") to the State, provided it is not a breach of this subpart ,
- iv. if the State uploads a file containing Malicious Code into the Services and later downloads that file containing Malicious Code.

For any breach of a warranty above, the State's and individual State' remedies will be as provided in the section of this Contract dealing with termination.

Failure of the Contractor to meet any SLAs in the Contract will not be considered a breach of this warranty section unless the State reasonably determines that the failure is persistent or extended in duration.

Note: Any terms and conditions that may be incorporated in a User Guide that conflicts with the MSA or SA, the MSA and SA will prevail.

1.5 State Responsibilities

The State will be responsible for their respective compliance with this Contract. Additionally, the State will:

- i. be responsible for the accuracy, quality, and legality of its data and of the means by which the data was acquired,
- ii. use commercially reasonable efforts to prevent unauthorized access to or use of the Services to which it subscribes and notify the Contractor promptly of any unauthorized access or use of which it becomes aware, and
- iii. use the Services only in accordance with the applicable user guide, to the extent it is not inconsistent with this Contract, applicable laws, and government regulations.

The State may not:

- i. intentionally make the Services available to anyone other than its employees and contractors acting on the State's behalf,
- ii. sell, resell, rent or lease the Services,
- iii. use the Services to store or transmit infringing, libelous, or otherwise unlawful or tortious material, or to store or transmit material in violation of third-party privacy rights,
- iv. intentionally use the Services to store or transmit Malicious Code,
- v. intentionally interfere with or disrupt the integrity or performance of the Services or third-party data contained therein, or
- vi. attempt to gain unauthorized access to the Services or their related systems or networks.

1.6 State Reporting Requirements

The Contractor must provide the State with a recap of all Services provided to the State on a monthly basis. Additional, specific reporting data requirements may be outlined in the Contract.

2. SUPPORT

2.1. Service Support Generally

During the Term, the Contractor will provide the State with telephonic assistance and advice for using all Services. The Contractor also will provide troubleshooting and problem resolution by developing and providing fixes or patches for errors in any software it provides and contract with any third party providing software that supports the Services for the same. As part of the support the Contractor provides in exchange for the applicable fee, the Contractor also will keep all software current by installing all relevant service packs and patches as well as all updates and new releases and versions of the software as soon as reasonably possible. The Contractor also will keep its own software offering compatible with any updated third-party software that is part of the Services or supports the Services. The manner in which the Contractor provides support will be governed by the Contractor's policies and programs described in the applicable documentation or other materials that the Contractor uses to notify its customers generally of such policies. But regardless of the Contractor's policies and programs, unless otherwise agreed in the Contract, in all cases such support must comply with the requirements of this Contract. And the Contractor must provide the support in a competent, professional, and timely manner. In the case of subscriptions to Services for a Term that an excusable delay interrupts, the Term of that subscription will be extended at no additional cost to the State by the same amount of time as the excusable delay.

2.2 Software as a Service Maintenance

If this Contract involves software as a Deliverable, then, during the warranty period, as well as any optional maintenance periods that the State exercises, the Contractor must correct any material programming errors that are attributable to the Contractor within a reasonable period of time. However, the State must notify the Contractor, either orally or in writing, of a problem with the software and provide sufficient information for the Contractor to identify the problem.

The Contractor's response to a programming error will depend upon the severity of the problem. For programming errors that delay the processing of data by in imperceptible time for users, render minor and non-mandatory functions of the System inoperable or unstable, or require users or administrators to employ workarounds to fully utilize the software, Contractor will respond to the request for resolution within four business hours. Furthermore, the Contractor must begin working on a proper solution for the problem within one business day, dedicating the resources required to fix the problem. For any defects with more significant consequences, including those that render key functions of the system inoperable or significantly slow processing of data, or corrupt data, the Contractor will respond within two business hours of notice. The Contractor also must begin working on a proper solution for the problem immediately after responding and, if requested, provide on-site assistance and dedicate all available resources to resolving the problem.

For software classified as Commercial Software as a Service in the Ownership of Deliverables section and for which the State has not signed a separate license agreement, the Contractor must acquire for the State the right to maintenance for at least one year. That maintenance must be the third-party licensor's standard maintenance program, but at a minimum, that maintenance program must include all, updates, patches, and fixes to the software. It also must include a commitment to keep the software current with the operating environment in which it is designed to function (and, if applicable, the subject matter covered by the software) and to correct material defects in the software in a timely fashion. Additionally, the Contractor must obtain a commitment from the licensor to make maintenance available for the product for at least four years after the first year of maintenance.

For Deliverables that include custom materials such as software, scripts, or similar computer instructions developed for the State, the State is entitled to the source material. Scripts and similar functionality may not be locked or otherwise protected from access by the State, unless the State has any passwords or other tools necessary to access the material. Source material must include annotations or comments according to industry standards. Further, the State is entitled to any working papers the Contractor has developed during the performance of the Project that would reasonably assist the State in using the Deliverables that include source materials or that would help the State protect its interests in the Deliverable or update, modify, or otherwise maintain the Deliverable. This also includes all design and architectural materials, such as schemas.

2.3 Equipment Support Generally

For any equipment used to provide the Services, remedial equipment maintenance by the Contractor will be completed within eight business hours after notification by the State that maintenance is required. In the case of preventative maintenance, the Contractor will perform such in accordance with the manufacturer's published schedule and specifications. If maintenance is not completed within eight hours after notification by the State, the Contractor will be in default. Failure of the Contractor to meet or maintain these requirements will provide the State with the same rights and remedies as specified elsewhere in this Contract for default, except that the Contractor will only have eight hours to remedy a default. Nothing contained herein will limit the application of any credits for failure to meet any service level agreements in the Contract. The Contractor will provide adequate staff to provide the maintenance required by this Contract.

2.4 Adjustments

A State may acquire subscriptions that are based on the number of users, nodes, computers, processors, or other counts of Objects covered by the Contract ("Objects"). In any such cases, the State may request that the fees for a subscription renewal be calculated based on fewer Objects than included previously, with an appropriate adjustment in the applicable fee(s). Despite the reduction, fees for the remaining Objects may not be increased over the previously applicable fees.

During the Contract, the State may increase the volume of its order (e.g., add additional users) without increasing the Contract Term. The cost of any addition Objects or similar increase in usage must be prorated to reflect the time remaining in the Contract Term rather than be based on the full Contract Term.

2.5 Support Parameters

A State may initiate support requests for problems it encounters with the Software by telephone, email, Internet, or fax, and the Contractor must maintain lines of communication that support all four forms of communication. The Contractor must make support available 24 hours a day, seven days per week (the "Support Window"), and it must do so by staffing its support function with an adequate number of qualified personnel to handle its traditional volume of calls. Further, the Contractor must maintain at least one support center in North America with adequate English-speaking support personnel. The Contract may provide for different support periods. A State's technical staff may contact any support center that the Contractor maintains, and they may choose to do so based on convenience, proximity, service hours, languages spoken, or otherwise.

2.6 Incident Classification

The Contractor must classify and respond to support calls by the underlying problem's effect on the State. In this regard, the Contractor may classify the underlying problem as critical, urgent, or routine. The guidelines for determining the severity of a problem and the appropriate classification of and response to it are described below.

The Contractor must designate a problem as "critical" if the Service is functionally inoperable, the problem prevents the Service or a major component or function of it from being used in production mode or there is significant potential for data integrity problems. This classification assumes there is no existing patch for the problem. The Contractor must classify a problem as "urgent" if the underlying problem significantly degrades the performance of the Service or a major function or component of it or materially restricts the State's use of the Service in a production mode. A problem also will be considered urgent if a commonly used feature often generates application errors, causes the Service to freeze, locks up the computer on which the Service is running, or otherwise routinely does not work as intended. Classification of a problem as urgent rather than critical assumes that the State still can conduct business with the Service and response times are consistent with the needs of the State for that type of Service. As with the critical classification, the urgent classification assumes there is no existing patch or acceptable workaround procedure for the problem. Finally, the Contractor may classify a support call as "routine" if the underlying problem is a question on end use or configuration of the Service. It also may be classified as routine when the problem does not materially restrict the State's use of the Service in its production environment, such as when a feature or combination of features generates minor or rare errors. Also, if any problem that otherwise should be classified as critical or urgent can be solved either by a known workaround or an existing patch that does not materially interfere with the State's use of the Service, the problem may be treated as routine.

The Contractor must apply the above classifications in good faith to each call for support, and the Contractor must give due consideration to any request by the State to reclassify a problem, taking into account the State's unique business and technical environments and any special needs it may have.

2.7 Incident Response

The Contractor must respond to critical problems by ensuring that appropriate managerial personnel are made aware of the problem and that they actively track and expedite a resolution. The Contractor must assign support or development personnel at the appropriate level to the problem, and those personnel must prepare a work plan for the problem's expeditious resolution. The work plan must assume that the Contractor's appropriate staff will work without material interruption until the problem is resolved properly. At the request of the State, the Contractor's personnel must maintain daily contact with the State's technical staff to keep the State abreast of efforts being made to solve the problem. The Contractor also must provide the State's technical staff with direct access to the Contractor's support personnel and product development personnel, if appropriate, who are assigned to the problem.

The Contractor must respond to urgent problems by having its product development and support personnel work in concert to develop a fix or a workaround. If requested, the Contractor's support personnel must maintain regular contact with the State to keep their technical staff abreast of progress toward a resolution of the problem. The Contractor's support staff must include the problem in regular status reports to the Contractor's management team. And the Contractor's support staff must provide the fix or workaround procedure as soon as it is available.

The Contractor must respond to routine problems by providing the State with a fix or workaround on a priority basis if the problem is one for which an existing patch or workaround already exists. For newly identified problems falling into this classification, the Contractor's support personnel must generate a problem report, and the appropriate development or support personnel then must prioritize the problem in relation to other outstanding product issues. The assigned priority then will govern the problem solving or developmental work needed to address the problem and the schedule for delivering a solution. For routine calls that involve end usage and configuration issues rather than bugs or other technical problems, the Contractor's first or second level support personnel must provide the State's technical staff with telephonic assistance on a non-priority basis.

2.8 Response Times

The maximum time that the Contractor takes to respond initially to a support request may vary based upon the classification of the request. During the Support Window, the Contractor's response time for a critical support request will be less than one hour. The Contractor's response time for an urgent request must be less than two hours during the Support Window. And the Contractor's response time for a routine support request must be less than four hours during the Support Window.

2.9 Escalation Process

Any support call that is not resolved as agreed to in the Contract must be escalated to the Contractor's management under the following parameters. Unresolved problems, which includes unresolved support calls, that are classified as critical must be escalated to the Contractor's support manager within one hour and to the director level after four hours. Problems escalated to the director level must be communicated to the Lottery Commission at the same time.

2.10 State Obligations

To facilitate the Contractor meeting its support obligations, the State must provide the Contractor with the information reasonably necessary to determine the proper classification of the underlying problem. The State also must assist the Contractor as reasonably necessary for the Contractor's support personnel to isolate and diagnose the source of the problem. Additionally, to assist the Contractor's tracking of support calls and the resolution of support issues, the State must make a reasonable effort to use any ticket or incident number that the Contractor assigns to a particular incident in each communication with the Contractor.

2.11 Disaster Recovery.

The Contractor must have a disaster recovery plan for its facilities from whence it provides or supports Service for the State. The disaster recovery plan must meet or exceed industry standards and must provide for regularly planning, testing, and improving disaster recovery readiness. State must participate in disaster recovery planning and testing to the extent reasonably requested by the Contractor, and the Contractor must permit State to participate in such planning and testing to the extent the State reasonably request.

2.12 Documentation

The Contractor must document the solutions and systems developed or modified by the Contractor in accordance with established methods, processes, and procedures such that, at a minimum, the State or a competent third-party provider can subsequently provide the same scope of Service following the termination or expiration of the Contract. The Contractor also must develop or maintain, as agreed appropriate, the documentation on all hosted environments and keep it current. As part of this activity, the Contractor will update programmer, end user, and operational reference materials.

Break/Fix Support. The Contractor will be solely responsible for all break/fix support, including but not limited to tracking, monitoring, and providing remediation for solution defects and incidents for all systems and environments and supporting facilities, hardware, software, components, and connectivity, as well as maintaining appropriate solution documentation.

Administration Support. The Contractor is solely responsible for all system administration in all environments and will do all things necessary to provide high quality system support for all environments including, among other things, monitoring all systems and the IT and facilities infrastructure, applying patches, administering the system logs, executing all system code/object migrations, patch implementations, various data copies, and exports, and providing general assistance in incident resolution.

The Contractor also must maintain an email listing for each system's users, and when the system has a scheduled or unscheduled outage or reduction in performance, the Contractor must notify those users of the outage and subsequent restoration.

The Contractor will be solely responsible for all preventive maintenance, including but not limited to server tuning, code restructuring, and use of tools and other efforts to improve the efficiency and reliability of all systems in each environment.

The Contractor will proactively monitor and analyze trends to identify potential issues, follow-up on recurring problems, and maintain the system(s) in accordance with the Contract and best industry standards. Additionally, the Contractor will keep all software current with new releases, versions, and patches, as well as manage production schedules in consultation with the State and in accordance with an agreed upon production calendar, inclusive of daily and periodic maintenance activities, and update access and parameter or environment configurations, where applicable.

The Contractor also must monitor operations for correctness and adherence to agreed quality, performance, and availability criteria, as specified in the Contract.

The Contractor will be responsible for backup processes for all systems and environments by first creating a pre-production image, if one is not available from the State. The Contractor then will at a minimum do daily incremental system data backups and full data backups weekly. The Contractor will back up all application and system software files at least monthly.

Daily incremental files must be retained for one week, weekly backup files must be retained for a month, and the baseline image and monthly backups must be maintained for at least 18 months.

Infrastructure Management. The Contractor will be responsible for managing the infrastructure required to support all systems and environments. The Contractor's responsibilities with respect to infrastructure management are all inclusive and are to be provided using industry best practices. The Contractor will acquire and maintain all hardware, software, components, and facilities necessary to support such Service and will:

- i. Manage the Service delivery center and the capabilities within the delivery center, including but not limited to air conditioning, power, and cleaning;
- ii. Maintain delivery center redundancy consistent with the requirements of the Contract to help prevent loss of system availability;
- iii. Handle all physical facility planning;
- iv. Provide a primary facility contact at each hosting location;
- v. Support media management including but not limited to maintaining, tracking, and offsite storage of media used by storage devices on standard schedules;
- vi. Provide management staff to support the physical needs of all systems and environments including among other things changing media, system start up and shut down, as well as physical inspection and remediation of the systems;
- vii. Handle disaster recovery and disaster recovery testing activities, including coordinating with the State to permit participation in those activities;
- viii. Maintain the SLAs provided for in this Contract, if any; and
- ix. Support all systems in all environments.

The State will have no responsibilities in this area other than those specified in the Contract, if any, and reasonable participation in disaster recovery activities.

Security Services. The Contractor will be responsible for maintaining information security for all systems in all environments under the Contractor's management in full accord with the provisions of the Contract.

The Contractor's responsibilities in this regard include among others installing and updating systems software security, assigning and resetting passwords, providing the State access to create user ID's, suspend and deleting inactive logon IDs, addressing system security problems, maintaining network access authority, processing State security requests, performing regular security reviews, providing incident investigation support, and providing environment and system security support. Authorize user IDs and passwords for the State's personnel for the systems software, software tools, and network infrastructure systems, and devices under Contractor management.

Network Connectivity & Monitoring Services. The Contractor will be solely responsible for all aspects of network operations for the State's systems and related devices hosted on the Contractor's LAN, as well as all WAN support up to the Contractor's demarcation point, if applicable.

Systems Management and Administration. Applying best practices and tools, the Contractor will be responsible for all aspects of system and network management and administration for all environments and all hardware, software, components, and facilities used to provide the Service and will coordinate the installation, testing, configuration, operation, troubleshooting, maintaining, tuning, monitoring, backing up, restoring, capacity and other planning, quality assurance, and updating of the systems. The Contractor also will manage the security functions related to the systems in accordance with the requirements of the Contract. This includes for any system not integrated with the State's Active Directory (or other LDAP service) to support single sign-on capability for users, administering accounts, access, and passwords and the related security controls to maintain the integrity of the systems. And the Contractor will keep all aspects of the systems and environments current with appropriate patches, fixes, service packs, updates, and new releases of all underlying system elements. With respect to major updates, such as installation of new releases of key elements of any system, the Contractor will coordinate the upgrade with the State to facilitate user testing and to otherwise ensure a smooth implementation.

Asset Inventory and Management. The Contractor will provide the State an asset inventory report on an annual basis. The inventory will consist of all software and hardware the State owns located at the Contractor's facilities and must include, to the extent applicable, the following:

- i. Manufacturer
- ii. Model
- iii. Serial Number
- iv. Description
- v. Asset tag
- vi. Processor Type
- vii. Host Name
- viii. Memory
- ix. Total Disk Space
- x. Available Disk Space
- xi. Number of Physical Processors (or virtual processors if applicable)
- xii. Location: Building, Room, Street address, City, State, Zip Code
- xiii. Software associated with each hardware asset with any relevant "edition" or "service pack/revision level" identifiers and, consistent with the software's licensing model, number of Objects or instances licensed and the number thereof that are in use.

3. DISENTANGLEMENT SERVICE

3.1 Disentanglement Service

The Contractor will provide to the State Termination Service in connection with the termination or expiration.

Termination Service means, to the extent requested by the State, the continued performance by Contractor of its obligations under the Contract, including the provisioning of such assistance, cooperation, and information as is reasonably necessary to enable a smooth transition of the Services to the State or its designated third party provider ("Successor").

As part of Disentanglement Service, the Contractor will manage the migration, to the extent requested and provide such information as the State may reasonably request relating to the number and function of each of the Contractor personnel performing the Services, and Contractor will make such information available to the Successor designated by the State.

Contractor will fully cooperate with the State in the transfer of the hosted system(s) to a Successor or back to the State and will do so in a manner that provides an efficient and orderly migration with minimal impact on users of the system(s).

3.2 Disentanglement Plan

The Contractor will prepare a disentanglement plan with the input from the State and the Successor, if there is one. The contents of the termination plan will include at least the following activities, unless the State and the Contractor agree otherwise:

- i. Documentation of existing and planned support activities.
- ii. Identification of the Service and related positions or functions that require transition and a schedule, plan, and procedures for the State or the Successor assuming or reassuming responsibility.
- iii. Description of actions to be taken by the Contractor, State, and, if applicable, the Successor in performing the disentanglement.
- iv. Description of how the transfer of (i) relevant information regarding the Service, (ii) resources (if any), (iii) operations and (iv) contracts (if any) will be achieved.
- v. Description in detail of any dependencies the State and, if applicable, the Successor must fulfill for the Contractor to perform the Disentanglement Service (including an estimate of the specific staffing and time required).
- vi. Inventory of documentation and work products required to facilitate the transition of responsibilities.
- vii. Identification of significant potential risk factors relating to the transition and in designing plans and contingencies to help mitigate the risk.
- viii. A timeline for the transfer of each component of the Service (including key milestones to track the progress of the transfer).
- ix. A schedule and plan for Contractor's return to the State of (i) the systems held by the Contractor and belonging to the State, and (ii) all documents, records, files, tapes, and disks in Contractor's possession that belong to the State or relate to the migrating system(s).

3.3 Disentanglement Management Team

The Contractor will provide a project manager who will be responsible for Contractor's overall performance of the Disentanglement Service and who will be the primary point of contact for the State and any Successor during the transfer. The State also will appoint a project manager who will be the primary point of contact for Contractor during the disentanglement period.

3.4 Operational Transfer

The Contractor will perform the activities reasonably required to affect a smooth and orderly transfer of operational responsibility.

The Contractor also will provide the State and any Successor access to all resources reasonably necessary during the planning and execution of the Disentanglement Service, including but not limited to personnel responsible for the Service as well as any source code, object code, object and production libraries, reference files, field descriptions, record layouts, and technical specifications, along with the documentation, tools, scripts, and so on.

The Contractor also will cooperate with the State and any Successor in conducting migration testing and provide the State documents and information related to the functionality, program code, data model and data base structure, and access methods for the hosted system(s) and manual and automated processes used for the State in the possession or control of Contractor, and reviewing such processes, documents, and information with the State and any Successor as reasonably requested. And the Contractor will manage the test plans, back out procedures, and contingency plans as part of the migration of the Service.

After the transfer of the system(s) to the State or a Successor, the Contractor will give the State or the Successor additional assistance as reasonably requested to facilitate continuity of operations.

4. PROPRIETARY RIGHTS

4.1 Restrictions

Neither the Contractor nor the State may do anything that violates any license of a third party's Commercial Material used in any hosted system.

4.2 State Applications and Code

If the State, a third party acting on the State's behalf, or a user creates applications or program code using the Services, the State authorizes the Contractor to host, copy, transmit, display, and adapt such applications and program code, solely as necessary for the Contractor to provide the Services in accordance with this Contract. Subject to the above, the Contractor acquires no right, title, or interest from the State or its licensors under this Contract in or to such applications or program code, including any intellectual property rights therein, and the State is entitled to port, use, and host such anywhere.

4.3 State's Data

Subject to the limited rights granted by the State hereunder, the Contractor acquires no right, title, or interest from the State or its licensors under this Contract in or to the State's Data, including any intellectual property rights therein.

5. SERVICE LEVELS

5.1 SLAs for the Services

This Contract includes SLAs that will be used to monitor and manage the Contractor's performance. The Contractor must provide monthly SLA reports documenting the Contractor's performance with respect to the SLAs. The minimum SLAs are listed below, but the Contractor may supplement them with additional SLAs that are generally applicable to its other customers, so long as those additional SLAs cover parameters not addressed in the below SLAs or are more stringent than those listed below. Modifications to the SLAs provided below may only be made by the written agreement of the State and the Contractor, except with respect to SLAs the Contractor offers generally to other customers that are more stringent or in addition to those below. Furthermore, the SLAs may provide for credits to the State even though the Contractor is meeting its support obligations hereunder.

5.2 Availability

"Availability" or "Available" means, with respect to the Service, the State's users are able to access a Service and use all material features and functions of the Service effectively and efficiently and the Service meets all the SLAs contained in this Attachment. "Unavailable" or "Unavailability" means the State's users are unable to access the Service or use all the Service's features and functions effectively and efficiently or they do not otherwise meet all SLAs in this Contract, subject to the following:

Although the Lottery expects that maintenance and upgrades be completed with no impact to the website, the Lottery may authorize scheduled downtime in certain limited circumstances.

The Service may be inaccessible to the State's users during scheduled downtime. Scheduled downtime will not be considered times when the Service is Unavailable.

In addition to scheduled downtime, the following will not be considered times when the Service is Unavailable:

- i. Outages resulting from the State's equipment or its Internet Contractor;
- ii. A State's negligence or breach of its material obligations under this Contract; and
- iii. Excusable Delays, as provided for and handled in accordance with the CONTRACT.

5.3 SLA Credits

The "Target Availability Level" is the Service's Availability Level that the Contractor plans to meet or exceed during each calendar month. The "Service Availability Level" is the number of hours during a particular period that the Service was Available to the State, excluding scheduled downtime permitted above, divided by the total number of hours during such period. The Target Availability Level is 99.5% in any calendar month.

The Contractor will issue a credit allowance to the State for any Service outage, as defined in the Service Levels contained in the Contract. The credit will appear on the State's next invoice, or if the State so requests, the Contractor will issue a check to the State as payment within 30 days of the request.

The Contractor must actively monitor and report to the State any and all Unavailability of any Service monthly, along with reasonable details regarding such Unavailability. The Contractor also must provide a credit within 30 days of any calendar month in which the Service Availability Level is below the Target Availability Level, calculated as set forth herein.

The applicable credit will be calculated as follows: If the Contractor fails to meet the Target Availability Level by up to four hours, the State will be entitled to the equivalent of one day's fee for the Service. That is, if the fee is an annual fee, the credit would be 1/365th of that annual fee, or if it is a monthly fee, the State would be entitled to 1/30th of its monthly fee as a credit. Further, the credit will double if the Target Availability Level is missed by more than four but less than eight hours for any calendar month. And if the failure to meet the Target Availability Level is greater than eight hours, the State will be entitled to the entire fee applicable to that month.

Any such credits must be paid to the State within 30 days after the month in which the Contractor fails to meet the Target Availability Level.

If the Contractor fails to meet the Target Availability Level for three consecutive calendar months, the State may terminate the Contract for cause.

5.4 Repetitive Service Level Failures.

In addition to the credits the State will be entitled to, the State may escalate repetitive Service level failures using the escalation process in the Contract. Repetitive failures may also entitle the State to terminate the Contract for cause.

Player Loyalty Rewards Program and Related Services
 CSP906114
 UNSPSC CATEGORY CODE: 80140000

The Monthly Administration of fulfillment awards does not include the cost of merchandise, shipping or housing of merchandise as these costs will be included on the Reimbursable Expenses. Only the sourcing, management of the program, and generation of reports and tax documents shall be included in the Monthly Administration of Fulfillment and Awards.

Description	Evaluation Quantity	Cost	Extended Cost
OAKS ITEM NUMBER: 25750 Build and Launch of Player Loyalty Rewards Program and Related Services	1	\$ 692,053.38	\$ 692,053.38
OAKS ITEM NUMBER: 25751 Monthly Maintenance	24	*\$ 49,203.13	*\$ 1,180,875.12
OAKS ITEM NUMBER: 25752 Monthly Administration of Fulfillment and Rewards	24	*\$ 55,975.00	*\$ 1,343,400.00
*OAKS ITEM NUMBER : 27224 Weekly Drawing (over 5 drawings per week)	208	*\$ 500.00	*\$ 104,000.00
OAKS ITEM NUMBER: 25754 Financial Module option. Cost includes license upgrade fee and integration to one payment processor. Additional integrations are estimated at \$10,000.00 per processor.	1	\$ 18,500.00	\$ 18,500.00
*OAKS ITEM NUMBER: 27228 Finsterwald Royalty	2	\$ 30,000.00	\$ 60,000.00
OAKS ITEM NUMBER: 26053 Merchandise Budget for *FY16 (Pass Through Costs)	1	\$ 3,000,000.00	\$ 3,000,000.00
*Grand Total			*\$ 6,398,828.50
OAKS ITEM NUMBER: 25787 Hourly Rate for Upgrades			\$ 100.00

All costs must be in U.S. Dollars.

*Indicates change 07/01/15.

CONTRACTOR INDEX

CONTRACTOR AND TERMS:

BID CONTRACT NO.: CSP906114-1



67488
Marcus Thomas LLC
4781 Richmond Road
Cleveland, OH 44128

TERMS: Net 30

CONTRACTOR'S CONTACT:

Jim Nash

Office: (216) 292-4700
E-Mail: jnash@marcusthomasllc.com

SUMMARY OF AMENDMENTS

Amendment Number	Effective Date	Description
2	07/01/15	To renew the contract for an additional twenty-four (24) months, from July 1, 2015 through June 30, 2016, update the Cost Summary and add clarification on URLs.
1	05/28/14	To add Merchandise Budget for FY15.