

December 1, 2021

Nebraska Department of Revenue
Lottery Division

Request for Proposals

**Advertising
and
Marketing
Services**



**Requests for Proposals for Advertising and Marketing Services
December 1, 2021**

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**Nebraska Department of Revenue
Lottery Division
Request for Proposals for Advertising and Marketing Services**

Issued December 1, 2021

Introduction

This Request for Proposals (RFP) is being issued by the Nebraska Lottery. It is suggested that potential Vendors read this RFP in its entirety to better understand the bid process, the scope of services and capabilities the Nebraska Lottery is seeking in its advertising agency (or agencies) of record, and the requirements that the advertising agency must adhere.

The Nebraska Lottery has attempted to make this RFP as self-explanatory as possible. The RFP itself is divided into six parts:

Part I: Bidding Process is meant to explain the timelines, contract terms, proposal procedures and processes.

Part II: Nebraska Lottery Overview is meant to provide an overview of the Nebraska Lottery, our products and our sales. We suggest that **nelottery.com** is also a great source for further information.

Part III: Scope of Services and Requirements is meant to provide a solid overview of the types of services the Nebraska Lottery is seeking in issuing this RFP.

Part IV: Bidder Capability Statements is a listing of all the questions that each Vendor/agency must answer and the listing of requirements that must be answered and submitted.

Part V: Pricing Bid is the section in which participants will list their proposed compensation.

Part VI: Terms and Conditions is meant to list the legal considerations, contractual obligations and procedures under which the Nebraska Lottery operates and to which the Vendors must adhere.

There will only be one phase to this RFP. Selected vendors after initial scoring will be invited to present to the RFP committee and will be considered finalists for the awarding of a contract.

As used in this RFP, **Contractor** means a Vendor that has been awarded a contract by the Nebraska Lottery as a result of a proposal submitted pursuant to this RFP, and includes any parent or subsidiary entity of the Contractor, the agents and employees of the Contractor, parent, or subsidiary entity, and any subcontractor and its agents and employees.

Vendor means any person or entity that has submitted a proposal to the Nebraska Lottery pursuant to this RFP.

PART I: BIDDING PROCESS

A. Purpose

The Nebraska Lottery is seeking competitive proposals from qualified Vendors for a full-service advertising agency to work collaboratively as a partner in producing successful advertising and marketing services for all aspects of the Nebraska Lottery. Contractor responsibilities include, but are not limited to:

- Strategic advertising and promotional planning;
- Advertising and promotional creative planning, production and execution;
- Media planning and execution;
- Direct Marketing consultation and execution including management of the relationship marketing contract;
- Marketing planning assistance;
- Shared responsibility for cost control;
- Promotion and events planning and execution;
- Public Relations consultation, counsel and execution;
- Evaluation and recommendation of promotions and sponsorships, including sponsorship management;
- Research consultation, preparation and analysis;
- Website and social media content development; and
- Experiential Marketing planning and execution.

The Contractor's primary responsibility is to develop and implement advertising programs following the direction provided by the Nebraska Lottery. A more detailed listing of required services can be found in Part III of this RFP (Scope of Services and Requirements.) The Nebraska Lottery traditionally includes the Contractor in all phases of marketing planning and idea generation to provide the Contractor with as much information as possible, and to benefit from the Contractor's experience, creativity, and knowledge. In addition to account managers, staff members whose expertise is in creative development, media, promotion, and research regularly participate in planning sessions.

B. Proposal Format and Requirements

1. State Law Controls

The Nebraska Lottery is a division of the Nebraska Department of Revenue and as such conducts competitive bidding in the manner required by the State Lottery Act, Neb. Rev. Stat. § 9-801, et seq., and Nebraska Lottery Regulations. State law, Nebraska Lottery regulations, and the terms of this RFP will govern this process, and any deviation from the requirements contained in any of the above may be grounds for disqualification.

2. Contact Person and Issuing Office

The Nebraska Lottery is issuing this RFP. The Nebraska Lottery is the sole point of contact with regard to all procurement and contractual matters relating to this RFP. The Nebraska Lottery is the only office authorized to clarify, modify, amend, alter or withdraw the specifications, terms and conditions of this RFP and any contract awarded as a result of this RFP. All communications regarding this procurement must be addressed, in writing (email), to:

Jill Marshall
RFP Coordinator
Nebraska Lottery
PO Box 98901
Lincoln, NE 68509-8901
Physical Address:
137 NW 17th St.
Lincoln, NE 68528
jill.marshall@nebraska.gov

If any potential Vendor discovers any ambiguity, conflict, discrepancy, exclusionary specifications, omission or other error in this RFP, it must immediately notify in writing the point of contact as indicated in this section. If a potential Vendor fails to notify the point of contact of any known error, ambiguity, conflict, discrepancy, exclusionary specification or omission, the Vendor will submit a proposal at its own risk and, if awarded a contract, the Contractor shall not be entitled to additional compensation, relief, or time by reason of the error or its later correction.

This RFP will only be available via the Nebraska Lottery website, nelottery.com. Paper copies of the RFP will not be issued. Any Vendor who is considering bidding on this RFP should notify Jill Marshall (jill.marshall@nebraska.gov) to be placed on an interested party list by December 8, 2022. Notification must include the company name, contact name, and contact email address.

3. Projected Timetable

The time schedule for the awarding and execution of a contract under this RFP is shown below. The Nebraska Lottery reserves the right to amend the schedule. If changes are made, all applicable Vendors who have provided notification under Part I (B)(2), above, will be notified.

RFP Issued	Wednesday	December 1	2021
Notice of Interest Deadline – those who notify RFP Contact of interest will receive access to research, business plan and annual report	Wednesday	December 8	2021
Vendor Written Questions Due	Tuesday	December 14 4:00 PM CT	2021
Written Answers Issued	Wednesday	December 22 10:00 AM CT	2021
Bidder Capability and Pricing Bid due	Thursday	February 24 10:00 AM CT	2022
Oral Presentations from Selected Vendors	Tues-Wed	March 22-23	2022
Apparent Successful Vendor Announced	Friday	April 1	2022
Contract Negotiations and Signing	--	April 4-15	2022
Proposals Open to Public	Tuesday	April 19	2022
Transition Period	--	April 18-June 30	2022
Successful Contractor assumes all Marketing Services responsibilities	Friday	July 1	2022

4. Contract Term

The contract awarded as a result of this request will be for a four (4) year period beginning July 1, 2022, with four (4) one-year options, which may be exercised at the discretion of the Nebraska Lottery with approval of the Tax Commissioner.

5. Minimum Contractor Qualifications

- a. The Contractor must have experience, within the past three years, providing services similar in size and scope to the Scope of Services and Requirements as defined in Part III of this RFP.
- b. The Contractor must meet the minimum qualifications stated in this RFP.
- c. The Contractor must have the resources available to satisfy the requirements as set forth in this RFP and as proposed by the Contractor.
- d. The Contractor must be licensed or otherwise under no legal impediment to do business in the State of Nebraska.
- e. The Contractor must have a Nebraska office within 100 miles of Lincoln by the contract commencement date. This office must include all resources necessary to perform the services identified in this RFP.

6. Submission of Bidder Capability Statements and Pricing Bid

Deadline: Thursday, February 24, 2022; 10:00 a.m. CT

Any interested bidder wishing to be considered for this contract award must submit a Bidder Capability Statement and Pricing Bid, which is Part IV and V of this RFP. All parts of that statement must be addressed to the RFP Coordinator at the address noted above, and must be clearly marked: "ADVERTISING & MARKETING SERVICES 2022: BIDDER CAPABILITY STATEMENT AND PRICING BID." The Statements, whether mailed or hand delivered, must arrive at the Nebraska Lottery no later than 10:00 a.m. CT, on February 24, 2022.

Late Bidder Capability Statements and Pricing Bids will not be accepted and will be automatically disqualified from further consideration. All Bidder Capability Statements and Pricing Bids, and any accompanying documentation, will become the property of the Nebraska Lottery and will not be returned.

Bidder Capability Statements must contain one (1) original paper copy and four (4) additional paper copies, as well as five (5) complete copies on flash drives. The paper copies must each be on 8½ x 11 inch paper. All pages of the response must be numbered. All materials submitted in response to this RFP must be organized and arranged to correspond with each outlined section of this RFP that requires a response. Failure to arrange the proposal or related materials as requested may, at the discretion of the Nebraska Lottery, result in disqualification. Where the written words differ from figures, the amount stated in written words will govern.

PRICING BIDS MUST BE SUBMITTED IN A SEPARATE SEALED ENVELOPE AND MUST BE SEPARATE FROM THE BIDDER CAPABILITY STATEMENT SUBMISSION. ONLY ONE COPY OF THE PRICING BID IS REQUIRED TO BE SUBMITTED. FAILURE TO MEET THIS REQUIREMENT WILL RESULT IN AUTOMATIC DISQUALIFICATION OF THE BID.

Bidder Capability Statements must:

- Identify all parts of the Statement;
- Clearly raise any claim of confidentiality, state the basis of that claim, and identify the portions of the Statement to which that claim attaches;
- Include a statement of commitment to establish or maintain an office in Nebraska (within 100 miles of Lincoln);
- Be signed by an individual who is authorized to bind the firm legally; and
- Provide requested or required information in the same order as presented in this RFP, with the same headings and format used herein.

7. Proposal Time Limit

All proposals submitted shall remain valid for 150 calendar days following the date on which the proposals are due. By submitting a proposal, the Vendor specifically agrees to this time limit.

8. Economy of Preparation

Proposals should be thorough, but prepared simply and economically. Each proposal should provide a straightforward, concise description of the Vendor's ability to meet the requirements of this RFP. Proposals should not contain unsolicited, extraneous, or duplicative information.

9. Right to Cancel or Reissue the RFP

The Nebraska Lottery reserves the right to cancel or to reissue the RFP in whole or in part, prior to execution of a contract. Any decision to cancel or reissue this RFP will be noted on the Nebraska Lottery website (nelottery.com). Additionally, any Vendor providing notification under Part I (B)(2), above, will be notified of the cancellation or reissue.

10. RFP Revisions

The Nebraska Lottery reserves the right to amend any provision of this RFP at any time. Any amendment of this RFP will be clearly marked and will be noted on the Nebraska Lottery website (nelottery.com). Additionally, any Vendor providing notification under Part I (B)(2), above, will be notified of the amendment.

11. Reliance on all Terms Contained in the Proposal

All representations contained in the proposal, including representations made in oral presentations by the Vendor, will be relied upon as part of the Vendor's proposal and considered in making the contract award. By submitting a proposal, the Vendor affirms that all representations made in the proposal are an accurate reflection of the Vendor's capabilities. **Vendors will not be permitted to modify or amend proposals after submission;** however, the Nebraska Lottery reserves the right to seek clarification on any proposal submissions.

12. Proposals Property of the Nebraska Lottery

All materials and proposals submitted by Vendors are the property of the Nebraska Lottery upon receipt and will not be returned to the Vendor. The Nebraska Lottery has the right to use all materials, ideas, or adaptation of the ideas contained in any proposal received in response to this RFP, as the Nebraska Lottery deems appropriate, without compensation to the Vendor. Selection or rejection of the Vendor's proposal will not affect this right.

13. Proposal Costs

The Nebraska Lottery will not be liable for any costs incurred by any Vendor (or potential Vendor) in connection with any proposal or material submitted in response to this RFP.

14. Responsiveness

The RFP Coordinator will review all proposals to determine compliance with RFP requirements and instructions. **Vendors are specifically notified that failure to comply with any part of this RFP may result in rejection of the proposal as non-responsive.**

Only one (1) response may be submitted from each Vendor. For purposes of this paragraph, Vendor is defined to include a parent corporation of the Vendor and any other subsidiary of that parent corporation. **If a Vendor submits more than one (1) response, all responses from that Vendor may be rejected, at the discretion of the Nebraska Lottery.**

15. Most Favorable Terms

The Nebraska Lottery reserves the right to make an award without further discussion of the proposals submitted. Therefore, each proposal must be initially submitted on the most favorable terms the Vendor can provide. No last best offers will be entertained.

16. Restrictions on Proposal Disclosure

Until a contract resulting from this RFP is executed, no employee, agent, or representative of any Vendor shall make available or discuss its proposal with the news media, any elected or appointed official or officer of the State of Nebraska, or any employee, agent, or representative of the Nebraska Lottery or its contractors. **Violation of this requirement may result in proposal disqualification.**

17. Commitment of Funds

The Tax Commissioner or Lottery Director (or any designee of the same) are the only individuals who may legally commit the Nebraska Lottery to the expenditures of funds for a contract resulting from this RFP. No cost chargeable to the Nebraska Lottery under a proposed contract may be incurred before the contract is fully executed.

18. Contract General Terms and Conditions

A Vendor must be prepared to accept the terms of the RFP and the Vendor's proposal for incorporation into a contract. The contract will include the general terms and conditions found in Part VI. A proposal will not be considered responsive if it does not reflect the Vendor's agreement to all general terms and conditions included in this RFP.

19. Information News Releases

No Vendor shall issue any news release or make any statement to the news media pertaining to this procurement or any proposal and/or contract or work without the prior written approval of the Nebraska Lottery.

20. No Obligation to Contract or Contract Exclusively

While the Nebraska Lottery expects to select one proposal, this RFP does not obligate the Nebraska Lottery to contract for the services specified. The Nebraska Lottery will not necessarily select the proposal containing the lowest price quotes. The Nebraska Lottery reserves the right, at its sole discretion and subject to no penalty, to reject all proposals and to waive minor administrative irregularities. Further, the Nebraska Lottery reserves the right, at its sole discretion and subject to no penalty, to accept portions of any or all proposals and subsequently contract with more than one Vendor for particular services (for example, creative, media

buying and/or individual campaigns) if such approach is determined to be in the best interests of the Nebraska Lottery.

21. Future Advertising Budgets Are Estimated Amounts

Any dollar amount quoted in this RFP for the current fiscal year or future fiscal years are only estimated amounts. The Nebraska Lottery's advertising budget is calculated as a percentage of net sales, which figure may fluctuate from year to year, and which is finally determinable only at the end of the fiscal year (June 30). The Vendor may not rely on any estimate quoted in this RFP as any type of guarantee for future budgets or future compensation. For instance, sales for FY 2022-23 may prove to be significantly under \$205 million. By submitting a proposal in response to this RFP, Vendor acknowledges that no part of this RFP may in any way be considered a guarantee of minimal sales levels, minimal advertising budgets, or minimal levels of compensation due to Vendor during the term of the contract period.

22. Oral Presentations and Visitations

Selected Vendors will be asked to give oral presentations which includes presentation of the Assignment to the Evaluation Committee after the proposals have been submitted [See Part IV]. Oral presentations are not open to the public.

The Nebraska Lottery prefers to visit or hold the oral presentation at a Vendor's facilities. All materials submitted in writing, and other information gained during site visitation, will be considered as part of the Vendor's proposal and will be considered in making the award.

C. Proposal Evaluation

1. Introduction

The Nebraska Lottery intends to conduct a comprehensive and impartial evaluation of all proposals. In making this determination the Nebraska Lottery will be represented by an Evaluation Committee of qualified personnel selected by the Nebraska Lottery. The Evaluation Committee will evaluate each proposal that is properly submitted and will make recommendations to the Lottery Director. The Lottery Director and Tax Commissioner will take the recommendations of the Evaluation Committee into consideration in making the contract award decision.

2. Information from Other Sources

The Nebraska Lottery reserves the right to obtain pertinent information from any source concerning a Vendor, and to consider such information in the evaluation of a proposal.

If the Nebraska Lottery receives any information not contained in a Vendor's proposal, which may have a material adverse effect on such Vendor, such information will be shared with that Vendor, who will be given an opportunity for a written response.

3. Evaluation Committee

The Evaluation Committee will recommend for selection the proposal or proposals that most closely meets the requirements contained in this RFP. Each proposal section will be evaluated for adequacy and completeness of the proposal. Proposals will be evaluated based on the following criteria categories:

- **Bidder Capability** (including experience, personnel qualifications, financial soundness and viability, ownership, corporate structure, location and references);
- **Scope of Work Requirements** (including Advertising, Public Relations, and Media Buying specifications); and
- **Price** (including all components of the pricing bid).

4. Criteria for Selection

The Evaluation Committee will consider the following areas in making its recommendation: [See Part VI, Section J for additional evaluation criteria.]

- **Understanding the Opportunity:** How well does the Vendor understand the needs that generated the RFP, the Nebraska Lottery's procurement objectives, and the nature and scope of the work involved?
- **Vendor Qualifications:** How strong is the Vendor's ability to meet the terms of the RFP, especially the quality and relevancy of required projects? How sound is the Vendor's financial ability to undertake a project of this size?
- **Personnel Qualifications:** How experienced and competent are the staff that would be assigned to the job? Qualifications will be judged by an evaluation of general experience, background, and specific experience providing services similar to those described in this RFP. The evaluators will place particular emphasis on the qualifications of the proposed team.
- **Soundness of Approach:** How solid are the Vendor's proposed techniques for planning, executing, and sequencing of the major steps and methods for managing these services?

5. Recommendations

Through the evaluation process the Evaluation Committee will determine which Vendors will be invited to participate in oral presentations. All Vendors that submitted Bidder Capability Statements and a Pricing Bid will be notified regarding the result of the evaluation and if they are invited to participate in oral presentations.

6. Final Recommendation

When the evaluation is completed, the Evaluation Committee will then prepare a recommendation to the Lottery Director and Tax Commissioner, who may meet with the Evaluation Committee regarding the recommendation. Written notice of the award will be sent to all Vendors that participated.

D. RFP Questions

This inquiry procedure provides the only means by which a Vendor may request information on the business, contractual, procedural and technical requirements of this procurement.

Vendor(s) are cautioned that an inquiry must be written in generic terms and must not contain cost data. The inclusion of cost data information in an inquiry may, at the discretion of the Nebraska Lottery, result in the Vendor's disqualification.

Open to All Interested Vendors

Potential Vendors who have questions regarding the Bidder Capability Statements and Pricing Bid and all requirements of this procurement may submit those questions in writing to Jill Marshall, the RFP Coordinator, via email at jill.marshall@nebraska.gov no later than 4:00 p.m. CT; December 14, 2021.

On or before December 22, 2021, at 10:00 a.m. CT, the Nebraska Lottery will distribute written responses via email to all questions received in this manner. Those written responses will be forwarded to any Vendor on the Nebraska Lottery's interested party list, see Part I (B)(2). The Nebraska Lottery will be bound only by these written answers, and not by answers to any RFP-related questions that have been given by any Nebraska Lottery representative through any other means.

PART II: NEBRASKA LOTTERY OVERVIEW

The Nebraska Lottery was created as the result of a constitutional amendment approved by a majority of Nebraska voters in 1992 and began selling tickets in 1993.

Approximately 1,200 locations comprise the Nebraska Lottery retailer network, ranging from convenience and grocery stores to liquor stores and truck stops. In addition to a commission of 5% on each Scratch ticket sold and 5.5% on each Lotto ticket sold, Nebraska Lottery retailers can qualify for incentives such as a cashing bonus tied to an automated Scratch game inventory management system, a commission increase for employing standardized merchandising requirements, and a seller's bonus for selling winning tickets of \$1,000 or more.

Nebraska Lottery Scratch games include \$1, \$2, \$3, \$5, \$10, and \$20 games. There are generally about twenty-eight Scratch games on sale at any given time. Powerball®, Mega Millions®, Lucky for Life®, 2by2®, Nebraska Pick 3®, Nebraska Pick 5®, and MyDaY® make up the Nebraska Lottery Lotto game product line. The first Nebraska Lottery Scratch ticket was sold on September 11, 1993. Nebraska Lottery Lotto sales began with the introduction of Powerball on July 21, 1994. Although Lotto games like Powerball are the most widely recognized games, Scratch tickets account for over half of all Nebraska Lottery sales.

After prizes, the largest share of each dollar spent on the Nebraska Lottery goes to beneficiary funds. As of September 30, 2021, the Nebraska Lottery had raised more than \$843 million for its beneficiary funds.

Proceeds have been distributed according to legislative mandate among the Nebraska Education Innovation Fund, State General Fund, Nebraska Opportunity Grant Fund (formerly the Nebraska Scholarship Fund), Nebraska Education Improvement Fund, Nebraska Environmental Trust Fund, Nebraska State Fair Support & Improvement Cash Fund, Compulsive Gamblers Assistance Fund, and Solid Waste Landfill Closure Assistance Fund. All 93 counties in Nebraska have benefited from projects funded by Nebraska Lottery proceeds.

The Nebraska Lottery employs approximately 22 people full-time in its Lincoln office, of which seven are in the marketing department. The Nebraska Lottery is a division of the Nebraska Department of Revenue. The Lottery Director reports directly to the Tax Commissioner. The Nebraska Lottery's Lotto and Scratch ticket contractor is currently IGT. IGT employs approximately 40 people associated with the Nebraska Lottery account.

A. Marketing and Sales

The Nebraska Lottery is committed to growing revenues for our beneficiary funds, creating quality products, improving efficiencies, and running a business organization within the guidelines of a state agency. It is with these responsibilities in mind that we annually develop our Business Plan. Qualified interested Vendors of this procurement will receive via email a link to the Fiscal Year (FY) 2021-22 Business Plan. The plan outlines the Nebraska Lottery goals, objectives, and strategies for the current fiscal year (July 1, 2021, through June 30, 2022.)

The Nebraska Lottery also conducts research annually. This research includes tracking studies, player segmentation research, as well as game development research for both Scratch and Lotto products on a regular basis. Additionally, a Continuous Customer Feedback Mechanism with ongoing online surveys covering topics such as Economic Attitudes, Net Promoter Score, and Lucky For Life currently run. Qualified interested Vendors will receive a link to the latest Tracking Study, Scratch Games Player Segmentation and Lotto Games Player Segmentation Study.

During the fiscal year which ended on June 30, 2021, sales totaled \$205 million; \$123.3 million for Scratch, and \$81.9 million for Lotto. A summary of the preceding five fiscal years' sales follows:

	FY21	FY20	FY19	FY18	FY17
Scratch	\$123.34 mil	\$111.93 mil	\$104.30 mil	\$100.81 mil	\$101.58 mil
Lotto	\$81.94 mil	\$71.14 mil	\$87.88 mil	\$82.55 mil	\$72.24 mil
Total	\$205.28 mil	\$183.07 mil	\$192.18 mil	\$183.36 mil	\$173.82 mil
%Change Scratch	10.19%	7.32%	3.46%	-0.76%	4.48%
% Change Lotto	15.18%	-19.05%	6.46%	14.28%	-12.17%
% Change Total	12.13%	-4.74%	4.81%	5.49%	-3.15%

B. Advertising and Promotional Budgets

The Nebraska Lottery's advertising budget is calculated as a percentage of net sales. Currently, the annual advertising budget is 3.5% of net sales. Vendors must submit compensation proposals based on a percentage bid of the 3.5% advertising budget. See Part V Pricing for more information on Vendor compensation proposals.

Sales are monitored weekly and adjustments based on actual sales are made to the budget on a quarterly basis. Overall, the Nebraska Lottery intends to keep total advertising and promotional expenditures to about 3.5% of net sales, or in the \$7 million range for the current fiscal year. The total advertising and promotional budget will also include Lottery in-house expenses such as small sponsorships, premium items and fees for events. These miscellaneous expenses are expected to be less than \$500,000 of the advertising budget. This will not affect the agency compensation.

In an average fiscal year, the Nebraska Lottery's advertising budget will be broken down the following way:

TV	20%
Radio	20%
Broadcast Production	10%
Outdoor	10%
Direct Mail	5%
Relationship Marketing	5%
POS	5%
Digital/Web	15%
GAP Advertising	5%
Print/Other	5%

Under legislation passed in 2006, five percent (5%) of the Nebraska Lottery advertising budget is allocated to the Gamblers Assistance Program (GAP) for information and outreach services. This is in addition to the share of beneficiary proceeds received by the Compulsive Gamblers Assistance Fund. This expense is part of the Nebraska Lottery's fiscal year advertising budget. Contractor is not responsible for GAP information/outreach advertisements. This will not affect the agency compensation.

C. Special Event Staffing Services Agreement

The Nebraska Lottery's current advertising agency and IGT (the Nebraska Lottery's Lotto and Scratch ticket contractor) have entered into an agreement for the advertising agency to hire and employ (up to eight) special event "Lottery Ambassadors" to assist Lottery staff at Lottery events and sponsorships. This is done as a pass-through under the terms of an agreement with IGT.

Our current agency is the sole employer of the Lottery Ambassadors and is responsible for oversight and payment of wages (including all applicable taxes), travel, lodging, food and other necessary expenses. Hiring decisions and scheduling for the Ambassadors is coordinated with the Lottery Media and Events Manager.

Our current agency receives a \$600 per month retainer for this service and is reimbursed for all costs associated with the Ambassadors' wages and reimbursements. Our agency bills IGT for the services and IGT is reimbursed by the Lottery.

Please discuss your agency's willingness and/or ability to provide this service. This is not a requirement of the Advertising RFP or Contract; and an agency's ability or inability to provide this service will not affect the scoring or selection of the Vendor to be awarded a contract. The information is provided as notice that this service will be discussed with the Vendor selected to determine if such an agreement as such can be implemented with the Contractor.

PART III: SCOPE OF SERVICES AND REQUIREMENTS

The Nebraska Lottery seeks an advertising agency partner with whom to collaborate in developing and implementing marketing solutions for its products. Vendors participating will be evaluated on proven and demonstrated creativity, resourcefulness, and capability to help the Nebraska Lottery to meet or exceed future sales goals. The purpose of this procurement process is to identify the Vendor the Nebraska Lottery believes is the best advertising and marketing solutions partner, and select that organization as its Contractor for advertising and marketing solutions.

The Contractor will be required to meet the advertising needs of the Nebraska Lottery for all products, and other advertising/promotional activities, which occur during the term of the contract. The following list of requirements is intended to clarify the types of services to be provided, but does not represent a complete listing. The Contractor may be required to perform additional functions for the Nebraska Lottery over the term of the contract, as needed.

The successful Contractor's responsibilities will include:

- Strategic advertising and promotional planning;
- Print, broadcast, and promotional creative planning and execution;
- Print, broadcast, and promotional materials production;
- Print and broadcast media planning and execution;
- Digital and social media planning and execution;
- Direct Marketing consultation and execution including management of the relationship marketing contract;
- Public Relations expertise in the area of event planning;
- Evaluation, recommendation and some management of promotions and sponsorships;
- Website creative;
- Assisting in the development of the annual Business Plan;
- Developing an advertising plan to support the Business Plan;
- Budget control and shared responsibility for cost control;
- Assisting with retailer and community events; and
- Providing analysis, advice, and support for key Nebraska Lottery initiatives.

The Contractor will perform all functions normally required of a full-service advertising agency. Agencies that do not offer all of these services are invited to work with providers that offer such services.

In addition to the broad functions listed above, the Contractor will need to provide the specific qualifications listed below:

A. Accounting

1. Accounting Services

a. The Contractor must develop an annual budget for all advertising expenditures and other services required by the contract resulting from this RFP. The level of anticipated annual spending will be determined by the Nebraska Lottery, based on projections contained in the Business Plan. The Nebraska Lottery will provide the Contractor with a target amount for advertising services and will expect the Contractor to develop a cost-efficient plan that is responsive to the Nebraska Lottery's marketing needs. Each month, the Contractor must provide the Nebraska Lottery a budget summary to date. The Contractor must recommend ways to generate cost savings wherever possible.

b. The initial budget will be reviewed monthly and must be revised as required by the Nebraska Lottery. Subsequent budgets must be incorporated in the Advertising Plan and are subject to Nebraska Lottery approval. The Contractor must make no commitment on behalf of the Nebraska Lottery without prior approval.

2. Annual Advertising Budget

The Contractor must provide experienced accounting staff support to implement timely and accurate reports and billing, and payment of vendor invoices, to meet Nebraska Lottery specifications.

3. Competitive Bidding

The Contractor must obtain competitive proposals on any non-media expenditure exceeding \$5,000. Contractor must submit to the Nebraska Lottery documentation of the bid process.

4. Cost Savings

The Contractor must make the Nebraska Lottery aware of any cost savings that might be achieved by the expedited payment of media or other invoices.

5. Estimates Required

a. The Contractor must prepare an estimate for any expenditure and obtain the Nebraska Lottery's written approval before making any commitment on the Nebraska Lottery's behalf. The Nebraska Lottery will not be responsible for any expenditure for which prior written approval was not obtained.

b. All estimates must be segregated by fiscal year and by budget category, as defined by the Nebraska Lottery (Lotto/Scratch TV, Lotto/Scratch Radio, Public Relations, Digital Media, Social Media, Web Services, Research, Sponsorships, etc.). Estimates will include a project start date and target completion date. Media estimates will include flight dates.

c. All estimates must be numbered. The Contractor must maintain a list of all approved estimates, including the amount and description of the expenditure, and provide the Nebraska Lottery with an updated list of all such estimates monthly if required. The estimate numbers shall appear on the invoice.

6. Invoices and Timely Payment

The Contractor shall prepare and deliver to the Nebraska Lottery by the 15th of each month or as otherwise agreed, all production, media, research, promotions, purchases and other billings or invoices with an accounting of the expenditures for the prior month. Supporting documentation (such as vendor invoices) must be included with the Contractor's billings. On the face of all invoices, the Contractor must identify the campaign or project by name and job number. The Contractor must at all times maintain appropriate accounting records. The Nebraska Lottery may ask to consult with the Contractor regarding the formatting of such invoicing before the commencement of the contract term, and the Nebraska Lottery reserves the right to require alternate formatting or additional documentation of all invoices and billings during the contract period as may be deemed necessary to assure accountability. Additionally, with each monthly billing, Nebraska Lottery accounting staff must be provided with an electronic file that can be directly uploaded into the Nebraska Lottery QuickBooks software package.

Invoices submitted to the Nebraska Lottery (by the 15th of the month or as otherwise agreed) will be paid to the Contractor by the Nebraska Lottery in a timely manner. It is anticipated that such payments by the Nebraska Lottery to the Contractor will be made approximately two weeks after invoice submission and approval by the Lottery.

Payments made by the Nebraska Lottery to the Contractor, and due to subcontractors or service providers providing deliverables (media, printing, outdoor, direct mail, etc.) to the Contractor on behalf of the Nebraska Lottery must be made to the subcontractor or service provider by the Contractor no later than ten working days after receipt of payment from the Nebraska Lottery, unless previously agreed to in writing by the Nebraska Lottery, the Contractor and the subcontractor or service provider. A signed statement certifying payment of previous subcontractor invoices must be submitted by the Contractor with each month's new invoicing.

While the Nebraska Lottery and Contractor have no control over the timing of invoices from subcontractors or service providers (especially late or slow billing practices) every effort will be made by the Contractor to secure invoices from subcontractors or service providers for submission to the Nebraska Lottery for payment within thirty (30) calendar days of the delivery of goods or services by the subcontractor or service provider to the Contractor on behalf of the Nebraska Lottery.

7. No Advance Payments

Payment will be made only after the completion of services or delivery of goods authorized in an approved invoice. In instances of long-term projects or high dollar expenses, payments may be made at agreed-upon intervals with approved invoices.

8. Routine Cost of Doing Business

a. The Contractor must pay for all charges incidental to the routine conduct of business, including but not limited to postage charges, overnight deliveries, phone calls, copying, etc. Such obligation includes, but is not limited to, all correspondence from the Contractor to the Nebraska Lottery, Contractor staff, suppliers, publishers, broadcasters, etc. The Nebraska Lottery shall pay postage required for direct mass mailings to the general public. Messenger service at the request of the Nebraska Lottery, shall be paid by the Nebraska Lottery.

b. The Contractor shall pay for all travel-related expenses incurred by their staff, including mileage. It is anticipated that most presentations and meetings will occur at Nebraska Lottery headquarters in Lincoln or at the Contractor's site. The Contractor will not be reimbursed for any meals, conference fees or entertainment expenses incurred.

B. Advertising Planning and Account Services

1. The Contractor must provide and dedicate at least one person to the Nebraska Lottery account service team on a full-time basis. The Nebraska Lottery reserves the right to approve all personnel assigned to the account.

2. The Contractor will be required to develop an annual Advertising Plan that is consistent with and furthers the Nebraska Lottery's Business Plan. The Advertising Plan must support all Nebraska Lottery games and promotions. The Contractor, along with Nebraska Lottery Scratch and Lotto Contractor, will have input into the development of the Business Plan. The Contractor must submit a new Advertising Plan in support of each new yearly Business Plan adopted by the Nebraska Lottery. The draft one-year Advertising Plan for the Nebraska Lottery's 2022-2023 fiscal year (July 1, 2022, to June 30, 2023) will be due by July 31, 2022. Draft plans for succeeding fiscal years will be due by the Annual Business Planning meeting which is held in early May each year. The Advertising Plan for each fiscal year will be finalized (from the draft document) after the Nebraska Lottery's annual Business Plan development process which takes place between May and July of each year. The Advertising Plan will be reviewed on an on-going basis and may be revised as required by changes in economic factors, market conditions, or as desired by the Nebraska Lottery.

3. The Advertising Plan must detail all campaigns planned during each fiscal year, including budget estimates. The Nebraska Lottery recognizes that all plans are subject to change based on current market realities. The Advertising Plan must also provide a breakdown of proposed spending by media type and proposed

production costs. It must also include sections dealing with relationship marketing, Public Relations, special events, promotional activities, sponsorships, and any other topics specified by the Nebraska Lottery.

4. The Advertising Plan shall include, but not be limited to, product positioning, strategies and objectives, promotional strategies and objectives, advertising media strategies and objectives, media plans, creative approach, new product opportunities, etc.

5. The annual advertising budget will be determined by the Nebraska Lottery and provided to the Contractor in May of each year. In conjunction with the Nebraska Lottery, the Contractor shall develop a budget for all services including media and production for all Nebraska Lottery products by June 30 of each year. The Contractor shall manage the advertising budget and provide monthly updates. The Contractor shall provide a fiscal year-end report of all advertising media expenditures (by media type and market) by July 31 of each year.

6. The Contractor must have at least one person attend the Lottery's bi-weekly marketing meetings in person or via phone/web meeting. These meetings are usually held at the Nebraska Lottery office.

7. The Contractor must submit by the first workday of each week a written status report (ad report) describing all work in progress and currently scheduled.

8. The Contractor must have at least one of its personnel assigned to the Nebraska Lottery account attend at least two lottery industry or related industry conferences per year at the Contractor's expense (in person is preferred, but online attendance will be allowed).

C. Advertising Development

1. Alternative Solutions

The Contractor must offer campaign options, rather than only one creative solution to a particular assignment. At least three versions of TV storyboards, radio scripts, and other creative products should be offered when the Contractor makes a creative campaign presentation to the Nebraska Lottery.

2. Approval

a. The Contractor will be expected to obtain written approval from the Nebraska Lottery before producing any advertisement or related material. When producing any creative work, the Contractor must not vary from approved scripts, storyboards or print layouts without the Nebraska Lottery's approval. Failure to adhere to approved scripts, storyboards, or layouts may void the Nebraska Lottery's approval of the estimate for the project. The Contractor will be liable for all costs if advertisements or collateral materials are executed in a manner not consistent with the Nebraska Lottery's approval.

b. The Contractor shall develop and seek approval on a project brief, creative strategy, an implementation time line, and production estimates for each advertising campaign undertaken.

c. The Nebraska Lottery reserves the right to attend and oversee any or all advertising production at our own cost.

3. Creative Services

The Contractor will be responsible for the creation and production of Nebraska Lottery advertising materials, including print and broadcast advertisements, digital advertising, email alerts, outdoor/transit advertising, OTT, social media, Point-Of-Sale (POS) items, direct mail and other materials that may be required by the Nebraska Lottery. The Contractor must develop multi-media campaigns in support of the games and promotions identified in the Nebraska Lottery's Business Plan. The Contractor may also be required to assist the Nebraska Lottery in developing game names, Scratch ticket designs, game logos, trade characters, or art for other uses. The Contractor may be required to design and produce interior and exterior signage, which identifies retail locations as Nebraska Lottery retailers. Such signage is generally intended for permanent or long-term use.

4. Production

The Contractor will submit for Nebraska Lottery approval all production estimates. Estimates must clearly indicate any subcontractors or other parties who will be involved in the production work and where those parties are located. Any production work to be conducted at a location outside the state of Nebraska must be specified, and the Contractor must demonstrate to the Nebraska Lottery's satisfaction that locations or facilities within the state were not adequate for the production work required.

5. Routine Meetings

There will be routine meetings held between the Nebraska Lottery and the Contractor. During these meetings there will be discussion regarding strategy, schedules and planning, as well as discussion regarding concept approvals, pre-production of advertisements, POS or other agency-produced materials. Additional meetings may be held with certain Nebraska Lottery personnel on an as-needed basis.

6. Timelines

The Contractor must provide the Nebraska Lottery with a timely response to its advertising and promotional needs. Sufficient time must be allowed for developing and presenting three creative solutions, editing and revising the selected option per Nebraska Lottery request, obtaining final approval from Nebraska Lottery staff, producing the final product and distributing the finished product according to Nebraska Lottery specifications.

D. Media Service, Planning and Placement

The Contractor must develop specific media plans for each campaign that are cost-efficient and effective in providing the Nebraska Lottery with the desired awareness for all Nebraska Lottery products. The media plans must take into consideration all media outlets in the state of Nebraska.

1. Media Services

The successful Contractor will be expected to:

- a) Develop a comprehensive media plan to generate effective statewide advertising reach and frequency to all of the Nebraska Lottery's diverse consumer audiences;
- b) Plan, negotiate, buy, traffic, and evaluate all media placement; and
- c) Assist as needed in the development and evaluation of miscellaneous media opportunities (such as special campaigns and promotions) offered to or sought by the Nebraska Lottery.

2. Media Planning

The Contractor shall analyze the annual advertising budget and develop media plans in order to produce maximum effectiveness for each dollar expended. The Contractor shall forward each proposed media buy to the Nebraska Lottery for approval. The proposed buy shall include all necessary scheduling details regarding the buy including the station, program and/or day part, time period, target rating points estimated for the program, number of spots, cost per spot and cost per rating point.

3. Negotiation and Placement

The Contractor will be responsible for the negotiation, purchase, and instructions for the placement of all media time and space. The Contractor will not commit the Nebraska Lottery to any such purchase without first obtaining the Nebraska Lottery's written approval. In negotiating media purchases, the Contractor shall make the Nebraska Lottery aware of any savings that might be achieved through long-term commitments or other special programs.

4. Placement Verification

- a. The Contractor must implement a system to ensure that all media is run or published according to any contracts or placement instructions.
- b. The Contractor must notify the Nebraska Lottery before approving any "make goods" for ads that did not run as scheduled. All such materials shall be maintained by the Contractor and must be available for inspection by authorized Nebraska Lottery representatives.

5. Post-Buy Analysis

The Contractor shall conduct post-buy analysis and audit placement of media on a quarterly basis or on a per buy basis as directed by the Nebraska Lottery. The audit should focus on the measure of effectiveness of media buys in terms of cost, reach, frequency, continuity and message dispersion requirements, etc.

The Contractor should report findings to the Nebraska Lottery and use findings to refine current and future media plans. The contractor will also be required to provide cumulative media buy reports on a state-wide or other geographic basis at least annually or as otherwise directed.

6. Media Sponsorships

a. The Contractor may be requested to develop, enter into agreements and implement programs that provide joint promotions, cooperative advertising and co-promotions with media outlets, businesses supplying goods or services to the Nebraska Lottery, and with other entities in Nebraska. The Contractor will only enter into joint promotion, cooperative advertising or co-promotion agreements on behalf of the Nebraska Lottery with the approval of the Nebraska Lottery.

E. Research

The Contractor may be asked to recommend, conduct or coordinate, and analyze marketing research and research studies (both qualitative and quantitative) for the purpose of refining strategies and executable concepts, as requested by the Nebraska Lottery.

F. Relationship Marketing

The Contractor shall be responsible for activities related to relationship marketing including direct mail and email campaigns and oversight of the management of the Lottery's player database which may include but are not limited to:

1. Managing the contract and relationship with any third party vendors associated with our relationship marketing program. The Nebraska Lottery currently works with Infutor Data Solutions, Oakbrook Terrace, IL. The current contract is between Infutor and the Nebraska Lottery's current advertising agency;
2. Consulting with the Nebraska Lottery on strategies and directions for the relationship marketing program; and
3. Creative development of relationship marketing materials.

The current contract with Infutor expires on June 30, 2022. Contractor will be responsible for negotiating a new contract with Infutor or suggesting/presenting other options for managing these services.

G. Experiential Marketing Services

The Contractor shall be responsible for experiential marketing efforts, which may include, but are not limited to:

1. Manage an experiential marketing (Street Team) effort (including but not limited to personnel and vehicles) geared to product sampling, audience development, promotional events and retailer events, and player education;
2. Creative development of experiential marketing materials; and

3. Contractor will hire a Street Team manager at their expense. Wages paid to Street Team members for promotional activities are billed to the Nebraska Lottery. The Lottery is also responsible for costs associated with their Street Team attire, promotional materials, vehicles, premiums and such.

H. Digital Interactive Services

The Contractor must be prepared to play a role in or be responsible for activities related to the digital media that may include, but are not limited to:

1. Creative development of the Nebraska Lottery website graphics, landing pages and promotions;
2. Creative development of digital ads;
3. Interactive customer retention and acquisition strategies;
4. Reviewing and evaluating all digital related media proposals;
5. Interaction with the Nebraska Lottery's mobile app;
6. Co-promotional opportunities with retailers, beneficiaries, and sponsor-affiliated websites;
7. Placing digital advertising for Nebraska Lottery products and promotions; and
8. Negotiating applicable talent releases/fees for digital use of broadcast advertising.

I. Retailer, Player and Lottery Event Planning and Participation

The Contractor shall be responsible for assisting the Nebraska Lottery in planning and executing certain retailer, player and Nebraska Lottery meetings and events throughout the contract period. Such events could include, but are not limited to: Retailer Advisory Board Meetings, Emerging Market Programs, second-chance drawing events, and fair and festival events across the state.

PART IV: BIDDER CAPABILITY STATEMENTS

Evaluation of Bidder Capability Statements: The elements described in this section are designed to provide information from which the Evaluation Committee can judge the submissions interested vendors.

There are 550 points possible on the evaluated responses of the Bidder Capability Statements:

- 100 Points: Vendor institutional background
 - Qualifications (25 points)
 - Capabilities (50 points)
 - Experience (25 points)
- 50 Points: Vendor Creative Campaign, samples and media
- 50 Points: Vendor Personnel
- 50 Points: Financial Viability
- 100 Points: Overall Strategic approach
- 100 Points: Creative executions
- 50 Points: Media plan considerations
- 25 Points: Marketplace Awareness and Understanding
- 15 Points: Promotional and Public Relations plans
- 10 Points: Evaluation and Monitoring plans

As determined by the Evaluation Committee, selected vendors, will be invited to participate in oral presentations.

NOTE: The evaluation process is not designed to award the contract to the Vendor with the lowest cost proposal. Cost proposals will be evaluated separately from the grading system.

The contract will be awarded to the responsible Vendor who submits the lowest and best proposal, which maximizes the benefits to the State in relation to the cost in the areas of competence, quality of product, capability, timely performance and maximization of net revenue to benefit the public purpose of the State Lottery Act.

Each Vendor must provide the following information in the order and format specified:

A. Transmittal Letter

1. A transmittal letter must be submitted as part of the proposal. This letter must clearly indicate that it is the transmittal letter, identify the Vendor submitting the proposal, and indicate the name, title, address, and telephone number of the person in the Vendor's organization to be contacted concerning the proposal.

The letter must also contain any requests for treatment of information submitted by the Vendor as confidential information as required by Part VI (H) (1-4) of this RFP.

This letter shall clearly indicate that no relationship exists between the Vendor and the Nebraska Lottery that interferes with the fair competition or is a conflict of interest, and no relationship exists between the Vendor and another person or organization that constitutes a conflict of interest with respect to this RFP.

2. The letter must include a commitment by that entity to perform the advertising and marketing services required by the Nebraska Lottery in this RFP. The Letter must state that the proposal is valid for 150 calendar days following the date on which the proposals are due. Any proposal containing a term of less than 150 calendar days for acceptance shall be rejected.

A person(s) legally authorized to bind the Vendor to the representations in the response must sign the letter.

The Vendor shall also indicate, in its Letter of Transmittal, why it believes it is the most qualified Vendor to perform the advertising and marketing services required by the Nebraska Lottery in this RFP.

3. The transmittal letter must include a statement of acceptance of the terms and conditions of the contract indicated in this RFP. If the Vendor takes exception to any of the proposed terms and conditions, those exceptions must be noted in the transmittal letter.

Vendor must realize, however, that failure to accept the terms and conditions specified in this RFP may, at the discretion of the Nebraska Lottery, result in disqualification of the proposal.

B. Vendor's Contact Person and Business Address

1. Name, address, email address and business telephone number of the Vendor's contact person, for purposes of this procurement.
2. Name, address, principle place of business, email address and telephone number of legal entity with whom the contract is to be written.
3. Name and location of major offices and other facilities that relate to the Vendor's performance under the terms of this RFP.

C. Principal Officers

Provide the names, addresses, email addresses and telephone numbers of principal officers (President, Vice President, Treasurer, Chairperson of the Board of Directors, etc.), partners, members, managers, directors, and each owner or stockholder of 10 percent or more of the equity interest in the Vendor. If the Vendor is a subsidiary, identify each owner of 10 percent of the equity interest in the parent entity.

D. Organization and Year

Legal status and business structure (corporation, partnership, sole proprietorship, etc.) of the Vendor and the year entity was established.

E. Vendor Identification

Federal employer identification number, and State identification number issued by the Nebraska Department of Revenue.

F. Contract Performance

The interested Vendor must state whether it has had a contract terminated for default in the last five years. For purposes of this section, a termination for default is defined as notice to stop performance which was delivered to the Vendor due to the Vendor's non-performance or poor performance and the issue of performance was either (a) not litigated due to inaction on the part of the Vendor, or (b) litigated and determined that the Vendor was in default. If no such terminations exist, the Vendor is to so declare.

Note: *If the Vendor has had a contract terminated for default during this period, it must submit full details including the other party's name, address, and phone number. The Nebraska Lottery will evaluate the facts and may, at its sole discretion, reject the proposal on the grounds of past experience.*

G. Current Litigation and Investigations

The Nebraska Lottery has a strong interest in the Vendor's current and continuing ability to produce secure, high-quality products and services. Each interested Vendor must list and summarize, as part of its Bidder Capability Statement, all pending or threatened litigation, administrative or regulatory proceedings, or similar matters including, but not limited to, liquidated damages that could affect its ability to produce and/or deliver the desired product or services. Vendor must also state whether any person with a substantial interest in the Vendor has been convicted of a felony or a misdemeanor involving gambling, moral turpitude, dishonesty or theft, or been convicted of any other felony within the last ten (10) years preceding issuance of this RFP. Any person with a substantial interest means a sole proprietor, partner, member or manager of an LLC, officer, or shareholder of 10 percent or more stock in the company.

Failure to disclose such matters may result in rejection of the proposal or termination of any Contract. This is a continuing disclosure requirement; any such matter commencing after submission of a proposal and, with respect to the successful Contractor after the execution of a contract, must be disclosed in a timely manner in A WRITTEN statement to the Nebraska Lottery.

H. Current Contracts with the State of Nebraska

If the Vendor or any party named previously contracted with the State of Nebraska during the past 24 months, provide the name of the agency, the contract number, and a description and/or other information available to identify the contract.

I. Vendor's Relationship to State of Nebraska

If the Vendor or any person with a substantial interest in the vendor as defined above was, or is, an employee of the State during the past 24 months, the following information is required: 1) name; 2) agency employed by; 3) title; 4) and separation date. If, following a review of this information, it is determined that a conflict of interest exists the Vendor may be disqualified from further consideration for the award of this contract. If no such relationship exists, the Vendor must so declare.

J. Persons Employed by both Vendor and State of Nebraska

Vendors or their subcontractors employing or having on their governing board as of the date of their submission, State employees, or former State employees must identify such persons and their position and responsibilities within the Vendor's organization. If, following a review of this information, it is determined by the Nebraska Lottery that a conflict of interest exists the Vendor may be disqualified from further consideration for the award of ensuing contracts. If no such relationship exists, the Vendor must so declare.

K. Subcontracts or Partnerships

If the Vendor is using any subcontractor or partner that is not a part of the Vendor's business in responding to this RFP, then these entities must be identified. Please include the name, address, phone number and a general description of the responsibilities and/or categories of expertise. The use of any subcontractors in the performance of contract duties must be based on the Nebraska Lottery's prior written consent.

L. Lobbyists/Political Contributions

A lobbyist whose principal is a lottery contractor may make a contribution to a candidate for state elective office as long as the lobbyist is not an officer of the lottery contractor or acting on behalf of the lottery contractor, or a separate segregated political fund established and administered by the lottery contractor. A lottery contractor, an officer of a lottery contractor, or a separate segregated political fund established and administered by a lottery contractor may not make a contribution to a Nebraska political party for the purpose of supporting or opposing a candidate for state elective office.

Provide the name and address of each lobbyist representing the Vendor in this state and all accounts and money managed by those lobbyists.

Each Vendor must list the details of any contributions or independent expenditures made since December 1, 2018 by the Vendor, an officer of the Vendor, a separate segregated political fund established by the Vendor as provided in NEB. REV. STAT. §49-1469, or by a person including any lobbyist acting on behalf of the Vendor, officer or fund to or for any candidate for the office of Governor, Lieutenant Governor, Secretary of State, Auditor of Public Accounts, State Treasurer, Attorney General, member of a board or commission with one or more election districts of more than one county, or member of the Legislature or contributions to or independent expenditures for any political party which has supported candidates for the above listed offices. If no such lobbying relationship exists and/or no such contributions have been made, the Vendor must so declare.

M. Proposal Certification

A single, signed copy of the Proposal Certification must accompany the transmittal letter, which is included with this RFP as Appendix "A". The certification must be signed by an official having authority to bind the Vendor.

N. Proposal Security

Each Vendor must submit a Proposal Security made payable to the Nebraska Lottery in the form of a certified or cashier's check in the amount of \$25,000, or a Proposal bond in the amount of \$25,000 issued by a surety licensed to do business in Nebraska on a form acceptable to the Nebraska Lottery; or an irrevocable letter of credit in the amount of \$25,000.

The Proposal Security shall be forfeited if the Vendor chosen to receive the contract award does not honor the terms offered in its Proposal or does not negotiate contract terms in good faith. Security submitted by unsuccessful Vendor(s) will be returned when the Proposals expire, are rejected, or when the Nebraska Lottery enters into a contract with the successful Vendor, whichever is earlier.

O. Financial Information

1. Provide a statement regarding the financial stability of the Vendor, including the ability of the Vendor to perform the functions required in this RFP and represented by the Vendor in its response.

2. Provide tax returns for the last three (3) years.

3. Provide financial statements for the last three (3) years (audited financial statements, if possible).

4. Provide a current Dun and Bradstreet credit rating (or other generally accepted credit verification).
5. Provide a list of all liens filed on or against the Vendor or filed on or against any person with a substantial interest in the Vendor.

P. Drug-Free Workplace Policy

A drug-free workplace policy must be submitted as part of the proposal. Failure to provide a Drug-Free Workplace Policy will result in the rejection of the proposal. An example of the Nebraska Lottery's drug-free workplace policy is attached, see Appendix "B".

Q. Covenant Not to Sue

Each Vendor must submit a covenant not to sue on a form approved by the Nebraska Lottery. An example of a covenant not to sue form is attached, see Appendix "C".

R. Non-Disclosure Statement

Each Vendor must submit a non-disclosure statement. See Appendix "D".

S. Minority and Female Participation

The Contractor must adopt the same attitudes and concerns towards minority and female participation as held by the Nebraska Lottery. Although minority and female participation in the operational aspect of the Nebraska Lottery is not mandated by the State Lottery Act, the Nebraska Lottery would request that a Vendor carefully consider the following items:

- a) the percentage of work that it anticipates will be performed by minority and female employees.
- b) the percentage of the total workforce that are minorities and female, and the percentage of the total workforce that it anticipates will be Nebraska minorities.
- c) how many minority and female employees work in supervisory positions and what percentage the supervisory class represent to the total staff.
- d) recruit qualified minority and female employees, and efforts that will be undertaken to recruit minority and female employees for positions that are not yet filled.

T. Vendor History, Background and Staffing

Provide the following information for the Vendor and for any subsidiary or intermediary company, parent company, holding company, or partnership in which the Vendor was a general partner:

1. The history of the Vendor's experience in providing advertising products and related services.
2. An organizational chart of their company in general and also the Nebraska office that will be providing services on the Nebraska Lottery account, including all personnel located in that office.
3. A list of any experience by the Vendor or their staff with governmental entities, instrumentalities, or lotteries.
4. A list of any civil or criminal action filed on, against or by the Vendor or any person with a substantial interest in the Vendor in the past three years.

U. Account Personnel

1. List and provide one page biographies/resumes of all current staff who will be involved with the Nebraska Lottery account. Indicate any experience with marketing retail-driven, low-cost consumer goods, gaming or entertainment entities, lottery products, or other state government agencies.
2. Provide an organizational chart and a description of the proposed team for the Nebraska Lottery account, including use of subcontractors. Name key employees including, but not limited to, president, account management, strategic planning, creative, public relations, digital and social media. Indicate if position will be filled with current staff or if a new position(s) would be created as a result of contract award. Indicate percentage of time each will be assigned to the Nebraska Lottery account.
3. Provide the names of staff member(s) who will have final responsibility for the management of the Nebraska Lottery account, who will be the key management representative, who will manage the account on a day-to-day basis and how the redundancy of account management will cover vacations, illness or resignations.
4. Provide a brief summary of turnover in key departments experienced over the past three years. Provide a brief explanation for significant turnover experienced (management level personnel hired, let go, or reassigned). This summary and explanation should include employees at the level of Account Executive and above.

V. Vendor Client History and References

1. Describe your agency's experience in the following categories:
 - Gaming (including lottery);
 - Entertainment;
 - Retail; and
 - Government agencies.List specific clients within these categories that are on your current roster (or that have been on your roster within the past three years).
2. What are your agency's billings (for this year and every year for the past three years)?
3. Provide a list of your current clients and the products assigned to your agency. Indicate the following information for each client:
 - Contact Name
 - Company Name
 - Address
 - Telephone Number
 - Email Address
 - Years of Association with Client
 - Type of advertising products and related services provided.
 - Please be sure to specify any clients who sell their products through convenience, game, food and/or liquor stores.
 - Dates when advertising products and related services were performed.
 - Value (approximate) of advertising products and related services performed.
4. What clients have you lost during the past three (3) years? Provide a brief explanation as to why any such relationship was terminated.
5. Where would the Nebraska Lottery fit within your current client roster in terms of size, scope, and marketing products?
6. Provide details of the resources owned and operated within the State of Nebraska. (The Nebraska Lottery will require full-time staff and offices to be present within Nebraska.)

The Nebraska Lottery reserves the right to contact any accounts listed in this section.

W. Vendor Experience and Capabilities

1. The Contractor will be responsible for providing full advertising and marketing services. Contractor must work in tandem with Nebraska Lottery marketing staff to assist in planning, designing and execution of the Nebraska Lottery's marketing activities. Please provide a written description (suggested maximum of one (1) page for each section, not including samples) outlining your

experience and how you will provide full service capabilities in each of the following areas. (For areas where outside subcontracting is required, please list recommended providers.)

- a. Strategic Planning
- b. Account Management
- c. Creative Development
- d. Job Trafficking
- e. Media Planning and Buying
- f. Production Planning and Execution (Broadcast and POS)
- g. Public Relations (Event planning and execution)
- h. Digital Media
- i. Social Media
- j. Consumer Research
- k. Direct Marketing (via mail and web-based)
- l. Sales Promotions
- m. Special Event Marketing
- n. Sports Marketing
- o. Sponsorship and event negotiation, implementation and evaluation
- p. Product Development/Packaging
- q. Other special abilities

2. Provide one example of how your organization saved money and/or maximized value for a client in each of the following areas:

- a) Broadcast production cost efficiencies
- b) Print production efficiencies
- c) Media cost efficiencies
- d) Sponsorship cost efficiencies
- e) Promotional cost efficiencies or added value programs
- f) Additional examples relevant and appropriate to the Nebraska Lottery account. (2 maximum)

X. Strategic Approach

1. Describe your experience with programs to generate brand identity development or awareness. Provide an example and give the objectives, strategies, creative approach, media mix, and results against those objectives.
2. Describe your experience with programs designed to retain and acquire visitors/users of social media. Give examples of creative development and promotions used in this program.
3. Tell us what you believe are the agency's responsibilities and what are the client's responsibilities in developing and maintaining successful relationships, and achieving goals and verifiable results.

Y. Creative Campaign and Samples

1. Campaign Development and Execution

The Vendor shall provide a clear and succinct narrative of not more than ten (10) pages, excluding creative samples, describing a complete advertising/marketing campaign produced within the last two (2) years representative of its work from start to finish. Especially relevant is experience with gaming or entertainment clients and/or experience with consumer goods sold in the convenience, liquor, and supermarket trade channels. All samples should be submitted on the flash drive(s). The narrative shall include:

- a. Name of client, contact person, telephone number, email address and date campaign was executed;
- b. Key facts from background, market research analysis, budget allocation, competitive and organizational environment, etc.;
- c. Identification of problems/opportunities, (e.g., target markets);
- d. Advertising objective;
- e. Creative strategy positioning;
- f. Creative execution(s) — TV, radio, print, digital and POS;
- g. Media objectives/strategy;
- h. Media plan/summary, including verifiable cost per thousand (CPM) and cost per point (CPP);
- i. Evaluation of campaign results (e.g., sales impact, market research findings, media post-buy analysis); and
- j. Description of how the agency worked with the client's public relations agency, promotions agency, and/or other marketing entities for the client, if applicable.

2. Samples of Work

NOTE: One hard copy of any sample item may be provided with the original Bidder Capability Statements and Pricing Bid. However, all samples must be submitted as images or links on the flash drives.

The Vendor shall submit creative samples of work from January 2019 through June 2021 produced by the creative team that will be servicing the Nebraska Lottery account. The Nebraska Lottery prefers samples that showcase the agency's range of creative talents (humor, heartwarming, etc.). In addition, these samples shall be from various campaigns but different from the product presented in the Campaign Development Execution section. For each creative sample, provide a written narrative of not more than one (1) page indicating the account name, product name, marketing objective, target market, creative strategy, and creative team, identifying staff assigned to the Nebraska Lottery account. Following is the Nebraska Lottery's desired list and number of samples to be submitted:

- a) A maximum of 3 television ads. For each ad, the production budget including first 13-week talent cycle and post-production work should be provided. It is desirable to submit ads where the production budget averaged \$125,000 per spot/campaign or less.
- b) A maximum of 3 radio ads;
- c) A maximum of 3 digital or social media ads;
- d) Up to 2 outdoor ads (photos are acceptable);
- e) Up to 2 direct mail or email pieces;
- f) A maximum of 3 point-of-sale pieces (maximum variety of samples); and
- g) Up to 2 additional items (any medium) that illustrate the agency's unique creative strengths.

Z. Media Planning and Buying

1. The Vendor must submit a list for the following media indicating total media dollars placed in each Nebraska ADI during the twelve months ending December 31, 2020 or 2021 for each of the following media, as well as a list of the agency office(s) buying the respective media.

- a) Network TV
- b) Spot/Cable TV
- c) Radio
- d) Out of Home
- e) Print
- f) Direct
- g) Digital/Social Media
- h) Over the Top (OTT)
- i) Other

2. Describe your system for verifying that media advertisements ran as ordered.
3. Describe your most successful media plan developed and executed in the last two years. Include in the description the objectives, the strategy and measurable results. Also identify any data used to formulate the strategy, including ratings results, demographic profiles and measures used to minimize costs while maximizing the media purchased. Identify research tools and technology used to evaluate media. Include an example of a media project combining at least two of the following: radio, television, print, digital, social and outdoor.

AA. Account Planning

1. Explain your account planning capabilities, and how account planning interfaces with the various departments or areas of your organization.
2. If chosen as the successful Contractor, explain how you would, on an ongoing basis, monitor the effectiveness of Nebraska Lottery advertising. Describe your market, product, and consumer analysis methods.

AB. Administrative

1. Describe your accounting system to track and charge expenses to the Nebraska Lottery. Briefly explain how you will monitor this system.
2. Describe the system you use to insure accurate client billing and cost monitoring. Provide a current client accounting reference (name, telephone number and email address).

AC. Assignment

Each Vendor will include one (1) completed assignment.

The Vendor must complete a written document (up to 20 pages) and if selected present an oral overview to support the assignment. The assignment should, at a minimum, address strategic and creative considerations appropriate for successful execution. The assignment should include, but are not limited to creative samples, media plans, promotional ideas, and Public Relations efforts. Vendors are not limited to the above-mentioned tactics and can offer additional tactics if so desired. The assignment is as follows:

Create a marketing/advertising campaign for a \$30 Scratch ticket the Nebraska Lottery may introduce to their Scratch portfolio in September of 2022. This will be the Nebraska Lottery's first ticket at the \$30 price point. The ticket is being introduced to coincide with the beginning of the 30th year of the Nebraska Lottery. The ticket is called 30th Anniversary Winnings and has a top prize of \$300,000.



https://nelottery.com/media/RFP/ADV2022/NE_30th_Annv_Winnings.JPG

AD. Oral Presentations

Vendors selected for Oral Presentations will be provided details on March 10, 2022.

Selected Vendors will be required to give an oral presentation on the assignment listed above. Vendors will make up to a one-hour presentation, followed by a one (1) hour question and answer period.

Vendors should consider all information provided in this RFP as well as any additional information and research they secure. The following materials are acceptable for oral presentations:

1. Concept boards, rough layouts and key frame visuals may be used to represent TV and print advertising ideas;
2. Headlines and theme lines;
3. Stock art is permissible for key frames; and
4. Electronic presentations

In addition to presenting on the assignment, Vendors are welcome to discuss any other aspects of the proposal during this time.

PART V: PRICING BID

There are 50 points possible on the evaluated pricing bid.

Each Proposal must include a precise statement of the Vendor's proposed compensation for undertaking and completing all phases of the advertising and marketing services requested and outlined in this RFP. **The Nebraska Lottery shall compensate the Contractor by payment of a commission calculated as a fixed percentage of the total annual advertising budget.**

Advertising Budget

The Nebraska Lottery's total annual advertising budget is three and one-half percent (3.5%) of Nebraska Lottery net sales for Contractor compensation. The Nebraska Lottery currently has a sales goal of approximately \$205 million for fiscal year 2022. **This is only an estimate.** Nebraska Lottery's advertising budget may fluctuate from year to year is finally determinable only at the end of the fiscal year (June 30). **The Vendor may not rely on any estimate quoted in this RFP as any type of guarantee for future budgets or future compensation.**

Compensation proposals under this RFP must be based on a percentage bid of the 3.5 percent advertising budget. The bid must be a fixed percentage rate and not a variable rate that is determined upon variable factors.

The successful Contractor's actual compensation will vary depending upon actual Nebraska Lottery sales, and will be adjusted semi-annually based on actual versus projected sales.

The Vendor's proposed fixed percentage commission compensation will serve as the Contractor's sole source of compensation for performing all services required by this RFP. The Contractor will collect no commission on media purchases, materiel purchases, printing, or sponsorships negotiated and all such purchases or arrangements will be billed on a net basis.

All pricing bid information submitted must be in a separate sealed envelope and clearly marked as such. The sealed cost proposal must be included with the original proposal only. Only one original cost proposal is required. The Vendor shall not disclose its cost proposal or other cost information in the body of written proposal. Including cost information in the written proposal may, at the discretion of the Nebraska Lottery, be cause for proposal disqualification.

Cost proposals should be submitted as the Vendor's last-best offer. However, in the event a successful Vendor is identified and contract negotiations are initiated, the Nebraska Lottery reserves the right to negotiate the final compensation rate to its best interests and those of the State of Nebraska.

Collusion between bidding Vendors will cause rejection of all proposals of Vendors so involved. By submission of their Proposal, and in the case of a joint proposal, each party certifies as to its own organization, that in connection with this proposal:

- Compensation in this proposal has been arrived at independently, without consultation, communication, or agreement, for the purpose of restricting competition as to any matter relating to such prices with any other Vendor or with any other competitor;
- Unless otherwise required by law, the compensation quoted in this proposal has not been knowingly disclosed by the Vendor and will not knowingly be disclosed by the Vendor prior to the opening of the proposals directly or indirectly to any other Vendor or to any competitor; and
- No attempt has been made or will be made by the Vendor to cause any other person or firm to submit or not to submit a proposal for the purpose of restricting competition.

PART VI: TERMS AND CONDITIONS

A. General Provisions

1. All proposals and the contract are subject to the requirements of, and must comply with, the State Lottery Act, regardless of whether or not specifically addressed in either this RFP, the proposal or the contract. All potential Vendors should read and be familiar with the State Lottery Act (Act), Neb. Rev. Stat. § 9-801 et seq. An electronic copy of the act is available at <http://www.nelottery.com/homeapp/about/main>.
2. The contract is governed by and construed in accordance with the laws of the State of Nebraska. Venue will be in Lancaster County District Court, Lincoln, Nebraska.
3. The Nebraska Lottery does not agree to hold the Contractor harmless, or to defend or indemnify the Contractor, and any provisions to the contrary are void.
4. The contract or any portion thereof cannot be assigned or subcontracted without the express, written permission of the Nebraska Lottery.
5. The contract shall be binding upon any successor, subcontractor or assignee.
6. In the event of any default, dispute, or nonpayment, the parties shall be liable for those damages commonly available to the prevailing party under Nebraska law and as provided in Part VI, Section M.

B. Contractor Responsible for all Obligations

The Contractor will always be responsible for the performance of any contractual obligations which may result from a contract issued pursuant to this RFP. The Contractor will not enter into any agreements nor use the services of any subcontractor in the performance of any aspect of the contract without the express, written permission of the Nebraska Lottery. The use of any subcontractor will not in any way relieve or diminish the Contractor's contractual obligations or increase the obligations of the Nebraska Lottery. The Contractor's books, records and other evidence pertaining to the contract shall be available to the Nebraska Lottery and its internal auditors at all times during the contract period and for one (1) full year from the expiration date or final payment on the contract, whichever is later.

C. Financial Soundness

1. If, during the period prior to an award of a contract pursuant to this RFP and through the end of the contract, the Vendor or Contractor experiences a substantial change in its financial condition or a change of ownership, Nebraska Lottery Security must be immediately notified in writing. **Failure to notify the Nebraska Lottery of such a substantial change in financial condition or**

ownership will be sufficient grounds for rejecting the Vendor's response or terminating any contact.

2. If any Vendor makes a material misrepresentation in submitting information under this section or any section of this RFP, such misrepresentation will be sufficient grounds for rejecting the Vendor's response or terminating the contract.
3. Financial information will be kept confidential unless otherwise required by law. Failure to submit the information required by this section will be cause for the Nebraska Lottery to reject the response as not meeting the requirements of this RFP. The Vendor recognizes that information submitted to the Nebraska Lottery as required by this RFP may be a public record, as defined by Nebraska's public record laws, Neb. Rev. Stat. § 84-712 et seq., even information labeled "confidential." **Under no circumstance will the Nebraska Lottery be liable to any Vendor or to any other person or entity for any disclosure of any information submitted in response to this RFP.**

D. Non-Exclusive Rights

While the Nebraska Lottery anticipates that the Contractor will be expected to serve as the primary source for all services relating to advertising, any contract or agreement resulting from this RFP does not grant the Contractor exclusive rights. To the extent authorized by law, the Nebraska Lottery reserves the right to contract separately for advertising and marketing services from any entity the Nebraska Lottery deems appropriate without additional compensation to the Contractor.

E. Performance Bond

Pursuant to Neb. Rev. Stat. section 9-836, the Contractor, at the time of executing the contract, must submit a performance bond in the amount equal to the amount estimated to be annually paid to the Contractor. The bond shall provide funds to the Nebraska Lottery in the event that the Nebraska Lottery suffers any liability, loss, damage, or expense as a result of the Contractor's failure to fully and completely perform all requirements of this agreement which include, without limitation, the Contractor's obligation to pay liquidated damages, to indemnify the Nebraska Lottery under circumstances described by this agreement and the Contractor's obligation to perform its advertising products and related services as required by this agreement throughout the term of this agreement. With the exception of the liquidated damage amounts set forth in this RFP, bond payments shall be considered limited to actual damages that are sustained. The performance bond will guarantee the faithful performance of the Contractor for the duration of the contract. Failure to meet the contract obligations will be grounds for forfeiture of the bond.

F. Fidelity Bond

1. It shall be the responsibility of the Contractor to make sure that all the Contractor's agents and employees, any subcontractor and its employees or

agents are covered by a fidelity bond in the amount of \$50,000. This bond shall be in effect throughout the initial term and any and all renewal terms of the contract. This bond coverage must indemnify the State of Nebraska, Nebraska Department of Revenue, or the Nebraska Lottery for any errors or omissions due to any fraudulent or dishonest act on the part of the Contractor, its officers, employees, agents of subcontractor, regardless of negligence.

2. This bond shall be written as continuous with an endorsement requiring notice of cancellation sent to the Nebraska Lottery at least thirty (30) days in advance of effective termination. The bond shall be written on a discovery form providing unlimited discovery period.
3. Continuous will mean that notice is required and there must be no gaps. Discovery means that the bond covers events occurring during the effective period that are not discovered until years later.

G. Insurance

The Contractor shall throughout the term of the contract maintain insurance as specified herein and provide the Nebraska Lottery, on an annual basis, a current Certificate of Insurance/Acord Form (COI) verifying the coverage. The Contractor shall not commence work on the contract until the insurance is in place.

1. The Contractor shall be required to provide and/or carry the following types of insurance:
 - a) General Liability insurance: \$1,000,000 each occurrence, \$2,000,000 aggregate.
 - b) Property insurance: \$50,000.
 - c) Errors and Omissions insurance: \$1,000,000.
 - d) Automotive insurance: \$1,000,000.
 - e) Umbrella Coverage Over Primary Insurance: \$5,000 per occurrence.
2. The terms, conditions and coverage levels of such insurance may be modified at any time following written agreement of the Director.
3. Commercial General Liability & Commercial Automobile Liability policies shall name the State of Nebraska as an Additional Insured and the policies shall be primary and any insurance or self-insurance carried by the State shall be considered secondary and non-contributory as additionally insured.
4. The Contractor shall be solely responsible for all payments to its agents or subcontractors and all compensation, withholding taxes and benefits for its employees, and for providing all necessary unemployment and workers compensation insurance for its employees.

H. Proposals Subject to Open Records

1. All data, material, and documentation originated and prepared for the Nebraska Lottery pursuant to this RFP belong exclusively to the Nebraska Lottery and will be available to the public no later than April 19, 2022 at 10:00 A.M. CT., unless the response or specific parts of the response are exempt from public disclosure under Nebraska's public records laws, Neb. Rev. Stat. § 84-712 et seq., the State Lottery Act, or if no contractor is selected and all responses are returned. Any proposal information that a Vendor desires to claim as proprietary and exempt from disclosure must be clearly designated as such. For each affected portion of the proposal, the Vendor must clearly state the specific exemption from disclosure upon which it makes its claim of exemption. Each proposal page claimed to be exempt from disclosure must be clearly identified by the word "CONFIDENTIAL" printed on the lower right hand corner of the page or must contain a "CONFIDENTIAL" watermark across the page. Vendors may not combine confidential and non-confidential material on the same page. The Nebraska Lottery will not honor any claim that an entire proposal is exempt from disclosure. Alternatively, a Vendor may submit a redacted version of the proposal for public viewing and open record requests. Past creative work contained in the response and creative for the assignment in PART IV, AC will not be considered confidential.
2. To the extent authorized by Nebraska's public records laws, the Nebraska Lottery will maintain the confidentiality of trade secrets or proprietary information identified by a Vendor, if (1) the Vendor properly identifies the particular data or other materials which are trade secrets or proprietary information in a manner as described above, (2) the Vendor states the specific exemption from disclosure upon which it makes its claim of exemption, and (3) the Nebraska Lottery independently determines that the trade secrets or proprietary information so identified by the Vendor are exempt from public disclosure under Neb. Rev. Stat. § 84-712.05(3).
3. All pricing bids received will remain confidential until the resulting contract, if any, is signed.
4. **Under no circumstance will the Nebraska Lottery be liable to any Vendor or to any other person or entity for any disclosure of any such trade secret or confidential information.**

I. Opening of Proposals

The Proposals will be opened on February 24, 2022. The Proposals will be available for public inspection no later than April 19, 2022, at 10:00 a.m. CT, if a proposal is awarded and subject to restrictions of confidentiality.

J. Selection Factors for the Award

1. The Nebraska Lottery reserves the right to accept or reject any or all proposals, or any part of any proposal, and to waive any defect or technicality, and to advertise for new proposals where it would be in the best interest of the Nebraska Lottery. The contract award will be based on compliance with mandatory requirements, evaluation of desired capabilities, and precision and accuracy of the proposals. Complete and accurate responses to all items are necessary for the complete and fair evaluation of proposals.
2. The Nebraska Lottery Evaluation Committee will review the proposals initially. The Evaluation Committee will make its recommendation to the Lottery Director. The recommendation by the Evaluation Committee and subsequent selection by the Lottery Director with approval of the Tax Commissioner shall be based on the proposal by the responsible vendor submitting the best proposal, which, factoring costs, maximizes the benefits to the State in the following areas:
 - a) The competence and ability of the Vendor as demonstrated by:
 1. Its experience, skill, and ability necessary to meet the requirements set forth in this RFP.
 2. Its financial responsibility.
 3. The quality of the products, equipment, and services offered.
 4. Vendor's creativity in marketing a consumer product.
 5. The sufficiency, appropriateness, and quality of the Vendor's assigned staff levels and persons to complete the services required by the RFP.
 6. The quality and thoroughness of creative samples and other items submitted pursuant to this RFP.
 7. Vendor's understanding of the market place in which the Nebraska Lottery competes to sell its product.
 8. Whether the proposal is completely responsive to and has satisfied all written specifications and requirements contained in the RFP.
 9. The capacity of the Vendor to perform and provide advertising products and related services requested in the RFP and the Vendor's ability to perform the contract in the time specified in the RFP and throughout the term of the contract pursuant to the requirements of the Nebraska Lottery.
 10. Price; and whether the cost proposal is reasonable for the experience of the Vendor and the requirements of the RFP.

11. Efforts to secure minority and female participation.

- b) Whether the Vendor is based in Nebraska. Pursuant to NEB. REV. STAT. §9-806(4), preference shall be given to Vendor(s) based in Nebraska if the costs and benefits are equal or superior to those available from competing persons.

K. Content of the RFP

1. This RFP is designed to provide all Vendors with the information necessary for the preparation of competitive Proposals. It is not intended to be comprehensive, and each Vendor is responsible for determining all necessary technical and operational issues for submission of a comprehensive proposal. Vendor(s) must submit a Proposal based on each requirement. Vendor(s) are to disregard any draft material they may have received, any newspaper articles they may have read, and any other previous oral or written representations.
2. By submitting a proposal, each Vendor agrees that it will not bring any claim or have any cause of action against the Nebraska Department of Revenue (Department), the Nebraska Lottery, the State of Nebraska, or any employee of the Department or the State of Nebraska, based on any misunderstanding concerning the information provided or concerning the Department's failure, negligence or otherwise, to provide the Vendor with pertinent information as intended by this RFP.
3. No Vendor may take advantage of any error or omissions in this RFP. Where errors or omissions appear in the RFP, the Vendor must promptly notify the Nebraska Lottery of such error or omission. Inconsistencies in the RFP, wherever found, must be reported before proposals are submitted.
4. Each Vendor must indicate exceptions to any section or paragraph, otherwise acceptance is assumed. Exceptions stated by the Vendor may be cause for rejection of the proposal at the discretion of the Nebraska Lottery.

L. Submission of Disclosure Documents for the Selected Vendor

1. Any Vendor selected to provide products, equipment, or services to the Nebraska Lottery pursuant to this RFP is required to undergo a thorough background investigation, designed to evaluate its competence, integrity, background, and nature of the ownership and control of the Vendor **prior to entering into an agreement**. This includes individual employee background investigations as deemed appropriate by Nebraska Lottery Security. The Vendor shall disclose all information as required under Neb. Rev. Stat. § 9-834.

2. Background investigations will be conducted by Nebraska Lottery Security. Nebraska Lottery Security may, at its sole discretion, lessen the requests of this background investigation if a similar background investigation has recently been performed, or require additional information when deemed appropriate. All persons set forth in Neb. Rev. Stat. § 9-834, as well as other individuals as determined by Nebraska Lottery Security, potentially including any and all Vendor employees, must complete the Personal Background Application package to be supplied separately. Vendor background investigations may, at the discretion of the Nebraska Lottery, include inspection of any Vendor facilities or offices.
3. The Vendor must contact Investigations and Security Supervisor Steve Anderson at 402-471-5941 to obtain a **Nebraska Lottery Vendor Information for Major Procurement form** and a **Nebraska Lottery Vendor Personal History Record and Background Disclosure Form** for each person subject to a background investigation.
4. **Prior to entering into an agreement**, the Vendor must provide all fingerprint cards, financial records, income tax returns and complete disclosure documents for all required persons or entities. **No contract will be awarded to the Vendor until all required disclosure documents have been completed and submitted.** Further, as changes occur throughout the initial term and any and all renewal terms of the contract for the Vendor or any applicable Vendor employee, any change in the requested data and authorization shall be reported to the Nebraska Lottery within thirty (30) days from the date of such change.
5. The background investigations will be performed at the expense of the Vendor. The Vendor will pay for all reasonable and necessary expenses, including travel, meals and lodging, for up to two individuals designated by Nebraska Lottery Security for the purpose of conducting background investigations. Further, the Vendor will be responsible for all expenses as outlined above for subsequent background investigations deemed appropriate by Nebraska Lottery Security throughout the initial term and any renewal terms of the contract.
6. All disclosure documents provided must be clearly identified as disclosure documents and must be contained in a single envelope or package. Only one composite copy of the disclosure document shall be submitted.
7. Any information provided to the Nebraska Lottery in the disclosure documents as well as the results of the background investigation conducted by Nebraska Lottery Security will be used by the Nebraska Lottery to determine Contractor eligibility and may, at the discretion of the Nebraska Lottery, be used to disqualify a Vendor who does not meet the requirements of the State Lottery Act, Neb. Rev. Stat. § 9-801 et seq., or of this RFP. Nebraska Lottery Security will confer with the Vendor upon request regarding the completion of the disclosure documents.

8. The disclosure requirements as contained above will only be requested once from the Vendor during the initial term of the contract. However, once the contract is executed, the Contractor will be required to file an addendum to the original filing within thirty (30) days of any change of material information showing any changes from the original filing or the latest addendum. This requirement will remain in place until the completion of the contract. In addition, each year, prior to August 1, the Contractor must file a statement indicating the information filed with the Nebraska Lottery is correct.

M. CONTRACT PROVISIONS

1. The contract, which the Nebraska Lottery expects to award as a result of this RFP, will be based upon the terms of this RFP and the proposal submitted by the Vendor. The Nebraska Lottery reserves the right to either award a contract without further negotiation with the selected Vendor, or to negotiate all terms and conditions, including compensation terms, with the selected Vendor if the best interests of the Nebraska Lottery would be served. The selected Vendor may be required to reduce its price if the Nebraska Lottery reduces the requirements placed upon the Vendor or if the Nebraska Lottery assumes some of the Vendor's responsibilities.
2. The terms contained in "M, Contract Provisions" are not intended to be a complete listing of all contract terms, but are provided to enable the Vendor to better evaluate the Vendor's costs associated with the provision of products, equipment, and services as required by this RFP. Unless otherwise provided in the contract, the following terms will be incorporated in any contract awarded as a result of this RFP. All costs associated with complying with these requirements must be included in the compensation quoted by the Vendor.
3. The contract term will commence on July 1, 2022. The basis for compensation will be determined by the compensation proposal submitted by the selected Vendor under Part V, Pricing, and as further negotiated between the Nebraska Lottery and the selected Vendor.
4. The Contractor must obtain any permits, licenses, or other authorizations required in connection with the performance of the work under the contract. The Contractor shall also comply with all tax laws and other applicable laws, ordinances, rules, orders, and regulations relating to the performance of the contract.
5. The Contractor certifies that the products, equipment and services required under this RFP will be supplied or will perform in accordance with this RFP. The Contractor expressly warrants that the advertising products and related services are fit for use in the Nebraska Lottery's marketing and sale of lottery tickets.

6. The Contractor agrees to indemnify and hold harmless the Nebraska Lottery against any and all liability to third parties resulting from claims that the advertising products and related services infringes on or violates any patents, copyrights, or trade secrets of a third party. The Contractor guarantees that it will have full legal right of material, supplies, equipment, machinery, articles, or things involved in the contract. The contract price shall, without exception, include compensation for all costs arising from patents, trademarks, and copyrights that are in any way involved in the contract. It shall be the responsibility of the Contractor to pay for all such costs.
7. The Nebraska Lottery is not liable for any form of taxation and assumes no liability as a result of this solicitation. Specifically, the Nebraska Lottery is not subject to federal excise tax, Nebraska sales tax, or any form of county or city tax.
8. Non-performance by the Contractor of the material terms of the contract shall be a basis for termination of the contract by the Nebraska Lottery. Termination of the contract may, at its discretion, be made by the Nebraska Lottery for nonperformance upon thirty (30) calendar day's written notice to the Contractor. The performance bond shall be forfeited in that instance. For purposes of this section, "non-performance" shall mean the neglect, failure or refusal to do or perform an act required to be done pursuant to the contract.
9. Unsatisfactory performance by the Contractor of the material terms of the contract shall be a basis for termination of the contract by the Nebraska Lottery. The Contractor will receive a written notice giving ten (10) calendar days to correct the unsatisfactory performance. If the performance is not corrected, the Nebraska Lottery shall terminate the contract within thirty (30) calendar days' written notice to the Contractor. Further, the Nebraska Lottery shall not pay for work not done or for work done in an unsatisfactory manner per contract terms. The performance bond shall be forfeited in that instance. For purposes of this section, "unsatisfactory performance" shall be construed as meaning that the performance is such that a reasonable person would not be satisfied with it.
10. The Nebraska Lottery shall give the Contractor fifteen (15) calendar days' written notice of termination of the contract without penalty in the event there is a lack of available State funds to continue the contract or a change in law that invalidates the contract.
11. Any or all of the advertising products and related services to be performed by the Contractor shall not be assigned, subcontracted, or transferred without the prior written approval of the Nebraska Lottery nor shall the Contractor assign any monies due or becoming due under any contract entered into with the Nebraska Lottery pursuant to the contract, without prior written approval of the Nebraska Lottery.

12. It is agreed that nothing herein contained is intended or should be construed in any manner as creating or establishing the relationship of co-partners between the parties hereto with respect to any advertising products and related services performed under the contract. The Contractor represents that it has, or will secure at its own expense, all personnel required in performing services under the contract. The Contractor or other persons engaged in work or services required by the Contractor under the contract shall not be considered employees of the State. All claims on behalf of any person arising out of employment or alleged employment, including without limit, claims of discrimination against the Contractor, its officers or its agents shall in no way be the responsibility of the State; the Contractor will hold the State harmless from any and all such claims. Such personnel or other persons shall not require nor be entitled to any compensation, right or benefits from the State, including without limit, tenure rights, medical and hospital care, sick and vacation leave, severance pay, and retirement benefits.
13. The Contractor agrees that during the term of the contract it will not discriminate against any employee, applicant, or recipient of services in accordance with the Non-Discrimination Statement in Paragraph 14 below, and will include similar provisions in all subcontracts entered into for the performance of the contract. The contract may, at the discretion of the Nebraska Lottery, be canceled or terminated by the Nebraska Lottery and all funds due or to become due or there under may be forfeited for a violation of the terms and conditions of this paragraph. Also, the performance bond shall be forfeited in such instance.
14. Non-Discrimination Statement: The Contractor agrees to comply fully with Title VII of the Civil Rights Act of 1964, as amended; the Rehabilitation Act of 1973, Public Law 93-112, as amended; the Americans With Disabilities Act of 1990, Public Law 101-336; and the Nebraska Fair Employment Practice Act, as amended, in that there shall be no discrimination against any employee who is employed in the performance of this contract, or against any applicant for such employment, because of age, color, national origin, ancestry, race, religion, creed, disability, sex or marital status. This provision shall include but not be limited to the following: employment promotion, demotion, or transfer; recruitment or recruitment advertising; layoff or termination; rates of pay or other forms of compensation; and selection for training including apprenticeship. The Contractor agrees that no qualified handicapped person shall, on the basis of handicap, be excluded from participation in, be denied the benefits of, or otherwise be subjected to discrimination under any program or activity of the Contractor.
15. The Contractor will submit background information to the Nebraska Lottery, if requested, which will allow the Nebraska Lottery to evaluate any and all employees of the Contractor or any agents or subcontractors which are involved in performing under the contract. The Nebraska Lottery will have

the right, at its discretion, to exclude any Vendor officer, employee, agent or other individual from working in any capacity related to the provision of equipment, products or services under this RFP and subsequent contract for the protection of the security or integrity of the Nebraska Lottery.

16. All required bonds and insurance must be issued by companies or financial institutions which are financially rated "A" or better and duly licensed, admitted, or authorized to do business in the State of Nebraska. The Nebraska Lottery shall be named as the Obligee in each required bond and as an Additional Insured in each required insurance contract. Required coverage must remain in effect throughout the term of the contract and the Contractor must submit copies of each required insurance contract, and any renewals thereof, to the Nebraska Lottery.
17. There will be substantial penalties for default including liquidated damages for various breaches of the contract as set forth herein.
18. Contractor's employees and agents in their Nebraska office or that are otherwise assigned to the Nebraska Lottery account and their immediate family members residing in their household are prohibited from playing any Nebraska Lottery games, including any Multi-state games, which the Nebraska Lottery offers wherever they are played. It shall be the Contractor's responsibility to establish a policy to make its employees and members of their immediate families aware of this prohibition. The Contractor also must take reasonable steps to insure compliance.
19. The Nebraska Lottery has the right to inspect the Contractor's facilities at any time and may, at the discretion of the Nebraska Lottery, require the Contractor to secure a right of inspection on the Nebraska Lottery's behalf from any subcontractors involved in the provision of equipment, products and related services.
20. Assignment or subcontracting of any portion of the contractor's obligations will not be allowed without prior written approval of the Nebraska Lottery, which may be withheld for any reason.
21. Only monies generated from the conduct of the Nebraska Lottery will be used to meet the Nebraska Lottery's financial obligations under this agreement.
22. Contractor agrees not to use the Nebraska Lottery's name, logos, images, nor any data or results arising from this procurement process or contract awarded pursuant to this RFP as a part of any commercial advertising without prior written approval by the Nebraska Lottery.

23. By submission of a proposal to this RFP, the Contractor acknowledges:
 - a. If the Contractor does not fulfill the obligations of the contract, damage to the Nebraska Lottery will result.
 - b. Establishing the precise value of such damage would be costly, difficult, and time consuming.
 - c. The damages specified herein are good faith efforts to quantify the damages that could be reasonably anticipated at the time of the making of the contract.
24. The Nebraska Lottery may, therefore, in its discretion, deduct damages from the compensation otherwise due to the Contractor. All assessments of damages shall be within the discretion of the Nebraska Lottery, and may be deducted from the Contractor's scheduled payments.
25. The Nebraska Lottery shall notify the Contractor in writing of the assessment of damages for any default specified herein and such damages shall be paid within thirty (30) days of receipt of the assessment notice by deducting such damages from the compensation otherwise due to the Contractor. If payment is not made within such thirty (30) day period, the Nebraska Lottery may, at its discretion, collect such damages by making a claim against the performance bond or by any other lawful method.
26. The assessment of liquidated damages shall be within the discretion of the Nebraska Lottery and shall be in lieu of the right of the Nebraska Lottery to institute a cause of action in a court of law to recover consequential damages.
27. The measure of damages in the event of a default by the Contractor may be difficult or impossible to calculate, depending on the nature of the default. In the event the Contractor fails to provide the advertising products and related services as required in this RFP, or to otherwise fail to perform in accordance with this RFP or any Contract resulting from this RFP, after having been notified in writing by the Nebraska Lottery of the specific deficiency, the Nebraska Lottery may, at its discretion, impose liquidated damages as follows:
 - a. Reports: Failure of the Contractor to provide any reports required by this RFP may result in the imposition of liquidated damages in the amount of \$1,000 per incident, plus \$100 per day for each day of additional delay.
 - b. Plans: Failure to provide plans within the required time period may result in liquidated damages of \$1,000 per incident, plus \$100 per day for each day of additional delay.

- c. Unauthorized Materials: The release of unauthorized media materials for broadcast or publication prior to obtaining written approval may result in liquidated damages of \$10,000 per publication or broadcast.
28. The Nebraska Lottery reserves the right to require at any time such further and additional security measures as are deemed necessary or appropriate to ensure the integrity of the Contractor's operations or the game(s).
29. Except as otherwise provided in this RFP or the Contract, neither the Contractor nor the Nebraska Lottery shall be liable to the other for any delay in, or failure of performance of, any covenant contained in the contract, which is caused by any event of force majeure. For purposes of this RFP, "force majeure" shall include acts of God, war, civil disturbance and other causes which are beyond the control and anticipation of the party affected and which, by exercising reasonable diligence, the party was unable to anticipate or prevent, including the act or omission of any third party not controlled by the party affected. The existence of such causes of delay or failure shall, in the exercise of reasonable diligence, extend the period of performance for a reasonable period, until after the causes of delay or failure have been removed.
30. If, for any reason other than breach of contract by the Nebraska Lottery, the Contractor should lose its ability to perform its obligations under the Contract resulting from this RFP, the Nebraska Lottery shall acquire a usufruct in all contractual items owned by the Contractor in conjunction with the contract and which are necessary to perform advertising products and related services required under this RFP.
31. The Nebraska Lottery is an extremely sensitive enterprise because of the nature of the lottery industry and its status as a governmental entity of the State of Nebraska. Therefore, it is essential that its operation, and the operation of other enterprises which would be linked to it in the public mind, avoid not only actual impropriety but also the appearance of impropriety. Accordingly, the Contractor is required to follow the rules and regulations established by the Nebraska Lottery. The Contractor will be expected to develop, disseminate and enforce a Code of Conduct for all employees, independent contractors, and subcontractors that recognize the public perception and sensitivity of the operations being performed on behalf of the State of Nebraska.
32. The Contractor shall make no commitment on behalf of the Nebraska Lottery without prior written approval. The Nebraska Lottery reserves the right to cancel any approved project or any of its contracts at any time, in which case the Nebraska Lottery would be responsible only for actual costs prior to notification of such cancellation.
33. The Contractor shall ensure the integrity of the advertising product.

34. The Contractor and its agents and employees shall execute a non-disclosure agreement similar to one provided in Appendix "D". Failure to comply with the terms of this non-disclosure agreement will result in liquidated damages being assessed.
35. The Nebraska Lottery will not approve the payment of overtime on any project without prior written approval. If the overtime is required by the failure of the Contractor to perform, the Contractor will be responsible for all such charges.
36. If the delivery of materials to media outlets must be expedited due to delays attributable to the Contractor or its agents; the Contractor will be responsible for the additional charges for the expedited delivery.
37. If the Contractor incurs any expenditure without the prior written approval of the Nebraska Lottery, the Contractor will be responsible for those expenditures without any recourse for reimbursement.
38. The Contractor will be responsible for the cost of any items produced on behalf of the Nebraska Lottery that are misprinted, produced in error or are otherwise unacceptable. The Contractor will also be responsible for the cost of expediting the replacement of any such items.
39. The Contractor is required to use a federal immigration verification system to determine the work eligibility status of new employees physically performing services within the State of Nebraska. A federal immigration verification system means the electronic verification of the work authorization program authorized by the Illegal Immigration Reform and Immigrant Responsibility Act of 1996, 8 U.S.C. 1324a, known as the E-Verify Program, or an equivalent federal program designated by the United States Department of Homeland Security or other federal agency authorized to verify the work eligibility status of a newly hired employee.
40. Contractor agrees that the Nebraska Lottery will not be liable in any way for any loss of income, harm, or other damages to Contractor resulting from less than anticipated sales figures as projected by the Nebraska Lottery.
41. At the end of the contract term, the Contractor shall, in good faith and with reasonable cooperation, aid in the conversion to any new advertising products and related services as requested by the Nebraska Lottery.

N. Contract Cancellation

1. The Nebraska Lottery may, at its discretion, cancel, suspend or declare void said contract for any of the following reasons or other infractions not hereby stated:
 - a. Failure in whole or in part to fulfill the contract;

- b. Whenever it is the opinion of the Nebraska Lottery that the Contractor has obtained the contract by fraud, collusion, conspiracy, or other unlawful means;
- c. In the event of willful attempt to overcharge and/or not invoicing in accordance to contract;
- d. To impose on the Nebraska Lottery articles of workmanship, services or materials inferior to those required;
- e. Failure to meet specifications or special conditions as set forth by this request for proposal, which shall be made a part of any and all contracts awarded;
- f. Failure to meet specified delivery dates and requirements;
- g. Subcontracting or assigning work without proper notification and consent by the Nebraska Lottery;
- h. If any statement, representation, warranty or certificate made or furnished by the Contractor to the Nebraska Lottery in connection with this contract is materially false, incorrect or incomplete;
- i. If a court of competent jurisdiction finds that the contractor has failed to adhere to any laws, ordinances, rules, regulations or orders of any public authority having jurisdiction; or contractor fails to communicate with the Nebraska Lottery as required by the contract;
- j. If the Nebraska Lottery makes a written determination that the contractor has failed to substantially perform under this agreement, which determination shall specify the events resulting in the Nebraska Lottery's determination that the contractor has failed to substantially perform under the RFP or subsequent contract;
- k. If the contractor fails to comply with any of the terms, conditions or provisions of the RFP or subsequent contract in any manner whatsoever;
- l. Failure to completely perform any other obligation under this RFP or the resulting contract;
- m. For other reasons as stated in this RFP or the Contract; or
- n. In the event of such cancellation, the Nebraska Lottery shall notify the Contractor in writing stating the reason for such cancellation. Upon notification the contract shall be null and void and the performance bond shall be forfeited. Any applicable liquidated damages shall also be owed by the contractor.

2. The Nebraska Lottery shall give the Contractor fifteen (15) calendar days' written notice of termination of the contract without penalty in the event there is a lack of available State funds to continue the contract or a change in law, or the Nebraska Constitution, that invalidates the Contract. If any Contract entered into as a result of this RFP is terminated for lack of sufficient funding, or a change in Nebraska Law or the Nebraska Constitution, the Nebraska Lottery and the State of Nebraska shall not be liable to the Contractor for any damages, losses, financial obligations, breach of contract, or any other claims or amounts arising from or related to any such termination.

O. Hiring Prohibition

1. At all times during the proposal evaluation period beginning with the issuance of the RFP and ending with either a contract awarded or the rejection of all proposals, Vendor(s) are prohibited from officially making any employment offer or proposing any business arrangement whatsoever to any Nebraska Department of Revenue employee, or any elected or appointed official or officer of the State of Nebraska, or any employee, agent, or representative of the Nebraska Lottery, or members of the Nebraska Lottery Evaluation Committee, or individuals involved in the evaluation of the proposals, the contract award, or contract negotiations. Vendor(s) making such an offer or proposition shall be disqualified from further consideration.
2. The Contractor agrees that during the term of the Contract it will not discriminate against any employee, applicant, or recipient of services in accordance with the Non-Discrimination Statement in Part VI, M.14, and will include similar provisions in all subcontracts entered into for the performance of the Contract. The Contract may be canceled or terminated by the Nebraska Lottery and all funds due or to become due or there under may be forfeited for a violation of the terms and conditions of this paragraph. Also, the performance bond shall be forfeited in such instance.

P. Advertising Sensitivity

The Nebraska Lottery is a Division of the Nebraska Department of Revenue, and all advertising efforts must be conducted in a manner commensurate with the dignity of the State of Nebraska.

Advertising must be in good taste, should not be of a nature that unduly influences any person to purchase a lottery ticket, must not make unsubstantiated promises, and must not ridicule any group or individual. Recognition must be given to the fact that some people may be inclined to spend more money than they should in playing the lottery.

Advertising must not encourage people to play excessively, and must clearly state the odds of winning, where appropriate. Neb. Rev. Stat. §9-823(10)(b)

requires the top prize odds of any Lottery game to be displayed on advertising for that game.

See Appendix "E" for a copy of the Nebraska Lottery Advertising Standards.

Q. Protest Procedure

1. Any Vendor who claims to be aggrieved in connection with the RFP or award of a contract may formally protest the Nebraska Lottery's action. To protest the issuance of the RFP, a written protest must be filed with the Tax Commissioner within ten (10) days after the issuance of the RFP. For the protest of a contract award, a written protest must be filed with the Tax Commissioner within ten (10) days after receipt of notice of the contract award. Protests not timely filed will not be considered. To be filed timely, a protest must be physically received by the Tax Commissioner.
2. To be considered, the protest must contain the identity of the petitioners, an identification of the statutory provision, regulations or RFP procedure allegedly violated, a brief statement of the relevant facts, an identification of the issue or issues to be resolved, arguments and authorities in support of the protest, an affidavit that the contents of the protest are true and correct, and be signed by the petitioner or other authorized person.
3. The Tax Commissioner shall grant an oral hearing only if requested by the petitioner in writing. Such hearing shall follow the Rules of Practice and Procedure set forth in Chapter 200 of the Nebraska Lottery Regulations. The time and place of hearing shall be set by the Tax Commissioner or the Tax Commissioner's authorized representative. Testimony shall be presented before a Hearing Officer who shall administer oaths of witnesses and rule on motions and the admissibility of evidence.
4. The Tax Commissioner will issue findings of fact and conclusions of law based on the hearing record and issue an order, which will be served upon the petitioner. An aggrieved party seeking review of the Tax Commissioner's order may file an appeal with the District Court of Lancaster County within thirty (30) days after the date of such order or decision, pursuant to the Nebraska Administrative Procedures Act.

APPENDIX "A"
PROPOSAL CERTIFICATION

(To be signed and submitted with the proposal by the Vendor. Failure to sign this certification will result in rejection of your proposal.)

We propose to furnish and deliver any and all of the deliverables and services named in the attached proposal for which prices have been set. The price or prices offered herein shall apply for the period of time stated in the Request for Proposals (RFP).

We further agree to strictly abide by all terms and conditions contained in the State Lottery Act, Neb. Rev. Stat. § 9-801, et seq., as supplemented by any attached special terms and conditions, all of which are made a part hereof. Any exceptions are noted in writing and included with this proposal.

It is understood and agreed that we have read the Nebraska Lottery's specifications shown or referenced in the RFP and that this proposal is made in accordance with the provisions of such RFP *and any modifications made thereto*.

We certify that this proposal is made without prior understanding, agreement, or connection with any corporation, firm, or person submitting a proposal for the same materials, supplies, equipment, or services and is in all respects fair and without collusion or fraud. I understand collusive bidding is a violation of State and Federal law and can result in fines, prison sentences, and civil damage awards. I agree to abide by all conditions of the proposal and certify that I am authorized to sign this proposal and bind the Vendor indicated below to these specific terms, conditions, and specifications required in this RFP. I further certify that all representations made and facts presented in this proposal and any supporting documents are true and correct as of the date submitted to the Nebraska Lottery (the "Submission Date"). I hereby agree to immediately notify the Nebraska Lottery of any change in fact which arises after the Submission Date, which renders any facts or representations contained in this RFP untrue or misleading.

Authorized Signature

Date

Title

Vendor

**APPENDIX “B”
DRUG-FREE WORKPLACE POLICY**

The State of Nebraska is committed to providing an employment environment that is safe and provides appropriate motivation to ensure a creative and productive work force. To this end, the State unequivocally endorses the philosophy that the workplace should be free from the detrimental effects of illicit drugs. To ensure worker safety and workplace integrity, the State of Nebraska prohibits the illegal manufacture, possession, distribution or use of controlled substances in the workplace by its employees or those who engage or seek to engage in business with the State.

In an effort to bring about a “Drug-Free Nebraska” and to assure that employees in a workplace are free from illegal drugs and their effect, the State of Nebraska through its administrative entities will implement the following Drug-Free Workplace Policy.

- 1. SCOPE:** Applicable to all code agency employees.
- 2. POLICY:** It is unlawful to illegally manufacture, distribute, dispense, possess, or use a controlled substance in the workplace. The Nebraska Lottery, therefore, establishes a drug-free workplace policy for its employees.
- 3. PROCEDURES:**

- A. All employees and each new hire will receive a copy of this policy.
- B. Each employee will receive a drug abuse awareness form, which will state it is unlawful to manufacture, distribute, dispense, possess, or use a controlled substance in the workplace. Each employee will sign and date this statement certifying that he/she:
 1. Understands and will abide by the drug-free workplace policy;
 2. Has knowledge of disciplinary actions, which may be imposed for violations of the drug-free workplace policy.

The signed and dated statement will be forwarded to the employee’s immediate supervisor who will forward it to the individual in charge of personnel records. The signed and dated statement will be permanently in the employee’s personnel file.

- C. All current employees will receive drug abuse awareness training. New hires will receive the training within the first six months of date of hire. This training shall include:
 1. A definition of drug abuse;
 2. Information on specific drugs and the effects of drug abuse;
 3. Dangers of drug abuse in the workplace;
 4. Availability of counseling and treatment services; and
 5. Disciplinary actions, which may be imposed on employees for violations of this policy.
- D. If an employee violates the drug-free workplace policy, disciplinary action may be imposed according to established rules and regulations of the State Department of Personnel or applicable labor agreements.
- E. If an employee is convicted of violating any criminal drug statute while in the workplace, he or she will be subject to discipline up to and including termination. Alternatively, the agency may require the employee to successfully finish a drug abuse program sponsored by an approved private or governmental institution.

- F. An employee is required to report within five days any criminal drug statute conviction occurring in the workplace to his immediate supervisor. The supervisor will immediately report such conviction to the Nebraska Lottery.
- G. If the Nebraska Lottery is a grantee of federal funds, the department shall notify the Federal granting agency within ten days after receiving notice of any employee's drug statute conviction.

By _____

Title _____

Date _____

APPENDIX "C"

COVENANT NOT TO SUE

_____ (Company Name) of _____ (Address), (hereinafter "Covenanter"), in consideration for submitting a Proposal to the Nebraska Department of Revenue, Lottery Division (hereinafter "Nebraska Lottery") to perform advertising and marketing services, hereby covenants with the Nebraska Lottery not to institute any action or suit at law, in equity or any administrative action, against the Nebraska Lottery, the Nebraska Department of Revenue, or the State of Nebraska or any of its officers, employees, or agents thereof, in any forum, now or hereafter, to contest or delay the award of such contract for performing advertising and marketing services on frivolous or unwarranted grounds.

In executing this covenant, Covenanter expressly reserves any and all rights, causes of action, claims and demands against any person, firm or corporation other than the aforementioned parties.

Executed this _____ day of _____, 2022.

Authorized Signature

Title

State of _____)
)ss.
County of _____)

The foregoing Covenant Not to Sue was subscribed, sworn to, and acknowledged before me by _____,
on this _____ day of _____, 2022.

(seal)

Notary Public

APPENDIX "D"
NON-DISCLOSURE AGREEMENT

In consideration of the Nebraska Lottery retaining the services of _____ (Vendor) and because of the sensitivity of certain information which may come under the care and control of Vendor, both parties agree that all information gathered, produced, or derived from this project (Confidential Information) shall remain confidential subject to release only by written permission of the Nebraska Lottery, and more specifically agree as follows:

1. The Confidential Information may be used by the Vendor only to assist the Vendor in connection with its engagement with the Nebraska Lottery.
2. The Vendor will not, at any time, use the Confidential Information in any fashion, form or manner except in its capacity as an independent contractor with the Nebraska Lottery.
3. The Vendor agrees to maintain the confidentiality of the product in the same manner that it protects the confidentiality of its own proprietary products of like kind.
4. The Confidential Information may not be copied or reproduced without the Nebraska Lottery's written consent.
5. All Confidential materials made available to the Vendor, including copies thereof, shall be returned to the Nebraska Lottery upon the first to occur of (a) completion of the project, or (b) request by the Nebraska Lottery.
6. The foregoing shall not prohibit or limit Vendor's use of the information (including, but not limited to, ideas, concepts, know-how, techniques and methodologies) (a) previously known to it, (b) independently developed by it, (c) acquired by it from a third party, or (d) which is or becomes part of the public domain through no breach by the Vendor of this agreement.
7. This agreement shall become effective as of the date Confidential Information is first made available to the Vendor and shall survive the Contract and be a continuing requirement.
8. Vendor will require that this agreement be signed by all its employees and/or subcontractors.

By _____

Title _____

Date _____

APPENDIX “E” ADVERTISING STANDARDS

Policy Statement

The Nebraska Lottery must operate with the highest levels of integrity to maintain the public's trust and confidence in its games and operations. In its efforts to effectively and efficiently market Scratch games, Lotto games and lottery promotions to Nebraska adults, Nebraska Lottery advertising must be truthful, accurate and conducted in good taste consistent with the dignity of the State of Nebraska.

Policy

Nebraska Lottery advertising will be conducted in the following manner.

Advertising will be truthful and accurate.

Advertising will not intentionally deceive players about their opportunities to win or the prizes they may be awarded.

Advertising will be consistent with high standards of decency, dignity, and integrity consistent with the mission of the Nebraska Lottery and the values of the State of Nebraska.

Advertising will not contain nor imply lewd or indecent language, images or actions.

Advertising will not portray product abuse, excessive play or a preoccupation with gambling.

Advertising will not imply or portray any illegal activity as defined in Nebraska law.

Advertising will not degrade the image or status of persons, including their ethnic, minority or religious status.

Advertising will appropriately recognize the diversity of Nebraska's citizens and media.

Advertising will not encourage people to play excessively or beyond their means.

Advertising and marketing materials, where appropriate, will encourage responsible play. Responsible play messages are especially appropriate during large jackpot periods. Advertising and marketing materials, where appropriate, will include support for compulsive gambling programs, and encourage responsible play by players.

Advertising will not describe any lottery game as a means of relieving any person's financial difficulties.

Advertising will not encourage lottery play as a means of recovering past gambling or other financial losses.

Advertising will not knowingly be placed in or adjacent to other media that dramatize or glamorize inappropriate play of lottery tickets.

Advertising will not promote the lottery as an alternative to employment, nor as a financial investment.

Advertisements will not make false promises of winning and will not present winning as the probable outcome.

Advertising will not intentionally denigrate persons who do not purchase lottery tickets nor unduly praise persons who do purchase lottery tickets.

Advertising will emphasize the fun and entertainment aspects of playing lottery games. Beneficiary advertising will emphasize the educational, environmental or other uses of lottery revenues.

Advertising will not misrepresent a person's chance of winning a prize.

Advertising will not imply that lottery games are games of skill.

Promotional advertising will not include pictures or images of persons who appear to be under 19 years of age. Where appropriate, lottery benefit messages may include pictures or images of students or persons under 19 years of age who benefit from educational or environmental funds raised through lottery ticket sales.

Age restrictions will be posted at each Nebraska Lottery retailer.

Advertising will not appear in media primarily directed to those under 19 years of age.

Advertising will not appear at venues or events where the audience is reasonably anticipated to predominantly be under 19 years of age.

Advertising will not contain symbols or language that are primarily intended to appeal to those under 19 years of age.

Advertising will not contain animation that is associated with animated characters on children's television programs.

Advertising will not contain celebrity or other testimonials which would primarily appeal to those persons under 19 years of age.

Odds of winning information will be readily available to the public and be clearly stated.

Advertisements of prizes, which are paid by installments, will be clearly labeled as such.

Advertising will contain, where appropriate, a description of the uses of Nebraska Lottery proceeds.