Invitation to Negotiate

Issue Date: May 6, 2013

Lottery Consultant Service

Project Number: 05-12/13
Submissions Due
May 24, 2013
3:00 P.M. ET

Florida Lottery
Procurement Management
250 Marriott Drive
Tallahassee, FL 32301
Flalottery.com
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PART 1 - REPLY SUBMISSION INFORMATION

1.1 INTRODUCTION

The Florida Lottery (the "Lottery") is issuing this Invitation to Negotiate (the “ITN”) to invite interested Vendors to submit a Reply to provide domestic lottery consultant services related to the lottery gaming industry. Services to be provided include, but are not limited to:

- specification development for formal solicitation documents;
- industry subject matter expertise;
- procurement process administration and management assistance, and technical Reply evaluation assistance;
- contract negotiation assistance;
- post-award consultation; and
- acceptance testing activities.

Additionally, other consulting services related to the lottery industry and/or business operations may be requested under this contract.

Vendors preparing a Reply should be familiar with the Florida Public Education Lottery Act, which establishes the purpose, powers, duties, and procedural framework of the Lottery. The Lottery Act (Chapter 24, Florida Statutes) may be found at www.leg.state.fl.us.

In this ITN the Lottery has defined a series of objectives, requirements, and a Reply evaluation approach in conformance with Lottery policies and Florida Statutes.

The successful Vendor is expected to enter into a written agreement (the “Contract”) with the Lottery within ten (10) business days after receipt of the Contract from the Florida Lottery. At the Lottery’s sole discretion, failure or refusal to do so may result in award of the Contract to another Vendor.

1.2 DEFINITIONS

**Best Value** - the highest overall value to the state based on objective factors that include, but are not limited to, price, quality, design and workmanship.

**Business Day** - Monday through Friday except legal holidays observed by the State of Florida. The terms "working day" and "business day" may be used interchangeably, except as otherwise provided herein.

**Contractor** - The Vendor with whom the Lottery executes a contract to provide the required commodities and services.
EETF - Educational Enhancement Trust Fund.

ITN - This Invitation to Negotiate.

Lottery - The State of Florida, Department of the Lottery.

Public Entity Crime - As defined in section 287.133(1)(g), Florida Statutes, "public entity crime" is a violation of any state or federal law by a person with respect to and directly related to the transaction of business with any public entity or with an agency or political subdivision of any other state or with the United States, including, but not limited to, any Reply or contract for commodities or services, any lease for real property, or any contract for the construction or repair of a public building or public work, involving antitrust, fraud, theft, bribery, collusion, racketeering, conspiracy, or material misrepresentation.

Reply – A response to this ITN.

Responsible Vendor - A Vendor judged by the Lottery to have the capability in all respects to perform fully the Contract requirements and to have the integrity, security, and reliability which will assure good faith performance.

Responsive Reply - A Reply submitted by a responsive and responsible Vendor that conforms in all material respects to the solicitation.

Secretary - The Secretary of the Florida Lottery or an employee of the Lottery authorized to act on behalf of the Secretary.

State - The State of Florida and its departments, boards and commissions, officers and employees.

Subcontractor - Any person other than an employee of the Contractor who performs any of the services listed in this ITN for compensation.

Substantial Subcontractor - Any subcontractor to which the Contractor subcontracts a substantial portion of the work to be performed under the Contract, as provided in section 24.111(2)(a)4, Florida Statutes.

Vendor - Any firm or person who submits a Reply to the Lottery in response to this ITN.
1.3 PROCUREMENT AUTHORITY

This ITN, and all activities leading toward the anticipated signing of a Contract pursuant to this ITN, are conducted pursuant to Chapters 24 and 287, Florida Statutes; Rule 53ER07-55, Florida Administrative Code; and Chapter 60A, Florida Administrative Code, as applicable. The Lottery considers it in the best interest of the State of Florida to acquire the services and commodities described herein through a competitive solicitation process.

The Lottery hereby determines, as required by Section 287.057, Florida Statutes, that it is not practicable to use an Invitation to Bid or a Request for Proposals to acquire the services sought because a sufficiently detailed description of the services and skill sets sought cannot be developed. Additionally, because the services to be provided are primarily for products and services unique to the lottery industry that will ultimately impact the Lottery’s mission to maximize transfers to the EETF, negotiations are appropriate to secure the best qualified firm representing the best value. Therefore, this procurement is being conducted through a request for competitive sealed Replies.

1.4 APPLICABLE LAWS AND PROCEDURES

Applicable provisions of all federal, state, county and local laws and administrative procedures and rules shall govern the development, submittal and evaluation of all Replies received in response hereto and shall govern any and all claims and disputes which may arise between persons submitting a Reply hereto and the Lottery. Lack of knowledge of the law or applicable administrative procedures or rules by any Vendor shall not constitute a cognizable defense against their effect.

1.5 HEADINGS

The headings used in this ITN are for convenience only and shall not affect the interpretation of any of the terms and conditions hereof.

1.6 OVERVIEW OF ITN

This Invitation to Negotiate provides the necessary information to submit Replies as follows:

- Part 1 describes Reply submission information.
- Part 2 defines special terms and conditions that will apply to the Contract.
- Part 3 contains specifications for services and commodities to be provided.
- Part 4 prescribes contract qualification requirements.
- Part 5 provides instructions for preparing and submitting Replies.
• Part 6 describes the Reply evaluation process and the proceedings leading to execution of a Contract with the successful Vendor.
• Attachments

Throughout this ITN, where it is logical and reasonable to do so, the singular may be read as the plural and the plural as the singular.

1.7 ISSUING OFFICER

The Issuing Officer, acting on the Lottery's behalf, is the sole point of contact with regard to all procurement matters relating to this ITN, from the date of issuance of this ITN until the end of the seventy-two (72) hour period following the Lottery's Notice of Agency Decision.

All communication concerning this procurement should be addressed in writing to the Issuing Officer:

Mr. Rhett Frisbie, Director
Procurement Management
Florida Lottery
250 Marriott Drive
Tallahassee, Florida 32301
FAX: (850) 487-7760
Email: purchasing@flalottery.com

1.8 SCHEDULE OF EVENTS

The following event dates and times are set forth for informational and planning purposes. The Lottery reserves the right to change any of the dates.

<table>
<thead>
<tr>
<th>EVENT</th>
<th>DATE AND TIME DUE</th>
</tr>
</thead>
<tbody>
<tr>
<td>Invitation to Negotiate issued</td>
<td>Monday, May 6, 2013</td>
</tr>
<tr>
<td>Vendors submit written questions about the Invitation to Negotiate,</td>
<td>Monday, 13, 2013, 3:00 PM ET</td>
</tr>
<tr>
<td>or requests for clarifications or changes to conditions and</td>
<td></td>
</tr>
<tr>
<td>specifications of the Invitation to Negotiate, to the</td>
<td></td>
</tr>
<tr>
<td>Issuing Officer no later than</td>
<td></td>
</tr>
<tr>
<td>Answers issued in addendum to Invitation to Negotiate, if applicable</td>
<td>Thursday, May 16, 2013</td>
</tr>
<tr>
<td>Reply submissions due to Issuing Officer</td>
<td>Friday, May 24, 2013 at 3:00 PM ET</td>
</tr>
<tr>
<td>Open Replies and read aloud the names of the responding Vendors</td>
<td>Friday, May 24, 2013 at 3:00 PM ET</td>
</tr>
</tbody>
</table>
1.9 RESTRICTIONS ON COMMUNICATIONS

Vendors responding to this solicitation or persons acting on their behalf may not contact, between the release of the solicitation and the end of the seventy-two (72) hour period following the Lottery posting the Notice of Intended Agency Decision, excluding Saturdays, Sundays, and state holidays, any employee or officer of the executive or legislative branch concerning any aspect of this solicitation, except in writing to the Issuing Officer or his designee. Violation of this provision may be grounds for rejecting a Reply.

1.10 HIRING AND OTHER BUSINESS RELATIONSHIPS WITH LOTTERY STAFF

During the period from the ITN issuance until the signing of the Contract, Vendors are prohibited from officially or unofficially making any employment offer or proposing any business arrangement whatsoever to any Lottery employee. A Vendor making such an offer or proposition may be disqualified from further consideration, or a Contract signed pursuant to this ITN may be terminated.

1.11 ITN CLARIFICATION PROCESS

A single round of clarification questions will allow Vendors the only opportunity to seek clarification concerning the ITN terms, conditions, and requirements as well as the associated Reply submission and evaluation process. Questions relevant to this ITN and/or requests for changes to the ITN must be mailed, faxed, or e-mailed to the Issuing Officer. Vendors must observe the time schedule provided in section 1.8 for submitting questions and/or requests for changes to the ITN. This schedule will ensure that the Lottery has adequate time to respond to all questions and that the responses will be provided to Vendors in time to be incorporated into their Replies.

A copy of all questions and the Lottery's responses will be issued as an addendum to the ITN. The Vendor must sign a form provided by the Lottery indicating acknowledgement and acceptance of ITN addenda as issued by the Issuing Officer.

Vendors are cautioned that an ITN inquiry should not contain cost information. The inclusion of cost information in a response to an inquiry may result in the Vendor's disqualification.
The Lottery will not hold a pre-submission Vendor question and answer conference in association with this ITN.

Public records requests submitted by Vendors will be answered as promptly as possible in the ordinary course of business but may not be answered as part of the Question and Answer process described above. Responses to public records requests may be furnished to the requesting Vendor only.

The Issuing Officer shall be solely responsible for issuing this ITN and any changes, additional materials, or addenda. Any addenda to this ITN will be posted on the Department of Management Services’ Vendor Bid System. Potential Vendors must monitor the Web site for addenda and notices issued relating to this procurement. Vendors can ensure they are registered to receive e-mail notification of advertisements, addenda and notices by visiting the following link: http://vbs.dms.state.fl.us/vbs/main_menu and selecting the “E-mail Notification” link. The commodity code vendors should register for pertaining to this procurement is: “973-500, Management Consultant Services – Not Otherwise Classified”.

1.12 PROTEST OF THE ITN AND/OR THE AWARD

Any prospective Vendor who disputes the reasonableness or appropriateness of the terms, conditions, specifications and/or processes of this ITN or any subsequent addenda or who disputes the Lottery’s Notice of Intended Agency Decision may, pursuant to section 24.109, Florida Statutes, file a formal written protest in appropriate form within seventy-two (72) hours (excluding State holidays, Saturdays and Sundays) of posting of the ITN, or any subsequent addenda, or the Notice of Intended Agency Decision.

Any Vendor who files a formal written protest shall, at the time of filing, post a protest bond in the amount of one percent (1%) of the Contract value as set forth in section 287.042(2)(c), Florida Statutes. The Lottery will estimate the Contract value for this purpose. Failure to file a formal written protest accompanied by the required bond within the time prescribed in section 24.109, Florida Statutes, shall constitute a waiver of proceedings under Chapter 120, Florida Statutes.

Negotiable instruments submitted as a protest bond will be deposited into the State Treasury. Return of such a protest bond will be accomplished by issuing a warrant made payable to the Vendor within five (5) to seven (7) business days of request.
1.13 **MANDATORY REQUIREMENTS**

The Lottery has established certain mandatory requirements that must be included as part of any Reply. The use of the terms "shall," "must" or "will" (except to indicate simple futurity) in this ITN indicates a mandatory requirement or condition.

The words "should" or "may" in this ITN indicate desirable attributes or conditions, but are permissive in nature. Deviation from, or omission of, such a desirable feature will not by itself be cause for rejection of a Reply.

1.14 **COSTS ASSOCIATED WITH REPLY**

Neither the Lottery nor the State of Florida shall be liable for any costs incurred by a Vendor in preparing or submitting a Reply, including, but not limited to preparation, copying, postage, delivery fees, and/or other expenses that may be required by the ITN. Nor shall the Lottery or the State of Florida be liable for any Vendor costs associated with any other part of the competitive solicitation process.

1.15 **CONFIDENTIAL REPLY MATERIALS**

If a response to this ITN includes any information that constitutes a trade secret of the Vendor, such information shall be clearly marked as "CONFIDENTIAL." "Trade secret" is defined in section 688.002, Florida Statutes.

An entire page or paragraph in which such information appears should not be marked confidential unless the entire page or paragraph consists of such confidential information. Only the confidential portion(s) should be so identified and marked. Vendors are to indicate where confidential information begins and ends.

In addition, if a Reply contains confidential information, the Vendor should submit a separate listing of the confidential Reply sections and page references with the Reply.

It will be the responsibility of the Vendor to defend the confidentiality of its trade secrets through the judicial process.

Financial statements and other financial information submitted or obtained by the Lottery in connection with this ITN, if applicable, are public records and cannot be made confidential.
The Lottery will examine each Reply to determine which information is properly marked as confidential. Vendors should also refer to Section 5.2 titled “Copies of Replies” concerning submission of a redacted copy of their Reply for public records requests. The Vendor, after consultation the Lottery, will submit an updated redacted version of the Vendor’s Reply if deemed necessary.

1.16 PERSONS REQUIRING SPECIAL ACCOMMODATIONS

Any person requiring a special accommodation at any public meeting relating to this ITN because of a disability should contact the Issuing Officer identified in Section 1.7, or use the Florida Relay Service at 1-800-955-8771 (TDD), at least forty-eight (48) hours prior to the scheduled meeting.

1.17 REPLY RECEIPT AND OPENING

Vendors choosing to hand deliver Replies must take into consideration that the Lottery headquarters building is a secure facility and they must arrive sufficiently early to comply with security procedures. The date and time stamp of the Procurement Management Office is the official time of the Reply receipt.

Upon written request, the Issuing Officer will confirm receipt of any Reply by telephone, e-mail or other appropriate method.

The public may attend the Reply opening, at which time the names of the responding Vendors will be read aloud; however, the public may not immediately review any submitted Reply. The contents of submissions are not public records subject to the provisions of section 119.071(1), Florida Statutes, until the Lottery posts a Notice of Intended Agency Decision pursuant to section 120.57(3)(a), Florida Statutes, or until thirty (30) days after the final competitive sealed Replies are opened, whichever is earlier.

Disclosure of Reply contents by a Vendor or agent of the Vendor prior to the Reply becoming a public record may result in rejection of the Reply at the Lottery’s discretion.

No attempt shall be made by the Vendor to induce any other person or entity to submit or not submit a Reply for the purpose of affecting competition.

1.18 LATE REPLIES

The Issuing Officer must receive Replies pursuant to this ITN no later than the date and time shown in section 1.8. Failure of a Vendor to submit its Reply by the specified date and time may result in rejection of the Reply. Replies that are rejected for being late will be retained by the Lottery.
1.19 WITHDRAWAL FROM CONSIDERATION

The withdrawal of a Reply from consideration may be requested in writing within seventy-two (72) hours (excluding State holidays, Saturdays, and Sundays) after the established submission date and time. Requests received in accordance with this provision may be granted by the Lottery upon proof of impossibility to perform, based upon an obvious error. Replies withdrawn from consideration will be retained by the Lottery.

1.20 REPLY TENURE

Replies will be binding until execution of a Contract with the successful Vendor.

1.21 VENDOR FELONIES, CONVICTED VENDOR LIST, DISCRIMINATORY VENDOR LIST, SCRUTINIZED COMPANIES LIST

Consistent with Florida law, no Vendor may submit a Reply or will be awarded a Contract if any of the following conditions exist:

1. The Vendor or any officers, directors, joint venturers, partners, or trustees have been convicted of, or entered a plea of guilty or nolo contendere to, a felony committed in the preceding ten (10) years, regardless of adjudication, unless the Lottery determines that:

   (a) the Vendor (or such an individual) has been pardoned or the Vendor’s (or such an individual’s) civil rights have been restored;

   (b) subsequent to such conviction or entry of plea, Vendor (or such an individual) has engaged in the kind of law-abiding commerce and good citizenship that would reflect well upon the integrity of the Lottery; or,

   (c) if the Vendor is not an individual, the Vendor has terminated its relationship with the individual whose actions directly contributed to Vendor’s conviction or entry of a plea.

2. Vendor’s name appears on either the convicted or the discriminatory vendor list maintained by the Department of Management Services in accordance with sections 287.133 and 287.134, Florida Statutes, respectively. An entity, person or affiliate who has been placed on the convicted vendor list following a conviction for a public entity crime or placed on the discriminatory vendor list may not:
(a) submit a bid, Reply, or reply on a contract to provide any commodities or services to a public entity;
(b) submit a bid, Reply, or reply on a contract with a public entity for the construction or repair of a public building or public work;
(c) submit a bid, Reply, or reply on leases of real property to a public entity;
(d) be awarded or perform work as a contractor, supplier, subcontractor, or consultant under a contract with any public entity; and
(e) if on the discriminatory vendor list, transact business with any public entity; or
(f) if on the convicted vendor list, transact business with any public entity in excess of the threshold amount provided in section 287.017, Florida Statutes, for CATEGORY TWO for a period of thirty-six (36) months following the date of being placed on the convicted vendor list.

3. Section 287.135, Florida Statutes (2011), prohibits agencies from contracting with companies, for goods or services over $1,000,000, that are on either the Scrutinized Companies with Activities in Sudan List or the Scrutinized Companies with Activities in the Iran Petroleum Energy Sector List. Both lists are created pursuant to section 215.473, Florida Statutes.

No company on the Scrutinized Companies with Activities in Sudan List or the Scrutinized Companies with Activities in the Iran Petroleum Energy Sector List may submit a Reply for or enter into a contract with an agency for goods or services of $1,000,000 or more. In submitting a response to this ITN, the Vendor certifies that it is not listed on either the Scrutinized Companies with Activities in Sudan List or the Scrutinized Companies with Activities in the Iran Petroleum Energy Sector List. Contractor understands that pursuant to section 287.135, Florida Statutes, the submission of a false certification may subject the contract to termination.

Vendor represents and warrants that it will promptly notify the Lottery if during this procurement process or contract term, it is placed on the convicted vendor list, the discriminatory vendor list or the scrutinized companies list.

1.22 NON-RESPONSIVE REPLIES

Each Vendor shall submit a Reply that meets all material requirements of this ITN. Material requirements of this ITN are those set forth as mandatory, or without which an adequate analysis and comparison of Replies is impossible, or those that affect the competitiveness of Replies or the cost to the Lottery.
Replies that do not meet all material requirements of this ITN; fail to provide all required information, documents, or materials; or include language that is conditional, takes exception to, or offers alternatives contrary to terms, conditions, and requirements, shall be rejected as non-responsive.

The Lottery reserves the right to determine whether a Reply meets the material requirements of the ITN.

Vendors are required to provide background information as specified in the ITN. Failure to provide the required information may cause a Vendor to be deemed non-responsive and, therefore, be disqualified from further consideration.

The Lottery seeks to maximize competition and reserves the right to follow up with Vendors to obtain the necessary information so that background investigations can be completed and financial status determined. Failure of a Vendor to timely respond to follow up requests from the Lottery may result in a determination of non-responsiveness and removal of the Vendor from further consideration.

1.23 DISQUALIFICATION FOR NON-RESPONSIBILITY

Business stability and wherewithal to perform and support the Lottery are required. A Vendor will be rejected as non-responsible if, in the Lottery's judgment after evaluating documents submitted in response to this ITN, it does not possess the capability to perform the Contract requirements, has a conflict of interest in serving the Florida Lottery, or fails to demonstrate sufficient responsibility, security, integrity, and reliability to assure good faith performance.

1.24 REPLY CLARIFICATION PROCESS

The Lottery may request clarifications from Vendors for the purpose of resolving ambiguities or questioning information presented in the Replies. Clarifications may be requested throughout the Reply evaluation process. Clarification responses shall be in writing and shall address only the information requested. Responses shall be submitted to the Lottery within the time stipulated at the occasion of the request.

In no case does the clarification process permit revision or supplementation of the Reply offerings after submission.
1.25 **MINOR IRREGULARITIES**

The Florida Lottery reserves the right to waive any minor irregularity, technicality or omission if it determines that doing so will serve the State’s best interests.

1.26 **CONTRACTING OFFICER**

The Contracting Officer shall act on the Lottery’s behalf for contractual matters. The Contracting Officer is:

Cynthia F. O’Connell, Secretary  
Florida Lottery  
250 Marriott Drive  
Tallahassee, Florida 32301

1.27 **NON-EXCLUSIVE RIGHTS**

Nothing in this ITN or the Contract resulting from this ITN shall preclude the Lottery from purchasing services and/or commodities as described in this ITN from other vendors.

1.28 **DISCLOSURE AND OWNERSHIP OF REPLY CONTENTS BY THE LOTTERY**

All matters set forth in a Vendor's Reply including, without limitation, proposed services/commodities and cost information, if requested, will be subject to disclosure after Contract award, except as addressed under the section titled Confidential Reply Materials. All information in a Vendor's Reply and any Contract resulting from this ITN are subject to the provisions of Florida’s Public Records Act, Chapter 119, Florida Statutes, regardless of copyright status.

Any and all materials submitted become the property of the Lottery. The Lottery reserves the right to use any and all information contained in a Reply, including the Reply of an unsuccessful Vendor, unless prohibited by law.

1.29 **INELIGIBILITY FOR FUTURE CONTRACTING**

Pursuant to Section 287.057(17)(c), Florida Statutes, a person who receives a contract that has not been procured pursuant to Sections 287.057(1) – (3), Florida Statutes to perform a feasibility study of the potential implementation of a subsequent contract, who participates in the drafting of a solicitation or who develops a program for future implementation, is not eligible to contract with the Lottery for any other contracts dealing with that specific subject matter, and any firm in which such person has any interest is not eligible to receive such contract.

END OF SECTION
PART 2 – SPECIAL TERMS AND CONDITIONS

2.1 INTRODUCTION

This section sets forth the Special Terms and Conditions unique to this procurement. The terms and conditions applicable to Lottery procurements in general are set forth in Attachment A, Mandatory Requirements of Contract.

By submission of a Reply, the Vendor agrees to the terms and conditions contained herein.

2.2 TERM OF CONTRACT

The Contract shall be in effect from the date of execution for a period of four (4) years, unless terminated earlier by the Lottery under the terms provided herein. This Contract is subject to an annual appropriation by the State Legislature. The failure of the Legislature to adequately fund the appropriate category from which this Contract is paid could result in early termination.

The Lottery reserves the right, at its sole option, to renew the Contract for up to two (2) years.

Any renewal or extension of the Contract shall be in writing. Renewals shall be contingent upon availability of funds and satisfactory performance by Contractor. If, at any time, the Contract is canceled, terminated, or expires, and a contract is subsequently executed with a firm other than Contractor, the Contractor has the affirmative obligation to assist in the smooth transition of contract services to the subsequent contractor.

2.3 LIQUIDATED DAMAGES PROVISIONS

In the liquidated damages categories set forth in section 2.3.6, the Lottery and the Contractor agree that it would be extremely impractical and difficult to determine actual damages which the Lottery will sustain in the event of a breach of the Contract.

Any breach by the Contractor will delay and disrupt the Lottery’s operations and will lead to damages; therefore, the parties agree that the liquidated damages specified in the sections below are reasonable.

Assessment of liquidated damages shall be in addition to, and not in lieu of, such other remedies as may be available to the Lottery. Except and to the extent expressly provided herein, the Lottery shall be entitled to recover liquidated damages under each section applicable to any given incident.
2.3.1 Notification of Liquidated Damages

Upon determination that liquidated damages are to be assessed, the Lottery shall notify the Contractor of the assessment in writing.

2.3.2 Severability of Individual Liquidated Damages

If any portion of the liquidated damages provisions is determined to be unenforceable in one or more applications, that portion remains in effect in all applications not determined to be unenforceable and is severable for the unenforceable applications.

2.3.3 Waivers of Liquidated Damages

The waiver of any liquidated damages due the Lottery shall constitute a waiver only as to such specific occurrence and is not a waiver of any future liquidated damages. Failure to assess liquidated damages within any period of time shall not constitute a waiver of such claim by the Lottery.

2.3.4 Payment of Liquidated Damages

Each of the categories of liquidated damages set forth below shall be a separate liability of the Contractor, and one shall not mitigate another.

Once the Lottery has determined that liquidated damages are to be assessed, the Secretary shall notify the Contractor of the assessment(s). Unless otherwise directed by the Secretary, all assessed liquidated damages will be deducted from any moneys owed to the Contractor by the Lottery. In the event the amount due the Contractor is not sufficient to satisfy the amount of liquidated damages, the Contractor shall pay the balance to the Lottery within thirty (30) calendar days of written notification by the Lottery.

In the event the Contractor fails to pay within the thirty (30) day period, the Lottery may make a claim for payment against the Performance Bond, with or without notice to the Contractor.

To the extent that the Secretary determines that any damage was caused in part by the Lottery, or due to other circumstances beyond the Contractor’s control, the Secretary may reduce the damage assessment against the Contractor.
2.3.5 Delays and Liquidated Damages

The Contractor shall not be required to pay liquidated damages for delays or difficulties due solely to matters that fall under Force Majeure, nor for time delays specifically due to, or approved in writing by, the Lottery. During a period of non-performance due to Force Majeure, payments from the Lottery to the Contractor may be suspended.

2.3.6 Category of Liquidated Damages

A. For any failure by the Contractor to provide to the Lottery deliverables established during the term of the Contract within the agreed upon time frame, the sum of $150 per day of delay or portion thereof.

B. For any other failure by the Contractor to perform in accordance with the terms of the Contract, after having been notified in writing by the Lottery of the specific deficiency, the sum of $200 per day or portion thereof, after notification.

The Florida Lottery reserves the right to deduct assessments of liquidated damages from pending invoices submitted by the Contractor.

2.4 VENDOR DIVERSITY INITIATIVES

The State of Florida is committed to supporting its diverse population by providing increased opportunity and diversity in State contracting processes. By submitting a Reply to this ITN, each Vendor is committing to implement business operations that encourage vendor diversity in subcontracts. At a minimum the Contractor will give consideration to minority, veteran, and women-owned business enterprises in all subcontracting opportunities as well as routine acquisitions supporting day-to-day operations in fulfilling the contractual obligations specified in this ITN.

The Contractor will also provide quarterly reports of expenditures and projected expenditures with minority, veteran and women-owned businesses as well as status reports.

2.5 INSURANCE

For the term of the Contract, the Contractor shall maintain workers’ compensation insurance with coverage and limits as required by applicable state law.

The Contractor must provide a copy of the certificates of coverage to the Florida Lottery.
PART 3 – SPECIFICATIONS

3.1 INTRODUCTION

The Florida Public Education Lottery Act implements s. 15, Art. X, of the State Constitution to enable the people of the state to benefit from significant additional moneys for education and also to enable the people of the state to play the best lottery games available.

A major component of the Florida Lottery’s game mix is terminal games. The initial engagement of any services under a contract resulting from this solicitation will be to assist the Florida Lottery in activities necessary to successfully secure a new contract for a statewide terminal-based gaming system and related commodities and services.

The Florida Lottery desires to engage a professional consulting firm that possesses extensive expertise in the consulting services sought in this solicitation. The Contractor will provide assistance in an impending solicitation process that will seek a gaming system contractor as well as a subsequent solicitation for scratch-off games contractor(s) and other lottery industry consulting services to be specified and provided on an as-needed basis.

The Vendor should not incorporate any cost information into the responses for Part 3 – Specifications.

3.2 SCOPE OF SERVICES

The Contractor’s consulting services may include the following:

3.2.1 Providing expertise and assistance in competitive solicitation processes such as, but not limited to:
   • development of specifications;
   • development of evaluation methodologies;
   • compliance review of submissions which may include site visits;
   • recording and providing minutes of site visits;
   • evaluation processes in public meeting forums;
   • contract negotiations; and
   • factual testimony on work performed, if necessary.

3.2.2 User acceptance testing;

3.2.3 Project management services; and

3.2.4 Other consulting or related services.
3.3 DESIRED QUALIFICATIONS

It is desired that the successful Vendor and/or its key officers will have an established history of providing domestic lottery consulting services. Additionally, any solicitation the Lottery conducts that has a value in excess of $10 million per year requires that a Project Management Professional® (PMP) who is certified by the Project Management Institute serve on the negotiation team. The Lottery desires the successful Vendor to be able to provide this resource.
PART 4 – CONTRACT QUALIFICATION REQUIREMENTS

4.1 BACKGROUND INVESTIGATIONS

The Lottery reserves the right to conduct background investigations on all Contractor staff engaged to provide any of the services requested under a contract resulting from this solicitation.

Should the Lottery determine to conduct background investigations on the Contractor’s staff, the individuals who must complete a Vendor Personal Profile Form (Attachment B) will be identified and communicated to the Contractor and the Lottery will provide a date for completion and submission of all forms.

All of the forms that will be used in the background investigations must have original signatures and be notarized. While conducting the background investigation, the Division of Security may contact a designated representative of the Contractor for information needed to conduct the investigation.

If the Vendor or a substantial subcontractor is a subsidiary of a parent entity, the Lottery may request the above disclosures from the parent entity as necessary.

4.2 CONFLICT OF INTEREST AND DISCLOSURE

Vendors, joint venturers, partners, and Substantial Subcontractors must complete and submit the information requested on the Conflict of Interest and Disclosure Form (Attachment C).

Replies from Vendors who have active client relationships that would pose a conflict of interest with the Lottery will not be eligible for consideration. Vendors who believe a potential conflict of interest may exist or may be perceived to exist should provide an explanation on an attachment to the Form.

4.3 RESPECT OF FLORIDA – CONTRACTUAL RELATIONSHIP

The Florida Lottery is committed to maximizing employment opportunities for individuals throughout this state who qualify as handicapped under Sections 413.031 and 413.036, Florida Statutes.

By submitting a response to this ITN, each Vendor is committing to adhere to the aforementioned statute sections. To further the Lottery’s commitment in this regard and to ensure RESPECT is afforded the opportunity to provide commodities and/or services necessary for a Vendor to perform its contractual obligations, the Certification of Consultation (Attachment D) must be executed by RESPECT and any Vendor submitting a Reply, and should be submitted with the Vendor’s Reply.
RESPECT has been provided a copy of this solicitation and is prepared to consult with Vendors on the date of solicitation release. Due to the time sensitivity of a sealed Reply process, Vendors are encouraged to contact the RESPECT representative identified below in sufficient time to facilitate a timely submittal to the Lottery.

RESPECT of Florida may be contacted at:

RESPECT
2475 Apalachee Pkwy
Tallahassee, Florida 32301-4946
Phone: (850) 942-3575
Fax: (850) 942-7832
Contact: Jesse Covell jcovell@respectofflorida.org

END OF SECTION
PART 5 – INSTRUCTIONS FOR PREPARING AND SUBMITTING REPLIES

5.1 REPLY LABELING

Each Vendor's Reply and contract qualification submission must be in a sealed container(s) and must be identified as the Vendor's Reply. The exterior of each container shall contain the following information:

- Project Number: 05-12/13
- Invitation to Negotiate for Lottery Consultant Services
- Due 3:00 P.M., ET
- May 24, 2013
- Vendor's Name

REPLY & CONTRACT QUALIFICATION DOCUMENTS

Each Vendor’s Cost Reply must be in a separate sealed envelope and must be identified as the Vendor’s Cost Reply. The face of each envelope shall contain the following information:

- Project Number: 05-12/13
- Invitation to Negotiate for Lottery Consultant Services
- Due 3:00 P.M., ET
- May 24, 2013
- Vendor's Name

COST REPLY

All Replies shall be sent or delivered to the Florida Lottery, Procurement Management, 250 Marriott Drive, Tallahassee, FL 32301. Upon receipt, the Lottery will stamp each container with the date and time of receipt.

5.2 COPIES OF REPLIES

Vendors shall deliver the original and six (6) printed copies of their Replies no later than the date and time set forth in the schedule of events. In addition, the original and each copy of the Technical Reply should contain an electronic version of the Technical Reply on a CD in a .pdf file format. An original Reply must contain originals of all documents required to be submitted by Vendors, joint Vendors, and/or Substantial Subcontractors, if any.
Should a Vendor claim confidentiality in its Reply pursuant to Section 1.15 titled “Confidential Reply Materials”, then a redacted electronic version on CD ROM should be submitted with its Reply, and labeled as a redacted version. This redacted version will be used to fulfill public records requests.

5.3 EXECUTION OF REPLY

Each original Reply, including the contract qualification documents, must contain the original signature of an authorized representative who can legally bind the Vendor in a contractual obligation. Each Reply should be typed or electronically produced. Each Reply should be submitted with Vendor's name and page number on each page.

Each Reply should contain a transmittal letter that identifies the submission as "Reply for Lottery Consultant Services." The transmittal letter should identify the Vendor, its address, telephone number, fax number, email address, and the name and title of the authorized representative submitting the Reply. The letter should identify any and all joint proposing firms and/or Substantial Subcontractors.

The transmittal letter should identify the names and telephone numbers of the persons to be contacted regarding the Vendor’s security information.

Two (2) or more firms may submit a joint Reply in response to this ITN. If a joint Reply is submitted, the Reply shall fully define the responsibilities that each firm is proposing to undertake. One firm shall be designated as the primary firm. All firms and their authorized representatives shall be identified in the transmittal letter, and all authorized representatives shall sign the transmittal letter. The Reply shall designate a single authorized official from one of the joint firms to serve as the sole point of contact between the Lottery and the joint responding firms. Any Contract resulting from the joint Reply shall be signed by principals or officers of each firm. The Lottery shall hold all firms jointly and severally responsible for carrying out all activities required by the Contract.

A Vendor may submit only one (1) Reply or be included in one (1) joint Reply as a joint Responder. In the event multiple Replies are submitted, the Lottery will consider only the Reply received first.

5.4 REPLY FORMAT

The objective of the Reply is to demonstrate the Vendor’s qualifications and ability to provide the services required. Emphasis in each Reply should be on completeness and clarity of content, thereby enabling the Lottery to make a fair evaluation of the Vendor and its Reply.
Failure of a Vendor to provide the appropriate detailed information or materials in response to each stated requirement or request for information may result in lower scores for the Vendor; however, redundant or extraneous information is discouraged.

In order to expedite the evaluation of the Reply, Vendors should adhere to the following format and instructions:

a) Replies should be submitted in 8.5” by 11” page format.

b) Replies should be in a 3-ring binder (or organized as such if submitted in a digital format) and each should be identified, as applicable, “original” or “copy” (copies and their corresponding CD’s should be numbered sequentially).

c) Reply binders should be clearly labeled on the front cover and spine.

d) All pages should be consecutively numbered.

e) All major sections should have a divider page with a tab. The name of the section should be printed on the tab.

f) The Reply format should be formatted as follows where Tabs 2-8 represent specific item-by-item responses to subsections 5.4.1 through 5.4.5 below:

- Table of Contents
- Tab 1 Transmittal Letter
- Tab 2 Company Overview
- Tab 3 Current Services and Engagements
- Tab 4 Staffing Plan
- Tab 5 Similar Projects
- Tab 6 Other Consulting Services
- Tab 7 Attachments

Vendors should not disclose cost information in the body of the Reply. Including cost information in the Reply may cause the Reply to be disqualified.

**Each Reply should contain the following information:**

**5.4.1 Company Overview**

A brief history of the Vendor and why the Vendor is specifically qualified to provide the services sought by this ITN. This information should, at a minimum, describe the number of years in business, years providing services sought, current staffing, and vendor’s business philosophy and/or relevant policies.
5.4.2 Current Services and Engagements

The current range of services offered by the vendor; current engagements delineating the staff and budget assigned for each engagement; and the funding sources for such services.

5.4.3 Staffing Plan

A staffing plan identifying personnel proposed to work on this project and the responsibilities of each individual pertaining to the provision of services of this ITN. The staffing plan should include position titles, duties and responsibilities. Résumés not exceeding 2 pages should be provided for each of the current staff proposed to work on the Lottery’s account. If recruitment of personnel to fill a position will be required, the response should describe the Vendor’s criteria for selection, including education, experience, knowledge, skills and abilities, etc. If the staffing plan includes the use of free-lance, part-time, or contract staff, a description of Vendor’s proposed use should be provided. Personnel represented as integral to the performance of tasks in response to this ITN may be changed only with the Lottery’s written permission as long as they remain employed by the Contractor.

Availability of staff experienced in contract negotiations and certified project management is desired.

5.4.4 Similar Projects

A list and description of similar procurement projects and related lottery industry services, if any, that the Vendor and/or its proposed staff has successfully undertaken within the past five (5) years. Information to be provided for each project listed should include at a minimum: client name; scope of project and term; final result of engagement; assigned staff, hourly billing rate and total hours billed for each position; and any relevant unique issues presented and addressed during the engagement.

5.4.5 Other Consulting Services

A description of related professional services offered by the Vendor with an emphasis on services applicable to the lottery industry.
5.5 COMPENSATION AND COST REPLY

Vendors are to provide a blended rate for all staff members proposed to perform work on the services specified in Section 3.

The compensation structure is based on actual “billable hour” basis, monthly in arrears. The Contractor will be required to provide an itemization of billable hours per staff member in the form of a timesheet with the task completions identified for each billing cycle. The contracted rates and reimbursable travel expenses will be the Contractor’s sole source of compensation.

Approved travel and per diem shall be reimbursed as provided in section 112.061, Florida Statutes.

Hourly rates shall not be carried more than two (2) places to the right of the decimal point. Vendors are to use the Cost Reply form (refer to Attachment E) in submitting its Cost Reply.

The Contractor may request an increase in hourly compensation for renewal periods only. Any price increase requested and approved shall not affect any services already provided but not yet paid for. The request must be supported by documentation acceptable to the Lottery that demonstrates that the Contractor’s cost of providing the commodity and/or service has increased by at least the percentage of the requested increase.

In no case will the Contractor be permitted to increase the prices by more than the percentage increase in the Consumer Price Index during the corresponding period, unless deemed appropriate by the Lottery.

5.6 TIMELY SUBMISSION

It is the Vendor's responsibility to ensure that its Reply is delivered by the due date and time to the Lottery’s Procurement Management Office. Replies that for any reason are not timely received will not be considered. Unsealed and/or unsigned Replies and Replies by telegram, telephone, or facsimile transmission are not acceptable, and will be declared non-responsive. A Reply may not be altered after it is submitted.

END OF SECTION
PART 6 - REPLY EVALUATION PROCESS AND NOTICE OF INTENDED AGENCY DECISION

6.1 INTRODUCTION

This part describes the evaluation process that will be used to determine which Reply provides the greatest overall benefits to the Lottery. The ability of the Lottery to evaluate a Vendor’s Reply is dependent upon the completeness of the Reply.

The failure of a Vendor to provide information requested by this ITN may result in rejection of the Vendor’s Reply or reduction in scoring during the evaluation.

6.2 CONTRACT QUALIFICATION REVIEW

The Lottery will review Replies to determine responsiveness and responsibility. The responsiveness review will assess compliance with the Reply submission requirements, including responsiveness to terms, conditions and requirements. The responsibility review will assess the conflict of interest information and other documents submitted in response to this ITN or documents/lists referenced in this ITN to determine the Vendor’s capability to perform the Contract requirements, and its demonstration of sufficient responsibility, security, integrity, and reliability to assure good faith performance. Responsive Replies submitted by responsible Vendors will be provided to an Evaluation Committee for evaluation using the process described herein.

The Lottery reserves the right to obtain, from sources other than the Vendor, information concerning a Vendor, the Vendor’s offerings and capabilities, and the Vendor’s performance, that the Lottery deems pertinent to this ITN and to consider such information in evaluating the Vendor’s Reply. This may include, but is not limited to, the Evaluation Committee engaging consultants and additional experts from outside the Evaluation Committee to better inform its findings, as well as references from other clients of the proposing Vendor.

6.3 EVALUATION COMMITTEE

The Lottery intends to conduct a comprehensive, fair and impartial evaluation of Replies received in response to this ITN. The evaluation will be conducted by a Committee(s) of at least three (3) persons who collectively have experience and knowledge in the program areas and service requirements called for by the ITN. The names of Committee members will not be announced prior to the start of evaluations.
6.4 REPLY EVALUATION PROCESS

This section describes the review and evaluation process of Reply submissions. The Lottery will evaluate Replies after the contract qualification review is completed. The maximum point score for the Technical Reply evaluation is set at 1000 points.

A weighted scoring system will be used in the evaluation of Technical Replies as described below. The Evaluators will use the Evaluator Multiplier Score Form (Attachment F) for this process.

6.4.1 Multiplier Score

For each criterion in section 5.4, each Evaluator, scoring independently, will award a numerical score of a whole number from 1 through 5 that represents the Evaluator’s assessment of the relative merits of the Replies as described below:

<table>
<thead>
<tr>
<th>Multiplier Score</th>
<th>Description</th>
</tr>
</thead>
<tbody>
<tr>
<td>5</td>
<td>The Vendor’s Reply was outstanding for this criterion, and the Evaluator could not determine any significant limitations or concerns.</td>
</tr>
<tr>
<td>4</td>
<td>The Vendor’s Reply was good for this criterion, and the Evaluator could determine only minor limitations or concerns.</td>
</tr>
<tr>
<td>3</td>
<td>The Vendor’s Reply was fair for this criterion, and the Evaluator could determine limitations or concerns.</td>
</tr>
<tr>
<td>2</td>
<td>The Vendor’s Reply was poor for this criterion, and the Evaluator could determine serious flaws and concerns.</td>
</tr>
<tr>
<td>1</td>
<td>The Vendor’s Reply was found by the Evaluator to be so severely flawed for this criterion as to render an essential element of the criterion unworkable.</td>
</tr>
</tbody>
</table>

The multiplier scores of all Evaluators for each criterion will be added together and then divided by the number of Evaluators to arrive at an average multiplier score (rounded to the nearest one-tenth decimal point) for each criterion for each Vendor.
6.4.2 Technical Reply Evaluation

The weight factors for the criteria are:

<table>
<thead>
<tr>
<th>Section Reference</th>
<th>Summary Description</th>
<th>Weight Factor</th>
</tr>
</thead>
<tbody>
<tr>
<td>5.4.1</td>
<td>Company Overview</td>
<td>20</td>
</tr>
<tr>
<td>5.4.2</td>
<td>Current Services and Engagements</td>
<td>30</td>
</tr>
<tr>
<td>5.4.3</td>
<td>Staffing Plan</td>
<td>80</td>
</tr>
<tr>
<td>5.4.4</td>
<td>Similar Projects</td>
<td>45</td>
</tr>
<tr>
<td>5.4.5</td>
<td>Other Consulting Services</td>
<td>25</td>
</tr>
</tbody>
</table>

The weight factor for each criterion will be multiplied by the average multiplier score determined pursuant to subsection 6.4.1 to arrive at the Vendor's total score for that criterion. The criterion scores will be added together to determine a Vendor's total Technical Reply score. The maximum number of points available for this section is 1000.

Vendors are cautioned that every criterion is important and that a poor response to a lesser-weighted criterion still can have a significant impact on the Vendor's final score as compared with other Vendors' scores.

The Vendors will be ranked in descending numerical order based upon their technical Reply scores.

6.4.3 Cost Reply

The Florida Lottery will not calculate points for Cost Replies. The Florida Lottery reserves the right to negotiate cost or to accept a Cost Reply as submitted for contracting purposes.

6.5 REPLY RANKING

The Lottery will combine the points for the technical Reply for the total score for each eligible Reply, the highest of which will be the apparent overall preferred Reply.

In the case of an exact tie in the scoring, the tie will be resolved in accordance with section 295.187, Florida Statutes and rule 60A-1.011, Florida Administrative Code, which may include certification that a drug-free workplace has been implemented. Vendors may execute and return Attachment G Certification of a Drug Free Workplace, to be considered in the event of an exact tie score.
6.6 CONTRACT NEGOTIATIONS

Subject to the process for resolving tie scores, contract negotiations shall begin with the highest ranked Vendor and if deemed necessary, may continue in descending rank order. The contract terms to be negotiated may include, but not be limited to, details of the services and/or commodities to be provided by the Contractor and the Contractor’s compensation. The Lottery reserves the right, but is not obligated, to negotiate with all Finalists. Should the Lottery be unable to negotiate a satisfactory Contract with any of the ranked Finalists, negotiations may be reinstated following the original order of ranking. Negotiations shall continue until an agreement is reached or all responses are rejected. Successful negotiations do not guarantee award of a Contract. Award of a Contract does not guarantee placement of order for services.

6.7 NOTICE OF INTENDED AGENCY DECISION

At the conclusion of Reply evaluations, scoring, and negotiations the Lottery will announce its intended decision. Notice will be posted on the state’s Vendor Bid System http://vbs.dms.state.fl.us/vbs/main_menu and on the Lottery’s website, www.flalottery.com.

The Lottery reserves the right to cancel the ITN and to reject, in its sole discretion, any and all Replies at any time during the competitive solicitation process.

END OF SECTION
MANDATORY REQUIREMENTS OF CONTRACT

Advertising - The Contractor shall not use its relationship with the Lottery as a part of any commercial advertising without prior written consent of the Lottery.

Amendments to the Contract - Any contract provision resulting from this Direct Order may not be modified, amended, altered, changed, renewed, varied, waived or augmented, except as authorized through the issuance of a changer order to the Direct Order.

Assignment of the Contract - The Contract is not assignable except with the prior written approval of the Lottery. Monies payable under the Contract are not assignable except with the prior written approval of the Lottery and the Comptroller of the State of Florida. In the event of such approval, the terms and conditions hereof shall apply to and bind the party or parties to whom the Contract is assigned as fully and completely as the Contractor is thereunder bound and obligated. No assignment, if any, shall operate to release the Contractor from its liability for the prompt and effective performance of its obligations under the Contract.

Audit - The Lottery reserves the right to audit all Contractor’s and subcontractors’ procedures and records using its employees, its designees or other State agencies to the extent permitted by law. Contractors shall maintain on file for a period of three years after the expiration or termination of the contract, all supporting documentation for charges and/or reports to the Lottery. These files shall be available for audit by the Lottery during this time period at the Lottery’s discretion. Contractor is required to maintain its books, records and other evidence pertaining to the Contract in accordance with generally accepted accounting principles and such other procedures specified by the State of Florida.

Availability of Funds – If this contract is paid for out of appropriated funds, the state of Florida’s and the Lottery’s performance and obligation to pay under this Contract are contingent upon an annual appropriation by the Florida Legislature.

Benefit - Any Contract is for the benefit of the Lottery and the Contractor and not for the benefit of any third party or person.

Change in Financial Conditions - If the Contractor experiences a material adverse change in financial condition or experiences other financial irregularities during the term of the Contract with the Lottery, the Contract Manager must be notified in writing at the time the change occurs or is identified.

Change of Schedules - The Lottery reserves the right, in its own best interest, to modify, reject, cancel or stop any and all plans, schedules or work in progress.

Confidentiality - Any information relating to the products, customers, business, marketing plans and policies of the Lottery or its affiliates, supplied to the Contractor by or at the direction of the Lottery or acquired by the Contractor in the course of providing services to the Lottery, or developed by the Contractor in carrying out the Contractor’s duties under the Contract, shall be deemed to be confidential and proprietary information of the Lottery and the exclusive property of the Lottery.

Contract - The Contract shall incorporate the terms of all related solicitation documents, including but not limited to any addenda to the solicitation, and the Contractor’s Proposal as an integral part of the Contract, except to the extent that the Contract explicitly provides to the contrary. In the event of a conflict in language among any of the documents referenced above, the provisions and requirements of the Contract shall govern.
Contractor Responsibility - The Lottery will consider the Contractor to be the sole point of contact with regard to contractual matters. The Contractor will assume sole responsibility for providing the services and/or commodities required by the Contract, whether or not the Contractor is the direct supplier of said service, commodity, or any component thereof. Upon execution of the Contract, the Contractor will identify a sole point of contact for all matters pertaining to the Contract.

Contractor's Responsibilities Upon Termination - After receipt of a Notice of Termination, and except as otherwise specified by the Lottery, Contractor shall:

- Stop work under this Contract on the date, and to the extent specified, in the notice;

- Place no further orders or subcontract for materials, services, or facilities except as may be necessary for completion of such portion of the work under this Contract that is not terminated;

- Assign to the Lottery effective on the date of Contract termination, in the manner, at the time, and to the extent specified by the Lottery, all of the right, title, and interest of Contractor under the orders and subcontracts so terminated, in which case the Lottery has the right, at its discretion, to settle or pay any or all claims arising out of the termination of such orders and subcontracts and to reduce any settlement amount determined by the amount paid for such orders or subcontracts;

- Settle all outstanding liabilities and all claims arising out of such termination of orders and subcontracts, with the approval or ratification of the Lottery to the extent the Lottery may require. The Lottery's approval or ratification shall be final for the purposes of this part;

- Upon the effective date of termination of this Contract and the payment by the Lottery of all items properly chargeable to the Lottery hereunder, Contractor shall transfer, assign, and make available to the Lottery all property and materials belonging to the Lottery, all right and claims to any and all reservations, contracts and arrangements regarding this Contract. No extra compensation is to be paid to Contractor for its services in connection with any such transfer or assignment. The Lottery concurrently with such transfer or assignment shall assume the obligations of the Contractor, if any, on all non-cancelable contracts with third parties for such items;

- Upon termination of the Contract by Lottery, Contractor shall be deemed to have released and relinquished to the Lottery any and all claims or rights it may otherwise have to common law or statutory copyright with respect to all or any part of unpublished material prepared or created by Contractor in the course of its performance hereunder;

- Complete performance of such part of the work as shall not have been terminated by the Lottery; and

- Take such action as may be necessary, or as the Lottery may specify, to protect and preserve any property related to this Contract which is in the possession of the Contractor and in which the Lottery has or may acquire an interest.

- All proprietary materials and associated information are considered to be the property of the Lottery and will be returned to the Lottery upon termination of the Contract.

Controlling Law - The validity, interpretation and performance of the Contract shall be governed by and construed under the laws of the State of Florida. Any and all litigation arising under the Contract shall be instituted in the appropriate court in Leon County, Florida.
Ethics Policy; Gifts Prohibited - Lottery employees are prohibited by the Lottery’s ethics rule, 53ER12-18, Florida Administrative Code, from accepting anything of value from a lobbyist or principal of a lobbyist or from an entity doing business with the Lottery. A copy of the rule can be obtained from the Florida Lottery, Office of the General Counsel, 250 Marriott Drive, Tallahassee, Florida 32399-4011. Contractor agrees that it will not offer or provide to any Lottery employee any gift or other item of value that would violate the Lottery’s ethics rule and acknowledges that the Lottery may unilaterally cancel this Agreement if Contractor violates this provision.

E-Verify Employment Eligibility Verification Program
Pursuant to State of Florida Executive Orders Nos.: 11-02 and 11-116, Contractor is required to utilize the U.S. Department of Homeland Security’s E-Verify system to verify the employment of all new employees hired by Contractor during the contract term. Also, Contractor shall include in related subcontracts a requirement that subcontractors performing work or providing services pursuant to the state contract utilize the E-Verify system to verify employment of all new employees hired by the subcontractor during the contract term.

Exclusivity and Non-assignability of Contract - The Contract is an exclusive and personal contract and may not be assigned in whole or in part without the prior written approval of the Lottery. Contractor agrees that performance of other contracts for any agency, entity or person shall not interfere with the faithful and timely performance by Contractor under the Contract.

Force Majeure – Except as otherwise provided herein, neither Contractor or the Lottery shall be liable to the other for any delay in or failure of performance of any covenant contained herein, or shall any such delay or failure of performance constitute default hereunder, to the extent that such delay or failure is caused by force majeure. As herein used "force majeure" is strictly limited to include fire, explosion, action of the elements, rationing, war, or civil disturbance. The existence of such causes of delay or failure shall extend the period for performance to such extent as may be necessary to enable complete performance in the exercise of reasonable diligence after the causes of delay or failure have been removed.

Any such delay in or failure of performance shall not in and of itself give rise to any liability for damages; however, the Lottery may elect to terminate the Contract for cause should its continuing operations, in its sole judgment, be materially threatened or harmed by reason of extended delay or failure of performance.

During a period of non-performance due to Force Majeure, payments from the Lottery to the Contractor will be suspended.

Indemnification - Contractor agrees to defend, indemnify, and hold the Lottery harmless from and against any loss resulting from any claim made or brought against it arising out of:

(1) Contractor’s failure to obtain a required consent of any nature whatsoever;

(2) Contractor’s contracts with third parties;

(3) the unauthorized use of name or likeness of any person, libel, slander, defamation, disparagement, piracy, plagiarism, unfair competition, idea misappropriation, infringement of copyright title, slogan or other property rights and any invasion of the right of privacy;

(4) Breach of Contractor’s obligations under the Contract; or

(5) Contractor’s negligence or willful misconduct; provided, however, that Contractor’s duty of indemnification shall not apply to any materials or information supplied by Lottery to the Contractor.
This paragraph, insofar as it applies to work undertaken while the Agreement is in effect, shall survive the termination of the Agreement.

**Independent Contractor** - The Lottery and Contractor represent that they are acting in their individual capacities and not as agents, employees, partners, or associates of one another.

**Invoicing and Payment**

1. Invoices for commodities and/or services delivered shall be submitted in detail sufficient for a proper pre-audit and post audit thereof. Invoices shall be submitted to:

   Financial Transactions  
   Florida Lottery  
   250 Marriott Drive  
   Tallahassee, FL 32399-4020

2. Payment shall be made in accordance with Section 215.422, Fla. Stat. Upon receipt of the commodities and/or services provided by Contractor to the Lottery, the Lottery shall have ten (10) working days to inspect and approve the commodities and/or services. The Lottery shall within twenty (20) days thereafter, deliver a request for payment to the Department of Financial Services. The twenty (20) days shall be measured from the latter of the date the invoice is received or the date the commodities and/or services are received, inspected and approved.

   Invoices which have to be returned to the Contractor because of Contractor's preparation errors or disputes will result in a delay in the payment. The invoice payment requirements shall not start until a properly completed invoice is provided to the Lottery. Undisputed amounts are subject to the invoice payment requirements. All invoices for commodities and/or services must be cross-referenced to the Contract in such a manner that the Lottery can identify the authority for the charge.

   If a warrant is not issued within forty (40) days, a separate interest penalty as specified in Section 55.03, Fla. Stat., will be due and payable, in addition to the invoice amount, to the Contractor. Interest penalties of less than one dollar ($1.00) will not be enforced unless the Contractor requests payment.

   A Vendor Ombudsman Program has been established within the Department of Financial Services. The duties of this program include acting as an advocate for vendors who may be experiencing problems in obtaining timely payments from a state agency. The Vendor Ombudsman Program may be contacted at (850) 413-5516, or by calling the Department of Financial Services Consumer Hotline at 1-800-342-2762.

   Vendor questions regarding status of invoices and timing of payments from the state are available online. Vendor identification number is required to perform a search. Refer to this link for vendor payment information: [http://flair.dbf.state.fl.us/dispub2/cvnhphst.htm](http://flair.dbf.state.fl.us/dispub2/cvnhphst.htm) or for questions by telephone, please call (850) 413-5516.

3. Vendors doing business with the Florida Lottery must register and submit an electronic Florida Substitute Form W-9. Requirements for W-9 submission can be found at: [https://flvendor.myfloridacfo.com/](https://flvendor.myfloridacfo.com/). State of Florida agencies are not permitted to make payments to any vendor that does not have a verified Substitute Form W-9 on file with the Department of Financial Services.

4. Vendors doing business with the Florida Lottery are encouraged to apply for Direct Deposit as its method of receiving payments. Refer to the link for instructions on how to apply [http://www.myfloridacfo.com/aadir/direct_deposit_web/Vendors.htm](http://www.myfloridacfo.com/aadir/direct_deposit_web/Vendors.htm) or please call (850) 413-5517.
Modification of Contract - The Contract represents the entire agreement of the parties. Any alterations, variations, changes, modifications or waivers of provisions of the Contract shall only be valid when they have been reduced to writing and duly signed by each of the parties hereto.

MyFloridaMarketPlace (If applicable)

1. Vendor Registration- Each vendor doing business with the State for the sale of commodities or contractual services as defined in Section 287.012, F.S., shall register in the MyFloridaMarketPlace system, unless exempted under subsection 60A-1.030(3), F.A.C. Information about the registration process is available, and registration may be completed, at the MyFloridaMarketPlace website (link under Business on the State portal at www.myflorida.com). Interested persons lacking Internet access may request assistance from the MyFloridaMarketPlace Customer Service at (866) FLA-EPRO (866-352-3776) or from State Purchasing, 4050 Esplanade Drive, Suite 300, Tallahassee, Florida, 32399.

2. Transaction Fee- Pursuant to 53ER07-55(10) Florida Administrative Code, procurements of commodities and services specific to the lottery industry and for which the Florida Lottery is the sole purchaser in the state of Florida are exempt from the 1% Transaction Fee that would otherwise apply under Rule 60A-1.031, F.A.C.

News Releases - The Lottery is the only entity authorized to issue news releases relating to this contract and performance thereunder.

Nondisclosure of Lottery's Plans - Contractor must use its best efforts to ensure that the details of the games planned by the Lottery are not disclosed to persons or organizations other than the personnel, agents, or subcontractors of the Contractor whose assistance in the production of the game is necessary, until the Lottery announces same.

Ownership of Materials – Ownership of all data, documentary material, copy, creative, video, audio and operating reports originated and prepared exclusively for the Lottery pursuant to any Contract shall belong to the Lottery, unless otherwise agreed to in writing by the Lottery. Third party proprietary software and related documentation shall be sublicensed to the Lottery.

Patents, Copyrights and Trademarks - Any and all patents, copyrights or trademarks accruing under or in connection with the performance under this Contract are hereby exclusively reserved to the State of Florida.

Personnel – If, during the course of the Contract, the Lottery reasonably determines that certain Contractor personnel are unable or fail to perform their duties in a competent and professional manner, the Lottery shall notify the Contractor in writing of its determination. The Contractor shall remove said personnel from the Lottery account and shall assign replacement personnel acceptable to the Lottery.

Public Access to Records - All documents, papers, letters, or other materials relating to the Contract that are made or received by Contractor in conjunction with the Contract, except those matters which, under the Contract, Florida law or Florida Lottery rules are confidential, are required to be available for public access and copying in the manner specified by Chapter 119, Florida Statutes. Such records shall be maintained for a period of three years after the expiration of the Contract. The Lottery may unilaterally cancel the Contract for Contractor's refusal to allow access to public records.

Quality of Work and Services - Notwithstanding "prior approval" requirements that may be reserved to the Lottery under this Contract, Contractor retains the ultimate responsibility to ensure and guarantee the quality of work and services to be provided under this Contract. Contractor is fully and solely responsible for performing and completing the services specified herein to the satisfaction of the Lottery.
**Severability** – If any clause, term, or provision of this Agreement is held by a court of competent jurisdiction to be invalid or unenforceable, then such event shall not affect, impair, or render invalid or unenforceable the remainder of the Agreement or any other clause, term, or condition hereof, except as is necessary to preserve the particular rights and obligations of the parties as established herein.

**Subcontracting** – The Contractor may enter into written subcontracts for performance of work under the Contract with prior written approval of the Lottery. All substantial subcontractors shall be subject to the prior written approval of the Lottery and be subject to investigations required by Section 24.111. Fla. Stat. The Lottery shall have the continuing right throughout the term of the Contract to disapprove subcontractors if such disapproval would be in the best interest of the Lottery. The Lottery shall have the right to inspect and acquire any of the subcontractor documents executed between the Contractor and the subcontractor. No subcontract that the Contractor enters into with respect to performance under the Contract shall in any way relieve the Contractor of any responsibility for performance under the Contract.

**Termination for Cause** - The Lottery reserves the right to immediately terminate the Contract by providing written notice to the Contractor if the Lottery determines, in its sole discretion, that any of the following has occurred:

1. Contractor knowingly furnished any statement, representation, warranty or certification in connection with the solicitation or the Contract, which representation is materially false, deceptive, incorrect, or incomplete;

2. Contractor fails to perform to the Lottery's satisfaction any material requirements of the Contract or defaults in performance of the Contract;

3. The performance of the Contract is substantially endangered by the action or inaction of the Contractor, or such occurrence can be reasonably anticipated;

4. The Contractor's firm or assets are acquired by or combined with another company or concern during the Contract period;

5. The Contractor or any substantial subcontractor fails to maintain the standards of financial responsibility, character, reputation or integrity as determined by the Florida Lottery;

6. Contractor is placed on the convicted vendor list, suspended vendor list or discriminatory vendor list; or

7. The actions or inaction of the Contractor or Contractor's employees pose a threat to the security or integrity of the Lottery. In such an event, the Lottery may terminate the Contract immediately by telephonic notification followed by written notice.

Should the Lottery give notice of termination for reasons in sub-paragraphs 2 or 3 above, Contractor shall have seven days after receipt of said notice to remedy the failures or problems. If Contractor fails to remedy, the Lottery may order Contractor to stop immediately all work and terminate the Contract.

If the Contract is terminated for cause by the Lottery, the Lottery shall be obligated only for the goods actually delivered and accepted or services actually rendered prior to the date of notice of termination, less any liquidated damages or other damages that maybe assessed for non-performance.

**Termination for Convenience** - The Lottery reserves the right to terminate the Contract or any part of the Contract at its convenience upon three (3) calendar days' written notice. The Lottery shall incur no liability for materials or services not yet ordered if it terminates for convenience. If the Lottery terminates for convenience after an order for materials or services has been placed, the Contractor shall be entitled to compensation upon
submission of invoices and proper proof of claim, in that proportion which its services and products were satisfactorily rendered or provided, as well as expenses necessarily incurred in the performance of work up to time of termination.

**Termination by Mutual Agreement** - With the mutual agreement of both parties, the Contract or any part of the Contract may be terminated on an agreed date prior to the end of the Contract period without penalty to either party.

**Unauthorized Aliens** - The employment of unauthorized aliens by any contractor is considered a violation of the Immigration and Nationality Act, 8 U.S.C. § 1324a. If the Contractor knowingly employs unauthorized aliens, such violation shall be cause for unilateral cancellation of the Contract.

**Vendor Ethics and Integrity** - The Contractor is obligated to meet high standards for ethics and integrity under this Contract:

- The Contractor and its employees shall accept no pay, remuneration, or gratuity of any value for performance on or information derived from this contract from any person or entity other than the Lottery.
- The Contractor and its employees shall not offer or give any gift, gratuity, favor, entertainment, loan, or any other thing of material monetary value to any Lottery employee.
- The Contractor and its employees shall not disclose any business sensitive or confidential information gained by virtue of this Contract to any party without the written consent of the Lottery.
- The Contractor and its employees shall take no action in the performance of this Contract to create an unfair, unethical, or illegal competitive advantage for itself or others.
- The Contractor and its employees shall not have any financial or personal interests relating to this project (other than the Contract itself) without the explicit written consent of the Lottery.

For violation of the above provisions, the Lottery may terminate the Contract, receive restitution from the Contractor, debar the Contractor, and take any other appropriate actions against the Contractor.

**Waiver** – Waiver of a breach of any provision hereof does not constitute a waiver of any subsequent breach of such provision or of any other provision in the Contract.

**Warranties of Contractor** - Contractor covenants and warrants as follows:

- It is lawfully organized and constituted under all federal, state and local laws, ordinances and other authorities of its domicile and is otherwise in full compliance with all legal requirements of its domicile.
- It is possessed of the legal authority and capacity to enter into and perform the Contract; and the Contractor representative who is executing the Contract is so authorized by the Contractor.
- It has been duly authorized to operate and do business in the State of Florida and all places where it shall be required to conduct business under the Contract; that it has obtained, at no cost to the State of Florida, all necessary licenses and permits required in connection with the Contract; and that it shall fully comply with all laws, decrees, labor standards and regulations of its domicile and such other location where performance may occur during the term of the Contract.
- It has no present interest and shall not acquire any interest that would conflict in any manner with Contract duties and obligations under the Contract.
Attachment A

- The services rendered shall in all respects conform to, and function in accordance with, the specifications and designs requested in this solicitation.

- Its performance under the Contract shall not infringe on any patent, copyright, trademark, service mark or other intellectual property rights of any other person or entity and shall not constitute the unauthorized use of any trade secret of any other person or entity.
Full Name: ________________________________ Nickname(s): ________________________________

Maiden Name: ____________________________ Former Name(s): ______________________________

Current Address: __________________________

______________________________

Sex: □ Female □ Male

Race: □ Black □ White □ Other: ________________________________

Date of Birth: ____________________________ Social Security Number: _______________________

Driver License No. and State: __________________________

Employer’s Name and Address: __________________________

______________________________

Occupation/Position Title: __________________________

Has your credit record ever been considered unsatisfactory within the past seven years (credit refused, filed for or declared bankruptcy, delinquent payment history, etc.)? □ Yes □ No

If yes, give a detailed explanation including dates, names of creditors, and circumstances. ________________________________

Have you ever been convicted of or pled nolo contendere to any criminal violation regardless of adjudication within the past ten years? □ Yes □ No  If yes, please explain. ________________________________

Pursuant to Section 24.111, Florida Statutes, the Department of the Lottery shall investigate the financial responsibility, security and integrity of any person who submits a bid, proposal, or offer as part of a major procurement or as may be required by the Department. As a potential vendor, I hereby authorize the release to the Department of the Lottery of any information necessary for it to conduct such investigations.

Under the Federal Privacy Act, disclosure of a person’s Social Security number is voluntary unless a Federal statute specifically requires such disclosure or allows states to collect the number. For vendors or potential vendors and their members, partners, officers, directors and shareholders, disclosure of the Social Security number on this form is voluntary for purposes of the Privacy Act.

Under Section 119.071(5), Florida Statutes, an agency may collect Social Security numbers if it is imperative for the performance of the agency’s duties and responsibilities. Notice is hereby provided that it is imperative that the Florida Lottery collect the Social Security numbers of vendors or potential vendors and their members, partners, officers, directors and shareholders in order to conduct the background investigations required by Section 24.111, Florida Statutes, because Social Security numbers are used as an identifier in the databases searched. The Lottery may also provide this information to law enforcement agencies to enforce criminal laws.

I SWEAR OR AFFIRM THAT ALL OF THE FOREGOING FACTS ARE TRUE AND CORRECT TO THE BEST OF MY KNOWLEDGE.

______________________________

Signature

STATE OF ____________________________ COUNTY OF ____________________________

Sworn to or affirmed and subscribed before me this ____ day of ______________________, 20___, by ________________________________

who is personally known to me or who has produced ________________________________ as identification.

______________________________

Notary Public

DOL-352A, Rev. 2/2008
Vendors must disclose the following:

1) The name, current position title, and affiliation to Vendor of any officer, director, employee or agent that is also an officer or employee of the Florida Lottery, the State of Florida, or any of its agencies:

☐ By checking this box, I certify there are no disclosures to make for this section.

2) The name, title and affiliation to Vendor of any state officer or employee who owns, directly or indirectly, an interest of five percent (5%) or more in the Vendor’s company or any of its branches or affiliates.

☐ By checking this box, I certify there are no disclosures to make for this section.

3) The name, title and affiliation to Vendor of any employee, agent, lobbyist, previous employee of the Lottery, or other person, who has received or will receive compensation of any kind, or who has or is required to register under Section 112.3215, Florida Statutes, in seeking to influence the actions of the Lottery in connection with this procurement.

☐ By checking this box, I certify there are no disclosures to make for this section.

Vendor: ________________________________________________________________

Signature of Authorized Representative: _______________________________________

Printed Name: _____________________________________________________________

Date: ____________________________________________________________________
CERTIFICATION OF CONSULTATION

The parties below that have executed this Certification of Consultation agree upon one of the actions indicated below.

Check one:

☐ RESPECT will provide commodities and/or services to the Vendor. Such products and services are identified below.

☐ RESPECT waives provisioning commodities and/or services to the Vendor, subject to an annual review.

Products and/or Services to be provided:

________________________________________________________________________________

________________________________________________________________________________

________________________________________________________________________________

________________________________________________________________________________

________________________________________________________________________________

________________________________________________________________________________

_______________________________________ RESPECT of Florida

Company Name

Representative Signature

Representative Name

Date

_______________________________________ ________________________

Representative Signature

Representative Name

Date
<table>
<thead>
<tr>
<th>Item</th>
<th>Rate</th>
</tr>
</thead>
<tbody>
<tr>
<td>Consultant Services (Blended Rate)</td>
<td>$ _________________________/hour</td>
</tr>
</tbody>
</table>

Vendor’s / Company Name

Date

F.E.I.D. #

Signature of Authorized Representative

Printed or Typed Name of Authorized Representative

Address

City and State

(_____)_________________ (_____)___________________
Telephone Number     FAX Number

Email Address
## Cost Reply
Lottery Consultant Services
Project Number: 05-12/13

<table>
<thead>
<tr>
<th>Item</th>
<th>Rate</th>
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<tbody>
<tr>
<td>Consultant Services (Blended Rate)</td>
<td>$ _________________________/hour</td>
</tr>
</tbody>
</table>

---

Vendor's / Company Name: ____________________________

Date: ____________________________

F.E.I.D. #: ____________________________

Signature of Authorized Representative: ____________________________

Printed or Typed Name of Authorized Representative: ____________________________

Address: ____________________________

City and State: ____________________________

(_____)_________________ (_____)___________________ Telephone Number FAX Number

Email Address: ____________________________
### Multiplier Scoring Scale

<table>
<thead>
<tr>
<th>Description</th>
<th>Score</th>
</tr>
</thead>
<tbody>
<tr>
<td>The Vendor’s Reply was outstanding for this criterion, and the Evaluator could not determine any significant limitations or concerns.</td>
<td>5</td>
</tr>
<tr>
<td>The Vendor’s Reply was good for this criterion, and the Evaluator could determine only minor limitations or concerns.</td>
<td>4</td>
</tr>
<tr>
<td>The Vendor’s Reply was fair for this criterion, and the Evaluator could determine limitations or concerns.</td>
<td>3</td>
</tr>
<tr>
<td>The Vendor’s Reply was poor for this criterion, and the Evaluator could determine serious flaws and concerns.</td>
<td>2</td>
</tr>
<tr>
<td>The Vendor’s Reply was found by the Evaluator to be so severely flawed for this criterion as to render an essential element of the criterion unworkable.</td>
<td>1</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Weight</th>
<th>Evaluation Criteria</th>
<th>Multiplier Score Entry</th>
</tr>
</thead>
<tbody>
<tr>
<td>20</td>
<td><strong>Company Overview</strong></td>
<td></td>
</tr>
<tr>
<td></td>
<td>A brief history of the Vendor and why the Vendor is specifically qualified to provide the services sought by this ITN. This information should, at a minimum, describe the number of years in business, years providing services sought, current staffing, and vendor’s business philosophy and/or relevant policies.</td>
<td></td>
</tr>
<tr>
<td>30</td>
<td><strong>Current Services and Engagements</strong></td>
<td></td>
</tr>
<tr>
<td></td>
<td>The current range of services offered by the vendor; current engagements delineating the staff and budget assigned for each engagement; and the funding sources for such services.</td>
<td></td>
</tr>
</tbody>
</table>
## Staffing Plan

A staffing plan identifying personnel proposed to work on this project and the responsibilities of each individual pertaining to the provision of services of this ITN. The staffing plan should include position titles, duties and responsibilities. Résumés not exceeding 2 pages should be provided for each of the current staff proposed to work on the Lottery’s account. If recruitment of personnel to fill a position will be required, the response should describe the Vendor’s criteria for selection, including education, experience, knowledge, skills and abilities, etc. If the staffing plan includes the use of free-lance, part-time, or contract staff, a description of Vendor’s proposed use should be provided. Personnel represented as integral to the performance of tasks in response to this ITN may be changed only with the Lottery’s written permission as long as they remain employed by the Contractor.

Availability of staff experienced in contract negotiations and certified project management is desired.

## Similar Projects

A list and description of similar procurement projects and related lottery industry services, if any, that the Vendor and/or its proposed staff has successfully undertaken within the past five (5) years. Information to be provided for each project listed should include at a minimum: client name; scope of project and term; final result of engagement; assigned staff, hourly billing rate and total hours billed for each position; and any relevant unique issues presented and addressed during the engagement.

## Other Consulting Services

A description of related professional services offered by the Vendor with an emphasis on services applicable to the lottery industry.
IDENTICAL TIE SOLICITATION - Preference shall be given to businesses with drug-free workplace programs. Whenever two or more bids/proposals/replies which are equal with respect to price, quality, and service are received by the State or by any political subdivision for the procurement of commodities or contractual services, a bid/proposal/replies received from a business that certifies that it has implemented a drug-free workplace program shall be given preference in the award process. Established procedures for processing tie bids/proposals/replies will be followed if none of the tied vendors has a drug-free workplace program. In order to have a drug-free workplace program, a business shall:

1) Publish a statement notifying employees that the unlawful manufacture, distribution, dispensing, possession, or use of a controlled substance is prohibited in the workplace and specifying the actions that will be taken against employees for violations of such prohibition.

2) Inform employees about the dangers of drug abuse in the workplace, the business's policy of maintaining a drug-free workplace, any available drug counseling, rehabilitation, and employee assistance programs, and the penalties that may be imposed upon employees for drug abuse violations.

3) Give each employee engaged in providing the commodities or contractual services that are under bid/proposal/reply a copy of the statement specified in subsection (1).

4) In the statement specified in subsection (1), notify the employees that, as a condition of working on the commodities or contractual services that are under bid/proposal/reply, the employee will abide by the terms of the statement and will notify the employer of any conviction of, or plea of guilty or nolo contendere to, any violation of chapter 893 or of any controlled substance law of the United States or any state, for a violation occurring in the workplace no later than five (5) days after such conviction.

5) Impose a sanction on, or require the satisfactory participation in a drug abuse assistance or rehabilitation program if such is available in the employee's community, by any employee who is so convicted.

6) Make a good faith effort to continue to maintain a drug-free workplace through implementation of this section.

As the person authorized to sign the statement, I certify that this firm complies fully with the above requirements.

Respondent:____________________________________________________________

Authorized Representative:________________________________________________

Signature:_____________________________________________________________