

**REQUEST FOR PROPOSALS FOR
ELECTRONIC DATA PROCESSING AUDIT SERVICES
FOR THE NEBRASKA LOTTERY**

SECTION 1: TERMS AND CONDITIONS

1.1	PURPOSE	1
1.2	DEFINITIONS	2
1.3	BACKGROUND OF THE NEBRASKA LOTTERY	3
1.4	CONTACT PERSON AND ISSUING OFFICE	3
1.5	DATES RELEVANT TO AWARD	4
1.6	ADDITIONAL INQUIRIES	4

SECTION 2: REQUIRED SERVICES

2.1	PURPOSE.....	6
2.2	STATEMENT OF UNDERSTANDING / METHOD FOR PROVIDING SERVICES	6
2.3	CONTRACTOR’S RESPONSIBILITIES	6
2.4	ADMINISTRATIVE REQUIREMENTS	6
2.5	DESCRIPTION OF THE OPERATING ENVIRONMENT	7
2.6	SCOPE OF THE WORK TO BE PERFORMED	9
2.7	PROGRESS REPORTS.....	10
2.8	DELIVERABLES	10
2.9	EXPERIENCE	11
2.10	REFERENCES	14
2.11	EXECUTIVE SUMMARY	14

SECTION 3: COMPENSATION

3.1	COMPENSATION PROPOSAL	16
3.2	INVOICING	16

SECTION 4: GENERAL PROVISIONS

4.1	CONTRACTOR/NEBRASKA LOTTERY RELATIONSHIP.....	17
4.2	GOVERNING LAW.....	17
4.3	LOTTERY OBLIGATIONS	17
4.4	CONTRACTOR OBLIGATIONS	18
4.5	REQUEST PROCEDURES	18
4.6	FINANCIAL SOUNDNESS	20
4.7	DRUG FREE WORK PLACE POLICY	21
4.8	TRANSMITTAL LETTER	21
4.9	PROPOSAL CERTIFICATION.....	22
4.10	COST PROPOSAL.....	22
4.11	COVENANT NOT TO SUE	22
4.12	NON-EXCLUSIVE RIGHTS	22
4.13	PROPERTY OF THE NEBRASKA LOTTERY	22

4.14	SUBMISSION OF PROPOSAL	23
4.15	RIGHT TO ALTER, MODIFY, OR AMEND THE RFP	23
4.16	PERFORMANCE BOND.....	24
4.17	INSURANCE	24
4.18	SUBMISSION OF DISCLOSURE DOCUMENTS.....	25
4.19	PROPOSALS SUBJECT TO OPEN RECORDS.....	26
4.20	OPENING OF PROPOSALS	26
4.21	SELECTION FACTORS FOR THE AWARD	26
4.22	EVALUATION COMMITTEE.....	28
4.23	EVALUATION PROCEDURE.....	28
4.24	CONTENT OF THE RFP	29
4.25	COST TO THE VENDOR	29
4.26	PROPOSALS VALID FOR 90 DAYS.....	30
4.27	WAIVER OF DEFICIENCIES AND REJECTION OF NON-COMPLIANCE ..	30
4.28	DISCRETIONARY REJECTION OF PROPOSAL	30
4.29	CONTRACT PROVISIONS	30
4.30	MINORITY AND FEMALE PARTICIPATION.....	36
4.31	PROTEST PROCEDURE	36
4.32	CONTRACT CANCELLATION	37
4.33	NEWS RELEASE / DISCLOSURE PROHIBITION	38
4.34	HIRING PROHIBITION	39
4.35	MAINTAIN LOCAL OFFICE	39

APPENDIX “A” NEBRASKA LOTTERY PROPOSAL CERTIFICATION

APPENDIX “B” DRUG-FREE WORKPLACE POLICY

APPENDIX “C” COVENANT NOT TO SUE

APPENDIX “D” NON-DISCLOSURE AGREEMENT

**NEBRASKA LOTTERY
REQUEST FOR PROPOSALS FOR
ELECTRONIC DATA PROCESSING AUDIT SERVICES**

Section 1 outlines the Request for Proposals (“RFP”) purpose, definitions, background, contact person, relevant dates, and discusses additional inquiries. Section 2 outlines the technical requirements of this RFP. Section 3 outlines the Compensation Proposal required. Section 4 outlines the RFP process and the general objectives, assumptions, expectations, and requirements of the Nebraska Lottery and the Nebraska Department of Revenue.

SECTION 1: TERMS AND CONDITIONS

1.1 PURPOSE

- 1.1.1** The purpose for issuing this Request for Proposals (RFP) is to secure competitive bids from qualified Vendor(s) to provide the Nebraska Lottery with a comprehensive study and evaluation of all aspects of the Nebraska Lottery’s electronic data processing system. This will include a study of the Nebraska Lottery’s Internal Control Systems software. The goal of these services is to help ensure the security and integrity of the operation of the Nebraska Lottery. This RFP will define the minimum electronic data processing aspects which must be addressed in the vendor’s proposal.
- 1.1.2** Any contract awarded as a result of this request will commence on or soon after January 3, 2017, and continue until the required services outlined in this RFP and the Contractor’s proposal have been completed by February 27, 2017.
- 1.1.3** The integrity of the Nebraska Lottery is essential. The Nebraska Lottery must maintain control over all of its functions and activities to ensure that they are performed to provide the greatest long-term benefit to the state of Nebraska, the greatest integrity to the Nebraska Lottery, and in a manner consistent with the dignity of the State of Nebraska. Contractors must perform their activities in such a way as to maintain the public's trust and confidence in the Nebraska Lottery and its operation. This RFP outlines the services that must be provided by Vendor(s) that are committed to maintaining the integrity and success of the Nebraska Lottery.
- 1.1.4** Prospective Vendor(s) are expected to provide the Nebraska Lottery with information and evidence which will make possible the evaluation of the information in expectation of awarding a contract in a manner which best serves the interests of the Nebraska Lottery. The Nebraska Lottery reserves the right to use any and all ideas presented in reply to this RFP.
- 1.1.5** The Nebraska Lottery reserves the right to award a contract based solely on what it considers to be the best response to the RFP, if a contract award appears to be in the Nebraska Lottery’s best interests.

- 1.1.6** Nebraska Lottery encourages the greatest flexibility, creativity, and participation in the response process by allowing Vendor(s) to propose their own electronic data processing audit plan.
- 1.1.7** Qualified Vendor(s) meeting the requirements and specifications contained in this RFP shall take into consideration all associated costs for the completion of the electronic data processing audit. Any additional cost incurred by the Contractor will not be the responsibility of the Nebraska Lottery.
- 1.1.8** The overall objective of this effort is to provide the Nebraska Lottery with an assessment of the electronic data processing system in place and how it impacts the integrity, security, and fairness of Nebraska Lottery products, operations, and gaming services. The ultimate objective of the Nebraska Lottery is to maintain the security and integrity of the lottery's operations, and to maintain the public's trust and confidence in the Nebraska Lottery and its operation.

1.2 DEFINITIONS

For purposes of this Request for Proposals, the following terms shall be defined as described below:

- 1.2.1** Act shall mean the State Lottery Act, Neb. Rev. Stat. § 9-801 et seq.;
- 1.2.2** Contractor shall mean a Vendor who has been awarded a contract by the Nebraska Lottery as a result of a proposal submitted pursuant to this RFP, and shall also include the Contractor's agents and employees, any subcontractor and its employees or agents;
- 1.2.3** Department shall mean the Nebraska Department of Revenue;
- 1.2.4** Director shall mean the Director of the Nebraska Lottery;
- 1.2.5** MUSL shall mean the Multi-State Lottery Association;
- 1.2.6** Nebraska Lottery shall mean the Lottery Division of the Department of Revenue, the Director and all employees of the Lottery Division, and employees of the Department assisting the Lottery Division in performing its obligations;
- 1.2.7** Vendor shall mean any person or entity that has submitted a proposal to the Nebraska Lottery pursuant to this RFP.

1.3 BACKGROUND OF THE NEBRASKA LOTTERY

The Nebraska Lottery started selling scratch games on September 11, 1993. On July 21, 1994, the Nebraska Lottery commenced on-line game sales. The Nebraska Lottery has over 1,200 retail stores which are contracted to market Nebraska Lottery scratch games, of

which approximately 1,100 also sell on-line games. To date, the Nebraska Lottery has sold in excess of \$2.4 billion in lottery tickets and has raised approximately \$607 million to benefit the legislatively designated educational funds, the environmental trust, the Nebraska State Fair, and compulsive gambling assistance funds.

The Nebraska Lottery's instant-win (scratch) ticket vendor and on-line (lotto) ticket vendor is IGT. On-line games include NEBRASKA PICK 5®, NEBRASKA PICK 3®, MyDaY®, POWERBALL®, MEGA MILLIONS®, and 2BY2®. POWERBALL®, MEGA MILLIONS®, and 2BY2® are offered in conjunction with MUSL; NEBRASKA PICK 5®, NEBRASKA PICK 3®, and MyDaY® are offered only by the Nebraska Lottery.

The Nebraska Lottery's headquarters are located are located at 1800 "O" Street, Suite 101, Lincoln, Nebraska. The Nebraska Lottery has claim centers in Grand Island, Omaha, Norfolk, North Platte, Scottsbluff, and at Lottery headquarters in Lincoln. Complete Annual Reports of the Nebraska Lottery through 2015 are available upon request.

An Electronic Data Processing Audit was previously conducted in 2006. The Nebraska Lottery utilizes the hardware and software identified in section 2 of this RFP. There are no anticipated major system changes between the date of issuance of this RFP and the scheduled date of the EDP audit.

1.4 CONTACT PERSON AND ISSUING OFFICE

1.4.1 This RFP is issued by the Nebraska Lottery.

1.4.2 The Nebraska Lottery is the sole point of contact with regard to all procurement and contractual matters relating to the services described in this RFP. The Nebraska Lottery is the only office authorized to clarify, modify, amend, alter, or withdraw the specifications, terms, and conditions of this RFP and any contract awarded as a result of this RFP. The Nebraska Lottery welcomes communications with all interested vendors and will assist prospective vendors in interpreting RFP specifications. All communications regarding this procurement must be addressed in writing to:

Mr. Shawn Fotinos
1800 "O" Street, Suite 101
P.O. Box 98901
Lincoln, NE 68509-8901
(402) 471-6106
Fax (402) 471-6108

Requested information and answers to questions will be provided in writing to all vendors.

1.4.3 If a Vendor discovers any ambiguity, conflict, discrepancy, exclusionary specifications, omission, or other error in this RFP, it shall immediately notify in

writing the point of contact as indicated in section 1.4.2. If a Vendor fails to notify the point of contact of any known error, ambiguity, conflict, discrepancy, exclusionary specification, or omission, the Vendor shall submit a response at its own risk and, if awarded a contract, the Contractor shall not be entitled to additional compensation, relief, or time by reason of the error or its later correction.

1.5 DATES RELEVANT TO AWARD

The time schedule for the awarding and execution of a contract under this RFP is shown below. The Nebraska Lottery reserves the right to amend the schedule. If changes are made, all known potential Vendor(s) will be notified.

RFP Issued: **September 6, 2016**

Deadline for Written Questions: 4:00 p.m. C.T., **October 5, 2016**

Nebraska Lottery's Response to Questions Mailed or Faxed: **October 12, 2016**

Proposal Due: 10:00 a.m. C.T., **October 31, 2016**

Proposal Opening (not public): 1:30 p.m. C.T., **October 31, 2016**

Nebraska Lottery Evaluation Committee to Make Recommendations no later than:
November 17, 2016

Selection of Contractor no later than: **November 21, 2016**

Contract Negotiations Begin no later than: **November 21, 2016**

Proposals Open to Public no later than: 9:00 a.m. C.T., **November 22, 2016**

Deadline to Sign Contract: **December 22, 2016**

Electronic Data Processing Audit commences no later than: **January 3, 2017**

Final Audit Report Delivered no later than: **February 27, 2017**

1.6 ADDITIONAL INQUIRIES

1.6.1 Written inquiries concerning this RFP must be received by the Nebraska Lottery prior to **4:00 p.m. C.T., October 5, 2016**. All inquiries and answers will be included in the Department's **October 12, 2016**, response. Questions may also be submitted by fax. Written inquiries received after **4:00 p.m. C.T. on October 5, 2016**, will be considered late questions and will not be responded to. Written inquiries must be addressed to Shawn Fotinos, Nebraska Lottery, 1800 "O" Street, P.O. Box 98901, Lincoln, NE 68509-8901, FAX (402) 471-6115. Written inquiries received and answers which the Nebraska Lottery chooses to provide will be provided to all known prospective Vendor(s). Answers will be mailed or faxed by **October 12, 2016**. The specific Vendor(s) making the inquiries will not be identified. The Nebraska Lottery will be bound only by the written responses to questions concerning this RFP. At the Vendor's written request and expense, answers to questions may be sent by a service such as Federal Express.

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

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

1.6.4 Vendor(s) are to make no unsolicited contact with any Nebraska Lottery personnel or agency contractor regarding this RFP except with the designated contact person, Shawn Fotinos, regarding the bidding process and through the conclusion of the evaluation period. Extraordinary requests for exceptions to this prohibition against contact with Nebraska Lottery personnel may be directed to the contact person identified in section 1.6.1 above. Failure to observe this restriction may, at the discretion of the Lottery, result in disqualification of the Vendor's proposal. This prohibition does not extend to contacts with Nebraska Lottery personnel within the normal course of Nebraska Lottery business and unrelated to this RFP.

SECTION 2: REQUIRED ELECTRONIC DATA PROCESSING AUDIT SERVICES REQUIREMENTS

2.1 PURPOSE

The overriding goal of this RFP is to obtain an electronic data processing audit for the Nebraska Lottery. This section of the RFP provides a description of the electronic data processing audit services required under this RFP. Vendors may propose that additional topics be included in this project if, in their judgment, their inclusion is necessary to the accomplishment of project objectives or would increase the value of the outcome of the project to the Nebraska Lottery.

2.2 STATEMENT OF UNDERSTANDING/METHOD FOR PROVIDING SERVICES

Each Vendor shall provide a written statement of its understanding of the services requested herein as well as a detailed written plan outlining how the Vendor proposes to provide the services required by this RFP. Each Vendor must provide a narrative which details its understanding of the project's objective. Vendor's proposals should demonstrate their experience, expertise of their personnel that will render the requested service, the Vendor's ability to logically plan and complete the electronic data processing audit, and ability to successfully deliver the preliminary and final reports. Vendors must provide information specifically addressing and describing the Vendor's approach to providing each required service and deliverable listed, the manpower that will be devoted and required to fulfill each task, and the proposed schedule of time required to complete each task.

2.3 CONTRACTOR'S RESPONSIBILITIES

The contract, if any, awarded as a result of this RFP will require the contractor to provide the deliverables and consulting services which satisfy the current and future needs of the Nebraska Lottery as defined in this RFP and as otherwise set out in the Agreement. Delivery time of these services and the ensuing report is of the essence.

2.4 ADMINISTRATIVE REQUIREMENTS

- 2.4.1** The Contractor is to meet with the Director or his or her designee as often as needed during the course of the work to be performed. The purpose of the meetings will be to discuss project progress and resolve any problems detected.
- 2.4.2** The Nebraska Lottery reserves the right to determine whether the data and information accumulated under the provisions of this contract is confidential and, therefore, should remain at the Nebraska Lottery premises. All decisions will be final and the contractor must abide by the Nebraska Lottery decision in these matters.
- 2.4.3** The Contractor and any member of his or her staff assigned to the project will refrain from discussing or otherwise providing information of any findings or related information with any person outside the Nebraska Lottery organization unless specifically authorized in writing, prior to such occurrence, by the Lottery Director. Should such actions occur without the prior written consent of the Nebraska Lottery Director, the performance bond will be forfeited and any and all possible legal actions may be taken against the Contractor and any staff members or other persons. Vendor must complete and sign a Nondisclosure Agreement (see Appendix "D") and include it as part of their response to this RFP.

2.5 DESCRIPTION OF THE OPERATING ENVIRONMENT

- 2.5.1** Nebraska Lottery Headquarters
1800 "O" Street, Suite 101
P.O. Box 98901
Lincoln, Nebraska 68509-8901

2.5.1.1 The Nebraska Lottery headquarters facility is located at 1800 "O" Street, Suite 101, Lincoln, Nebraska. The functional areas which occupy this space are listed below:

- 2.5.1.1.1** Administration
- 2.5.1.1.2** Finance and Accounting
- 2.5.1.1.3** Computer Systems
- 2.5.1.1.4** Marketing
- 2.5.1.1.5** Investigations
- 2.5.1.1.6** Legal Counsel
- 2.5.1.1.7** Claims Center

2.5.2 The Nebraska Lottery Regional Claims Centers

2.5.2.1 505A Broadway, Suite 800
Scottsbluff, NE 69361-3515

2.5.2.2 Craft State Office Building
200 South Silber Street
North Platte, NE 69101-4200

2.5.2.3 Nebraska State Fair Office
501 East Fonner Park Road, Suite 200
Grand Island, NE 68802

2.5.2.4 304 North 5th Street, Suite “D”
Norfolk, NE 68701-4091

2.5.2.5 Nebraska State Office Building
1313 Farnam Street
Omaha, NE 68102-1871

2.6 SCOPE OF WORK TO BE PERFORMED

2.6.1 The overall objective of this effort is to provide the Nebraska Lottery with an assessment of the electronic data processing system in place and how it impacts the integrity, security, and fairness of Nebraska Lottery products, operations, and gaming services. This specifically includes: security, operational procedures, inter-connecting networks and their controls; data / file exchanges between the Nebraska Lottery and its primary vendors; and the security and controls for the Nebraska Lottery’s internal LAN.

2.6.2 At the minimum, the Vendor shall review the electronic data processing policies, procedures, and practices associated with the following:

2.6.2.1 Organization and Administration Controls;

2.6.2.2 Security and Backup Procedure Controls;

2.6.2.3 Input/Output and File Controls;

2.6.2.4 Operation Controls;

2.6.2.5 Systems Controls; and

2.6.2.6 Application Controls.

The Contractor shall review the security of the aforementioned areas only as they relate to the Nebraska Lottery.

- 2.6.3** The information gathered throughout this examination and evaluation must be in sufficient detail to assess accurately the areas of exposure and their potential impact on the operating environment of the Nebraska Lottery. This assessment must identify for management those areas in the operation where improvement should be considered and recommend strategies for correcting those deficiencies.

2.7 PROGRESS REPORTS

- 2.7.1** The Contractor shall submit two (2) copies of a confidential progress report to the Nebraska Lottery Director every Monday, beginning one week subsequent to commencement of services, unless more frequent reports are requested. Each progress report shall indicate the current status of the work being performed, interim findings, difficulties, or special problems (so remedies can be developed as soon as possible), and the estimated final completion date of the electronic data processing audit. The Nebraska Lottery may request periodic conferences with the Contractor.
- 2.7.2** Any electronic data or other security matters coming to the attention of the Contractor that, in the Contractor's judgment, may require immediate action to ensure Nebraska Lottery security shall immediately be brought to the attention of the Director and the matter shall be documented in the Contractor's next scheduled progress report.
- 2.7.3** All pages of both reports shall contain the word "confidential." The Nebraska Lottery reserves the right to use and reproduce all reports and data produced and to disseminate the same. The Contractor shall also provide a "soft" copy of the progress reports (Microsoft Word format preferred).
- 2.7.4** All progress reports shall be deemed confidential and may not be disclosed to anyone other than the Director or his or her designee.

2.8 DELIVERABLES

The Contractor shall be required to prepare and submit the following deliverables to the Director.

- 2.8.1** A formalized, detailed work plan and project schedule must be delivered to the Director prior to performing any services as a part of any contract pursuant to this RFP.
- 2.8.2** The Contractor shall provide progress reports as required in section 2.7.

- 2.8.3** The Contractor shall provide a confidential final report to the Director. The final report will contain an overall evaluation and summary of each aspect of electronic data processing in the Nebraska Lottery. The final report shall be a complete report of the electronic data processing study and provide specific recommendations regarding the Nebraska Lottery's electronic data processing systems.
- 2.8.4** The final report must contain a full description of the operating environment and must detail electronic data processing safeguards within each of the functional areas. This description will be utilized to establish a baseline for future electronic data processing audits.
- 2.8.5** The final report must also contain a sequentially numbered description of all vulnerabilities found and the recommended improvements, modifications, or upgrades. The report must be structured so that findings relevant to each functional area will consist of a separate chapter within the report. This grouping of findings for each functional area will facilitate distribution of the findings to the proper work unit for correction without revealing all vulnerabilities to all parties.
- 2.8.6** Two (2) copies shall be delivered to the Director. All pages of the reports shall contain the word "confidential." The Nebraska Lottery reserves the right to use and reproduce all reports and data produced and to disseminate the same. The Contractor shall also provide a "soft" copy of the final report (Microsoft Word format preferred).
- 2.8.7** At the conclusion of the audit, the Contractor will conduct an in-depth technical briefing of its findings to the Nebraska Lottery. The Director and his or her designee(s) shall participate in this briefing. The briefing will consist of a point-by-point review of each of the Contractor's findings. All working papers including, but not limited to, flowcharts, questionnaires, and spreadsheets prepared by the Contractor while conducting the EDP audit must be available to the Nebraska Lottery for review and duplication at all times throughout the audit and during the technical briefing.
- 2.8.8** The final reports shall be delivered to the Director no later than **February 27, 2017**.
- 2.8.9** All reports required in the contract shall be confidential and shall only be disclosed to the Director or his or her designee. All reports must be labeled confidential and will be exempt from public disclosure.

2.9 EXPERIENCE

- 2.9.1** Vendors must have experience in performing electronic data processing audits and must provide detailed information, within proprietary limits, of such experience. The narrative should focus on electronic data processing audits and must include the following:

2.9.1.1 The history of the Vendor's experience in performing electronic data processing audits.

2.9.1.2 Vendor must provide resumes or short biographies of all management, supervisory, and key technical personnel planned to be involved in performing the services contemplated under this RFP. Vendor must specify what role the individual(s) will have in the planning, creation, production, procurement, or other service provided in response to this RFP. The resumes must present the personnel in sufficient detail as to provide the Nebraska Lottery with evidence that the personnel involved can perform the work specified in the RFP. Vendor must specify what percentage of time each indicated person is available to perform the work if the Vendor is awarded the contract.

2.9.1.3 Specific experience and expertise by the Vendor and staff in performing electronic data processing audits.

2.9.2 Vendors must outline their experience in auditing electronic data processing issues including, but not limited to, user access, system security officer procedures, data retention and backup procedures, other data processing department procedures, any other relevant data processing security issues, computer security, as well as specific and general data processing knowledge and any other experience relevant to the services to be provided.

2.9.3 Vendor(s) must also specify the following:

2.9.3.1 Any experience by the Vendor or its staff with governmental entities or instrumentalities.

2.9.3.2 List any current personnel with experience on Lottery accounts.

2.9.4 All Vendor(s) in their proposal must provide a brief history of their company including, but not limited to:

2.9.4.1 The name and address of the business entity submitting the proposal;

2.9.4.2 The type of business entity (e.g., corporation, partnership);

2.9.4.3 Place of incorporation, if applicable;

2.9.4.4 Name and location of major offices and other facilities that relate to the Vendor's performance under the terms of this RFP;

2.9.4.5 Name, address, business and home telephone number of the Vendor's principal contact person regarding all contractual matters relating to this RFP;

- 2.9.4.6 Name and address of each lobbyist representing the Vendor in this state and all accounts and money managed by those lobbyists;
 - 2.9.4.7 The Vendor's Federal Employer Identification Number and Nebraska tax identification / registration number (if any);
 - 2.9.4.8 Full name (last, first, middle), address, and date of birth for each partner, member, officer, and director of the Vendor assigned to the Nebraska Lottery account, and also full name, address, and date of birth for each person who owns ten percent (10%) or more of the stock or other interest in the Vendor;
 - 2.9.4.9 A statement regarding the financial stability of the Vendor, including the ability of the Vendor to perform the functions required in this RFP and represented by the Vendor in its response;
 - 2.9.4.10 The number of years in business;
 - 2.9.4.11 The founding date of the organization;
 - 2.9.4.12 Major clients;
 - 2.9.4.13 Entity organization;
 - 2.9.4.14 Trade affiliations; and
 - 2.9.4.15 Any parent / subsidiary affiliation with other entities.
- 2.9.5 All Vendor(s) must provide an organizational chart of their company in general and also the Nebraska office that will be providing services on the Nebraska Lottery account, including all personnel located in that office. **The chart must specifically highlight the names, positions, and the geographic locations of persons who will work on the Nebraska Lottery account.**
- 2.9.6 Vendors must provide the names and experience levels of the individuals who will participate in this audit, including their functions and responsibilities. Resumes of individuals who will directly participate in the audit must be provided. The Nebraska Lottery reserves the right to reject the services of any individual consultant.
- 2.9.7 Describe any staff functions that you consider unique to your company or which better prepare you to handle the Nebraska Lottery account.
- 2.9.8 Each Vendor must disclose any potential conflict of interest relative to performance of the requirements of this RFP. Any personal or business relationship between the

Vendor, the principals, or any affiliate or subcontractor with any employee of the Department of Revenue, the Nebraska Lottery, or its contractors must be disclosed. Failure to disclose any such relationship may, at the discretion of the Lottery, be cause for contract termination or disqualification of the proposal.

2.9.9 Each Vendor must list the details of any contributions to or independent expenditures by the Vendor, an officer of the Vendor, a separate segregated political fund established by the Vendor as provided in Neb. Rev. Stat. § 49-1469, or by a person including any lobbyist acting on behalf of the Vendor, officer, or fund for any candidate for the Nebraska offices of Governor, Lieutenant Governor, Secretary of State, Auditor of Public Accounts, State Treasurer, Attorney General, member of a board or commission with one or more election districts of more than one county, or member of the Legislature or contributions to or independent expenditures for any political party which has supported candidates for the above listed offices.

2.9.10 All Vendors must describe the security measures to be taken by them to ensure the safekeeping of confidential data.

2.10 REFERENCES

Vendors must provide the Nebraska Lottery with a client list of at least three (3) lotteries or companies for whom the Vendor has provided deliverables and services the same as or as similar as possible to those requested in this RFP. This client list must include only those companies with whom the Vendor has worked during the past five (5) years. Vendors must list all lotteries for which they have provided services and a description of the services provided. Vendors must provide the following information on all clients' names submitted:

2.10.1 Contact Name;

2.10.2 Company Name;

2.10.3 Address;

2.10.4 Telephone Number;

2.10.5 Years of Association with Client;

2.10.6 Type of service(s) performed;

2.10.7 Dates when service(s) performed; and

2.10.8 Value (approximate) of services provided.

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

2.11 EXECUTIVE SUMMARY

The Vendor must provide a summary of the entire project being proposed. The intent of this requirement is to provide the Nebraska Lottery with a concise but functional summary discussion of each phase of the Vendor(s) plan in order of progression. While the Nebraska Lottery expects the Vendor to provide full details in each of the sections in other areas of

the RFP relating to its plan, this summary will provide a "map" for the Nebraska Lottery to use while reviewing the proposal.

Each area summarized must be listed in chronological order to provide a clear indication of the flow of the Vendor(s) project. The Vendor may take this opportunity to use graphics, charts, pre-printed marketing pieces, or other enhancements as a part of this section to support the chronology or add to the presentation. Any such material must be included in the original and all copies of the proposal. The Vendor must also use this section to describe its experience in providing goods and services comparable to those required by this RFP. The Executive Summary shall include an organization and staffing plan.

If the Vendor is providing services beyond those specifically requested, those services must be identified. If the Vendor is offering services which do not meet the specific requirements of the RFP but, in the opinion of the Vendor, are equivalent or superior to those specifically requested, any such differences must be noted in the Executive Summary. The Vendor should realize, however, that failure to provide the services specifically required may result in disqualification. The Executive Summary must not exceed three pages and should represent a full and concise summary of the contents of the proposal.

SECTION 3: COMPENSATION

3.1 COMPENSATION PROPOSAL - see section 4.10

Each Proposal must include a precise statement of the Vendor's proposed compensation for undertaking and completing all phases of the electronic data processing audit services and deliverables requested and outlined in this RFP. The Nebraska Lottery shall compensate the Contractor by payment of a fixed fee. Vendor's proposed compensation will serve as the Contractor's sole source of compensation for performing all services required by this RFP.

3.2 INVOICING

3.2.1 All invoices will be made on the Vendor's company invoice form and submitted after the work has been performed and after a satisfactory progress report has been forwarded to the Director of the Nebraska Lottery.

3.2.2 All invoices must be mailed to:

Mr. Shawn Fotinos
Nebraska Lottery
1800 "O" Street, Suite 101
P.O. Box 98901
Lincoln, NE 68509-8901

SECTION 4: GENERAL PROVISIONS

4.1 CONTRACTOR/NEBRASKA LOTTERY RELATIONSHIP

The nature of this RFP and the contract that may result from this procurement will result in a relationship between the Contractor and the Nebraska Lottery which must be founded on mutual trust and respect. The Contractor and the Nebraska Lottery will work together in conducting the electronic data processing audit required by this RFP and any contract resulting from this RFP.

4.2 GOVERNING LAW

4.2.1 All proposals and the contract are subject to the requirements of, and must comply with, the State Lottery Act, regardless of whether or not specifically addressed in this RFP, the proposal, or the contract. All potential Vendor(s) shall read and be familiar with the Act, Neb. Rev. Stat. § 9-801 et seq. Copies of the Act are available upon request. Copies of Nebraska Lottery Regulations are also available upon request.

- 4.2.2 The contract shall be governed by and construed in accordance with the laws of the State of Nebraska. Venue will be in Lancaster County District Court, Lincoln, Nebraska.
- 4.2.3 The Nebraska Lottery does not agree to hold the Contractor harmless nor indemnify the Contractor, and any provisions to the contrary are void.
- 4.2.4 The contract or any portion thereof cannot be assigned or subcontracted without the express, written permission of the Nebraska Lottery.
- 4.2.5 The contract shall be binding upon any successor, subcontractor, or assignee.
- 4.2.6 In the event of any default, dispute, or nonpayment, the parties shall be liable for those damages commonly available to the prevailing party under Nebraska law and as provided in section 4.29.22.

4.3 LOTTERY OBLIGATIONS

The Nebraska Lottery accepts no obligations for costs incurred by respondents in responding to this RFP. The Nebraska Lottery reserves the right to select qualified responses to this RFP without discussion of the responses with the Vendor(s). It is understood that all proposals will become a part of the Nebraska Lottery's official procurement files and will be available for public inspection if a bid is awarded. The Nebraska Lottery reserves the right to reject any or all proposals received. No obligation is made by retention of these proposals, nor is the Nebraska Lottery committed to awarding a contract as a result of this RFP.

4.4 CONTRACTOR OBLIGATIONS

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

4.5 REQUEST PROCEDURES

Interested Vendor(s) are required to respond to this Request for Proposals (RFP) by **10:00 a.m. C.T., October 31, 2016.**

- 4.5.1 In addition to responses and affirmations required in this RFP, each Vendor must submit the following items:

- 4.5.1.1** One (1) original and five (5) copies of the Vendor's proposal to all sections and subsections of this RFP;
- 4.5.1.2** Outline of experience in performing electronic data processing audit services per section 2.9.2;
- 4.5.1.3** Outline of experience with governmental entities or instrumentalities per section 2.9.3;
- 4.5.1.4** A brief history of the Vendor per section 2.9.4;
- 4.5.1.5** An organizational chart of the Vendor per section 2.9.5, including biographies per section 2.9.6;
- 4.5.1.6** A list of any potential conflicts of interest per section 2.9.8;
- 4.5.1.7** A list of all relevant political contributions or independent expenditures per section 2.9.9;
- 4.5.1.8** References and listings of current and former accounts as required in section 2.10;
- 4.5.1.9** Executive Summary per section 2.11;
- 4.5.1.10** Documentation of the financial soundness of the Vendor including financial statements as required in section 4.6;
- 4.5.1.11** A Drug Free Work Place Policy required by section 4.7, an example of which is found in Appendix "B";
- 4.5.1.12** A transmittal letter as required in section 4.8;
- 4.5.1.13** The signed Proposal Certification required by section 4.9 and found in Appendix "A";
- 4.5.1.14** Sealed cost proposal per section 4.10, with assurances per section 4.21.1;
- 4.5.1.15** A signed Covenant Not to Sue per section 4.11, see Appendix "C";
- 4.5.1.16** A signed Non-Disclosure Agreement per section 4.29.30, see Appendix "D"; and
- 4.5.1.17** A list of variations, if any, where the electronic data processing audit services and deliverables proposed differ from the requirements in this

RFP. Where variations are not cited, it shall be assumed that the Vendor proposes to meet all the requirements of the RFP. Where a variation is noted, the Vendor must provide an explanation as to why the variation was taken.

- 4.5.2** All materials submitted in writing and other information gained will be considered as part of the Vendor's proposal and will be considered in making the award; non-written communication not specifically requested by the Nebraska Lottery may, at the discretion of the Lottery, be disregarded by the Nebraska Lottery without consideration. Following the selection of the Contractor, all Vendor(s) who submitted a proposal will receive notification of the Nebraska Lottery's decision;
- 4.5.3** Only one response may be submitted from each Vendor. For purposes of this document, Vendor is defined to include a parent, subsidiary, or affiliate entity of the Vendor. If a Vendor submits more than one response, all responses from that Vendor shall be rejected;
- 4.5.4** Vendor(s) must bear all costs associated with their proposals including, but not limited to, preparation, copying, postage, and delivery fees. No costs or expenses incurred by Vendor(s) in responding to this RFP and participating in this solicitation will be borne by the Nebraska Lottery;
- 4.5.5** All proposals must be submitted on plain white paper;
- 4.5.6** Each proposal submitted in response to this RFP must be organized and arranged to correspond with the numbered sections of this RFP that request a response. Failure to arrange the proposal as requested may, at the discretion of the Lottery, result in disqualification. Conciseness and clarity of content must be emphasized. The response must be complete. Failure to provide required information may, at the discretion of the Lottery, result in disqualification of the proposal. All pages of the response must be numbered;
- 4.5.7** All proposals shall be prepared simply and economically providing a direct, concise delineation of the Vendor's proposal and qualifications. All proposals must be typed and signed;
- 4.5.8** Where written words differ from numerical figures, the amount stated in written words will govern;
- 4.5.9** Alterations must be crossed out and the corrections thereto printed in ink or typewritten adjacent to the alteration. The corrections must be initialed in ink by the person who signs the proposal and is named in the transmittal letter. Erasures will not be allowed and if detected may, at the discretion of the Lottery, constitute cause for rejection of the proposal;

4.5.10 Vendor(s) must submit a Proposal which sufficiently addresses each requirement, service, and deliverable outlined in this RFP. Vendor(s) shall provide information specifically describing its approach to providing each service, deliverability of services listed, the manpower which will be devoted and required to fulfill each task, and the proposed schedule of time to complete the task. Vendor(s) shall identify all employees by name who would participate in any contract awarded pursuant to this RFP, and the nature and scope of the duties and responsibilities of each such employee.

4.6 FINANCIAL SOUNDNESS

4.6.1 The Nebraska Lottery must be provided with adequate information to permit an evaluation of a Vendor's financial capability to undertake and satisfactorily complete any contract awarded by the Nebraska Lottery to this RFP. Acceptable documentation includes annual reports, audited financial statements or, in the case of a small firm, unaudited financial statements. Vendor(s) are also required to include a list of all liens filed on or against the Vendor or filed on or against persons with a substantial interest in the Vendor.

4.6.2 If, during the period prior to award of a contract pursuant to this RFP and through the end of the contract, the Vendor experiences a substantial change in its financial condition or a change of ownership, the Nebraska Lottery shall be immediately notified in writing. Failure to notify the Nebraska Lottery of such a substantial change in financial condition or ownership will be sufficient grounds for rejecting the Vendor's response or terminating any contact.

4.6.3 If any Vendor makes a material misrepresentation in submitting information under this section or any section of this RFP, such misrepresentation will be sufficient grounds for rejecting the Vendor's response or terminating the contract.

4.6.4 Financial information will be kept confidential unless otherwise required by law. Failure to submit the information required by this section will be cause for the Nebraska Lottery to reject the response as not meeting the requirements of this RFP.

4.7 DRUG FREE WORK PLACE POLICY

A drug free work place policy must be submitted as part of the proposal. Failure to provide a Drug Free Work Place Policy will result in the rejection of the proposal. An example of a drug free work place policy is attached, see Appendix "B."

4.8 TRANSMITTAL LETTER

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

must also contain any requests for treatment of information submitted by the Vendor as confidential information as required by section 2.7.3 of this RFP. This letter shall clearly indicate that no relationship exists between the Vendor and the Nebraska Lottery that interferes with the fair competition or is a conflict of interest, and no relationship exists between the Vendor and another person or organization that constitutes a conflict of interest with respect to this RFP.

4.8.2 The transmittal letter must include a commitment by that Vendor to perform the electronic data processing services required by the Nebraska Lottery in this RFP. The Letter must state that the proposal is valid for 90 calendar days following the date on which the proposals are due. Any proposal containing a term of less than 90 calendar days for acceptance shall be rejected. The Letter must be signed by a person(s) legally authorized to bind the Vendor to the representations in the response. The Vendor shall also indicate, in its Letter of Transmittal, why it believes it is the most qualified Vendor to perform the electronic data processing services required by the Nebraska Lottery in this RFP.

4.8.3 The transmittal letter must include a statement of acceptance of the terms and conditions of the contract indicated in this RFP. If the Vendor takes exception to any of the proposed terms and conditions, those exceptions must be noted in the transmittal letter. Vendors must realize, however, that failure to accept the terms and conditions specified in this RFP may, at the discretion of the Lottery, result in disqualification of the proposal.

4.8.4 The Proposal Certification required by section 4.9 must be attached to the Transmittal Letter.

4.9 PROPOSAL CERTIFICATION

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

4.10 COST PROPOSAL - See Section 3.

Cost is an important factor in deciding whether the proposal meets the immediate and long-term needs of the Nebraska Lottery. The goal is to determine compensation that rewards the Contractor while assuring the Nebraska Lottery that it is achieving the desired operating efficiency.

Vendor(s) must state their pricing for the electronic data processing audit services described herein including any and all costs involved. Contractors will receive no compensation other than as indicated in their cost proposals. All pricing information submitted must be in a separate sealed envelope and clearly marked as such. The sealed cost proposal must be included in the original proposal only. Only one original cost

proposal is required. The Vendor shall not disclose its cost proposal or other cost information in the body of written proposal. Including cost information in the written proposal may, at the discretion of the Lottery, be cause for proposal disqualification. Vendors must state the name, title, and cost per hour of each employee assigned to perform the required services outlined in this RFP.

4.11 COVENANT NOT TO SUE

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

4.12 NON-EXCLUSIVE RIGHTS

While the Nebraska Lottery anticipates that the Contractor will be expected to serve as the primary source for electronic data processing auditing services arising from this RFP, the Nebraska Lottery does not grant to the Contractor exclusive rights. The Nebraska Lottery reserves the right to contract separately for electronic data processing auditing services from any Vendor the Nebraska Lottery deems appropriate without additional compensation to the Contractor.

4.13 PROPERTY OF THE NEBRASKA LOTTERY

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

The final audit report produced by the Contractor is the sole property of the Nebraska Lottery and the Contractor will not release or disclose any portions of the report or their audit to anyone without the prior written consent of the Nebraska Lottery. Further, the Contractor will restrict access to the report and other confidential and proprietary information received from the Nebraska Lottery to only those Contractor employees which must have such access.

4.14 SUBMISSION OF PROPOSAL

4.14.1 The Vendor’s proposal, which includes all documents and materials required by this RFP, must be hand delivered or mailed to the Nebraska Lottery. Proposals will not be accepted over the telephone or by email or facsimile. All required components of the proposals must be received at the Nebraska Lottery, 1800 “O” Street, Suite 101, P.O. Box 98901, Lincoln, Nebraska 68509-8901, by **10:00 a.m. C.T., October 31, 2016**. Proposals or portions thereof received after this deadline will be considered late bids and will be returned to the Vendor unopened. The Nebraska Lottery is not responsible for late or lost proposals due to mail service inadequacies, insufficient postage, traffic delays, or other similar reasons.

4.14.2 By submitting a signed proposal, a Vendor agrees that it fully understands this RFP and shall abide by the terms and conditions contained herein when preparing their proposal. The terms and conditions may be negotiated with the Contractor prior to signing of the contract.

4.15 RIGHT TO ALTER, MODIFY, OR AMEND THE RFP

The Nebraska Lottery reserves the right to alter, modify, or amend any provision of this RFP at any time if it is in the best interest of the Nebraska Lottery to do so. The decision of the Tax Commissioner or the Director shall be administratively final in this regard. Any modification of this RFP will be clearly marked as a modification and will be provided to each potential Vendor that was originally mailed this RFP or has requested a copy of this RFP.

4.16 PERFORMANCE BOND

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

4.17 INSURANCE

The Contractor shall be required to provide and/or carry the following types of insurance:

4.17.1 General Liability insurance: \$1,000,000 each occurrence, \$2,000,000 aggregate.

4.17.2 Property insurance: \$1,000,000;

4.17.3 Errors and Omissions insurance: \$1,000,000; and

4.17.4 Automotive insurance: \$1,000,000.

The insurance coverage must specifically hold the Lottery harmless for any occurrence of personal injury or property damage in relation to providing audit services to the Lottery. The terms, conditions, and coverage levels of such insurance may be modified at any time following written agreement of the Director.

4.18 SUBMISSION OF DISCLOSURE DOCUMENTS

Any Vendor, as well as any parent or subsidiary entity of the Vendor, providing products, equipment, or services to the Nebraska Lottery pursuant to this RFP is required to undergo a thorough background investigation, review and evaluation of their competence, integrity, background, character, and nature of the ownership and control of the Vendor **prior to entering into an agreement**. Such Vendor(s) shall disclose all information as required under Neb. Rev. Stat. § 9-834.

Background investigations will be conducted by the Nebraska Department of Revenue Security Division. The Security Division shall have the ability at its discretion to modify or lessen the requests of this background investigation if a similar background investigation has recently been performed or due to some other reason. The Vendor must respond to the Nebraska Lottery Vendor Information to be supplied after selection. All persons set forth in section 9-834 as well as other individuals as determined by the Security Division or the Nebraska Lottery potentially including any and all Vendor employees must complete the Personal Background Application. Vendor background investigations may, at the discretion of the Lottery, include inspection of any Vendor facilities or offices.

The announced, selected Vendor must contact Mike Olsen, Security Director, (402) 471-5948, to obtain a Nebraska Lottery Vendor Information for the Vendor and Nebraska Lottery Vendor Personal Background Application package for each person subject to a background investigation.

Prior to entering into an agreement, the Vendor must provide all fingerprint cards, financial records, income tax returns, and complete disclosure documents for all required persons or entities. **No contract will be awarded** to a Vendor unless the required disclosure documents have been submitted. Further, as changes occur throughout the initial term and any and all renewal terms of the contract for the Vendor or any aforementioned persons, any such change in the requested data and authorization shall be reported to the Nebraska Lottery within thirty (30) days from the date of change.

The background investigations shall be performed at the expense of the Vendor(s). The Vendor will pay for all reasonable and necessary expenses, including travel, meals, and lodging, for up to two individuals designated by the Security Division for the purpose of conducting these background investigations. Further, the Contractor will be responsible for all expenses as outlined above for subsequent background investigations deemed appropriate by the Security Division or the Nebraska Lottery throughout the initial term and any and all renewal terms of the contract.

All disclosure documents provided shall be clearly identified as disclosure documents and will be contained in a single envelope or package. Only one composite copy of the disclosure document shall be submitted.

Any information provided to the Nebraska Lottery in the disclosure documents as well as the results of the background investigation conducted by the Department's Security Division will be used by the Nebraska Lottery to help determine Contractor eligibility and may, at the discretion of the Lottery, be used to disqualify a Vendor who does not meet the Nebraska Lottery's standards. The Security Division will confer with Vendor(s) upon request regarding the completion of the disclosure documents. Vendor(s) who wish to discuss completion of the disclosure document should contact Mike Olsen, Administrator, Security Division, Nebraska Department of Revenue, 1801 "O" Street, Suite 101, PO Box 98901, Lincoln, NE 68509-8901, Telephone: (402) 471-5948.

This disclosure will only be requested once from each Vendor during the initial term of the contract. Once the contract is awarded, the Contractor will be required to file an addendum to the original filing within thirty (30) days of any change of material information showing any changes from the original filing or the latest addendum until the completion of the contract.

4.19 PROPOSALS SUBJECT TO OPEN RECORDS

All data, material, and documentation originated and prepared for the Nebraska Lottery pursuant to this RFP shall belong exclusively to the Nebraska Lottery and will be available to the public no later than **November 21, 2016, at 9:00 a.m. C.T.**, unless the response or specific parts of the response can be shown to be exempt from the Nebraska Public Records Act or the State Lottery Act or no contractor is selected and all responses are returned. The Nebraska Lottery will make reasonable attempts to maintain the confidentiality of any trade secrets or proprietary information identified by a Vendor if such Vendor properly identifies the particular data or other materials which are trade secrets or proprietary information in writing by page, paragraph, and sentence prior to or upon submission to the Nebraska Lottery of the data or other materials sought to be protected. The Vendor must state the reasons such confidentiality is necessary. However, under no circumstance will the Nebraska Lottery be liable to any Vendor or to any other person or entity for any disclosure of any such trade secret or confidential information. The Nebraska Lottery may not, at its discretion, consider any proposal which is declared, or a substantial portion of which is declared, by the Vendor submitting such proposal to constitute trade secrets or proprietary information. **Any portion of the proposal that has been declared and marked as confidential information must be included in a separate envelope and marked "Confidential" on the outside.**

4.20 OPENING OF PROPOSALS

The Proposals will be opened at **1:30 p.m. C.T., October 31, 2016**. The Proposals will be available for public inspection no later than **November 22, 2016, at 9:00 a.m. C.T.**, if a bid is awarded and subject to restrictions of confidentiality.

4.21 SELECTION FACTORS FOR THE AWARD

The Nebraska Lottery will award the contract to the responsible Vendor submitting the best proposal which maximizes the benefits to the State in the areas of security, quality of product, capability, competence, cost, and timely performance to benefit the public purpose of the Act. The lowest cost proposal is not necessarily the best proposal. The lowest cost and best proposal will be determined in relationship to the electronic data processing audit services promised using both objective and subjective criteria.

The Nebraska Lottery reserves the right to accept or reject any or all proposals, or any part of any proposal, and to waive any defect or technicality, and to advertise for new proposals where it would be in the best interest of the Nebraska Lottery. The Contract award will be based on compliance with mandatory requirements, evaluation of desired capabilities, and precision and accuracy of the proposals. Complete and accurate responses to all items are necessary for the complete and fair evaluation of proposals.

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

4.21.1.1 Compensation in this proposal has been arrived at independently, without consultation, communication, or agreement, for the purpose of restricting competition as to any matter relating to such prices with any other Vendor or with any other competitor;

4.21.1.2 Unless otherwise required by law, the compensation quoted in this proposal has not been knowingly disclosed by the Vendor and will not knowingly be disclosed by the Vendor prior to the opening of the proposals directly or indirectly to any other Vendor or to any competitor; and

4.21.1.3 No attempt has been made or will be made by the Vendor to cause any other person or firm to submit or not to submit a proposal for the purpose of restricting competition.

4.21.2 The proposals will be reviewed initially by the Nebraska Lottery Evaluation Committee. The Nebraska Lottery Evaluation Committee will make its recommendation to the Director of the Nebraska Lottery. The recommendation by the Nebraska Lottery Evaluation Committee and subsequent selection by the Director of the Nebraska Lottery with approval of the Tax Commissioner shall be based upon all relevant factors including, without limitation:

- 4.21.2.1** The competence and ability of the Vendor as demonstrated by:
- A.** Its experience, skill, and ability necessary to meet the requirements set forth in this RFP. Prior experience auditing a comparable state government operated lottery or experience in other fields which are similar in scope will be considered;
 - B.** Its financial responsibility;
 - C.** The quality of the products, equipment, and services offered;
 - D.** Vendor's work plan and project schedule and the maximum time necessary for delivery of the required final audit report;
 - E.** The sufficiency, appropriateness, and quality of the Vendor's assigned staff levels and persons and projected methods to complete the services required by the RFP;
 - F.** Efforts to secure minority and female participation;
 - G.** Whether the proposal is completely responsive to and has satisfied all written specifications and requirements contained in the RFP;
 - H.** The capacity of the Vendor to perform electronic data processing audit services requested in the RFP and the Vendor's ability to perform the contract in the time specified in the RFP and throughout the term of the contract pursuant to the requirements of the Nebraska Lottery;
 - I.** Whether the proposal offers sufficient security to the confidential activities of the Lottery; and
 - J.** Price; and whether the cost proposal is reasonable for the experience of the Vendor and the requirements of the RFP.
- 4.21.2.2** Whether the Vendor is based in Nebraska. Pursuant to Neb. Rev. Stat. § 9-806(4), preference shall be given to Vendor(s) based in Nebraska if the costs and benefits are equal or superior to those available from competing persons.

4.22 EVALUATION COMMITTEE

The Nebraska Lottery intends to conduct a fair, comprehensive, and impartial evaluation of all proposals received in response to this RFP using an evaluation committee. The Nebraska Lottery Evaluation Committee will consist of persons selected by the Director. The names of the members of the Nebraska Lottery Evaluation Committee will be revealed no later than 9:00 a.m. C.T., **November 22, 2016.**

4.23 EVALUATION PROCEDURE

The Nebraska Lottery reserves the right to obtain, from any and all sources, information concerning a Vendor or a Vendor's products, services, personnel, or subcontractors which the Nebraska Lottery deems pertinent to this RFP and to consider such information in evaluating the Vendor's proposal. If the Nebraska Lottery receives any information not contained in a Vendor's proposal which may have a material adverse effect on such Vendor, such information will be shared with that Vendor, who will be given an opportunity to submit a written response.

The Nebraska Lottery Evaluation Committee will conduct an independent review of each proposal submitted. The Nebraska Lottery reserves the right to contact Vendor(s) after the submission of proposals for the purpose of clarifying information or representations made in a proposal to ensure mutual understanding, request clarification of the information or representations in a proposal before completing the initial evaluation. The Committee may, at its discretion, require further written responses.

All materials submitted in writing and other information gained during Vendor presentations, if any are requested, will be considered as part of the Vendor's proposal and will be considered in making the award. Vendor(s) will not be permitted to modify or amend their proposal if contacted by the Nebraska Lottery for this reason. Vendor presentations, if any are requested, are not open to the public. Failure to make clarifications as requested may, at the Lottery's discretion, result in rejection of a Vendor's proposal.

When the evaluation is completed, the Committee will prepare a recommendation to the Director and State Tax Commissioner, who may meet with the Committee to ask questions regarding the recommendation. The Director will review the recommendation and award the contract with the approval of the Tax Commissioner.

A written notice of award will be sent to all Vendor(s) who have timely submitted a proposal in accordance herewith immediately following selection of the Contractor.

4.24 CONTENT OF THE RFP

This RFP is designed to provide Vendor(s) with the information necessary for the preparation of competitive Proposals. It is not intended to be comprehensive, and each Vendor is responsible for determining all necessary technical and operational issues for submission of a comprehensive proposal. Vendor(s) must submit a Proposal on the whole RFP. Vendor(s) are to disregard any draft material they may have received, any newspaper articles they may have read, and any other previous oral or written representations.

By submitting a proposal, each Vendor agrees that it will not bring any claim or have any cause of action against the Nebraska Department of Revenue, the Nebraska Lottery, the State of Nebraska, or any employee of the Department or the State, based on any misunderstanding concerning the information provided or concerning the Department's failure, negligent or otherwise, to provide the Vendor with pertinent information as intended by this RFP.

The Vendor(s) shall not be allowed to take advantage of any error or omissions in the RFP. Where errors or omissions appear in the RFP, the Vendor shall promptly notify the Nebraska Lottery of such error or omission. Inconsistencies in the RFP are to be reported before bids are submitted, wherever found.

Mandatory requirements for the Vendor's performing electronic data processing audit services are so labeled or are indicated by such terms as "required," "shall," "will," or "must."

Vendor(s) shall indicate exceptions to any section or paragraph of this RFP; otherwise acceptance is assumed. Exceptions stated by the Vendor may be cause for rejection of the proposal at the discretion of the Lottery.

4.25 COST TO THE VENDOR

The Nebraska Lottery is not responsible for any costs incurred by a Vendor which are related to the preparation or delivery of the Proposal or any other activities related to this RFP.

4.26 PROPOSALS VALID FOR NINETY (90) DAYS

All proposals submitted shall remain valid for 90 calendar days following the date on which the proposals are due. By submitting a proposal, the Vendor specifically agrees to this time limit.

4.27 WAIVER OF DEFICIENCIES AND REJECTION FOR NON-COMPLIANCE

The Nebraska Lottery reserves the right to waive minor deficiencies in a proposal. The decision as to whether a deficiency will be waived or will require rejection of a proposal will be solely within the discretion of the Nebraska Lottery. Vendor(s) are specifically notified that the failure to comply with or respond to any part of this RFP which requires a response may, at the discretion of the Lottery, result in rejection of its proposal.

4.28 DISCRETIONARY REJECTION OF PROPOSAL

The Nebraska Lottery reserves the right to reject any and all proposals in response to this RFP at any time during the solicitation process for any reason.

4.29 CONTRACT PROVISIONS

The contract which the Nebraska Lottery expects to award as a result of this RFP will be based upon the proposals submitted by the Vendor(s). The Nebraska Lottery reserves the right to either award a contract without further negotiation with the selected Vendor or to negotiate all terms and conditions, including compensation terms, with the selected Vendor if the best interests of the Nebraska Lottery would be served. The selected Vendor may be required to reduce its price if the Nebraska Lottery reduces the requirements placed upon the Vendor or if the Nebraska Lottery assumes some of the Vendor's responsibilities.

The following contract terms are not intended to be a complete listing of all contract terms, but are provided to enable the Vendor to better evaluate the Vendor's costs associated with the provision of products, equipment, and services under this Request for Proposal. Unless otherwise provided in the contract, the following terms are hereby incorporated in any contract awarded as a result of this solicitation. All costs associated with complying with these requirements must be included in the compensation quoted by the Vendor.

- 4.29.1** The contract term will commence on the date the contract is signed and continue through the completion of the required services. The basis for compensation will be determined by the price quoted in the proposal and as further negotiated in the contract.
- 4.29.2** The Contractor shall obtain any permits, licenses, or other authorizations required in connection with the performance of the work under the contract. The Contractor shall also comply with all tax laws and other applicable laws, ordinances, rules, orders, and regulations relating to the performance of the contract.
- 4.29.3** The Contractor certifies that the products, equipment, and services requested under this RFP will be supplied or will perform in accordance with this RFP and any other requirements incorporated into the contract.

- 4.29.4** The Contractor agrees to indemnify and hold harmless the Nebraska Lottery against any and all liability to third parties resulting from claims that the electronic data processing audit services infringes on or violates any patents, copyrights, or trade secrets of a third party. The Contractor guarantees that it will have full legal right of material, supplies, equipment, machinery, articles, or things involved in the contract. The contract price shall, without exception, include compensation for all costs arising from patents, trademarks, and copyrights that are in any way involved in the contract. It shall be the responsibility of the Contractor to pay for all such costs.
- 4.29.5** The Nebraska Lottery is not liable for any form of taxation and assumes no liability as a result of this solicitation. Specifically, the Nebraska Lottery is not subject to federal excise tax, Nebraska sales or use tax, or any form of county, city, or local tax.
- 4.29.6** Non-performance by the Contractor of the material terms of the contract shall be a basis for termination of the contract by the Nebraska Lottery. Termination of the contract may, at its discretion, be made by the Nebraska Lottery for nonperformance upon thirty (30) calendar days' written notice to the Contractor. The performance bond shall be forfeited in that instance. For purposes of this section, "non-performance" shall mean the neglect, failure, or refusal to do or perform an act required to be done pursuant to the contract.
- 4.29.7** Unsatisfactory performance by the Contractor of the material terms of the contract shall be a basis for termination of the contract by the Nebraska Lottery. The Contractor will receive a written notice giving ten (10) calendar days to correct the unsatisfactory performance. If the performance is not corrected, the Nebraska Lottery shall terminate the contract within thirty (30) calendar days' written notice to the Contractor. Further, the Nebraska Lottery shall not pay for work not performed or for work done in an unsatisfactory manner per contract terms. The performance bond shall be forfeited in such instance. For purposes of this section, "unsatisfactory performance" shall be construed as meaning that the performance is such that a reasonable person would not be satisfied with it.
- 4.29.8** The Nebraska Lottery shall give the Contractor fifteen (15) calendar days' written notice of termination of the contract without penalty in the event there is a lack of available State funds to continue the contract or a change in law that invalidates the contract.
- 4.29.9** This RFP and any subsequent amendments and the Contractor's proposal (hereinafter "proposal") are hereby incorporated by reference as fully set forth herein, and the terms and conditions of the RFP and the proposal hereby become contractual obligations of the parties. To the extent that there may be a conflict or inconsistency between the Act, the provisions of this contract, the RFP, and the proposal, then the provisions of each of these documents shall be given effect in accordance with the following order of priority (1) the Act, (2) the

contract, (3) this RFP and its amendments (if any), and (4) the Contractor's proposal.

- 4.29.10** None of the electronic data processing audit services to be performed by the Contractor shall be assigned, subcontracted, or transferred without the prior written approval of the Nebraska Lottery nor shall the Contractor assign any monies due or becoming due under any contract entered into with the Nebraska Lottery pursuant to the contract, without prior written approval of the Nebraska Lottery.

It is agreed that nothing herein contained is intended or should be construed in any manner as creating or establishing the relationship of co-partners between the parties hereto with respect to any electronic data processing audit services performed under the contract. The Contractor represents that it has, or will secure at its own expense, all personnel required in performing services under the contract. The Contractor or other persons engaged in work or services required by the Contractor under the contract shall not be considered employees of the State. All claims on behalf of any person arising out of employment or alleged employment including, without limit, claims of discrimination against the Contractor, its officers, or its agents shall in no way be the responsibility of the State; the Contractor will hold the State harmless from any and all such claims. Such personnel or other persons shall not require nor be entitled to any compensation, right, or benefits from the State including, without limit, tenure rights, medical and hospital care, sick and vacation leave, severance pay, retirement benefits, or workers compensation.

- 4.29.11** The Contractor agrees that during the term of the contract it will not discriminate against any employee, applicant, or recipient of services in accordance with the Non-Discrimination Statement below, and will include similar provisions in all subcontracts entered into for the performance of the contract. The contract may, at the discretion of the Nebraska Lottery, be canceled or terminated by the Nebraska Lottery and all funds due or to become due or thereunder may be forfeited for a violation of the terms and conditions of this paragraph. Also, the performance bond shall be forfeited.

Non-Discrimination Statement: The Contractor agrees to comply fully with Title VII of the Civil Rights Act of 1964, as amended; the Rehabilitation Act of 1973, Public Law 93-112, as amended; the Americans With Disabilities Act of 1990, Public Law 101-336; and the Nebraska Fair Employment Practice Act, as amended, in that there shall be no discrimination against any employee who is employed in the performance of this contract, or against any applicant for such employment, because of age, color, national origin, ancestry, race, religion, creed, disability, sex, or marital status. This provision shall include but not be limited to the following: employment promotion, demotion, or transfer; recruitment or recruitment advertising; layoff or termination; rates of pay or other forms of compensation; and selection for training including

apprenticeship. The Contractor agrees that no qualified handicapped person shall, on the basis of handicap, be excluded from participation in, be denied the benefits of, or otherwise be subjected to discrimination under any program or activity of the Contractor.

- 4.29.12** The Contractor will submit background information to the Nebraska Lottery, if requested, which will allow the Nebraska Lottery to evaluate any and all employees of the Contractor or any agents or subcontractors which are involved in performing under the contract. The Nebraska Lottery will have the right, at its discretion, to exclude any Vendor officer, employee, agent, or other individual from working in any capacity related to the provision of equipment, products, or services under this RFP and subsequent contract for the protection of the security or integrity of the Nebraska Lottery.
- 4.29.13** All required bonds and insurance must be issued by companies or financial institutions which are financially rated “A” or better and duly licensed, admitted, or authorized to do business in the State of Nebraska. The Nebraska Lottery shall be named as the Obligee in each required bond and as an Additional Insured in each required insurance contract. Required coverage must remain in effect throughout the term of the contract and the Contractor must submit copies of each required insurance contract, and any renewals thereof, to the Nebraska Lottery.
- 4.29.14** There will be substantial penalties for default including liquidated damages for various breaches of the contract as set forth in section 4.29.22.
- 4.29.15** Contractor’s employees and agents in their Nebraska office or that are otherwise assigned to the Nebraska Lottery account and their immediate family members living in the same household are prohibited from playing any Nebraska Lottery games, including any multi-state games which the Nebraska Lottery offers wherever they are played. It shall be the Contractor’s responsibility to establish a policy to make its employees and members of their immediate family aware of this prohibition. The Contractor will take reasonable steps to ensure compliance with this provision during the contract term
- 4.29.16** The Nebraska Lottery has the right to inspect the Contractor’s facilities at any time and may, at the discretion of the Lottery, require the Contractor to secure a right of inspection on the Nebraska Lottery’s behalf from any subcontractors involved in the provision of equipment, products, and related services.
- 4.29.17** Since the Nebraska Lottery is a member of the Multi-State Lottery Association (MUSL), the Nebraska Lottery reserves the right to modify the contract to meet any MUSL requirements or regulations.

- 4.29.18** Assignment or subcontracting of any portion of the contractor's obligations will not be allowed without prior written approval of the Nebraska Lottery which may be withheld for any reason.
- 4.29.19** Only monies generated from the operation of the Nebraska Lottery will be available to meet the Nebraska Lottery's financial obligations under this agreement.
- 4.29.20** Contractor agrees not to use the Nebraska Lottery's name, logos, images, nor any data or results arising from this procurement process or contract awarded pursuant to this RFP as a part of any commercial advertising without prior written approval by the Nebraska Lottery.
- 4.29.21** By submission of a proposal to this RFP, the Contractor acknowledges:
- 4.29.21.1** If the Contractor does not fulfill the obligations of the contract, damage to the Nebraska Lottery will result.
- 4.29.21.2** Establishing the precise value of such damage would be costly, difficult, and time consuming.
- 4.29.21.3** The damages specified herein are good faith efforts to quantify the damages that could be reasonably anticipated at the time of the making of the contract.
- 4.29.21.4** The Nebraska Lottery may, therefore, in its discretion, deduct damages from the compensation otherwise due to the Contractor. All assessments of damages shall be within the discretion of the Nebraska Lottery.
- 4.29.21.5** The Nebraska Lottery shall notify the Contractor in writing of the assessment of damages for any default specified herein and such damages shall be paid within thirty (30) days of receipt of the assessment notice by deducting such damages from the compensation otherwise due to the Contractor. If payment is not made within such thirty (30) day period, the Nebraska Lottery may, in its discretion, collect such damages by making a claim against the performance bond or by any other lawful method.
- 4.29.21.6** The assessment of liquidated damages shall be within the discretion of the Nebraska Lottery and shall be in lieu of the right of the Nebraska Lottery to institute a cause of action in a court of law to recover consequential damages.
- 4.29.22** The measure of damages in the event of a default by the Contractor may be difficult or impossible to calculate, depending on the nature of the default. In

the event the Contractor fails to provide the electronic data processing auditing services as required in this RFP, or to otherwise fail to perform in accordance with this RFP or any Contract resulting from this RFP, after having been notified in writing by the Nebraska Lottery of the specific deficiency, the Nebraska Lottery may, in its discretion, impose liquidated damages as follows. Any liquidated damages imposed by the Nebraska Lottery may, in its discretion, be deducted from scheduled payments to the Contractor.

4.29.22.1 Reports. Failure of the Contractor to provide any reports required by this RFP may result in the imposition of liquidated damages in the amount of \$1,000 per day for each day of additional delay.

4.29.22.2 Unauthorized Materials. The release of unauthorized or confidential materials prior to obtaining written approval from the Nebraska Lottery may result in liquidated damages of \$10,000 per release.

4.29.22.3 Legal Fees. Any action taken against the Nebraska Lottery by a supplier to the Contractor that results in legal fees, either assessed against or incurred by or on behalf of the Nebraska Lottery, will result in liquidated damages equivalent to the legal fees incurred.

4.29.23 The Nebraska Lottery reserves the right to require at any time such further and additional security measures as deemed necessary or appropriate to ensure the integrity of the Contractor's operations or the game(s).

4.29.24 Except as otherwise provided in this RFP or the Contract, neither the Contractor nor the Nebraska Lottery shall be liable to the other for any delay in, or failure of performance of, any covenant contained in the contract which is caused by any event of force majeure. For purposes of this RFP, "force majeure" shall include acts of God, war, civil disturbance, and other causes which are beyond the control and anticipation of the party affected and which, by exercising reasonable diligence, the party was unable to anticipate or prevent, including the act or omission of any third party not controlled by the party affected. The existence of such causes of delay or failure shall, in the exercise of reasonable diligence, extend the period of performance for a reasonable period, until after the causes of delay or failure have been removed.

4.29.25 If, for any reason other than breach of contract by the Nebraska Lottery, the Contractor should lose its ability to perform its obligations under the Contract resulting from this RFP, the Nebraska Lottery shall acquire a usufruct in all contractual items owned by the Contractor in conjunction with the contract and which are necessary to perform electronic data processing audit services required under this RFP.

4.29.26 The Nebraska Lottery is an extremely sensitive enterprise because of the nature of the lottery industry and its status as a governmental entity of the State of

Nebraska. Therefore, it is essential that its operation, and the operation of other enterprises which would be linked to it in the public mind, avoid not only actual impropriety but also the appearance of impropriety. Accordingly, the Contractor is required to follow the rules and regulations established by the Nebraska Lottery. The Contractor will be expected to develop, disseminate, and enforce a Code of Conduct for all employees, independent contractors, and subcontractors that recognizes the public perception and sensitivity of the operations being performed on behalf of the State of Nebraska.

- 4.29.27** The Contractor is required to use a federal immigration verification system to determine the work eligibility status of new employees physically performing services within the State of Nebraska. A federal immigration verification system means the electronic verification of the work authorization program authorized by the Illegal Immigration Reform and Immigrant Responsibility Act of 1996, 8 U.S.C. 1324a, known as the E-Verify Program, or an equivalent federal program designated by the United States Department of Homeland Security or other federal agency authorized to verify the work eligibility status of a newly hired employee.
- 4.29.28** The Contractor can make no commitment, financial or otherwise, on behalf of the Nebraska Lottery without prior written approval. The Nebraska Lottery reserves the right to cancel any approved project or any of its contracts at any time, in which case the Nebraska Lottery would be responsible only for actual costs prior to notification of such cancellation.
- 4.29.29** The Contractor shall establish a physical security program for the protection of the electronic data processing audit working papers, notes and results, subject to the prior written approval of the Nebraska Lottery.
- 4.29.30** The Contractor and its agents and employees shall execute a non-disclosure agreement similar to one provided in Appendix "D." Failure to comply with the terms of this non-disclosure agreement will result in liquidated damages being assessed.

4.30 MINORITY AND FEMALE PARTICIPATION

The Contractor must adopt the same attitudes and concerns towards minority and female participation as held by the Nebraska Lottery. Minority and female participation in the operational aspect of the Nebraska Lottery is an evaluation criteria set forth in Lottery regulations. The Nebraska Lottery would request that Vendor(s) carefully consider and respond to the following items:

- 4.30.1** The Vendor shall describe, as a factor of the total project, the percentage of work that it anticipates will be performed by minority and female employees and should specify which of those employees are located in Nebraska.

4.30.2 The Vendor should indicate, as a factor of total full-time project employees, the percentage of the total work force that are minorities and female and the percentage of the total work force that it anticipates will be Nebraska minorities.

4.30.3 The Vendor should indicate how many minority and female employees it anticipates will work in supervisory positions and what percentage the supervisory class will represent to the total staff.

4.30.4 The Vendor should describe efforts that have been undertaken to recruit qualified minority and female employees named in this RFP and efforts that will be undertaken to recruit minority and female employees for positions that are not yet filled.

4.31 PROTEST PROCEDURE

Any Vendor who claims to be aggrieved in connection with the RFP or award of a contract may formally protest the Nebraska Lottery's action. To protest the issuance of the RFP, a written protest must be filed with the Tax Commissioner within seventy-two (72) hours after the issuance of the RFP. For the protest of a contract award, a written protest must be filed with the Tax Commissioner within seventy-two (72) hours after receipt of notice of the contract award. Protests not timely filed will not be considered. To be filed timely, a protest must be physically received by the Tax Commissioner.

To be considered, the protest must contain an identification of the statutory provision or RFP procedure allegedly violated, a brief statement of the relevant facts, an identification of the issue or issues to be resolved, arguments and authorities in support of the protest, an affidavit that the contents of the protest are true and correct, and a certification that a copy of the protest has been served on the selected Vendor (assuming the action protested is a contract award).

The Tax Commissioner shall grant an oral hearing only if requested by the petitioner in writing. Such hearing shall follow the Rules of Practice and Procedure set forth in Chapter 200 of Title 370 of the Nebraska Lottery Regulations. The time and place of hearing shall be set by the Tax Commissioner or his or her authorized representative. Testimony shall be presented before a Hearing Officer, who shall administer oaths of witnesses and rule on motions and the admissibility of evidence.

The Tax Commissioner will issue findings of fact and conclusions of law based on the hearing record and issue an order, which will be served upon the petitioner. An aggrieved party seeking review of the Tax Commissioner's order may file an appeal with the District Court of Lancaster County, Nebraska, within thirty (30) days after the date of such an order or decision, pursuant to the Nebraska Administrative Procedures Act.

4.32 CONTRACT CANCELLATION

The Nebraska Lottery may, at its discretion, cancel, suspend, or declare void said contract for any of the following reasons or other infractions not hereby stated:

- 4.32.1** Failure in whole or in part to fulfill the contract;
- 4.32.2** Whenever it is the opinion of the Nebraska Lottery that the Contractor has obtained the contract by fraud, collusion, conspiracy, or other unlawful means;
- 4.32.3** In the event of willful attempt to overcharge and / or not invoicing in accordance to contract;
- 4.32.4** To impose on the Nebraska Lottery articles of workmanship, services, or materials inferior to those required;
- 4.32.5** Failure to meet specifications or special conditions as set forth by this request for proposal, which shall be made a part of any and all contracts awarded;
- 4.32.6** Failure to meet specified delivery dates and requirements;
- 4.32.7** Subcontracting or assigning work without proper notification and consent by the Nebraska Lottery;
- 4.32.8** If any statement, representation, warranty, or certificate made or furnished by the Contractor to the Nebraska Lottery in connection with this contract is materially false, incorrect, or incomplete;
- 4.32.9** If a court of competent jurisdiction finds that the contractor has failed to adhere to any laws, ordinances, rules, regulations, or orders of any public authority having jurisdiction; or contractor fails to communicate with the Nebraska Lottery as required by the contract;
- 4.32.10** If the contractor or any employee or agent working on the Nebraska Lottery account breaches an industry standard of ethics or confidentiality with respect to this RFP or the Nebraska Lottery;
- 4.32.11** If the Nebraska Lottery makes a written determination that the contractor has failed to substantially perform under this agreement, which determination shall specify the events resulting in the Nebraska Lottery's determination that the contractor has failed to substantially perform under the RFP or subsequent contract;
- 4.32.12** If the contractor fails to comply with any of the terms, conditions, or provisions of the RFP or subsequent contract in any manner whatsoever;

4.32.13 Failure to completely perform any other obligation under this RFP or the resulting contract; or

4.32.14 For other reasons as stated in this RFP or the Contract.

In the event of such cancellation, the Nebraska Lottery shall notify the Contractor in writing stating the reason for such cancellation. Upon notification the contract shall be null and void and the performance bond shall be forfeited, and any applicable liquidated damages shall also be owed by the contractor.

4.33 NEWS RELEASE / DISCLOSURE PROHIBITION

4.33.1 Vendor(s) shall not issue any news releases or make any statement to the news media pertaining to this RFP or any Proposal or contract or work resulting from this RFP without the prior written approval of the Nebraska Lottery.

4.33.2 Until a contract resulting from this RFP is executed, no employee, agent, or representative of any Vendor shall make available or discuss its Proposal with press, any elected or appointed official or officer of the State of Nebraska, or any employee, agent, or representative of the Nebraska Lottery, or members of the Nebraska Lottery Evaluation Committee, unless specifically authorized in writing to do so by the Nebraska Lottery.

4.34 HIRING PROHIBITION

At all times during the proposal evaluation period beginning with the issuance of the RFP and ending with either a contract awarded or the rejection of all proposals, Vendor(s) are prohibited from officially making any employment offer or proposing any business arrangement whatsoever to any Nebraska Department of Revenue employee, or any elected or appointed official or officer of the State of Nebraska, or any employee, agent, or representative of the Nebraska Lottery, or members of the Nebraska Lottery Evaluation Committee, or individuals involved in the evaluation of the Proposals, the contract award, or contract negotiations. Vendor(s) making such an offer or proposition shall be disqualified from further consideration.

4.35 MAINTAIN LOCAL OFFICE

The Contractor will be required to maintain an office in Nebraska at all times during the terms of the contract.

APPENDIX “A”

**NEBRASKA LOTTERY
PROPOSAL CERTIFICATION**

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

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

We further agree to strictly abide by all terms and conditions contained in the State Lottery Act as modified by any attached special terms and conditions, all of which are made a part hereof. Any exceptions are noted in writing and included with this proposal.

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

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

Authorized Signature

Date

Title

Vendor

APPENDIX “B”

DRUG-FREE WORK PLACE POLICY

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

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

1. **SCOPE:** Applicable to all code agency employees.
2. **POLICY:** It is unlawful to illegally manufacture, distribute, dispense, possess, or use a controlled substance in the work place. The Nebraska Lottery, therefore, establishes a drug-free work place policy for its employees.
3. **PROCEDURES:**
 - A. All employees and each new hire will receive a copy of this policy.
 - B. Each employee will receive a drug abuse awareness form which will state it is unlawful to manufacture, distribute, dispense, possess, or use a controlled substance in the work place. Each employee will sign and date this statement certifying that he/she:
 - (1) Understands and will abide by the drug-free work place policy;
 - (2) Has knowledge of disciplinary actions which may be imposed for violations of the drug-free work place policy.

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

- C. All current employees will receive drug abuse awareness training. New hires will receive the training within the first six months of date of hire. This training shall include:
 - (1) A definition of drug abuse;
 - (2) Information on specific drugs and the effects of drug abuse;

(3) Dangers of drug abuse in the work place;

(4) Availability of counseling and treatment services; and

(5) Disciplinary actions which may be imposed on employees for violations of this policy.

D. If an employee violates the drug-free workplace policy, disciplinary action may be imposed according to established rules and regulations of the State Department of Personnel or applicable labor agreements.

E. If an employee is convicted of violating any criminal drug statute while in the workplace, he or she will be subject to discipline up to and including termination. Alternatively, the agency may require the employee to successfully finish a drug abuse program sponsored by an approved private or governmental institution.

F. An employee is required to report within five days any criminal drug statute conviction occurring in the workplace to his immediate supervisor. The supervisor will immediately report such conviction to the Nebraska Lottery.

G. If the Nebraska Lottery is a grantee of federal funds, the department shall notify the Federal granting agency within ten days after receiving notice of any employee's drug statute conviction.

By _____

Title _____

Date _____

APPENDIX "C"

COVENANT NOT TO SUE

_____ (Company Name) of _____ (Address),
(hereinafter "Covenantor"), in consideration for submitting a Proposal to provide goods or services to the Nebraska Department of Revenue's Lottery Division (hereinafter "Nebraska Lottery") hereby covenants with the Nebraska Lottery not to institute any action or suit at law, in equity or any administrative action, against the Nebraska Lottery, the Nebraska Department of Revenue, or the State of Nebraska or any of its officers, employees, or agents thereof, in any forum, now or hereafter, to contest or delay the award of any contract resulting from the Request for Proposal on frivolous or unwarranted grounds.

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

Executed this _____ day of _____, 2016.

Authorized Signature

Title

State of _____)

County of _____)

The foregoing Covenant Not to Sue was subscribed, sworn to, and acknowledged before me by _____, on this _____ day of _____, 2016.

(seal) _____
Notary Public

APPENDIX "D"

NONDISCLOSURE AGREEMENT

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

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

By _____

Title _____

Date _____