Request for Proposal
#9210

African American Consumer Market Advertising Services

March 1, 2013

CALIFORNIA LOTTERY
700 NORTH 10TH STREET
SACRAMENTO, CA 95811
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I. GENERAL INFORMATION

A. Purpose

The Lottery is inviting responses from qualified agencies to provide African American Consumer Market (AACM) advertising and integrated communications services for all Lottery products, with the objective of maximizing net revenue from Lottery sales for the benefit of California public education. The Lottery will consider proposals from partnerships and joint ventures, including creative advertising agencies and media management firms. The initial Contract term will be for five years with two one-year extension options. The Lottery may extend the term of the Contract under the same terms and conditions for up to two years.

B. Background

The Lottery’s current AACM advertising Agency partner is Muse Communications, Inc., which expires on October 31, 2013.

The Lottery also works with David & Goliath, LLC (General Market), as the lead Agency, Casanova Pendrill (Hispanic Market), Time Advertising (Asian Market), and Alcone Marketing Group (point of sale and promotional marketing). The scope of services for this solicitation does not include services provided by these agencies.

C. The Opportunity

The Lottery seeks to identify a strategic Agency partner capable of helping it approach the African American consumer in a fresh, new way and capable of addressing the following critical business strategy questions: Where should the Lottery take its brand and its messaging?; How should the Lottery engage new players and re-engage lapsed players?; How can the Lottery more effectively address its AACM audience and broaden its player base?; How can the Lottery ensure AACM consumers are talking about and engaging with the Lottery so it becomes a part of their conversations and social currency?; How can the Lottery maximize unpaid media?; How can the Lottery increase sales?

D. The Challenge

As technology has changed consumer media behavior and marketing realities, the advertising landscape also has dramatically changed. Perhaps the greatest change has come in the last two years. The Lottery currently is reviewing its business strategy to ensure it has the best products available to maximize player engagement and gaming revenue growth. Critical roles for the Lottery’s AACM Agency partner will be understanding player motivation and helping the Lottery to better differentiate and position its games and brands to enhance player consideration and increase sales. The Lottery’s AACM Agency partner must be able to combine rigorous and insightful account planning and strategic development with brilliant creative solutions that drive sales and stand out in a fragmented media world where African American consumers need to be re-engaged and re-motivated to play. The Lottery expects its AACM Agency to function as a true partner and lead the way to meaningful strategy and communications solutions that drive brand and product demand and sales.
Maximizing the Lottery’s media investment is critical for optimal Return on Investment (ROI) in this tight budget environment. The Lottery wants its AACM Agency to have prior experience in providing the absolute best tools, econometric modeling, and analytics to better inform communications channel planning and to optimize campaign results for the maximum ROI. The Lottery also hopes to increase the alignment of creative and media strategy and stay at the cutting edge of the latest cross-channel integration ideas and opportunities.

Finally, the Lottery is interested in understanding the role that web and digital devices play in the lives of the African American consumer.

E. Summary of Wants, Needs and Expectations

The Lottery needs a strategically-based, highly creative Agency partner. This partner must have best-in-breed capabilities in media planning and buying across all channels, including digital creative and media, to handle its integrated advertising account and to help it navigate future challenges and opportunities. The Lottery is seeking an AACM Agency team capable of developing breakthrough work and highly integrated cross-channel media communications solutions that will successfully elevate its brand and motivate more customers to engage with and buy its products, thereby driving sales.

The Lottery seeks an AACM Agency that can develop and implement a long-range marketing plan to:

- Demonstrate marketplace success at building and sustaining brands in positions of category leadership.
- Foster an environment where “leading the Lottery” and “thinking outside of the box” is part of the Agency culture.
- Deliver breakthrough creative based on African American consumer insights that drive sales. Specifically, demonstrate outstanding creative capabilities across all media and channels (traditional/non-traditional/digital).
- Demonstrate innovation in media; be on the cutting edge of the latest technologies including working with econometric modeling to inform and evaluate media plans and enhance ROI.
- Offer an integrated marketing mindset and seamless integration across a suite of services and relevant best-in-class resources – particularly in media planning, media buying, and online creative and media.
- Offer best-in-class account leadership with strong involvement in the strategic process and the ability to lead integration across all projects to ensure consistency and excellence in the Agency’s work product.
- Commit a team of experienced professionals who are fully immersed in the business from top to bottom, like to take initiative, and constantly strive to improve performance.
**Preferred Experience:**

The ideal AACM Agency will have a successful track record of:

(1) Building and sustaining brands in positions of category leadership;

(2) Driving sales through developing and executing highly innovative brand and transaction-focused creative based on strategic account planning and insightful strategy development;

(3) Developing highly integrated, consumer-centric communications programs across different media and channels with a significant digital/new technologies focus;

(4) Best-in-class digital and social media experience as an Agency or among key team members.

Prior experience with clients in gaming and entertainment industries is highly desired, as is prior experience with low-cost consumer products sold in convenience stores, liquor stores, and supermarkets.

**Media Capabilities:** Media leadership is important to the Lottery. The ideal AACM media partner will have a successful track record of:

(1) Developing highly innovative and fully integrated cross-channel communications plans where creative strategy and media strategy are aligned from the beginning, and messaging leverages the inherent value of each specific medium to drive sales;

(2) Experience in best-in-class media research, tools, and media analytics including econometric models to inform and evaluate media plan performance and optimize media ROI is a plus;

(3) Best-in-class media buying across all relevant channels including local broadcast (TV and radio), newspaper, out-of-home, other print, and digital including online, social, mobile, and search media;

(4) Delivering optimal rates and consistent added value to enhance overall ROI.

**Digital:** The Lottery desires its AACM Agency partner to be on the cutting edge of the latest digital technologies and in digital marketing efforts. The selected Agency will be responsible for developing concepts and executing and tracking integrated digital campaigns. Please note: Management of the Lottery’s website is handled in-house and is not in the scope of this solicitation.

**Production:** Production capabilities and production expertise are critical to the Lottery. As such, the Lottery seeks best-in-class digital and broadcast/television production capabilities and experience including off-line editing and talent and business affairs expertise.

**Promotions and Experiential Marketing:** The Lottery is looking for an innovative AACM Agency that can bring fresh thinking and big ideas outside of traditional advertising and media channels to its marketing efforts. Specifically, the selected Agency may be tapped with
developing experiential and promotional programs that forge a deeper engagement between the Lottery and its gamers (e.g., what information can you share with the Lottery that establishes your track record and experience in this important, non-traditional and promotional realm?).

Public Relations: At the discretion of the Lottery, its new AACM Agency partner may be asked to provide integrated Public Relations (PR) capabilities with its marketing communications in the areas of new media, online, media relations, crisis communications, event management and cross-cultural outreach. To that end, the Lottery is looking for an innovative partner capable of building and implementing a fresh PR program and delivering high levels of earned media and robust ROI. Expertise in social networking and social media are desirable in addition to strategic ideation, development, and execution of consumer PR programs and story angles as they relate to the online channel.

F. Minimum Qualifications

This Request for Proposal (RFP) is open to all agencies and joint ventures that, at the time Phase I Submittals are due, meet the following minimum qualifications:

1. Have a minimum of two years of experience performing AACM advertising services;

2. Have a minimum of 20 employees and $3 million in annual revenue for the creative and strategic lead Agency;

3. Have a minimum of 2% of the Agency’s work product in digital marketing efforts;

4. Will have an office in California at the time of bid submittal and for the duration of the Contract;

5. Are legal business entities and licensed to do business in California; and

6. Meet the requirements as set forth in Section II, Phase I Submittals.

G. Issuing Office and Agency-Initiated Contact

This RFP is issued by the California Lottery’s Contract Development Services. Issuance of this RFP does not constitute a commitment by the Lottery to award any contract. The issuing office is the sole point of contact relative to this RFP. Any and all notices pertaining to this RFP shall be directed to:

California Lottery
Contract Development Services – Attn: Tina Miranda
700 North 10th Street Sacramento, CA 95811
tmiranda@calottery.com

Phone: (916) 822-8066
FAX: (916) 737-4275
TDD: (916) 345-4275
No contact will be allowed between agencies and members of the Lottery Evaluation Team, Lottery Commissioners, or Lottery staff after issuance of the final RFP, with the exception of the Lottery contact person named above. Any such contact may disqualify an Agency from further consideration. Requests for clarification by agencies will be allowed provided that such requests are made through the above contact.

H. Projected Timetable

The following projected timetable is set forth for informational and planning purposes. The dates may change at the Lottery’s discretion.

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<thead>
<tr>
<th>Action</th>
<th>Date</th>
<th>Time</th>
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<tbody>
<tr>
<td>RFP Issued</td>
<td>March 1, 2013</td>
<td></td>
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<tr>
<td>Intent to Bid/Written Questions Due</td>
<td>March 15, 2013</td>
<td>5:00 pm PST</td>
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<tr>
<td>Responses to Written Questions</td>
<td>As required</td>
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<tr>
<td>Phase I Submittals Due</td>
<td>April 19, 2013</td>
<td>3:00 pm PST</td>
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<tr>
<td>Announce Semi Finalists (Phase II)</td>
<td>May 8, 2013</td>
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<td>Conduct Semi Finalist Meetings</td>
<td>May 13-17, 2013</td>
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<td>Announce Finalists (Phase III)</td>
<td>May 24, 2013</td>
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<td>Conduct Briefing Day</td>
<td>June 17-21, 2013</td>
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<td>Conduct Work Sessions</td>
<td>July 8-12, 2013</td>
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<td>Staff Plan and Compensation Proposals Due</td>
<td>July 22, 2013</td>
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<td>Conduct Finalists’ Presentations</td>
<td>July 29 – Aug 2, 2013</td>
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<td>Identification of Apparent Successful Agency</td>
<td>August 2013</td>
<td></td>
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<tr>
<td>Commission Approval to Award Contract</td>
<td>Sept 2013</td>
<td></td>
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<tr>
<td>Effective Date of Contract</td>
<td>October 1, 2013</td>
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I. Examination of All Requirements

Agencies should thoroughly examine this document and become fully aware of the scope of services required. Responses must be based solely on the information and materials contained in the final RFP, any amendments or other subsequent written materials issued by the Lottery, and any written answers the Lottery provides in response to agencies' requests for clarification. Agencies are to disregard everything else, including draft material they may have received, any newspaper advertisements or articles they may have read, and any oral representations made.

If an Agency fails to notify the Lottery of an error in this RFP which the Agency discovered, the Agency submits a response at the Agency's own risk. If awarded the Contract, the Agency will not be entitled to additional compensation or time by reason of the error or its later correction.

The Lottery in its discretion may refuse to accept a response for failure to furnish all required information or to follow the format specified in this RFP.

J. Amendments to the RFP

The Lottery may cancel or amend this RFP at any time. The Lottery will post an amendment or cancellation notice to the Lottery’s website if the amendment or cancellation occurs prior to the due date for Phase I submittals. The Lottery will directly notify agencies who submitted Phase I submittals if the amendment or cancellation occurs after the due date for Phase I submittals; to Semi-Finalists exclusively if the amendment or cancellation occurs after Semi-Finalists have been identified; and to Finalists exclusively if the amendment or cancellation occurs after Finalists have been identified.

All notices, amendments, and/or cancellations will also be posted on the Lottery’s website (calottery.com/Vendors).

K. Written Questions

Questions regarding the Scope of Services, attachments or exhibits to this RFP shall be submitted in writing, via fax, e-mail or U.S. mail, to the Lottery contact person specified above by the due date and time specified for Written Questions in the Projected Timetable. It is the sole responsibility of the interested party to verify receipt of questions submitted.

L. Future Communications and Notices

Agencies that submit timely Phase I submittals in accordance with RFP Section IV, Phase I Submittals Packaging and Delivery, to the Lottery contact person specified above shall receive direct communications and notices, including RFP amendments, from the Lottery regarding this solicitation until the time Semi-Finalists are identified.

After Semi-Finalists have been identified, direct communications and notices will be sent to the Semi-Finalists exclusively. After Finalists have been identified, direct communications and notices will be sent to the Finalists exclusively.
All interested parties may access notices and amendments issued by the Lottery regarding this RFP on the Lottery’s website at calottery.com/Vendors.

M. Joint Proposal

A joint proposal (which is defined as two or more independent entities offering one proposal) which results in the award of a Contract shall be deemed one indivisible Contract. Each entity will be jointly and severally liable for the performance of the entire Contract. The joint entities must designate in writing submitted to the Lottery a single individual authorized to represent all joint venturers in all matters relating to the Contract. **NOTE: If a joint proposal is being submitted (two or more independent entities offering jointly in one proposal) at least one of the Agencies must meet the minimum qualifications listed above.**

N. Proposal Consideration

By submitting its proposal response, the Agency agrees that:

1. The Lottery is not liable for any costs incurred by an Agency in preparing, submitting, or otherwise participating in a response to this RFP.

2. Its response to this RFP constitutes the Agency’s binding offer to the Lottery.

3. Its response to this RFP is irrevocable for 180 days from the date proposals are due.

O. Response Maintenance

Responses to this RFP will be maintained by the Lottery until the awarded Contract expires. The successful proposal will be maintained by the Lottery for four years after the date the Contract expires. The Lottery may destroy the records at the expiration of the applicable period.

P. Public Records and Confidential Portions of Agency’s Response

All data, materials and documentation submitted by an Agency in response to this RFP may be subject to a request for review by a fellow competitor or by a member of the public pursuant to the California Public Records Act, Government Code §§ 6250 et seq. The Lottery will process such requests in accordance with the laws of the State of California. The Lottery will assert on the Agency’s behalf and attempt to maintain confidentiality of any trade secrets or proprietary information or material otherwise exempt from disclosure (referred to collectively as “confidential information”) submitted by the Agency so long as the Agency complies with two requirements:

1. Agency must identify in writing the specific data or other materials that are confidential. Agency must designate such materials as specifically as possible by page number, paragraph and sentence submitted to the Lottery during the solicitation process. All identifying markings shall be conspicuous by using color, bold, underlining or some other method to distinguish the protected data or material from other text.
2. Agency must cite the specific legal authority on which it relies in asserting that the material so designated is entitled to protection as confidential.

If data or material is improperly marked as confidential, or if the Agency designates the entire or substantially all of the response as confidential, the Lottery may, in its sole discretion, determine the Agency's response non-confidential. Under no circumstance will the Lottery be liable to the Agency or to any other person or entity for disclosing any portion of the Agency’s submissions in response to this RFP, including those portions the Agency has asserted are confidential.

Q. Conditions of Submission

Responses to the RFP and any subsequent presentations must be submitted with the most favorable terms the Agency can offer. After the Agency submits a response to the Lottery, the response cannot be replaced, changed or modified in any way except as specified in this RFP or in response to a subsequent amendment to this RFP or a written request for clarification from the Lottery. An Agency will be allowed to withdraw its response provided that such withdrawal is actually received by the Lottery prior to the deadline for final submission. Withdrawals must be filed in the same manner as responses.

R. Rejection of Responses

The Lottery reserves the right to reject any response which is conditional or incomplete, or contains any material deviations. Any provisions of this document which are identified as requirements are mandatory. In the interest of promoting competition, the Lottery may allow an Agency to correct a deficiency related to any requirement upon the Lottery’s written request. If all agencies fail to meet a mandatory requirement, the Lottery reserves the right to continue evaluation of the proposals and select the response which most closely meets the requirements specified in this RFP.

S. Nonmaterial Deviation

The Lottery may waive any nonmaterial deviation in a proposal. The Lottery's waiver of a nonmaterial deviation does not modify the RFP requirements or excuse the proposing Agency from full compliance with the Contract’s requirements.

T. Contract Execution

The Lottery Director will make the final determination of Contract award, subject to Commission approval. In making this determination, the Lottery Director will be assisted by an Evaluation Committee.

Failure or refusal on the part of the intended awardee to begin performance within ten working days of Contract execution may be treated as a repudiation of the Contract at the sole discretion of the Lottery. The Lottery may then either: 1) select the next ranked proposal which conforms to the requirements of this RFP and represents, in the sole discretion of the Lottery, the best-value proposal that maximizes the benefits to the Lottery; or 2) reject all proposals. The Lottery reserves its right to damages associated with a repudiation of the Contract.
The Lottery may cancel any and all elements of a procurement or rescind an announced award at any time up to and including execution of the actual Contract.

U. Hiring of Lottery Personnel

At all times during the proposal evaluation period and continuing through the Contract award or the rejection of all proposals, agencies are prohibited from officially or unofficially making any employment offer or proposing any business arrangement whatsoever to any person involved in the evaluation of proposals. Any Agency making such an offer or proposition will be disqualified from further consideration.

V. Governing Law and Regulations

The Lottery’s governing law and regulations, including its Competitive Bidding Procedures, are available on the Lottery’s website (calottery.com/Media/Publications/LotteryRegulations). It is the Agency’s responsibility to be familiar with these laws and regulations.

II. PROPOSAL REQUIREMENTS

All proposals and other requested documents must be organized in the same order and with the same lettering/numbering format as shown in the following subsections; submitted in a 3-ring binder, on 8 ½ x 11 inch paper, printed on one-side only, using at least 12 point size font, consecutively numbered with sections clearly marked or labeled; and provided on a compact disc (CD) compatible with Microsoft Office 2007 or Acrobat Reader 9.0.

Agencies must provide the Lottery with as much information as necessary in their proposal for the Lottery to award a Contract. At a minimum, proposals must be fully responsive to the specific requirements stated in this RFP. Agencies must identify any requirements of this RFP they cannot satisfy.

A. Phase I Submittals

All documents required in this section must be submitted for further consideration. Failure to submit the information listed under Phase I Submittals may, at the discretion of the Lottery, result in disqualification of the Agency from further participation in the solicitation process. If all Agencies fail to meet one or more of the Phase I Submittal requirements, the Lottery reserves the right to continue evaluating the proposals. Agencies must complete and submit the following attachments:

1. Introduction Letter
2. Attachment 1, Agency Fact Sheet
3. Agency Profile (DVD Format)
4. Agency Case Histories (DVD and Written Format)
5. Agency Media Case Histories (DVD and Written Format)
6. Attachment 2, Certification
7. Attachment 3, Guaranty
8. Attachment 4, Disabled Veteran Business Enterprise Participation (DVBE) (MANDATORY)
1. **Introduction Letter**

Agency must submit a cover letter indicating that it is responding to the RFP and that all of the RFP requirements have been met. The letter must be signed by a representative identified in Attachment 2, Certification, as legally authorized to contractually bind the Agency. The Introduction Letter should confirm the Agency's qualifications and interest in participating in this solicitation. The Introduction Letter should explain:

1. The basis for the Agency’s interest in the Lottery’s business;
2. The Agency’s particular strengths with respect to the basic qualifications as well as the Lottery’s wants, needs and expectations;
3. Agency Positioning, Vision and Philosophy: How does the Agency differ from the agencies with whom it usually competes? What vision does it have for the future? Where does the Agency expect to be five years from now? What overall philosophy or credo does it operate by? Please indicate, (at a high level, and as appropriate) how the Agency integrates digital work, or that of multiple communications channels, into its approach. Describe the Agency’s work process (if it uses a specific discipline), and any particular practices it employs that help it produce consistently effective advertising. How does the Agency see its clients’ role in the strategic and creative development processes?
4. Integrated/Digital Approach: Please indicate, (at a high level, and as appropriate) how the Agency integrates digital work, or that of multiple communications channels, into its approach.
5. The educational and work experience backgrounds of the Agency’s key personnel, if identified, who will be assigned to handle this account;
6. A summary of the key contributions the Agency believes it can bring to the Lottery’s advertising and marketing communications efforts; and
7. The name, phone number, and email address of the person that will be the main contact between the Agency and the Lottery during the evaluation process. This contact person must also be identified in Attachment 2, Certification.

If the Agency is submitting a joint proposal, the introduction letter must be submitted with all of the information required for each of the entities comprising the joint venture. The letter must state the name of the representative who is legally authorized to contractually bind the joint venture and must be accompanied by proof of authorization from each entity (e.g., by-laws, minutes or resolution of board of directors of corporation or association, written trust instrument, partnership agreement). If the Agency is not submitting a joint proposal, the Agency must provide a written statement to that effect.

Agencies must disclose whether they consulted with others in the preparation of this proposal. If others were consulted, they must identify those with whom they consulted and provide contact information. Any change or addition to those consulted while this RFP is pending must be reported to the Lottery. Failure to do so may result in a decreased rating level or rejection of an Agency’s proposal. The Lottery reserves the right to contact all consultants. **Under no circumstances may an Agency submitting or considering the submittal of a proposal consult with a competitor Agency.** If the Agency did not
consult with others in the preparation of this proposal, the Agency shall provide a written statement to that effect.

Agency must also disclose any potential, actual or apparent conflicts of interest that may exist between any current client and the Lottery. Because of the complexities involved in defining conflicts of interest, the Lottery will make a final determination as to whether a disqualifying conflict exists. If there are no known conflicts, the Agency shall provide a written statement to this effect.

2. Agency Fact Sheet (Attachment 1)

Agency Fact Sheet, Attachment 1, must be completed by the Agency at the time of proposal submission and included in its Phase I Submittal package. **If the Agency is submitting a joint proposal, each Agency comprising the joint venture must complete and submit an Agency Fact Sheet.**

3. Agency Profile (DVD format)

Agency must submit an Agency profile, including recent broadcast creative, not to exceed 8 minutes in length. Think of this as a story about the Agency as illustrated by its work, which is not limited to TV. However, please make sure sufficient TV samples run in their entirety. Context is the key to helping the Lottery better assess the Agency’s relevant work and experience. Please provide the profile on DVD.

4. Agency Case Histories (DVD and Written Format)

Agency must submit two case histories of recent and relevant campaign work. If the Agency has good examples of work that builds brand and drives product sales at the same time, the Lottery would like to see it. Please include multiple creative elements from each campaign to demonstrate how you integrate brand across an integrated toolbox. As the online channel is important to the Lottery, please submit case histories that have online and social media components. Case histories can include TV, radio, print, outdoor, collateral, or promotional material as well as any viral, non-traditional or social media elements. Please include a succinct description or lead-in (i.e., concept, consumer/creative insight and results) for each ad or campaign and a notation of the timeframe in which the work ran. The succinct description should be included on both the DVD and in written format not to exceed two pages in length for each campaign. Case histories must be from the office submitting the proposal. Please provide DVDs (see page 17, Package 2 instructions).

5. Agency Media Case Histories (DVD and Written Format)

Agency must submit two media case histories; one media case history must showcase the Agency’s relevant media planning capabilities and one case history must demonstrate its buying and negotiating skills. The Agency should demonstrate that it has both the strategic and creative planning skills the Lottery seeks coupled together with the best value proposition. Additionally, in selecting case histories, please remember the Lottery expects media planning to align with creative strategy development and is looking for an Agency
that can bring traditional and new media and online solutions to its efforts. This will assist the Lottery in understanding how each Agency uses research, data and analytics to optimize the effectiveness of its work. Also, include a written summary, not to exceed two pages in length, of the media objective, target market, consumer insights, strategy, and results for each campaign. Case histories must be from the office submitting the proposal. Please provide DVDs (see page 17, Package 2 instructions).

**Evaluation Criteria for Phase I Submittals 1-5 (listed in order of importance):**

- Caliber of strategic thinking;
- Creativity and innovation;
- Quality of media capabilities (buying, planning, research and analytics);
- Innovative integrated communications planning that drives sales;
- Agency positioning, vision, and philosophy;
- Best-in-class digital and social media;
- Innovative promotions and experiential marketing;
- Relevant experience with gaming, entertainment and/or low-cost consumer goods;
- Agency size, history, staff and location; and
- Quality and relevance of client list.

6. **Certification (Attachment 2)**

Certification, Attachment 2, must be completed by each Agency and included in its Phase I Submittal Package.

7. **Guaranty (Attachment 3)**

Guaranty, Attachment 3, must be completed by each Agency and included in its Phase I Submittal Package.

8. **Disabled Veteran Business Enterprise Participation (DVBE) (Attachment 4)**

Disabled Veteran Business Enterprise Participation, Attachment 4, is a MANDATORY requirement and must be completed by each Agency and included in its Phase I Submittal Package. The Good Faith Effort steps must be submitted in a narrative format, addressing whether any DVBE participation was achieved through this effort.

9. **Small and Microbusiness Participation (SMP) (Attachment 5)**

Small and Microbusiness Participation, Attachment 5, is an OPTIONAL requirement and will be evaluated in Phase III.

Based upon the nature of goods and services to be utilized under this solicitation (as outlined in the Scope of Services, Exhibit A), the Lottery has set a Small and Microbusiness Participation goal of 25%, excluding media placement costs, for utilization of small or microbusiness as subcontractors under the contract resulting from this solicitation.
10. Major Agency Disclosure (Attachment 6)

Agencies are required to disclose certain information pursuant to California Government Code section 8880.57. Any individual or entity in an Agency’s organizational chain and any of the Agency’s subcontractors may also be required to disclose similar information. The Lottery may refuse to enter into a Contract based on the results of these disclosures, as provided in California Government Code section 8880.57.

In order to ensure integrity, security, and honesty in its operation, the Lottery will conduct a thorough background check. This may include fingerprinting and a review of financial information. The Lottery may disqualify any Agency if its related entities or their directors, officers, employees, or owners refuse to participate. The successful Agency will be required to notify the Lottery of the identity of potential subcontractors and may be required to periodically update disclosure requirements during the term of the Contract.

Note: The disclosures provided in these forms will be considered confidential.

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**Evaluation Criteria for Phase I Submittals 6, 7 & 8 (Attachments 2, 3 & 4): Pass/Fail**

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**B. Phase I Evaluation**

Submission of the Introduction Letter, Agency Fact Sheet, Agency Profile (DVD), Agency Case Histories (DVD and Written Format), Agency Media Case Histories (DVD and Written Format), Certification, Guaranty and Disabled Veteran Business Enterprise Participation forms are mandatory.

The Introduction Letter, Agency Fact Sheet, Agency Profile (DVD), Agency Case Histories (DVD and Written Format), and Agency Media Case Histories (DVD and Written Format) will be reviewed and evaluated by the Lottery Evaluation Team using the Rating Chart shown in Section III.

The Small and Microbusiness Participation forms will be reviewed and evaluated in Phase III.

After review and evaluation of the Phase I submittals, those agencies receiving a minimum overall rating of “Exceeds” will advance to Phase II as Semi-Finalists. Agencies receiving a minimum of “Meets” may, at the sole discretion of the Lottery Evaluation Team, be advanced to the Semi-Finalist phase.

**C. Phase II Semi-Finalists**

The Lottery will identify Semi-Finalists, schedule Semi-Finalist meetings, and provide each Semi-Finalist with the following:

1. Semi-Finalist Instructions and Brief
2. Semi-Finalist Evaluation Criteria
D. Phase II Semi-Finalist Competition

Phase II of the RFP process will include face-to-face meetings between the Lottery Evaluation Team and the Semi-Finalists. The meetings will be scheduled by the Lottery and will take place at the Agencies’ offices.

The objective of these meetings is to give the Lottery Evaluation Team a sense of each Agency that goes beyond the work and credentials that were evaluated in Phase I. The Lottery wants to meet the people that run each Agency and the team that would lead the Lottery Account. The Lottery Evaluation Team wants to assess the depth of each Agency’s resources, measure its strategic “smarts,” and evaluate the intensity of its interest and commitment to the Lottery’s business.

E. Phase II Evaluation

The Semi-Finalist Competition will be reviewed and evaluated by the Lottery Evaluation Team using the Rating Chart shown in Section III.

After review and evaluation of the Semi-Finalist Meetings, those Agencies receiving a minimum overall rating of “Exceeds” will advance to Phase III as Finalists. Agencies receiving a minimum of “Meets” may, at the sole discretion of the Lottery Evaluation Team, be advanced to the Finalist phase.

F. Phase III Submittals

Upon identification of the Finalists, the Lottery will provide specific instructions for submitting the Phase III Submittals. Finalists must ensure Phase III Finalist Submittals are received at the Lottery’s headquarters on the date specified in Section I, H, Projected Timetable.

G. Phase III Finalist Competition

The Lottery will identify the Finalists; schedule Briefing Day, Work Sessions and Finalist Presentations and release the following:

1. Finalist Work Assignment
2. Finalist Request for Staff Plan and Compensation Proposal
3. Finalist Evaluation Criteria

Finalist Work Assignment: In Phase III, Finalist Agencies will be asked to complete and present a strategic, creative and integrated work assignment including media and online components.

At the beginning of the Finalist Phase, there will be a group briefing day for the Agencies identified as Finalists. Following the group briefing Finalist agencies will have an opportunity to present questions to the Lottery staff.
Finalist Request for Staff Plan and Compensation Proposal: In Phase III, each Finalist will receive a packet outlining the proposed Sample Description of Work (for bidding purposes only) for the Lottery account. The packet will include instructions for organizing the proposed staff plan and corresponding compensation proposal. The objective of this portion of the Finalist Phase is to evaluate the Agency’s anticipated staff proposal and proposed compensation on both a stand-alone and comparative basis to facilitate an “Agency-to-Agency” evaluation.

H. Phase III Evaluation

The Small and Microbusiness Participation forms will be evaluated by the Lottery’s Small Business Specialist.

The Finalist Competition will be reviewed and evaluated by the Lottery Evaluation Team using the Rating Chart shown in Section III.

III. PROPOSAL EVALUATION PROCESS

A. Ratings

The Lottery will conduct a fair and impartial evaluation of proposals received in response to this RFP. Proposals submitted in response to this RFP may be evaluated in comparison with other submitted proposals. Clarification may be requested from participating Agencies during any phase of the evaluation process.

All materials and/or portions not identified as pass/fail will be evaluated using the Rating Chart shown below in accordance with the provisions stated in this RFP.

<table>
<thead>
<tr>
<th>Rating</th>
<th>Definition</th>
</tr>
</thead>
<tbody>
<tr>
<td>Superior</td>
<td>Proposal exceptionally exceeds performance or capability requirements; proposal demonstrates extraordinary strengths that will more than significantly benefit the Lottery.</td>
</tr>
<tr>
<td>Significantly Exceeds</td>
<td>Proposal significantly exceeds performance or capability requirements; proposal demonstrates exceptional strengths that will significantly benefit the Lottery.</td>
</tr>
<tr>
<td>Exceeds</td>
<td>Proposal exceeds performance or capability requirements; proposal has one or more strengths that will benefit the Lottery.</td>
</tr>
<tr>
<td>Meets</td>
<td>Meets specified minimum performance or capability requirements necessary for acceptable contract performance.</td>
</tr>
<tr>
<td>Meets with Exceptions</td>
<td>Proposal demonstrates weak performance or capability standards necessary for minimum contract performance; proposal has one or more weaknesses that offset any strengths.</td>
</tr>
<tr>
<td>Does Not Meet</td>
<td>Fails to meet specified minimum performance or capability requirements. Proposals with an unacceptable rating are not awardable.</td>
</tr>
</tbody>
</table>
B. Best Value Analysis

For the purposes of this RFP, the best value proposal will be the proposal that provides the best overall value to the Lottery and that is most likely to result in a contract that fulfills the Lottery’s mandate to 1) award contracts to the responsible supplier submitting the best value proposal that maximizes the benefits to the state in relation to the areas of security, competence, experience, and timely performance; 2) take into account the particularly sensitive nature of the California Lottery; and 3) act to promote and ensure integrity, security, honesty, and fairness in the operation and administration of the lottery and the objective of net revenues for the benefit of the public purpose.

As part of the best value proposal evaluation process, the Lottery may award a contract based on the proposals submitted or establish a competitive range and hold discussions with each Agency in the competitive range. The competitive range will be composed of the most highly rated proposals consistent with the need for an efficient competition. If conducted, discussions will be undertaken with the intent of allowing each Agency the opportunity to provide added value in specific areas identified by the Lottery. The discussions may include bargaining. Bargaining includes persuasion, alteration of assumptions and positions, and give-and-take, and may apply to price, technical requirements, type of contract, or other terms of a proposed contract.

The Lottery may indicate to, or discuss with, each Agency in the competitive range any weaknesses, deficiencies, and other aspects of its proposal such as price, technical approach, and terms that could, in the opinion of the Lottery, be altered or explained to enhance the proposal’s potential for award. The scope and extent of discussions are a matter solely within the Lottery’s judgment.

IV. Phase I Submittals Packaging and Delivery

All Phase I Submittal packages shall be received no later than April 19, 2013, by 3:00 pm PST. Fax or electronic transmissions will not be accepted. Mail or deliver all proposals to:

California Lottery
Contract Development Services
700 North 10th Street
Sacramento, CA  95811-0393

Attention: Tina Miranda
Response to RFP #9210
DO NOT OPEN IN MAILROOM

Postmark date will not constitute timely delivery. Proposals received after the above date and time will not be considered. Agencies are solely responsible for ensuring timely receipt of their proposals.
The original proposal must be marked "Original Copy" and have original signatures. Any RFP attachment and/or form that requires a signature shall be signed in ink (preferably in a color other than black) by a person who is authorized to bind the proposing firm. The Lottery desires that all requested documents be submitted on 8½” by 11” paper, one-sided, and at least 12 point font. In addition, the entire proposal shall be submitted on a compact disc compatible with Microsoft Office 2007 or Acrobat Reader 9.0.

Responses shall be submitted in a sealed package addressed as above and clearly identifying the Agency making the submission. Within the sealed package, the Agency shall include two separately labeled and sealed packages clearly identifying the contents and Agency name and address:

- **Package 1** must contain one copy of the Agency’s Phase I Submittals on compact disc (CD) and one original and five paper copies of:
  - Introduction Letter
  - Attachment 1, Agency Fact Sheet
  - Attachment 2, Certification
  - Attachment 3 Guaranty

- **Package 2** must contain three copies both of the Agency’s Phase I Submittals on a DVD using a menu format. (Both DVD and Written Format are required for Agency Case Histories and Agency Media Case Histories).
  - Agency Profile
  - Agency Case Histories
  - Agency Media Case Histories

- **Package 3** must contain one original and one copy of Attachment 6, Major Agency Disclosure.

- **Package 4** must contain one original and one copy of Attachment 4, Disabled Veteran Business Enterprise Participation, and Attachment 5, Small and Microbusiness Participation (if applicable).
Exhibit A

SCOPE OF SERVICES

The Agency will be responsible for the following:

- Assist in overall marketing analysis, strategy development, and positioning of the California Lottery (Lottery) and its products.

- Share responsibility for planning, coordinating, and executing the Lottery’s overall marketing plan and the Lottery’s African American Consumer Market (AACM) annual advertising plan. Agency will be required to provide assistance on long-range plans and specialized programs as requested. Agency will be required to interact and work with Lottery staff, other advertising agencies, and other marketing agencies to provide integration of advertising plans.

- Create and produce AACM advertising for the Lottery’s existing products and new products. Advise the Lottery on creative and talent matters relating to all production as necessary.

- Develop AACM media plans and purchase AACM radio, print, outdoor, digital and any new media vehicle to market Lottery products. Provide a post-buy analysis of all media buys.

- Assist with the Lottery’s econometric modeling to optimize campaign results for the maximum media return on investment.

- Assist in development of digital media strategies, including social media and search engine strategy and digital media negotiation, buying, and placement.

- The Lottery Contract Manager may require the Agency to develop, design, and provide in-store communications.

1. RESEARCH

At the request of the Lottery Contract Manager and in compliance with the Lottery Contract Manager’s instructions, the Agency may be required to conduct Lottery market research studies that involve advertising research such as recall tests, copy and motivation tests, media weight tests, and attitude studies. The Agency may also be required to conduct market research studies that assist the Lottery in the areas of strategic planning, retailer attitudes, and retail audits. These studies may be qualitative or quantitative and may be ad hoc or ongoing projects. The Lottery’s research unit manages and contributes significantly in developing study objectives and design.

2. PUBLIC RELATIONS

At the discretion of its Lottery Contract Manager, the Agency may be asked to provide an integrated public relations program for its marketing communications efforts in the areas of new media, online, media relations, crisis communications, and cross-cultural outreach.
1.0 GENERAL PROVISIONS

1.1 Signature Authorization

The person signing this Contract ("Contract") warrants that he/she is an agent of Agency and is duly authorized to enter into this Contract on behalf of Agency.

1.2 Contract Term

The initial Contract Term is five years.

1.3 Option to Extend

The Lottery may unilaterally extend the Contract Term under the same terms and conditions, including pricing terms, for two one-year extensions (the "Option Period"). The Lottery will provide written notice to Agency of the Lottery’s election to extend the Contract Term with such notice provided at least 90 days prior to the end of the Contract Term. The Lottery’s election to extend the Contract Term will be for a period specified by the Lottery and as set forth in the Lottery’s written notice to Agency.

1.4 Emergency Extended Service

At the Lottery’s discretion, upon 30 days’ notice Agency must provide extended services for a period not to exceed nine months from the effective date of the Contract termination or expiration. Services must be provided by Agency under the same terms and conditions, including pricing, as the initial term of this Contract.

1.5 Full Force and Effect

This Contract is of no force and effect until all approvals are secured and it is signed by all parties ("Execution"). Any commencement of performance prior to Contract execution is done at Agency’s own risk.

1.6 Amendment

The parties may amend the Contract by mutual written consent. No alteration or variation of the terms of the Contract is valid or binding unless so made, and no prior oral understanding or agreement not incorporated into the Contract is binding on any of the parties.

1.7 Agency Consideration

As consideration for the compensation provided to Agency under this Contract, Agency agrees to perform all services and to fulfill all responsibilities authorized and required by the Lottery’s Contract Manager as detailed in Exhibit A, Scope of Services. In case of any discrepancies
contained in Exhibit A, Scope of Services, Agency shall immediately notify the Lottery’s Contract Manager for clarification.

2.0 RELATIONSHIP AND AUTHORITY

2.1 Contractual Relationship

The California State Lottery Commission ("Commission"), as the governing body of the Lottery, and Agency agree that the California State Lottery Act (Act, at California Government Code sections 8880 et seq.) charges the Lottery with the duty to operate "so as to produce the maximum amount of net revenues to supplement the total amount of money allocated for public education in California." Agency acknowledges that the Commission has the authority to exercise all powers necessary to effectuate the purpose of the Act, and the Commission retains all such authority under the Contract. Agency agrees to be accountable and subject to the Commission and its designated administrative officers under the Contract. Agency agrees to be subject to all applicable Commission policies, rules and regulations.

2.2 Authority

The laws of the State of California and any federal laws applicable to the Lottery govern the Contract. Agency agrees to be bound by all laws, regulations, guidelines, and court orders imposed upon the Lottery as they relate to the Contract. Agency must perform its duties and obligations subject to Lottery audit and oversight and in compliance with all Contract terms and conditions. Agency has the power and authority, consistent with the limitations herein, to act as may be necessary or desirable to properly, efficiently, fully and completely perform its obligations under the Contract.

2.3 Jurisdiction and Venue

This Contract is governed by and interpreted in accordance with this section. Agency acknowledges and specifically agrees that the jurisdiction for any legal action hereunder, including and not limited to claims, disputes, interpretation, breach and damages, will be the Superior Court, State of California. The venue for any action hereunder will be the Sacramento County Superior Court in California.

As consideration for entering into the Contract, Agency waives access to any other court that may have concurrent jurisdiction inside or outside of California and also agrees to exhaust all remedies provided for in the Contract or otherwise applicable before instituting litigation relating to the Contract.

3.0 THE PARTIES’ OBLIGATIONS

3.1 Contract Managers

The designated Contract Managers are responsible for ensuring compliance with the terms and conditions of the Contract and, unless otherwise specified in the Contract, must have the authority to act for and bind their respective party in connection with all aspects of the Contract. Whenever the Contract requires any action to be taken by the Lottery, such action is the sole responsibility of the Lottery’s Contract Manager unless otherwise specified. The
parties agree to notify each other in writing of a proposed change in a Contract Manager. Any change in Agency’s Contract Manager is subject to Lottery approval.

3.2 Key Personnel

A. The personnel specifically identified in Agency’s Staff Plan and Compensation Proposal are considered essential to the work being performed under the Contract. Before removing, replacing, or diverting any of the listed or specified personnel, Agency must notify the Lottery’s Contract Manager in writing and submit justification (including proposed substitutions) in sufficient detail to permit evaluation of the impact on the Contract.

B. Agency may not remove, replace or divert personnel listed in Agency’s Staff Plan and Compensation Proposal without the Lottery Contract Manager’s consent.

3.3 Prior Lottery Approval

The Lottery is not liable for payment for any work that Agency commences without prior approval from the Lottery’s Contract Manager.

3.4 Business and Professional Licenses

Agency must be licensed to do business in California and must obtain, at its own expense, all licenses and permits required by law for accomplishing any work required in connection with this Contract. Agency must, upon request, provide the Lottery with copies of all required licenses/permits. In the event any licenses and/or permits expire at any time during the term of this Contract, Agency agrees to renew and provide the Lottery, upon request, with a copy of the renewed licenses and/or permits.

3.5 Ethical Conduct Guidelines

The Lottery has in effect Incompatible Activities and Ethical Conduct Standards which restrict and in some instances prohibit transactions between Lottery contractors and Lottery employees. In some circumstances family or social relationships between Agency or its subcontractor personnel and Lottery employees must be disclosed. A copy of the current Incompatible Activities and Ethical Conduct Standards is attached as Exhibit C. Agency and its agents and employees must read, review, and understand the Lottery Incompatible Activities and Ethical Conduct Standards and cooperate with stated requirements. Agency personnel and subcontractor personnel may be asked to disclose information relevant to the Incompatible Activities and Ethical Conduct Standards from time to time throughout the Contract term in keeping with the Lottery’s mandate to conduct the Lottery with integrity, honesty, and security. Agency agrees to ensure continuing compliance by its employees with those standards in all dealings with Lottery employees.

3.6 Confidentiality

Agency must keep confidential all information and materials related to the Contract and/or obtained through the course of work, and must not disclose any such information or materials to third parties unless such disclosure is approved in writing by the Lottery’s Contract
Manager, specifically required by court subpoena or order, or otherwise specifically permitted under the Contract. Under no circumstance will the Lottery be liable to the Agency or to any other person or entity for disclosing material Agency has designated as trade secret or confidential information.

3.7 News Releases

Agency agrees that it will not issue news releases or make statements to the media pertaining to this Contract without the prior written approval of the Lottery’s Contract Manager, and then only in cooperation with the Lottery.

4.0 GENERAL WARRANTIES AND REPRESENTATIONS

Agency warrants and represents that:

A. Agency is fully authorized and prepared to enter into and fully perform the terms and conditions of the Contract;

B. Agency will comply with all federal, state, and local laws, ordinances, rules, and regulations applicable to its activities and obligations under the Contract;

C. The goods, materials, products, deliverables, and services developed, provided, or used by Agency in performance of the Contract do not and will not infringe any copyright, trademark, or other third-party owned intellectual property, and upon request Agency will provide the Lottery with documentation indicating a third party’s written approval and license for Agency to use and sublicense the third party’s intellectual property;

D. All services provided by Agency pursuant to the Contract will be performed in a prompt, competent manner by properly trained individuals in accordance with the highest standards of Agency’s industry;

E. Agency will maintain the minimum staffing levels set forth in its Staff Plan and Compensation Proposal.

5.0 FISCAL PROVISIONS

5.1 Reduction of Funds

The obligations of the parties under this Contract are subject to the availability of funds appropriated by the State Lottery Commission.

5.2 Payment

Agency will be paid in accordance with the Staff Plan and Compensation Proposal. Payments will be made within 45 calendar days from date the Lottery receives an invoice, unless the invoice is disputed. All invoices will be paid minus any applicable offsets, taxes or withholds.
If the Lottery determines that an invoice was improperly executed, or that additional evidence of the validity of the invoice is required, the Lottery will notify Contractor of a disputed invoice within 15 calendar days from receipt of the invoice. Once the invoice is corrected, payments will be made within 45 days from receipt of the corrected invoice.

Where payment has not been issued within 45 calendar days from Lottery’s receipt of an undisputed invoice, interest penalties will accrue as set forth in Government Code section 927.6. If Contractor is a nonprofit organization and the value of the contract is less than $500,000, or if Contractor is certified with the Department of General Services as a small business, interest will accrue at a rate of 10% above the U.S. Prime Rate on June 30th of the prior fiscal year. However, if the amount of the penalty is ten dollars or less, the penalty is waived. Nonprofit organizations are ineligible to receive penalty payments if the value of the Contract is $500,000 or more.

For all other businesses, interest penalties will accrue at a rate of 1% above the daily rate for the Pooled Money Investment Account on June 30th of the prior fiscal year, but will not exceed a total rate of 15%. Penalties of $100.00 or less are waived, as set forth in section 927.6.

5.3 Specialized Programs

At the Contract Manager’s discretion, Agency may be required to provide as-needed services in support of Specialized Programs that are within the Contract’s Scope of Services but are not addressed in the current Staff Plan and Compensation Proposal. Compensation for Specialized Program services will be in addition to the Retainer Fee and will be paid using an agreed-upon billing rate for each proposed Specialized Program service. All Specialized Program services will require submission of an estimate prior to the start of any work and must be approved in writing by the Lottery Contract Manager.

5.4 Full Compensation

The compensation to be paid to the Agency, except as otherwise provided herein, is in consideration for all of Agency’s services and administrative expenses, including all taxes.

5.5 Invoicing

Agency must submit invoices in triplicate on or about the 1st or 15th day of the month noting the Contract number and listing the services rendered, goods provided and reimbursement claimed. Agency will be paid in arrears upon submission of an invoice approved by the Lottery Contract Manager. Agency must submit invoices for the expenses incurred by Agency on the Lottery’s behalf (including, without limitation, production, etc.) in triplicate. The Lottery Contract Manager will review each invoice for completeness and accuracy. Unless disputed, payment will be made as approved by the Lottery Contract Manager within 45 days of receipt of the invoice. Contractor must comply with Exhibit E, Cost Audit Guidelines. Invoices must be submitted to:

California State Lottery
Accounting Operations
P.O. Box 778
Sacramento, CA 95812-0778
Documents necessary to support and substantiate each invoice must accompany the invoice. Production invoices must be submitted within 120 days from date service was provided. Media invoices must be submitted within 120 days of the completion of the flight, Agency must provide to the Lottery a closeout estimate generated from the automated media system. Agency is required to mark "Final Invoice" on the last invoice to be submitted to the Lottery for payment. After final invoice is submitted for both Production and Media, Agency must provide a closeout report detailing billing history and actual dollars spent per job. If no final invoice is received within 180 calendar days after the termination of the Contract or expiration of the Contract by its own terms, Agency waives the right to receive any further payments under this Contract.

5.6 Notice of Sums Owed

The Lottery will notify Agency in writing if and when any sums are due the Lottery. Any sums Agency owes the Lottery must be paid to the Lottery within 45 days after the postmark of the notice of the amount due or the amount due will be deducted from compensation otherwise due to Agency by the Lottery.

5.7 Tie-In Promotion

The parties agree that it is in the Lottery’s best interest to pay the lowest price for media. In that regard, if the Lottery directly negotiates a tie-in promotion with a third party, depending on that party’s contractual obligations with its own advertising Agency and that Agency’s cost, and if Agency’s cost is the lowest, the Lottery may recommend to the tie-in partner that Agency buy the media. The Lottery has final approval of media buys.

5.8 Tax Reporting

Agency is notified that section 6041 of the Federal Internal Revenue Code and section 18646 of the California Revenue and Taxation Code require the Lottery to report certain payments to individuals and entities. No claims for payment will be processed by the Lottery without the necessary information as specified in those provisions. Agency agrees to abide by these conditions and to provide the information requested for tax-reporting requirements.

6.0 LOSS PREVENTION

A. The Agency must acquire and maintain insurance coverage as set forth in this Section 6 and following subsections, and must indemnify and hold the Lottery harmless pursuant to the subsection entitled “Indemnification.” The required policies must remain in force throughout the term of the Contract and any extensions, and copies of the policies must be provided to the Lottery upon request. Certificates of insurance for each required policy must be provided to the Lottery within ten calendar days of execution of the Contract. In addition, all certificates of insurance for renewals must be forwarded to the Lottery within ten calendar days of the policy expiration. Each insurance policy must be issued by companies rated A-minus or better by the AM Best Company, or meet the approval of the Lottery. Each policy must include a provision whereby the carrier must provide advance written notice of cancellation in compliance with California Insurance Code section 677.2. If the Agency’s carrier cancels any policy, the Agency must immediately obtain a
replacement policy prior to expiration of the notice period. Failure to provide and maintain any insurance or security may result in the termination of the Contract.

B. The Agency will not perform services or incur expenses under this Contract until certificates of insurance for the required policies are received by the Lottery.

C. The Agency may request and receive authorization to adjust insurance liability limits. The Agency must submit requests to adjust insurance liability limits in writing, to the Lottery Contract Manager. The Agency cannot adjust insurance liability limits without prior written approval of the Lottery Contract Manager.

6.1 Workers’ Compensation

Agency must maintain Workers' Compensation insurance for all of its employees who will be engaged in the performance of the Contract.

6.2 Commercial General Liability Insurance

Agency must maintain Commercial General Liability insurance with limits of at least $2,000,000 for any one person and $4,000,000 for any one occurrence for death or bodily injury, and $2,000,000 for any one occurrence for property damage. The policy must also include coverage for liabilities for premises, operations, products, advertising injury, and subcontractor operations. The policy must include the Lottery, Lottery Commission members, and Lottery officers and employees as additional named insureds, insofar as operations under the Contract are concerned.

6.3 Indemnification

A. Agency must indemnify and hold harmless, at its own expense, the State of California, the Lottery, the Lottery Commission, Lottery officers and employees and their respective successors, heirs, representatives, administrators and assigns, from and against any and all responsibilities, suits, judgments, awards, costs, damages, claims, demands, actions, losses, settlements, costs, expenses (including attorneys' fees and expenses), and liabilities of every nature threatened or brought against, sustained or incurred by any of them, whether joint, several, or individual (hereafter referred to as “claims”) resulting or arising from or in any way connected with: (1) any act or omission of Agency or any of its officers, employees, subcontractors, or agents, negligent, unauthorized, intentional, or otherwise; (2) any infringing use of third-party intellectual property; (3) the inaccuracy or breach of any covenants, representations and warranties made by Agency as they occur; and (4) the breach of a term or condition of the Contract by Agency. The provisions of this Section survive the termination or expiration of the Contract.

B. Agency must provide the Lottery’s Contract Manager with immediate written notice of any action or suit threatened or filed against Agency that is related in any way to the Contract.

C. The indemnities set forth herein are in addition to, and not in lieu of, any other indemnities provided hereunder or by law.
D. If the use of any element of advertising or other creative works developed, provided, used, or prepared by Agency is enjoined as a result of any such action or proceeding, Agency must, at its own expense and at the Lottery’s option:

1. Procure for the Lottery the right to continue to use said element;
2. Replace said element with a comparable element that is non-infringing or is not a trade secret;
3. Modify said element so it becomes non-infringing or no longer is such a trade secret; or
4. Remove said element and pay to the Lottery any damages incurred by the Lottery as a result of the infringement.

6.4 Clearances, Releases, Waivers, Contracts and Licenses

Agency is solely responsible at its own expense for securing, during the preparation of advertising materials and prior to the execution, printing and/or airing of any advertising materials, any necessary searches, rights, clearances, releases, waivers, contracts and/or licenses with respect to any and all elements used in the materials, including but not limited to third-party intellectual property, names, likenesses, testimonials, scripts, musical compositions, creative and/or similar materials, elements, or rights embodied or to be embodied in materials developed, provided, used, or prepared by Agency under this Contract. Agency is solely responsible at its own expense for obtaining trademark, trade name, service mark, house mark, copyright, slogan and/or logo (collectively referred as “mark”) searches on materials which are to be used as an element in a campaign theme, slogan, logo, or other advertising or promotional purpose by the Lottery. These responsibilities continue throughout the Contract term and any extension. Agency must provide the Lottery with a written assessment of all searches upon request. Agency must also deliver to the Lottery, immediately upon request, written documentation evidencing (a) Agency’s exclusive ownership rights or (b) its licensed rights as set forth above.

6.5 Media Liability

Agency must include a clause in its media purchase contracts providing that Agency is solely responsible for payment of all media invoices.

6.6 Nonexclusive Rights

Agency understands and agrees that the Lottery does not grant Agency exclusive rights to provide to Lottery those services listed in Exhibit A, Scope of Services, during the period covered by this Contract or any extension thereto. The Lottery reserves the right, during the Contract term, to acquire these services through another Agency. The Lottery’s good faith exercise of this right will not constitute a breach of the Contract.
7.0 CONTRACT OVERSIGHT

7.1 Background Investigations and Approval of Agency Staffing

The Lottery may investigate Agency, its parent entity, and their officers, directors, principals, investors, owners, employees and other associates, subsidiaries and subcontractors at any time during the life of the Contract, at the discretion of the Director. The Lottery may terminate the Contract based on the results of these investigations as provided in California Government Code sections 8880.57 and 8880.58.

Furthermore, Agency understands and agrees that, in furtherance of the Lottery’s full disclosure requirements, any person associated with the performance of the Contract may be fingerprinted and may be required to complete a Personal History Statement and an Authorization to Release Personal Background Information form.

The Lottery reserves the right to disapprove any Agency and/or subcontractor assigned to the Lottery Contract. Any personnel deemed unacceptable to the Lottery must immediately be removed. All subcontracts shall include a provision implementing this provision.

Neither Agency’s personnel nor that of its subcontractors may be assigned to the Lottery Contract if they have been or are convicted of a felony, a gambling-related offense, or a crime involving dishonesty. This Contract is subject to termination if this provision is violated.

Agency may be required to reimburse the Lottery for costs incurred in conducting background investigations; including travel, lodging, per diem, document procurement costs, site inspections, fingerprinting and any other necessary and reasonable expenses.

7.2 Agency Evaluation

The Contract Managers for the Lottery and Agency may meet as often as necessary, upon the Lottery’s request, to review and evaluate progress and performance. Review and evaluation criteria will be established by the Lottery Contract Manager and may include problem areas and future performance under the Contract and any other subject relating to completion of tasks under this Contract.

7.3 Project Monitoring

The Lottery will have access to all internal and external reports and documents used by Agency in the performance and administration of this Contract.

7.4 Small Business Participation

The Lottery’s Contract Development Services Office will monitor Agency’s Small Business Participation, if applicable. Periodic participation reports may be required from Agency.
7.5 Records Maintenance and Access

Agency and its subcontractors are required to maintain all financial and accounting records and all other documents and materials (Records) pertaining to the performance of their obligations under this contract, in accordance with generally accepted accounting principles and any other procedures specified by the Lottery. As provided by law, these Records must be made available to the Lottery upon request during the Contract term and for four years after the date of final payment under the Contract. All duly authorized representatives of the Lottery may examine, audit and copy all the information described in this section.

7.6 Audit Provisions

The Lottery and its representatives may audit any of the Agency's and its subcontractor's records, procedures, and operations as they relate to the Lottery. Audits may be initiated at any time and may include both announced and unannounced inspections and on-site audits.

Agency must ensure that all subcontractors providing services under the Contract maintain all Records and comply fully with these audits.

7.7 Dispute Resolution

If a dispute arises out of this Contract that remains unresolved after good faith negotiations between Lottery and Agency, the parties will submit the dispute to mediation, and thereafter to nonbinding arbitration, prior to engaging in litigation in any court or jurisdiction as set forth herein. Arbitration will be conducted under the Commercial Arbitration Rules of the American Arbitration Association in Sacramento County before an arbitrator who is acceptable to both parties. The arbitrator's decision must be in the proper form to be entered as a judgment in a court of competent jurisdiction in Sacramento County. The parties to the arbitration will share equally in the costs of arbitration. Unless otherwise provided herein, each party will be responsible for its own attorney's fees and costs. Notwithstanding any dispute, Agency must proceed diligently with performance of this Contract.

In the event the parties agree on another form of Alternative Dispute Resolution to address a particular dispute, this section will not be construed to limit the parties' ability to utilize such a process.

7.8 Notice of Delay

Whenever Agency has knowledge that any actual or potential situation, including but not limited to labor disputes, delays or threatens to delay timely performance of the work under this Contract, Agency shall immediately provide the Lottery Contract Manager written notice including any relevant information.

8.0 EXPIRATION OR TERMINATION OF CONTRACT

8.1 Expiration of the Contract

Absent early termination of the Contract as provided in this subsection, the Contract will expire at the end of its term and any applicable extension(s).
8.2 Termination for Default

A. The Lottery may, by written notice of default to Agency, terminate the Contract in whole or in part if:

1. Agency fails to perform any material provision of this Contract;

2. Agency fails to deliver goods, materials, products, deliverables, services and advertising, or other items within the Scope of Work, within the time specified by the Lottery;

3. Agency breaches the Contract’s standard of confidentiality;

4. Agency fails to sustain a level of economic viability in its overall operations such that the Lottery cannot reasonably be assured of its ability to continue to comply with the provisions of this Contract;

5. A court of competent jurisdiction finds that Agency, its principals or assigned personnel have failed to adhere to any law, ordinance, rule, regulation or order that may reasonably impugn Agency’s business in such a way as to call into question the security, integrity or competence of Agency or the Lottery;

6. Agency files a case under the Federal Bankruptcy Code or is seeking relief under any provision of any bankruptcy, reorganization, arrangement, insolvency, readjustment of debt, dissolution, receivership or liquidation law of any jurisdiction, whether now or hereafter in effect, or consents to the filing of any case or petition against it under any such law; or

7. Agency has knowingly, or acting with a reckless disregard of the truth, furnished any material statement, representation, warranty or certification to the Lottery which is false, deceptive, or incomplete.

B. In the event of termination for breach, the Lottery may obtain a replacement Agency on an emergency or interim basis to provide the services and/or goods which Agency agreed to provide under this Contract. The Lottery will collect from Agency the difference between the compensation stated in this Contract and the actual cost to the Lottery of obtaining and utilizing an interim replacement Agency. The Lottery will also collect actual costs, including administrative expenses and re-procurement costs, incurred to process and procure a permanent replacement Agency. The Lottery will collect sums it is due by offsetting the amount from any payments due to Agency or by any other means.

C. If the Lottery terminates the Contract for default, Agency must immediately transfer title and deliver to the Lottery, without charge, any and all: (1) completed or partially completed goods, materials, products, deliverables, services and advertising; and (2) license rights to any intellectual property that Agency has produced or acquired for the Contract, in addition to any other property in Agency’s control in which the Lottery has
an ownership interest. Agency must protect and preserve all Lottery property in its possession.

D. The rights and remedies provided in this subsection are in addition to any other rights and remedies set forth in the Contract or otherwise provided by law.

8.3 Termination Based on Determination of Illegality

The Lottery may terminate in whole or in part and reduce Agency's future compensation immediately upon its determination that an activity or operation supported by the Contract is no longer lawful for reasons including, but not limited to, court decision, legislative action, administrative decision, or advice of counsel. Upon receipt of notice of termination or reduction based on a finding of illegality, Agency must immediately cease performance of such activity or operation and mitigate its damages.

8.4 Termination for Convenience

The Lottery retains the option to immediately terminate the Contract for the Lottery's convenience upon advance written notice to Agency of no less than 30 days. Upon receipt of Notice of Termination, Agency must cease performance and mitigate damages. Agency will be entitled to compensation upon submission of invoices and proper proof of claim for that portion of the services that were satisfactorily rendered or provided before the effective date of termination. The Lottery may, in its sole discretion, compensate Agency for expenses reasonably incurred as a result of binding commitments made in connection with Agency's performance of the Contract. Agency must submit proof of such expenses incurred to the Lottery's satisfaction. In the event of termination for convenience, Agency must furnish copies of all materials related to performance hereunder at the time of termination.

9.0 MISCELLANEOUS PROVISIONS

9.1 Force Majeure

Neither Agency nor the Lottery will be liable for any delay in or performance failure under the Contract due to a Force Majeure occurrence, provided that Agency uses reasonably diligent efforts to avoid or otherwise minimize the impact of an event of Force Majeure on Agency's performance. Any such delay in or performance failure will not constitute default or give rise to any liability for damages. The existence of a delay or failure will extend the period for performance to the extent determined by the Lottery's Contract Manager.

For purposes of this Contract, “Force Majeure” means an act of God or public enemy, earthquake, fire, flood, explosion, epidemic, quarantine restriction, strike, freight embargo or closure of all major access roads to geographic area, action of the elements, governmental interference, rationing or any other cause which is beyond the control of the party affected and which, by the exercise of reasonable diligence, a party is unable to control.

9.2 Waiver of Provisions

No term or provision of this Contract will be deemed waived and no breach excused unless such waiver or consent to the breach is in writing and signed by the signatory to this Contract,
or his or her successor, on behalf of the party against whom such waiver or consent is sought to be enforced. No consent by either party to a waiver or a breach by the other, whether express or implied, constitutes consent to, waiver of, or excuse for any other breach or subsequent breach except as expressly provided in the written waiver or consent.

9.3 Order of Precedence

Each party acknowledges that it has read this Contract, understands it, and agrees to be bound by its terms. The following documents will be used to interpret the Contract in the stated order of precedence:

A. The Contract;

B. The Lottery’s Request for Proposal (RFP) #9210, dated March 1, 2013, and any amendments, addenda, and clarifications thereto; and

C. Agency’s proposal in response to RFP #9210 and any clarifications submitted in response to requests by the Lottery.

If there are any inconsistencies or ambiguities in the Contract, the Contract will be interpreted by the documents in the order of precedence referenced above.

9.4 Notices in General

Any notice, request, demand, consent, waiver, or other item required or permitted under this Contract or applicable law must be in writing and will be deemed duly given or made only (a) if personally served upon the party intended to receive it, in which case it is effective when delivered; (b) if sent by certified mail, return receipt requested, postage prepaid, addressed to the party at its address set forth below, in which case it is effective on receipt by any person residing at such address; or (c) is sent by FAX with a copy sent on the same date by first class mail, postage prepaid, addressed to the party at its address set forth below, in which case it is effective as of the date of mailing. A party may change its address for purposes of this Contract only by giving written notice to the other in the manner set forth herein.

<table>
<thead>
<tr>
<th>LOTTERY</th>
<th>AGENCY</th>
</tr>
</thead>
<tbody>
<tr>
<td>Name: California Lottery</td>
<td>_______________________</td>
</tr>
<tr>
<td>Address: 700 North 10th Street</td>
<td>Sacramento, CA 95811</td>
</tr>
<tr>
<td>Phone #: (916)</td>
<td>_______________________</td>
</tr>
<tr>
<td>FAX #: (916)</td>
<td>_______________________</td>
</tr>
<tr>
<td>Attention: (Name of Contract Manager)</td>
<td>_______________________</td>
</tr>
</tbody>
</table>

9.5 Invalidity in Whole or in Part/Severability

If any provision of this Contract is found to be illegal, invalid, or unenforceable under any applicable rule or law, such invalidity will not affect other provisions which can be given effect without the invalid provisions, and to this end, such provision(s) is declared to be severable.
9.6 Execution of Counterparts

The parties deem an executed copy of this Contract as having the same force and effect as the original document.

9.7 Sections and Subsection Headings

The section and subsection headings contained herein are for convenience in reference and are not intended to define the scope of any provision of the Contract.

9.8 Assignment

A. Agency may not assign performance of or payment for the Contract or any portion of the Contract without the prior written consent of the Lottery. Any attempt by Agency to make such assignment without the prior written consent of the Lottery is void and will constitute a material breach of the Contract.

B. Agency must submit requests to assign the Contract in writing, to the Lottery Contract Manager. Agency must not take any action to complete assignment of the Contract without prior written approval from the Lottery.

9.9 Nondiscrimination Clause

During the performance of this Contract, Agency and its subcontractor(s) must not unlawfully discriminate, harass, or allow harassment against any employee or applicant for employment because of race, religion, color, national origin, ancestry, physical disability, mental disability, medical condition, marital status, age, sexual orientation, or gender. Agency and subcontractor(s) will ensure that the evaluation and treatment of their employees and applicants for employment are free of such discrimination and harassment. Agency and subcontractors must comply with provisions of federal law and with the State Fair Employment and Housing Act (Gov. Code sec. 12900, et seq., as amended) and the applicable regulations promulgated thereunder (Calif. Code of Regulations, Title 2, sec. 7285.0, et seq., as amended). Violation of this paragraph is grounds to terminate this Contract for breach, and any loss of revenue sustained by the Lottery by reason thereof will be borne and paid for by Agency.

Agency must include the nondiscrimination and compliance provisions of this clause in all subcontracts to perform work under the Contract. Agency and its subcontractor(s) must give written notice of their obligations under this clause to labor organizations with which they have a collective bargaining or other contract. Agency and subcontractor(s) will permit access to their records of employment, employment advertisement application forms, and other pertinent data and records by the State Department of Fair Employment and Housing or any agent designated by the Lottery to investigate and to ascertain compliance with the nondiscrimination section of this Contract.
9.10 Subcontracting

Upon written approval from the Lottery Contract Manager, Agency may enter into subcontracts. Depending upon the nature, scope, dollar amount, and subject of the subcontract, the Lottery’s Competitive Bidding Procedures may apply. Prior to subcontracting for goods or services valued at $100,000 or more, Agency must consult with the Lottery Contract Manager regarding subcontract bidding guidelines.

Agency’s written request to subcontract must be received by the Lottery Contract Manager prior to executing each subcontract. The request must: (1) provide verification that each subcontractor agrees to be bound to Agency in the same manner and in all respects as Agency is bound to the Lottery, (2) include a detailed description of the work to be subcontracted and (3) include a copy of each proposed subcontract. The Lottery Contract Manager may disapprove Agency’s subcontractors at any time.

Nothing contained in any Agency subcontract may create any contractual relationship between the Lottery and subcontractors. Agency agrees to be as fully responsible to the Lottery for the acts and omissions of its subcontractors and persons either directly or indirectly employed by them as it is for the acts and omissions of persons directly employed by Agency.

Agency's obligation to pay its subcontractors is an independent obligation from the Lottery's obligation to make payment to Agency. As a result, the Lottery will have no obligation to pay or to secure payment for any Agency subcontractors.

9.11 Independent Contractor

Agency will be an independent contractor in the performance of the Contract. Agency will have sole and exclusive control of the manner and means of its performance under the terms of this Contract except as expressly set forth herein.

9.12 Joint Ventures and Partnership – Joint and Several Liability

Each participant in a joint venture, proposal, or partnership is jointly and severally liable for the performance of the entire Contract, and each participant must designate, in writing, one individual having authority to represent Agency in all matters relating to the Contract. The Lottery assumes no responsibility or obligation for the division of orders, purchases, or payments among participants.

9.13 Travel and Expenses

All travel is subject to pre-approval by the Lottery Contract Manager. If approved, travel and expenses (including air travel and car rental) will be reimbursed at the current Department of Human Resources Approved Travel rates for Excluded Employees (www.calhr.ca.gov). (See also Exhibit E, Cost Audit Guidelines)
9.14 Standards of Conduct

Agency is responsible for maintaining satisfactory standards of employee competency, conduct, appearance, and integrity. Agency is responsible for ensuring that employees do not disturb papers on desks, open desk drawers or cabinets, or use Lottery equipment except as authorized.

9.15 Persons Ineligible for Prizes

Agency’s employees who participate in designing, developing and/or conducting specific Lottery draws, promotions, or entries and members of their immediate families are not eligible to receive lottery prizes for tickets purchased for those draws, promotions and/or entries. Immediate family is defined as including a person’s spouse, children, brothers or sisters, or parents of that person who reside within the same household of the person. Agency agrees to take all steps necessary to ensure the enforcement of this provision for the duration of the Contract.

9.16 Audit Requirements for Media Purchases

The Lottery Internal Audits Office or its representatives may, with reasonable notice, audit media purchase invoices and other related documents to confirm media purchase costs. Agency must, upon request, provide copies of documentation to the Lottery Internal Audits Office or its representatives.

Agency must send written notice to applicable media stations that they must keep a station billings log or other documentation to verify spots aired. These notices must also advise the media stations that the logs must be maintained for four years and, upon reasonable notice, the Lottery’s Internal Audits Office or its representatives may require access to the logs and/or video verification to verify spots billed.

9.17 Internal Control Audit

Agency must, upon approval of the Lottery Contract Manager, retain an independent certified accounting firm(s) to conduct an independent Internal Control Audit of Agency’s control systems. The cost of the external certified accounting firm(s) will be reimbursed by the Lottery provided it results in the type of report specified by the Lottery’s Contract Manager and covers the control examined objectives and the time period requested. Audits required pursuant to this section will occur no more frequently than once every two years.

9.18 Samples

Samples of items, work, goods, materials, products, deliverables, services, advertising, and similar products and efforts may be required by the Lottery for inspection and must be furnished free of expense to the Lottery.
10.0 OWNERSHIP AND DEVELOPMENT

10.1 Lottery Intellectual Property

A. Intellectual property owned by the Lottery, including but not limited to trademarks, logos, trade secrets, and copyrights, is hereinafter collectively referred to as “Lottery Property.”

B. Lottery Property is at all times the sole and exclusive property of the Lottery.

C. Unless approved by the Lottery Contract Manager in writing, Lottery Property may not be revised or altered by Agency in any way, and must be displayed as provided by the Lottery.

D. Lottery Property must be used by Agency in a professional manner and solely in connection with the activities authorized under the Contract. Agency must not permit any third party to use Lottery Property without the express prior written approval of the Lottery. Lottery Property may not be used by Agency in any manner that: diminishes their value or otherwise dilutes the marks; discredits the Lottery or tarnishes the Lottery’s reputation and goodwill; is false, misleading or likely to cause confusion; is fake or deceptive; violates the rights of others; violates any federal, state or local law, regulation or other public policy; or mischaracterizes the relationship between the parties, including but not limited to the fact that the Lottery is a separate and distinct legal entity from Agency.

E. The Lottery has the right, from time to time, to request complete samples of use Lottery Property by Agency from which the Lottery may determine compliance with these terms and conditions.

F. Use of Lottery Property by Agency creates no rights for Agency in or to such Property or its use beyond the terms and conditions of this Contract. All usage of Lottery Property by Agency will terminate immediately upon the termination or expiration of this Contract. Agency’s obligations to protect Lottery property will survive the termination or expiration of this Contract.

10.2 Ownership of Work Product

A. The Lottery owns and retains all right, title and interest in and to all goods, materials, products, deliverables, services and advertising, including all tangible and intangible objects, things, and concepts, outcomes to be achieved, hardware, software, or design products, concepts, media, social networking, or documents and all other results and proceeds of the services hereunder, in all stages of completion, including without limitation all and any and all graphics, designs, artwork, images, reports, documents, materials, techniques, ideas, concepts, logos, slogans, specifications, user interfaces, data, data templates, database structures and fields, outlines, drafts, derivatives, scripts, know-how, algorithms, software, computer code, routines or subroutines, specifications, plans, notes, drawings, designs, text, audiovisual works, inventions, data, information and other items, expressions, works of authorship or work product of any kind that are authored, produced, created, conceived, collected, developed, discovered or made by Agency in connection with the services or which relate in any
manner to the services or the deliverables or which result from any work performed by
Agency for Lottery, including without limitation any and all copyrights, database rights
and other intellectual property rights therein (collectively the “Work Product”). To the
maximum extent permitted by law, the Lottery is deemed to be the "author" of all Work
Product and all such Work Product will constitute "works made for hire" under the U.S.
Copyright Act (17 U.S.C. §§ 101 et seq.) and any other applicable copyright law.
Agency hereby waives any and all moral rights or equivalent rights under the laws of
any applicable jurisdiction (including without limitation rights of integrity and attribution)
in and to the Work Product. To the extent that any Work Product does not constitute a
work made for hire, Agency hereby irrevocably transfers and assigns to Lottery all right,
title and interest in and to the Work Product, including without limitation all copyrights,
patents, trademarks and other intellectual property and proprietary rights therein
throughout the world.

B. Agency acknowledges and agrees that without limiting any section herein, the rights
vested in and transferred to Lottery in and to the Work Product include without limitation
the following:

1. **Copyright.** The Lottery will be the sole owner of the undivided interest in all
copyrights and all similar or equivalent rights throughout the world in the Work
Product, whether vested, contingent or future, including without limitation all
economic rights and the exclusive rights to reproduce, fix, adapt, modify,
translate, create derivative works from, manufacture, market, introduce in
circulation, publish, make available, distribute, sell license, sublicense, transfer,
rent, lease, transmit or provide access electronically, broadcast, display, perform,
enter into computer memory, and use the Work Product, all modified and
derivative works thereof, all portions and copies thereof in any form.

2. **Copyright Moral Rights.** Agency and all of its employees, persons, agents and
subcontractors, and other entities who may have claims of moral rights (or
similar or equivalent rights under the laws of any jurisdiction) in any part of the
Work Product, have agreed or Agency will obtain their agreement that (a) they
have no objection to publication, use and exploitation of the Work Product as
contemplated by this Contract; (b) they will remain anonymous authors without
attribution or credit, acknowledging that the Lottery or its designees may be
designated as author; (c) the Lottery or its successors, assigns or licensees may
make future modifications and adaptations to the Work Product, and may make
disclosure and disposal of the Work Product, and any modifications thereof, in
the manner that the Lottery or its successors, assigns or licensees see fit,
without any right of approval, withdrawal or public renunciation by such persons;
and (d) their remuneration for the Work Product is complete, adequate and
reasonable. For any and all such rights in the nature of moral rights or otherwise
that are not capable of vesting in or transfer to the Lottery under applicable law,
Agency waives and agrees never to assert such rights against the Lottery or its
successors, assigns or licensees.

3. **Patent, Design, Trademark Rights.** The Lottery will be the sole owner of all
rights in and to any inventions, designs, database rights, and marks embodied in
the Work Product or developed in the course of creation of the Work Product,
including without limitation, all utility and design patent rights and equivalent rights in and to such inventions and design rights, and all trade and service mark rights, throughout the world.

4. **Exclusive Worldwide License.** In the event that by operation of law, notwithstanding Agency’s execution of any further documents to effectuate the transfer of rights to the Lottery hereunder, Agency is deemed to have retained rights in any portion of the Work Product, Agency grants to the Lottery, its successors, assigns, and licensees, an exclusive, irrevocable, worldwide, fully-paid, royalty-free license to reproduce, fix, adapt, modify, translate, create derivative works from, manufacture, introduce into circulation, publish, distribute, make available, sell, license, sublicense, transfer, rent, lease, transmit or provide access electronically, broadcast, display, perform, enter into computer memory and use and otherwise exploit the Work Product, all modified and derivative works thereof, all portions and copies thereof in any form, and all inventions, designs and marks embodied therein, throughout the world in all media whether now known or hereafter devised.

5. **Rights in Tangible Media.** The Lottery will be the sole owner of all tangible and intangible copies, documents, magnetic or optical media, or other materials, chattel or personal property created by or for Agency in connection with this Contract. Upon written notice from the Lottery, Agency must deliver to the Lottery all embodiments of the Work Product in electronic and tangible formats as specified by the Lottery, and/or destroy and certify destruction of all copies of the Work Product in Agency’s possession or control. Agency must maintain the Work Product and other materials of the Lottery in accordance with the Lottery’s information security requirements and will certify in writing compliance with such requirements upon request.

6. **Applications, Renewals, Further Assignments and Transfers.** The rights vested in, assigned to, transferred and/or licensed to the Lottery hereunder include without limitation: (a) the exclusive right to make and secure applications and registrations of copyright and other intellectual property rights; (b) the exclusive exercise of such intellectual property rights for the unlimited, entire period of such rights throughout the world; (c) the exclusive right to renewals, reversions, and extensions of such intellectual property rights; (d) the exclusive right to authorize, transfer, license, sublicense, deal in, dispose of and assign others to own or exercise such rights, title and interests; and (e) the exclusive right to initiate, pursue, prosecute and settle past, present and future claims of infringements relating to such intellectual property rights. Without limitation, Agency acknowledges that all rights of every kind and nature whatsoever in the Work Product may be exploited, assigned and licensed by the Lottery to such third parties as it sees fit, and the Work Product is expressly acknowledged to be specially ordered and commissioned by the Lottery.
10.3 Acknowledgments

Agency acknowledges and agrees that the Lottery is the exclusive holder of all copyright, trademark, patent, and other intellectual property and proprietary rights in the Work Product worldwide and that Agency has no right to and will not directly or indirectly reproduce, fix, adapt, modify, translate, create derivative works from, manufacture, market, introduce into circulation, publish, distribute, sell, license, sublicense, transfer, rent, lease, transmit or provide access electronically, broadcast, perform, display, enter into computer memory, or use or exploit the Work Product, or any portion or copy thereof in any form, or any such rights, or authorize or assign others to do so, or derive any other work from concepts, information or elements of the Work Product, except as explicitly permitted by this Contract. In the event that the Lottery provides Agency with technology, software, resource files, tools and other materials with which to prepare the Work Product, Agency will safeguard and use such materials only for the purpose of preparing the Work Product and return such materials and all copies thereof at any time upon request of the Lottery.

10.4 Further Assurances

Without payment of additional compensation, Agency must execute all documents and take all actions necessary or reasonably requested by Lottery to document, obtain, maintain, perfect or assign its rights to the Work Product. Agency must also cause its employees, agents and subcontractor(s) to execute such documents and take such actions as described above. If Agency fails or refuses to execute any such instruments within ten business days of the Lottery's request, Agency hereby appoints the Lottery as Agency's attorney-in-fact (this appointment to be irrevocable and a power coupled with an interest) to act on Agency's behalf and to execute such documents. Agency will not contest the validity of the Lottery's rights in the Work Product and will cause its employees, agents and subcontractor(s) to comply with the foregoing. All such Work Product will be deemed to be the confidential, proprietary and trade secret information of the Lottery.

10.5 Transfers and Consents

Agency must secure in writing in form satisfactory to the Lottery all transfers of rights and other consents necessary for Agency to make the assignments, licenses and other transfers set forth in this section. Without limitation, Agency must secure written agreements and consents from its employees and subcontractors that all works created pursuant to this Contract (including the Work Product) fall within the scope of their employment duties or engagement, as applicable, and that all economic rights in such works vest in Agency as the employer and are fully transferable, and Agency will secure such written transfers of rights and all other required consents from all other persons or entities whose services were, are or will be rendered in connection with the Work Product. Upon request, Agency must provide the Lottery with copies of all such contractual documentation and must include the Lottery as a third-party beneficiary of such agreements or cause such parties to execute a further acknowledgment and assignment for the benefit of the Lottery if requested.
11. CALIFORNIA LOTTERY INFORMATION SECURITY STANDARDS

11.1 Information Security

Information security is the protection of the integrity, availability and confidentiality of information and the resources used to enter, store, process and communicate the information.

Agency must establish and maintain adequate security controls, standards, procedures, including controls for data sharing, to 1) prevent unauthorized access; 2) protect the confidentiality, integrity, and availability of Lottery information, assets and services, and; 3) protect the privacy of personal information or personally identifiable information stored, existing in real time, or in transit, associated with the Contract. The Agency must also operate in accordance with California state and federal laws related to the protection of information assets and the timely and efficient management of security incidents, including corrective action and notice requirements.

All electronic confidential Lottery information, whether at rest or in transit, must be encrypted with an approved Federal Information Processing Standard (FIPS) encryption product.

11.2 Data Integrity and Management

The Agency must ensure the integrity of the data collected or generated associated with this Contract.

Data may only be collected and retained for legitimate business purposes associated with the Contract. All data will be confidentially destroyed or returned to the Lottery as directed by the Lottery.

11.3 Agency Responsibilities

Information security must be ensured by the Agency as the Agency may have access to the Lottery’s sensitive or confidential information, and this information may be contained in systems that directly support the Lottery’s mission. This may include IT hardware and software and the services associated with the management, operation, maintenance, programming, and system administration of computer systems, networks, telecommunications systems, and social media. Examples of contract tasks that require information security adherence include and are not limited to:

A. Access to the Lottery’s protected data, legally protected data, financial data, or any commercial data that is proprietary to a third party;

B. Acquisition, transmission, or analysis of data owned by the Lottery for which significant replacement costs would be incurred should the Agency’s copy be corrupted; and

C. Access to the Lottery’s networks or computers at a level beyond that granted to the general public.
The Agency and all Agency personnel must not use or redistribute any Lottery information processed, stored, or transmitted by the Agency except as specified in the Contract or upon written Lottery approval.

All Agency personnel with access to Lottery information, information systems, networks, or data must comply with Lottery privacy, security and social media and information data policies, rules and regulations, in addition to all applicable California and federal statutes.

11.4 Security Plan

The Agency must provide a Security Plan that identifies and implements security controls to properly protect information at a level that is proportionate to the criticality and sensitivity of the information. The Data sensitivity or classification will be defined by the Lottery using the Federal Information Processing Standards (FIPS) 199. The National Institute of Standards and Technology (NIST) Special Publication 800-53 Revision 3 should be used to identify the recommended security controls.

The Security Plan must be provided upon Contract award, and annually thereafter, to the Lottery Contract Manager and the Lottery Information Security Officer for approval, identifying all data security considerations and controls and naming a designated Information Security Systems Officer (ISSO).

The Security Plan must also include an examination of Agency personnel and staffing profiles to ensure that there is a clear “separation of duties” throughout the Contract term to ensure that no single person has the ability to manipulate data, information, software, or systems without the oversight of another person.

The Security Plan must also provide that Agency staff have access to only the systems and information required for their tasks.

The Security Plan must include, at a minimum, security measures and program safeguards to ensure that the information and systems developed, acquired, operated, maintained and/or used by the Agency personnel are protected:

1. From unauthorized access, alteration, disclosure, or misuse of information processed, stored or transmitted.
2. By disaster recovery processes and support for the Lottery operations and mission, organization, programs and function.
3. By management, operational and technical controls sufficient to provide cost-effective assurance of the information’s confidentiality, integrity and availability.
4. By appropriate technical, personnel, administrative, environmental and access safeguards.
5. By a virus protection program, operating system patching program, and application patching program for all information systems and resources under their control.
6. By a network intrusion detection and prevention program for all Lottery information under their control.
7. By an organizational continuity of operations plan in the event of a major system failure or disaster.
8. By a security incident response plan for handling suspected information security incidents and breaches, including corrective action and
9. By a fully implemented information security and privacy awareness program.

Agency must ensure adherence to the approved Security Plan at all times.

11.5 Backup and Recovery

The Agency must maintain data backup and recovery processes for all information and data associated with the contract, according to the specifications provided by the Lottery for recovery point objectives and recovery time objectives.

11.6 Information Security Breach

An information security breach is defined as the unauthorized acquisition of information or computerized data that compromises the security, integrity, confidentiality, privacy, or availability of information associated with the Lottery contract and maintained by the Agency.

The Agency must comply with California Civil Code section 1798.82.

The Agency must disclose to the Lottery within two hours of discovery any breach of the security of any confidential or personal information.

The disclosure of the breach will be made in the most expedient time possible and without unreasonable delay, consistent with any measures necessary to determine the scope of the breach and restore the reasonable integrity of the data system.
Exhibit C

INCOMPATIBLE ACTIVITIES AND
ETHICAL CONDUCT STANDARDS

GENERAL DISCUSSION

To maintain public confidence in the Lottery and the games, it is essential that employees conduct themselves and the business of the Lottery with honesty, integrity and impartiality. Employees shall take care to avoid conflicts of interest or even the appearance of conflicts of interest by observing the rules of ethical conduct contained herein. Failure to conform to the standards set forth below may result in such disciplinary measures as the situation may warrant, including informal or formal reprimand, removal from office or termination of employment. This includes all civil service and exempt employees covered by the Lottery Act and includes contract employees.

In addition, due to the particularly sensitive nature of the Lottery and the intense public scrutiny, which the Lottery receives, and under the authority provided to the Lottery Director by the Lottery Act, some special procedures have been established for Lottery employees.

DEFINITIONS

1. Employee - Includes civil service, temporary, emergency, limited term, seasonal and exempt employees covered by the Lottery Act. Includes those persons employed under the terms of a Personal Services Contract, who are subject to all of the terms of that contract and the contract employment approval process.

2. Person - Includes individuals, firms, corporations, partnerships, associations, other governmental bodies or their agents and representatives.

3. Memorandum of Understanding Provisions - Written agreement between state and a labor organization usually for a definite term, defining conditions of employment.

POLICY GUIDELINES

1. It is the policy of the Lottery to inform its employees of activities, which are incompatible with their employment and standards for their ethical conduct as Lottery employees.

2. Managers and supervisors are responsible for ensuring that their subordinates are informed of these policies and standards. New employees are to be made aware that in accepting employment they consent to these policies and standards.

3. Employee questions concerning whether a contemplated activity is prohibited or in compliance with this statement should be directed on a confidential basis to employee’s immediate supervisor or the Personnel Officer.

4. It is the policy of the Lottery that individuals convicted of any felony, any gambling-related offense (felony or misdemeanor), or any misdemeanor involving moral turpitude, dishonesty or integrity shall not be employed, appointed, or retained by the Lottery. Exceptions to this policy
pertaining to misdemeanor convictions (not related to gambling offenses) may be granted by the Lottery Director or Chief Deputy Director based on the circumstances, on a case by case basis.

5. Employees may be subject to disciplinary action for violations of the policies and standards contained in the Incompatible Activities Policy Statement (Government Code Sections 19570-19588). An employee may appeal a determination of incompatibility through the third level of review, pursuant to the employee grievance procedure.

6. Employees may request exceptions to the Incompatible Activities Policy Statement where Memorandum of Understanding provisions apply. A request for exception should be submitted, in writing, to the employee's immediate supervisor.

7. This statement and subsequent revisions will be implemented by notifying employees of the proposed statement and subsequent changes, in writing, for a period of at least 30 days prior to implementation.

STANDARDS OF CONDUCT

Pursuant to the provisions of Government Code section 19990, and the approval of the Department of Personnel Administration, the Lottery has determined that the following activities are inconsistent, incompatible or in conflict with the duties, functions or responsibilities of its employees.

1. No employee shall use the prestige or influence of the State or the Lottery for the employee's private gain or advantage, or the private gain or advantage of another.

2. No employee shall use State time, facilities, equipment or supplies for private gain or advantage.

3. No employee shall use confidential information available by virtue of State employment for private gain or advantage or provide confidential information to persons to whom issuance of such information has not been authorized.

4. No employee shall receive or accept money or any other consideration from anyone other than the State for the performance of his/her duties as a Lottery employee or contract employee. This provision does not preclude accepting a meal in return for representing the Lottery at a conference, event, or sponsorship, or as a guest speaker.

5. No employee shall participate in any outside activity knowing that the activity may later be subject, directly or indirectly, to the control, inspection, review, audit or enforcement by the employee in the course of his/her duties at the Lottery.

6. Except as provided below, no employee shall directly or indirectly solicit, receive or pass on to other persons any gift, money, service, gratuity, favor, meal, entertainment, loan or any other thing of value with a fair market value of $25 or more, regardless of whether the employee reciprocates with a like gift, from anyone who is doing or seeking to do business of any kind with the Lottery, or whose activities are regulated or controlled by the Lottery if the gift, money, service, gratuity, favor, meal, entertainment, loan or any other thing of value may appear to be solicited, received or passed on to another wholly or partially because of the employee's employment with the Lottery.
Exceptions to Item 6:

1. Employees may accept items having a value of more than $25 with the approval of the Lottery Director.

2. When attending a conference, convention, seminar or training meeting (conferences), employees may accept the following without regard to the value:
   a. Promotional items which are generally available to all attendees.
   b. Food, beverages and entertainment provided in hospitality suites which are generally open to all attendees.
   c. Meals provided by conference hosts, Agencies, or prospective Agencies or their representatives which are generally available to attendees. For example, the meal might be considered generally available when those invited to the meal represent a number of different entities (lotteries, governmental organizations, companies, etc.).

   The purpose of allowing exceptions for conference attendance is to allow open exchange of information. If an employee perceives that an invitation is extended with the specific intent to influence him/her, the employee should decline. Employees are expected to maintain honesty and integrity when deciding to accept or decline food, beverages and entertainment as part of a conference setting. (Note: When a meal is provided as part of a conference, the employee may not claim that meal as a subsistence expense.)

3. No employee or contract employee shall engage in outside employment as defined below without advising his/her manager/supervisor of such employment before starting outside employment. General prohibitions on outside employment to be enforced by the supervisor include:
   a. Engaging in any employment outside State service, or outside the scope of the contract with the Lottery, compensated or not, which causes either physical or mental fatigue that results in less efficient performance of the employee's or contract employee's State or contract duties.
   b. Accepting money, gifts, compensation or consideration in any form for service as an official or in any policy-making capacity in a nonprofit or volunteer organization which is involved in any way with Lottery operations within the employee's or contract employee's jurisdiction.
   c. Accepting money, gifts, compensation or consideration in any form from a person other than the State for performing a duty which the employee, contract employee, or the Lottery would be expected to perform in the course of State or contract business.
   d. Performing an act in other than the capacity as a State employee or contract employee knowing that such act may later be subject, directly or indirectly, to the employee's or contract employee's control, inspection, review, audit or enforcement.
e. Engaging in any non-State business which is otherwise clearly inconsistent, incompatible, in conflict with or inimical to his or her duties as a State employee or a contract employee.

4. Each employee who is in a position to influence Lottery decisions about a supplier of goods or services to the Lottery and who has a personal relationship with the supplier, shall immediately notify his/her supervisor of the name of the supplier and the relationship. "Personal relationship" means spouse, child, parent, sibling, household member, "significant other", business associate or personal friend. A "personal friend" is defined as any person with whom the employee is acquainted who can influence the employee to the extent of creating a conflict-of-interest situation or giving the appearance that a conflict-of-interest situation exists.

5. Subject to any other laws, rules, or regulations as pertain hereto, an employee shall devote his/her full time, attention, and efforts to his/her Lottery employment during his/her hours of duty as a Lottery employee.

POLITICAL ACTIVITIES

The law provides guidelines for employees to follow with regard to political activities. Essentially, Government Code sections 3201-3209 provide:

1. Except as otherwise provided under Government Code Sections 3201-3209, no restriction shall be placed on the political activities of an employee.

2. No employee may knowingly solicit or receive any kind of political contribution from State employees or persons on employment lists. However, this limitation does not prohibit an employee from communicating through the mail or by other means requests for political contributions to a significant segment of the public which may include State employees.

3. No employee may use any official authority to influence or to coerce the vote or political action of any State employee or persons on an employment list. This limitation applies to urging or discouraging an individual's action.

4. An employee may solicit or receive political contributions to promote or defeat a ballot measure which affects rates of payment, hours of work, retirement, civil service or other working conditions of State employees. However, such activity is prohibited during working hours.

OTHER CONSIDERATIONS

1. The Lottery Act requires that the Director shall act, in all decisions, to promote and ensure integrity, security, honesty and fairness of the operation and administration of the Lottery. Under this authority, the Lottery Director, or designee, may evaluate the information on outside employment or current or prior relationships to determine whether there is or may be a conflict with official duties and the steps that are required to eliminate the conflict.

2. Employees are advised that the Lottery Act provides that: "A ticket or share shall not be purchased by and a prize shall not be paid to a member of the commission, any officer or employee of the commission, any officer or employee of the Controller who is designated in writing by the Controller as having possible access to confidential lottery information, programs, or systems, or any spouse, child, brother, sister, or parent of that person who resides within the same household of the person." This provision of the Act does not apply to "in-law" or "step"
relationships (e.g., stepparent, stepchild, mother-in-law, etc.). It does apply to legal adoptive relationships.

3. This statement and the specific activities set forth herein shall not be construed as the sole provisions of law or administrative rules that shall be observed by the employees of the Lottery. The Lottery Director or the Commission may specify additional prohibited activities generally or for designated individuals by an order directed to the individual or persons to whom it applies.

EXCEPTIONS TO POLICY

Employees may request exceptions to this Incompatible Activity Policy Statement where Memorandum of Understanding provisions apply. A request for exception should be submitted, in writing, to the employee's immediate supervisor.

APPEAL PROCESS

1. A determination by the employee's supervisor that an activity is in conflict with the employee's duties or responsibilities may be appealed through the third level of the grievance procedure as provided below. The decision of the Lottery Director shall be final.

2. An employee may appeal a determination of incompatibility under this policy through the employee grievance procedure. However, in all cases the final level of review in the process shall be the Lottery Director or his/her designee.

QUESTIONS/MAINTENANCE

Questions regarding this policy should be directed to the Personnel Office. The Personnel Office is responsible for maintaining this policy.

REFERENCE

Government Code section 19990
Government Code sections 3201-3209
Incompatible Activities Policy Statement (Government Codes 19570-19588)
Lottery Act
Section 8880.57. Disclosures

In order to allow an evaluation of the competence, integrity, and character of potential Lottery Contractors for the California State Lottery, any person, corporation, trust, association, partnership, or joint venture that submits a bid, proposal, or offer as part of procurement for a contract for any goods or services for the California State Lottery, other than materials, supplies, services, and equipment which are common to the ordinary operations of state agencies, shall comply with each of the following:

(a) Bidders, as required by the Lottery, shall disclose the bidder’s name and address and, as applicable, the name and address of the following:

(1) If the bidder is a corporation, the officers, directors, and each owner, directly or indirectly, of any equity security or other ownership interest in the corporation. However, in the case of owners of publicly held equity securities of a publicly traded corporation, only the names and addresses of those known to the corporation to beneficially own 5 percent or more of the publicly held securities need be disclosed.

(2) If the bidder is a trust, the trustee and all persons entitled to receive income or benefit from the trust.

(3) If the bidder is an association, the members, officers, and directors.

(4) If the bidder is a subsidiary, the officers, directors, and stockholders of the parent company thereof. However, in the case of owners of publicly held equity securities of a publicly traded corporation, only the names and addresses of those known to the corporation to beneficially own 5 percent or more of the publicly held securities need be disclosed.

(5) If the bidder is a partnership or joint venture, all of the general partners, limited partners, or joint venturers.

(6) If the parent company, general partner, limited partner, or joint venturer of any bidder is itself a corporation, trust, association, subsidiary, partnership, or joint venture, then the disclosure of information needed to determine ultimate ownership. However, in the case of owners of publicly held equity securities of a publicly traded corporation, only the names and addresses of those known to the corporation to beneficially own 5 percent or more of the publicly held securities need be disclosed.

(7) If the bidder proposes to subcontract any substantial portion of the work to be performed to a subcontractor, then all of the information required in this section shall be disclosed for the subcontractor as if it were itself a bidder.

(b) After receipt of a bid, proposal, or offer, but prior to the award of a contract, the Commission may require a potential Lottery Contractor to provide any or all of the following information:
(1) A disclosure of all the states and jurisdictions in which the bidder does business, and the nature of that business for each state or jurisdiction.

(2) A disclosure of all the states and jurisdictions in which the bidder has contracts to supply gaming goods or services, including, but not limited to, lottery goods and services, and the nature of the goods or services involved for each state or jurisdiction.

(3) A disclosure of all the states and jurisdictions in which the bidder has applied for, has sought renewal of, has received, has been denied, has pending, or has had revoked a gaming license of any kind, and the disposition in each state or jurisdiction. If any gaming license has not been renewed or any gaming license application has been either denied or has remained pending for more than six months, all of the facts and circumstances underlying this failure to receive a gaming license shall be disclosed.

(4) A disclosure of the details of any conviction or judgment of a state or federal court against the bidder of any gambling-related offense, or criminal offense other than traffic violations.

(5) A disclosure of the details of any bankruptcy, insolvency, or reorganization, or any judgment or pending litigation involving fraud or deceit against the bidder.

(6) A disclosure for each bidder of the employment, residence, educational, and military history since the age of 18 years of any of its owners, directors, members, officers, employees, or agents identified by the Lottery.

(7) A disclosure consolidating all reportable information on all reportable contributions by the bidder to any local, state, or federal political candidate or political committee in this state for the past five years that is reportable under any existing state or federal law.

(8) A disclosure of the identity of any entity with which the bidder has a joint venture or other Contractual arrangement to supply any state or jurisdiction with gaming goods or services, including, but not limited to, lottery goods or services; including a disclosure with regard to the entity of all of the information requested under paragraphs (1) to (8), inclusive.

(9) In the instance of a procurement for the printing of lottery tickets, for goods or services involving the receiving or recording of number selections, or for goods or services involving the determination of winners, an additional disclosure consisting of the individual federal and state income tax returns for the past three years and a current individual financial statement for each bidder and any of the bidder's owners, directors, members, officers, employees, or agents identified by the Lottery. The disclosures provided in this paragraph shall be considered confidential and shall be transmitted directly to the Deputy Director for Security and the Attorney General for their review.

(10) Any additional disclosures and information as may be appropriate for the procurement involved as determined by the Commission.

(c) With respect to the persons or entities described in paragraphs (1) to (7), inclusive, of subdivision (a), the Commission may request the disclosure of any information required in subdivision (b), which shall be relevant to the award of any contract.
(d) No contract with any bidder who has not complied with the disclosure requirements described in this section shall be entered into or be enforceable. Any contract with any lottery contractor who does not comply with these requirements for maintaining the currency of the disclosures during the term of the contract as may be specified in the contract may be terminated by the Commission. In addition, the Commission may deny or cancel a contract with a lottery contractor or any of the persons or entities included in paragraphs (1) to (7), inclusive, of subdivision (a) if any of the following apply:

(1) False statements have been made in any information which is required under this section.
(2) Any of the persons or entities have been convicted of a crime punishable as a felony.
(3) Any of the persons or entities have been convicted of an offense involving dishonesty or any gambling related offense.

(e) This section shall be construed broadly and liberally to achieve the end of full disclosure of all information necessary to allow for a full and complete evaluation of the competence, integrity, and character of potential suppliers of the California State Lottery Commission.

Rev. 1/1/05
Exhibit E

COST AUDIT GUIDELINES

An approved estimate must be on file at the Lottery for all invoices received.

- **Subcontracted Work.** All estimates for subcontracted work must be submitted from the Agency, specifying Agency job number and product/project. The Agency is solely responsible for processing of all subcontractor estimates. Agency must retain and make available upon request documentation verifying cost breakdowns. All subcontractor documentation is subject to the same guidelines set for Agency invoicing.

- **Production.** All production estimates of $100,000 or more must be submitted with copies of competitive bids obtained and, if not using the lowest bid, a justification of why the lowest bid is not being used must be attached. Line item descriptions will reflect only those line items included in the job estimate. Line item documentation that includes line items not on original or revised estimate will not be reimbursed.

  Documentation must verify that no more than 50% of a TV advertising production estimate with “pre-bill” backup, will be billed prior to service. Documentation must verify that the remaining 50% was invoiced after service was performed and must include backup for the entire job. Production invoices must be submitted within 120 days from date service was provided. After the final invoice is submitted, Agency must provide a closeout report detailing billing history and actual dollars spent per job.

  “Pre-bill” refers to the TV advertising production subcontractor’s invoice which states the estimated cost for production and requires 50% advance payment. Agency is obligated to pay the 50% of the production estimate upon presentation of a pre-bill by the subcontractor. Agency must retain the pre-bill as backup to its own invoice without commission for payment under this Exhibit.

- **Media.** Agency must maintain documentation that supports invoices, and which includes an industry standard summary report (such as the Donovan Data System or any similar report). Agency must submit such documentation to the Lottery upon request. Media invoices will only be paid upon completion of the broadcast months. All media credits must be submitted to the Lottery as soon as possible. Within 120 days of the completion of the flight, Agency must provide to the Lottery a closeout estimate generated from the automated media system. After the final invoice is submitted, Agency must provide a closeout report detailing billing history and actual dollars spent per job.

  Individuals designated by the Lottery must, with reasonable notice, have access to review verification documentation required by this Exhibit, as well as, selected Agency media purchase invoices and other related documents (e.g., station affidavits, video verification) to confirm media purchase costs. These reviews may take place at the Contractor’s office during regular business hours or may be conducted by submission of written material to the Lottery.

- **Shipping/Freight Charges.** Agency is expected to utilize lowest cost modes and carriers to safely transport their shipment. Shipping costs should be submitted on a separate invoice from all other production costs in order to expedite payment. Shipping/Freight charges included in production invoices may delay full payment of the invoice. All shipping/freight charges over $25.00 must have supporting pre-paid freight bills available upon request.

- **Travel.** Must have prior approval from the Lottery. Pre-approved travel and expenses (including air travel and car rental) will be reimbursed at the current Department of Human Resources Approved Travel rates for Excluded Employees (www.calhr.ca.gov).
• **Miscellaneous Costs.** Must be itemized with backup receipts.

• **Revised Estimates.** A revised estimate reflecting all services or charges which may amount to more than 10% of the original estimate must be approved by the Lottery prior to additional performance and must be accompanied by a written justification stating why the increase in cost was necessary. The requirement for a written justification will apply to multiple revised estimates where each is less than 10% of the original estimate but the combined total exceeds 10% of the original estimate. Revised estimates should also include previous approved amounts and/or history of amounts.

All canceled jobs must be followed by a revised closed estimate reflecting all canceled portions of the job and any expenses actually incurred prior to cancellation.

All jobs which are closed under the original estimate amount must be followed by either a revised estimate or a document agreeable to both parties reflecting the actual closing amount. Once an estimate is closed, no further billing can be submitted. The Agency is required to mark "Closed" on the last invoice to be submitted to the Lottery for payment for each job.

Agency may not change Lottery assigned estimate or invoice numbers after Lottery approval without prior approval by the Lottery Contract Manager.

12/5/11
Exhibit F

PRODUCTION PROP POLICY

The Lottery, through contracted or subcontracted advertising agencies, may purchase props to be used in production of print and television advertising and special events. The purpose of this policy is to outline the procedure to be followed for disposing of props used in the production of commercials or special events for the Lottery. This policy pertains to any and all props (including wardrobe, furniture, household supplies, etc.) built, rented or purchased for the Lottery.

Written into each original Contract between the Agency and a production house will be a clause stating that within 30 days of the completion of production, all props must be turned over to the Agency. The Agency must return or distribute props according to the following:

- Props which were rented must be returned to the rental company. If a credit is due, the Agency must receive the monies and credit the Lottery on the following month's billing for the amount of money received.

- Individual props with a retail value at more than $1,000 must be returned to the Lottery at the end of each quarter, along with a list of the items being returned and which production the items appeared in. The Agency must notify the Lottery prior to shipping the items to the Lottery. Agency may submit an estimate to the Lottery to cover the cost of shipping the items to the Lottery. Upon receipt, the Lottery will determine how the items will be disbursed.

The props and list must be forwarded to the following address:

California Lottery
Attn: Marketing Division
700 North 10th Street
Sacramento, CA 95811
Attachment 1

AGENCY FACT SHEET

Company: ____________________________________________________________

Address: _____________________________________________________________________

Phone: _____________________________ Email: ____________________________________

Names and Titles of Principals:_____________________________________________________

_________________________________________________________________________________

Key Business Contact ________________________________Phone: _____________________

A. Agency History, Ownership and Key Employees

1. Founding Date. When was your office opened?

2. Mergers and Acquisitions. List any subsequent mergers, acquisitions or name changes.

3. Current Ownership. Who are the current owners of your Agency?

4. Key Executives. Provide a short biography of no more than six of your office’s key executives and describe their current roles.

5. Parent Company/Affiliation. Provide a listing of all companies/agencies that are owned or affiliated with your parent company.

B. Current Clients, Account Gains and Losses

1. Current Clients. List all current clients—brands, products and services—managed by your office. Rank them by size, indicate the services provided, the dates they were acquired and, if possible, approximate budget ranges for each.

2. Account Gains. Of the accounts acquired within the past two years, please comment on why your Agency was chosen to service these new accounts.

3. Account Losses. Of the accounts lost in the past two years, explain why they left or were resigned by the Agency.
C. Current Size and Current Distribution by Media

1. **Current Size.** Summarize the total billings for calendar years 2011 and 2012, number of employees and number of accounts currently being handled directly by your office.

<table>
<thead>
<tr>
<th>Calendar Year</th>
<th>Total Billings Per Year</th>
<th>Number of Employees</th>
<th>Number of Accounts</th>
</tr>
</thead>
<tbody>
<tr>
<td>2011</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>2012</td>
<td></td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

2. **Spending by Media.** Chart your Agency’s current spending by media—network TV, spot TV, radio, outdoor, newspapers, consumer magazines, trade publications, digital, direct response, etc. Provide rough figures and percentages by media using the grid below.

**PERCENTAGE BREAKDOWN BY MEDIA:**

- **Television:**
  - Network: X%
  - Spot: X%
  - Syndicated: X%
  - Cable: X%

- **Print:**
  - Newspapers: X%
  - Consumer Pubs.: X%
  - Trade: X%

- **Other:**
  - Outdoor: X%
  - Direct Mail: X%
  - Radio: X%
  - Digital/Interactive: X%

F. Scope and Nature of Agency Services

1. **Agency Services.** List the various services offered by your Agency and the number of full time employees dedicated to each department (e.g. account management, strategic services (including account and communications planning, research, etc.), creative (including digital), media planning and buying (including digital media, social media, SEM), production (broadcast, online, print production, etc.), direct and CRM, PR, promotion and experiential marketing.)

2. **Digital Services.** In addition to any digital services listed above, please describe established strengths and capabilities in the digital realm including your online marketing affinity, website development, ecommerce, site hosting and maintenance, and database analytics and maintenance capabilities. Please indicate if you rely upon a trusted partner(s) for all or one of these tasks. Feel free to include any process charts, to illustrate your specific approach.

3. **Other Specialized Services.** List any other specialized services your Agency offers to its clients, either directly or indirectly through its parent or sister companies, subsidiaries or network of affiliations.

4. **Media Management.** Describe your capabilities and strengths in media research, planning, buying, monitoring and overall stewardship of your clients’ funds. Please make sure you address traditional as well as digital media as applicable.
5. **Use of Media Buying Services.** If all or a certain portion of your clients’ media is not planned or purchased by your Agency, please indicate with whom the Agency works in this regard.

**H. References**

1. **Client references.** List six client references (name, title, company, address, telephone, email and fax number) the Lottery might speak with about the effectiveness of your creative.
I. AGENCY INFORMATION

Name of Agency: _____________________________________________________________

Address: ___________________________________________________________________

State/City/Zip Code:  _______________________________________________________

Contact Person: _____________________________ Telephone: ______________________

Email: _____________________________________    FAX: __________________________

List person(s) legally authorized to contractually bind the Agency.

1. ____________________________________________________
   (Name)  (Title)
   ____________________________________________________
   (Address)

2. ____________________________________________________
   (Name)  (Title)
   ____________________________________________________
   (Address)

(Attach additional pages if needed.)

II. AGENCY CERTIFICATION

By executing this Certification, the Agency acknowledges that failure to comply with any of this Certification’s terms may result in disqualification from participation in the solicitation. The Agency has reviewed, agrees to and certifies the following:

a. The Agency meets all minimum qualifications specified in the section entitled “Agency Qualifications”.

b. The Agency agrees the Lottery is not liable for any of the costs incurred by Agency in preparing, submitting, or otherwise participating in a response to this solicitation.

c. The Agency’s response to the solicitation constitutes an irrevocable offer for 180 days from the date proposals are due to the Lottery.

d. The Agency has made no attempt to induce any other person or entity to submit or not to submit a proposal.
e. The prices in the proposal have been developed and calculated independently, without consultation, communication or agreement on any matter relating to such prices with any other agency or competitor for the purpose of restricting competition or providing a competitive advantage.

f. The Agency has read the solicitation, understands it and agrees to comply with all Terms and Conditions.

g. The Agency agrees to provide insurance/bond coverage as described in the Contract Terms and Conditions.

h. Recognizing that initial payments to the Agency may be delayed approximately 45 days, the Agency has sufficient resources to meet his/her obligations during this 45 day period.

III. AGENCY CERTIFICATION CLAUSES

By executing this Certification, the prospective Agency or his legally authorized representative, certifies under the penalty of perjury that the prospective Agency has reviewed and agrees to be legally bound to the following Agency Certification Clauses.

A. STATEMENT OF COMPLIANCE: Agency has, unless exempted, complied with the nondiscrimination program requirements. (Gov. Code §12990 (a-f) and CCR, Title 2, Section 8103) (Not applicable to public entities.)

B. DRUG-FREE WORKPLACE REQUIREMENTS: Agency will comply with the requirements of the Drug-Free Workplace Act of 1990 and will provide a drug-free workplace by taking the following actions:

1. Publish a statement notifying employees that unlawful manufacture, distribution, dispensing, possession or use of a controlled substance is prohibited and specifying actions to be taken against employees for violations.

2. Establish a Drug-Free Awareness Program to inform employees about:
   a. the dangers of drug abuse in the workplace;
   b. the person's or organization's policy of maintaining a drug-free workplace;
   c. any available counseling, rehabilitation and employee assistance programs; and,
   d. penalties that may be imposed upon employees for drug abuse violations.
3. Every employee who performs work pursuant to the proposed Contract will:

   a. receive a copy of the company's drug-free workplace policy statement; and,

   b. agree to abide by the terms of the company's statement as a condition of employment on the Agreement.

Failure to comply with these requirements may result in suspension of payments under the Contract or termination of the Contract or both and Agency may be ineligible for award of any future contracts if the Lottery determines that any of the following has occurred: the Agency has made false certification, or violated the certification by failing to carry out the requirements as noted above.

C. NATIONAL LABOR RELATIONS BOARD CERTIFICATION: Agency certifies that no more than one (1) final unappealable finding of contempt of court by a Federal court has been issued against Agency within the immediately preceding two-year period because of Agency's failure to comply with an order of a Federal court, which orders Agency to comply with an order of the National Labor Relations Board.

D. SWEATFREE CODE OF CONDUCT:

1. All Agencies contracting for the procurement or laundering of apparel, garments or corresponding accessories, or the procurement of equipment, materials, or supplies, declare under penalty of perjury that no apparel, garments or corresponding accessories, equipment, materials, or supplies furnished to the state pursuant to the Contract have been or will be produced or laundered in whole or in part by sweatshop labor, forced labor, indentured labor under penal sanction, abusive forms of child labor or exploitation of children in sweatshop labor, or with the benefit of sweatshop labor, forced labor, indentured labor under penal sanction, abusive forms of child labor or exploitation of children in sweatshop labor. Agency further declares under penalty of perjury that it adheres to the Sweat free Code of Conduct as set forth on the California Department of Industrial Relations website located at www.dir.ca.gov.

2. Agency agrees to cooperate fully in providing reasonable access to its records, documents, agents or employees, or premises if reasonably required by authorized officials of the contracting Agency, the California Department of Industrial Relations, or the California Department of Justice to determine Agency's compliance with the requirements under paragraph 1.

E. DOMESTIC PARTNERS: For contracts executed or amended after July 1, 2004, Agency may elect to offer domestic partner benefits to the Agency’s employees. Agency cannot require an employee, on the basis of marital or domestic partner status, to cover the costs of providing any benefits which have otherwise been provided to all employees.
IV. DOING BUSINESS WITH THE STATE OF CALIFORNIA

The following laws apply to persons or entities doing business with the State of California.

A. CONFLICT OF INTEREST: Agency is aware of the following provisions regarding current or former state employees. If Agency has any questions on the status of any person rendering services or involved with the Contract, the Lottery must be contacted immediately for clarification.

Current State Employees:

1. No officer or employee shall engage in any employment, activity or enterprise from which the officer or employee receives compensation or has a financial interest and which is sponsored or funded by any state agency, unless the employment, activity or enterprise is required as a condition of regular state employment.

2. No officer or employee shall contract on his or her own behalf as an independent agent with any state agency to provide goods or services.

Former State Employees:

1. For the two-year period from the date he or she left state employment, no former state officer or employee may enter into a contract in which he or she engaged in any of the negotiations, transactions, planning, arrangements or any part of the decision-making process relevant to the contract while employed in any capacity by any state agency.

2. For the 12-month period from the date he or she left state employment, no former state officer or employee may enter into a contract with any state agency if he or she was employed by that state agency in a policy-making position in the same general subject area as the proposed contract within the 12-month period prior to his or her leaving state service.

3. If Agency violates any provisions of the above paragraphs, such action by Agency will render this Contract void.

4. Members of boards and commissions are exempt from this section if they do not receive payment other than payment of each meeting of the board or commission, payment for preparatory time and payment for per diem.
B. **LABOR CODE/WORKERS’ COMPENSATION:** Agency is aware of the provisions which require every employer to be insured against liability for Workers’ Compensation or to undertake self-insurance in accordance with the provisions, and Agency affirms to comply with such provisions before commencing the performance of the work of this Contract.

C. **AMERICANS WITH DISABILITIES ACT:** Agency assures the Lottery that it complies with the Americans with Disabilities Act (ADA) of 1990, which prohibits discrimination on the basis of disability, as well as all applicable regulations and guidelines issued pursuant to the ADA. (42 U.S.C. 12101 et seq.)

D. **CORPORATE QUALIFICATIONS TO DO BUSINESS IN CALIFORNIA:**

1. Agency certifies it is currently qualified to do business in California in order to ensure that all obligations due to the Lottery are fulfilled.

2. Agency certifies that it is in good standing with the California Secretary of State’s Office.

E. **AIR OR WATER POLLUTION VIOLATION:** Agency shall not be: (1) in violation of any order or resolution not subject to review promulgated by the State Air Resources Board or an air pollution control district; (2) subject to cease and desist order not subject to review issued pursuant to Section 13301 of the Water Code for violation of waste discharge requirements or discharge prohibitions; or (3) finally determined to be in violation of provisions of federal law relating to air or water pollution.

F. **PAYEE DATA RECORD FORM STD. 204:** This form shall be completed by all contractors that are not another state agency or other governmental entity.

V. **CONFIDENTIALITY STATEMENT**

A. I warrant that the Agency and its employees will not disclose any document, diagrams, and relative information, made available to it by the Lottery for the purpose of responding to this solicitation or in conjunction with any contract arising there from. I warrant that only those employees who are authorized and required to use such material will have access to them.
B. I further warrant that all materials provided by the Lottery will be returned promptly after use and all copies or derivations of the materials will be physically and/or electronically destroyed. I will include with the returned materials, a letter attesting to the complete return of materials and documenting the destruction of copies and derivations. Failure to comply will subject this company to liability, both criminal and civil, including all damages to the Lottery and third parties. I authorize the Lottery to inspect and verify the above.

C. I further warrant that if awarded the Contract, Agency will not disclose to any third party information pertaining to the Contract prior to receiving the written consent of the Lottery, and written confirmation from the Lottery that such third party has entered into a written agreement with the Lottery governing the conditions under which such third party may receive information from Agency pertaining to the Contract.

I, the official named below, CERTIFY UNDER PENALTY OF PERJURY that I am duly authorized to legally bind the Agency to the clause(s) listed above and that the signature affixed below and dated constitutes a certification that all information provided by the Agency, is true and correct as written and made under the laws of the State of California.

<table>
<thead>
<tr>
<th>Agency Firm Name (Printed)</th>
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<th>By (Authorized Signature)</th>
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<tr>
<th>Printed Name and Title of Person Signing</th>
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<th>Date Executed</th>
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</table>
This Guaranty is to be completed by the Agency or parent company of Agency. Check one of the boxes (A or B) below. The Agency or parent company must sign the Guaranty as appropriate and submit this Guaranty with its proposal package.

☐ A. In the event that the Agency is not a subsidiary corporation, it will be deemed that the Agency guarantees performance under any Contract resulting from this RFP with the full force and credit of all its assets.

☐ B. If the Agency is a subsidiary corporation, it must have this Guaranty completed by the parent corporation to guaranty the full and prompt performance of all covenants, terms and conditions, and contracts resulting from this RFP for the term of the Contract.

1. The parent company ______________________________ (company name) has the financial ability to meaningfully support such guaranty;

2. The official signing of this Guaranty is authorized to bind the guarantor corporation;

3. Accepts unconditional responsibility for all performance and financial requirements and obligations of the Contract;

4. For good and valuable consideration, receipt of which is hereby acknowledged, the Guarantor is making the guaranty;

5. The Guarantor stipulates that if the Contract is ultimately awarded to the subsidiary, the Lottery will do so in reliance upon the guaranty;

6. The undersigned corporate officer warrants: (1) that he or she has personally reviewed all pertinent corporate documents, including but not limited to articles of incorporation, bylaws and agreements between the parent and the subsidiary; and (2) that nothing in these documents in any way limits the capacity of the parent to enter into the Agreement or guaranty;
7. The Lottery need not take any action against the Agency, any other guarantor, or any other person, firm, or corporation, or resort to any security held by it at any time before proceeding against the Guarantor and the Guarantor hereby waives any and all notices and demands which may be required to be given by any other statute or rule of law and agrees that its liability hereunder will be in no way affected, diminished, or released by any extension of time, forbearance, or waiver which may be granted the Agency, its successor, or assignee, and that this guaranty will extend to and include all future amendments, modifications, and extensions of the Contract and all future supplemental and other agreements with respect to matters covered by the Contract which the Lottery and Agency may enter into, with or without notice to or knowledge of Guarantor but Guarantor will have the benefit of any such extension, forbearance, waiver, amendment, modifications, or supplemental obligations of Guarantor hereunder will be coextensive with but not in excess of the obligations of its successor or assignee under the Contract.

Guarantor agrees that unless otherwise agreed to by the Lottery the guaranty shall continue in full force and effect despite any change in the legal or corporate status of the subsidiary, including but not limited to its sale, reorganization, dissolution or bankruptcy.

I, ____________________________, certify that I am authorized to sign and bind my company to this Guaranty.

______________________________  ______________________
Signature of Authorized Representative                Date

________________________________________
Company Name
RFP #9210
African American Consumer Market
Advertising Services

MANDATORY

DISABLED VETERAN BUSINESS ENTERPRISE PARTICIPATION (DVBE)

3% OR GOOD FAITH EFFORT
Instructions

The State of California recognizes disabled veterans for their service by establishing the Disabled Veteran Business Enterprise (DVBE) Participation Program. The program is intended to further veteran’s participation in state contracting, promote competition and encourage greater economic opportunity.

Military and Veterans Code, section 999.2 et seq. requires the Lottery to attain a DVBE goal of 3% per year. The goal applies to an Agency’s total yearly dollar amount expenditure. Departments have the discretion to include the participation within individual contracts.

The Lottery has set the DVBE requirement at 3% for this RFP. Agencies may meet this requirement by contracting with DVBE subcontractor(s) or by qualifying as a DVBE. DVBEs shall perform a commercially useful function related to the bids specifications. The Lottery will assess whether Agencies have met the 3% requirement by comparing Agencies stated DVBE percentage from its Subcontractor(s) Form(s) to the Agency’s Staff Plan and Compensation Proposal. Agencies may also meet the DVBE requirement by documenting that they have made a Good Faith Effort (as described below).

A DVBE may also qualify as a small business if it independently meets the Small Business Participation Program requirements (see Attachment 5).

All Good Faith Effort steps as listed below (a through d) are mandatory.

a. Contact state (Department of General Services’ website, [www.dgs.ca.gov](http://www.dgs.ca.gov)), or the Lottery’s Contract Development Services or federal agencies or DVBE organizations, etc., to identify and recruit DVBEs.

b. Agencies must publish two ads: one in a trade paper or publication and one in a focus DVBE paper or publication, unless the trade paper or publication is a dual purpose fulfilling both trade and focus requirements (in which case one ad is acceptable). **Advertising in Bidsync.com will fulfill both requirements.**

c. Document that invitations to bid were submitted to potential DVBEs and that the DVBEs were contacted (attach list of contacts and/or attempted contacts made).

d. Identify any responding DVBE(s) by filling out the appropriate DVBE attachments to reflect the percentage of DVBE participation achieved.

To be eligible for certification as a Disabled Veteran Business Enterprise, your business:

- Must be at least 51% owned by one or more disabled veterans;
MANDATORY DISABLED VETERAN BUSINESS ENTERPRISE PARTICIPATION  
(Page 3 of 5)

- Your daily business operations must be managed and controlled by one of more disabled veterans [the disabled veteran(s) who manages and controls the business is not required to be the disabled veteran business owner(s)], and,

- Your home office must be located in the U.S. (the home office cannot be a branch or subsidiary of a foreign corporation, foreign firm, or other foreign-based business).

- For certification purposes, a “disabled veteran” is: A veteran of the U.S. military, naval, or air service; has a service-connected disability of at least 10% or more; and must be a California resident.

DVBE firms or subcontractor(s) must currently be certified (or document that certification is pending) by the Department of General Services. Agencies shall provide a copy of the certification and the attached Disabled Veteran Business Enterprise forms. Contact the Department of General Services DVBE with certification process questions, or visit DGS’s website at www.dgs.ca.gov.

The successful Agency must provide annual DVBE reports to the Lottery’s Contract Development Services office.

(Revised 02/13)
Name of DVBE________________________ Contact Person_______________________________________
Address_________________________________________________________________________________
City/State/Zip________________________________________Email________________________________
Telephone______________ Fax________________________________________________
Goods/Services to be provided_____________________________________________
Percentage of Participation______________%
Certifying Agency_______________________________ Certification #____________
(Type of Business: Sole Owner_____ Corporation______ Joint Venture______
Partnership_____ Other_______)

By signing below, the Agency indicates its intent to utilize the DVBE(s) identified above as part of the contract associated with this solicitation, as applicable. The Agency also certifies that all information contained herein is true and correct.

_________________________________               _____________________________
Agency's Authorized Signature      Date
Printed Name                      Company Name

By signing below, the DVBE certifies it has been contacted, and has expressed interest in participating in the contract in the area of work identified. This form must be signed by the person legally authorized to contractually bind the Agency.

____________________________________           _________________________
DVBE’s Authorized Signature        Date
Printed Name                      Company Name

CSL 1174 (R05/05)
RFP #9210 AACM  67       March 1, 2013
DECLARATION OF COMPLIANCE
FOR DISABLED VETERAN BUSINESS ENTERPRISE (DVBE) PARTICIPATION

Complete and sign this form certifying all the information is true and correct. This form must be signed by the person legally authorized to contractually bind the Agency.

Declaration

I declare under penalty of perjury that the information provided in this Attachment is true and correct. (Please check only one)

_____ Check this box if your firm is itself a certified Disabled Veteran Business Enterprise.

OR

_____ Check this box if your firm will provide DVBE subcontracting participation of 3% or more under any contract resulting from this procurement. (Note – Compliance with Good Faith Effort steps optional and not evaluated if participation is 3% or more)

OR

_____ Check this box only if your firm will be subcontracting less than 3% participation under a contract resulting from this procurement, but your firm completed the Good Faith Effort steps and will subcontract ___% (less than 3 but more than zero) participation. (Note - Compliance with Good Faith Effort steps will be evaluated)

OR

_____ Check this box if your firm completed the Good Faith Effort steps required, but is unable to provide DVBE participation. (Note - Compliance with Good Faith Effort steps will be evaluated)

Executed on________________in the City of _______________State of _____________________

Month/Date/Year

Agency’s Name ____________________________________________________________________

Address ________________________________________________

Signature _______________________________    Date:  __________________________________

Authorized Representative

Printed Name _______________________________________________________________

Title _____________________________________________________________________________

Telephone _______________________________   Fax ____________________________________

CSL 1175 (R05/05)
ATTACHMENT 5
(Page 1 of 7)

RFP #9210
African American Consumer Market Advertising Services

OPTIONAL

SMALL AND MICROBUSINESS PARTICIPATION (SMP)

Small Business Preference (SBP)
Non-small Business Preference

SBP Goal 25%
Small Business Preferences/Definition

The Small Business Procurement and Contract Act (Gov. Code Section 14835 et seq.) requires that a fair share of the state's purchases and contracts for goods, information technology, services and construction be placed with small business or microbusiness. In order to facilitate the participation of these businesses, the Act requires state agencies to: (1) establish small business participation goals, (2) provide a 5% small business preference; and (3) provide a nonsmall business preference of up to a maximum of 5% for Agencies utilizing small business or microbusiness as subcontractors.

Small Business Participation Goal and Small Business or Microbusiness Agency Preference

Based upon the nature of the goods/services to be utilized under this solicitation (as outlined in the Scope of Services, Exhibit A), the Lottery has set a Small Business Participation Goal of 25%. Agencies who qualify as a small or microbusiness have met this participation goal by virtue of their small business status.

For bid evaluation purposes, where there is at least one non-small business Agency subcontracting at least 25% of its bid amount to one or more small businesses, the Lottery will calculate the preference by computing an amount not to exceed 5% from the lowest, responsible bid of a non-small business Agency that is not a small business, or that is not subcontracting to a small business. The preference amount will be deducted from the bids of the non-small business Agency’s subcontracting at least 25% of their bid amounts to small businesses.

For bid evaluation purposes, where there is at least one small business Agency, the Lottery will calculate the preference by computing an amount not to exceed 5% from the lowest, responsible bid of a non-small business Agency that is not a small business. The preference amount will be deducted from the small business’ bid amount.

During the Contract term, the Agency’s SBP compliance will be calculated based on the Agency’s completed work as verified by an audit of Agency’s invoices and Agency’s payments to designated subcontractors.

Definition

To be eligible for the Small Business Preference as a "small business", a company shall be an independently owned and operated business, not dominant in its field of operation, with its principal place of business located in California and officers domiciled in California, and which together with affiliates is:

- A service, construction or non-manufacturer with 100 or fewer employees and an average annual gross receipts of $14,000,000 or less over the previous three years, or
Attachment 5
SMALL AND MICROBUSINESS PARTICIPATION (SMP)
(Page 3 of 7)

- A manufacturer with 100 or fewer employees A manufacturer is a business that is:

  (1) Primarily engaged in the chemical or mechanical transformation of raw materials or processed substances into new products; and


A "microbusiness" is a small business that, together with affiliates, has average annual gross receipts of $3,500,000 or less over the previous three years, or is a manufacturer, as defined above, with 25 or fewer employees.

If a proposing Agency is currently certified as a small or microbusiness by the Department of General Services, Office of Small Business and DVBE Services, or any city, county, federal, etc. certifying office, only a copy of that certification is required (to be certified small or microbusiness, visit the DGS website at www.pd.dgs.ca.gov/smbus). The successful Agency will be required to provide this information for the small or microbusiness enterprises to be utilized as subcontractors.

The successful Agency's small and microbusiness participation goal will become part of the Contract resulting from this solicitation with the Lottery. The Lottery will monitor Agency compliance by requiring annual reports.

Agencies requesting either of the Small Business Participation Preferences are required to complete and submit the required forms.

(Revised 12/05)
Based on the type of goods/services sought in this solicitation, the Lottery has established a small business and microbusiness participation goal of 25% for a rating preference of up to 5%. Agencies must complete and sign the forms provided regarding the goal. If subcontracting less than the small business goal set for this solicitation (25%), Agencies should state the actual percentage of participation they will provide as part of the Declaration of Compliance Form. Agencies providing less than the 25% participation goal will receive a prorated preference.

General Information

Agency's Name____________________________________________________
Contact Person_________________ Telephone____________ Fax__________
Address___________________________________
City/State/Zip_____________________________________________________

Small Business or Microbusiness Subcontractors to be Utilized Form

Complete and sign this form for all small business and microbusiness subcontractors that you plan to utilize as part of your small business participation. Please make duplicates of this page for additional companies.

Small Business and DVBE Program Form

Complete and sign this form for all small business or microbusiness subcontractors to be utilized as part of this bid.

Declaration of Compliance Form

Complete and sign this form certifying all the information is true and correct. This form must be signed by the person legally authorized to contractually bind the Agency.

(Revised 05/05)
Complete and sign this form for all small business and microbusiness subcontractor that you plan to utilize as part of your small business participation goal. Please duplicate this page for additional companies.

Name of Subcontractor________________________ Contact Person________________

Address_______________________________________________________________

City/State/Zip_______________________________________________

Telephone_____________________________Fax_____________________________

Goods/Services to be provided_____________________________________________
_____________________________________________________________________

Business Category ___Small    __Micro    Percentage of Contract_______________%

Certifying Agency______________________________ Certification #_____________
(include copy of certification document)

By signing below, the Agency indicates its intent to utilize the small business or microbusiness identified above as part of the Contract associated with this solicitation, as applicable; and also certifies that all information contained herein is true and correct.

________________________________________          _________________________
Agency’s Authorized Signature                 Date

Printed Name                                    Company Name

By signing below, the small business or microbusiness certifies it has been contacted, and has expressed interest in participating in the Contract in the area of work identified; and also certifies that all information contained herein is true and correct.

__________________________________________       _________________________
Subcontractor’s Authorized Signature            Date

Printed Name                                    Company Name

CSL 1177 (R05/05)
Complete and sign this form certifying all the information is true and correct. This form must be signed by the person legally authorized to contractually bind the Agency.

Agency's Name: ____________________________________________________________

Contact Person: ____________________________ Telephone: ____________________

Address: ____________________________  Fax: ____________________________

City: ____________________________  Email: ____________________________

Declaration

I declare under penalty of perjury that the information provided in this Attachment is true and correct. (Please check one)

_____ Our firm is a Small Business or Microbusiness Agency.

_____ Our firm is a Nonsmall Business Agency providing for small business or microbusiness subcontracting participation of ____%.

_____ Our firm will not participate in the Small Business Program.

Executed on ____________________________  Month/Date/Year

In the city of ____________________________  State of ____________________________

Signature __________________________________________________________

Authorized Representative

Printed Name __________________________________________________________

Title __________________________________________________________

Telephone ____________________________  Fax ____________________________

CSL 1178 (R05/05)
## Small Business & DVBE Program Form

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<tr>
<th>Name of Owner</th>
<th>Telephone Number</th>
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<th>Name of Contact Person</th>
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<th>[ ] Small</th>
<th>[ ] DVBE</th>
<th>[ ] Microbusiness</th>
<th>Business Certified with:</th>
<th>Certification #:</th>
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<td>Agency Name</td>
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Check one that applies:

[ ] Services

[ ] Goods

[ ] Information Technology

[ ] Construction

---

By signing below, the Contractor certifies that the company above meets the following conditions required for qualification as a small business: (1) it be independently owned and operated; (2) not dominant in its field of operation; (3) principal place of business be located in California; (4) the officers, in the case of a corporation, or owners in all other areas, be domiciled in California; and (5) together with affiliates is either A) a service, construction, or manufacturer with fewer than 100 employees, and average annual gross receipts of $14,000,000 or less over the 3 previous years or B) a manufacturer with 100 or fewer employees. (A micro business is the same as a small business except its average annual gross receipts must be $3,500,000 or less over the previous 3 years and it must have 25 or fewer employees.) A manufacturer means a small business that is both of the following: 1) primarily engaged in the chemical or mechanical transformation of raw materials or processed substances into new products; 2) classified between codes 2000 to 3999, inclusive of the Standard Industrial Classification (SIC) Manual published by the United States Office of Management and Budget, 1987 edition.

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<th>Signature of Authorized Representative</th>
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Title

*CSL 0718 (R 06/12)*
CALIFORNIA STATE LOTTERY
SECURITY/LAW ENFORCEMENT DIVISION

MAJOR CONTRACTOR DISCLOSURE
## CONTRACTOR DISCLOSURE

### INTRODUCTION

Section 8880.38 of the California Lottery Act requires the Director, Security/Law Enforcement Division, to assure the integrity, honesty, and fairness in the operation and administration of the California Lottery.

To accomplish this, the Director, Security/Law Enforcement Division, has the authority to conduct an examination of the qualifications of all prospective and current employees, prospective and current Lottery Game Retailers, and prospective and current Lottery suppliers as defined in the Section 8880.57 of the California Lottery Act. This includes the ability to access criminal history records and require fingerprinting.

This informational form is designed to fulfill this requirement, and provide the Director, Security/Law Enforcement Division, the ability to adequately determine the contractor’s or prospective contractor’s qualifications.

Completion of this form is a mandatory condition of contracting. Unless otherwise indicated, failure to provide all of the information requested on this questionnaire may prevent you from contracting with the California Lottery.

### INSTRUCTIONS

Read each question carefully before answering. Type or neatly print an answer to each question. If a question does not apply, enter “N/A”. If the space provided is insufficient, enter the information requested on a separate piece of paper and include it with the disclosure package. Be sure to reference the number of the question you are answering.

Do not misstate or omit any material fact(s). The applicant is hereby advised they are seeking the granting of a contract with the California Lottery, and that the burden of providing favorable qualification is on the applicant at all times.

Each page of this questionnaire, including attachments, must be initialed by the applicant, or by a representative who has the authority to act on the applicant’s behalf and can attest to the accuracy of the information. The disclosure must be signed by the same person. This form must also be notarized.

All applicants are advised this Contractor Disclosure Form is an official document of the California Lottery, Security/Law Enforcement Division. Any misrepresentation or failure to reveal information may be deemed sufficient cause for the refusal or revocation of a contract with the California Lottery.

### PRIVACY NOTICE

The California Information Practices Act of 1977 requires that this notice be provided on all state agency forms, which collect personal information.

This information is being requested in order to examine your qualifications to be a contractor for the California Lottery as required by section 8880.38 of the California Lottery Act and to ensure compliance with section 8880.57 of the Act.

The Information you provide will only be disclosed to those persons(s) who are authorized by law to have access. Confidentiality will be observed. The information you provide may be disclosed to other government and law enforcement agencies including, but not limited to: The State Controller’s Office, Department of Motor Vehicles (DMV), Department of Justice (DOJ), Federal Bureau of Investigation (FBI), and other federal, state and local law enforcement agencies. You have the right of restricted access to your background investigation records pursuant to Sections 1798.38 and 1798.40 of the Information Practices Act and Sections 11080, 11081, 11105, and 11131 of the California Penal Code. For further information on accessing your record, please contact the Lottery’s Information Practices Act Coordinator, Business Services Section, 600 North 10th Street, Sacramento, CA, 95814.

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CSL 0829A (R 12/13/07) (310.1.4)

RFP #9210 AACM

March 1, 2013
### BUSINESS INFORMATION

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<th>State</th>
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### Type of Business

- [ ] Sole Proprietorship
- [ ] Corporation (Corp)
- [ ] Trust
- [ ] Joint Venture
- [ ] General Partnership
- [ ] Limited Partnership
- [ ] Limited Liability Partnership (LLP)
- [ ] Limited Liability Company (LLC)
- [ ] Other

### Principal Business Activity

### State of Incorporation

If business is formed in a state other than California, has the business qualified as a foreign entity with the California Secretary of State?

- [ ] Yes
- [x] No

If Yes, enter file number here: __________

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<tr>
<th>Name of Parent Company</th>
<th>Street Address of Parent Company</th>
<th>City</th>
<th>State</th>
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### Name(s) and Address(es) of Any Subsidiary of This Business

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### Is Company:

- [ ] Closely Held
- [ ] Publicly Held

***If Publicly Held, attach most recent report (10K, 10Q)***

### Business Organizational Charts:

Attach a diagram depicting direct and indirect business relationships between the business and parent companies. Diagram must identify all companies until ultimate ownership has been identified.
**DIRECTOR - OFFICER LIST**

If a business is a corporation, list each director-officer. If you need additional space, please make photocopies of this blank page and attach additional pages to the back of this form. Indicate number of duplicated pages: Page _____ of _____

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<td>PERCENTAGE OF STOCK HELD</td>
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</table>
LIST ALL OWNERS-PARTNERS-STOCKHOLDERS WHO HOLD INTEREST IN THE BUSINESS OR CORPORATE STOCK. IF A PUBLICLY HELD CORPORATION, LIST THE STOCKHOLDERS KNOWN TO OWN 5% OR MORE OF THE CORPORATE STOCK. A COMPLETE CONTRACTOR DISCLOSURE MAY BE REQUIRED FOR EACH ENTITY THAT HOLDS A CONTROLLING INTEREST IN THE BUSINESS.

IF YOU NEED ADDITIONAL SPACE, PLEASE MAKE PHOTOCOPIES OF THIS BLANK PAGE AND ATTACH ADDITIONAL PAGES TO THE BACK OF THIS FORM. INDICATE NUMBER OF DUPLICATED PAGES: PAGE _____ OF _____ 8880.57(a)(1)

<table>
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**CONTRACTOR DISCLOSURE**

### LEGAL PROCEEDINGS

Does the business, any owner, officer, director, or stockholder anticipate being a party to a lawsuit? In the event of a publicly held corporation, list only those stockholders known to own 5% or more of the corporate stock. 8880.57(b)(10)

- [ ] Yes
- [ ] No

If Yes, provide the information requested below. Provide, on a separate piece of paper, a detailed explanation of the allegations. Include specifics as to the current, known status of the lawsuit.

<table>
<thead>
<tr>
<th>Date</th>
<th>Defendant(s) Name, Position Held in Business</th>
<th>Plaintiff's Name, Address of Presiding Court</th>
<th>Nature of Proceedings, Provide Docket #/Case/File/Other Identifier</th>
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<tbody>
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</table>

Has the business or any owner, officer, director or stockholder of the business, or, in the event of a publicly held corporation, those stockholders owning 5% or more of the corporate stock, ever been subpoenaed and/or testified before any municipal court, provincial, state, federal, or national court, agency, committee, grand jury or investigatory or regulatory body, other than in response to a traffic summons? 8880.57(b)(10)

- [ ] Yes
- [ ] No

If Yes, provide the information requested below. Provide, on a separate piece of paper, a detailed explanation of the proceedings. Include specifics as to the current, known status of the proceedings.

<table>
<thead>
<tr>
<th>Date</th>
<th>Defendant(s) Name, Held in Business (If Applicable)</th>
<th>Name, Address of Presiding Court</th>
<th>Nature of Proceedings, Provide Docket #/Case/File/Other Identifier</th>
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CSL 0829A (R 12/13/07) (310.1.4)

INITIALS: ________
### LEGAL PROCEEDINGS

Has the business, any owner, officer, director or stockholder of the business, or, in the event of a publicly held corporation, those stockholders owning 5% or more of the corporate stock, ever been the subject of an investigation conducted by a governmental investigatory agency for any reason? 8880.57(b)(10)

- [ ] Yes
- [ ] No

If yes, provide the information requested below. Provide, on a separate piece of paper, a detailed explanation of the allegations. Include specifics as to the current, known status of the investigation.

<table>
<thead>
<tr>
<th>Date</th>
<th>Defendant(s) Name, Position Held in Business</th>
<th>Name, Address of Government Agency</th>
<th>Nature of Proceedings. Provide Docket #/Case/File/Other Identifier</th>
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<tbody>
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</table>

Has the business entity, or any owner, officer, director or stockholder of the business entity, or, in the event of a publicly held corporation, those stockholders owning 5% or more of the corporate stock, ever been named as a defendant or co-conspirator in any criminal proceeding in this state or any other jurisdiction? 8880.57(b)(10)

- [ ] Yes
- [ ] No

If yes, provide the information requested below. Provide, on a separate piece of paper, a detailed explanation of the original charge/allegations as well as any amended charges. Include specifics as to the current, known, status of the criminal proceedings.

<table>
<thead>
<tr>
<th>Date</th>
<th>Defendant(s) Name, Position Held in Business</th>
<th>Name, Address of Presiding Court</th>
<th>Nature of Proceedings. Provide Docket #/Case/File/Other Identifier</th>
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</table>
HAS THE BUSINESS, OR ANY OWNER, OFFICER, DIRECTOR OR STOCKHOLDER OF THE BUSINESS, OR, IN THE EVENT OF A PUBLICLY HELD CORPORATION, THOSE STOCKHOLDERS OWNING 5% OR MORE OF THE CORPORATE STOCK OR ANY SUBSIDIARY, EVER BEEN A DEFENDANT OR RESPONDENT IN ANY OF THE FOLLOWING: 8880.57(b)(10)

☐ YES  ☐ NO

IF YES, PROVIDE SPECIFICS OF EACH INCIDENT AS WELL AS THE CURRENT STATUS/DISPOSITION.

☐ ANTI-TRUST CASE

☐ TRADE REGULATION VIOLATIONS

☐ SECURITY JUDGEMENTS

☐ LICENSE DENIALS, SUSPENSIONS OR DISPLINARY ACTION

☐ ANY TAX LIENS

☐ FRANCHISE TAX BOARD SUSPENSIONS

HAS THE BUSINESS, OR ANY OWNER, OFFICER, DIRECTOR OR STOCKHOLDER OF THE BUSINESS, OR, IN THE EVENT OF A PUBLICLY HELD CORPORATION, THOSE STOCKHOLDERS OWNING 5% OR MORE OF THE CORPORATE STOCK, EVER BEEN DEEMED LEGALLY BANKRUPT OR FILED A PETITION FOR ANY TYPE OF BANKRUPTCY OR INSOLVENCY, UNDER ANY BANKRUPTCY OR INSOLVENCY LAW? 8880.57(b)(5)

☐ YES  ☐ NO

IF YES, PROVIDE THE INFORMATION REQUESTED BELOW. PROVIDE, ON A SEPARATE PIECE OF PAPER, A DETAILED EXPLANATION OF THE ALLEGATIONS. INCLUDE SPECIFICS AS TO THE CURRENT, KNOWN STATUS OF THE INVESTIGATION.

<table>
<thead>
<tr>
<th>DATE</th>
<th>DOCKET #</th>
<th>NAME, ADDRESS PRESIDING COURT</th>
<th>NAME, ADDRESS FILING PARTY</th>
<th>NAME, ADDRESS OF TRUSTEE</th>
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CSL 0829A (R 12/13/07) (310.1.4)
HAS THE BUSINESS EVER ENTERED INTO A JOINT VENTURE OR OTHER CONTRACTUAL ARRANGEMENT TO SUPPLY ANY STATE OR JURISDICTION WITH GAMING GOODS OR SERVICES, INCLUDING, BUT NOT LIMITED TO LOTTERY GOODS AND SERVICES. (8880.57(b)(8))

| YES | NO |

IF YES, PROVIDE A LIST OF THE STATE OR JURISDICTIONS IN WHICH THE GOODS OR SERVICES WERE PROVIDED, INCLUDING A DESCRIPTION OF THE GOODS OR SERVICES PROVIDED AND THE DATES.

<table>
<thead>
<tr>
<th>DATE</th>
<th>STATE/JURISDICTION</th>
<th>GOODS AND SERVICES PROVIDED</th>
<th>TERM OF CONTRACT</th>
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</thead>
<tbody>
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CSL 0829A (R 12/13/07) (310.1.4)
**FINANCIAL INFORMATION**

**LIST ALL FINANCIAL INSTITUTIONS WITH WHICH YOUR BUSINESS OR SUBSIDIARIES DOES BUSINESS.**

<table>
<thead>
<tr>
<th>BUSINESS/SUBSIDIARY NAME</th>
<th>NAME, ADDRESS FINANCIAL INSTITUTION</th>
<th>LENGTH WITH INSTITUTION</th>
<th>AUTHORIZED SIGNATURE</th>
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**LIST ALL MORTGAGES OR OTHER HOLDERS OF LONG-TERM DEBT THAT THE BUSINESS OR ANY SUBSIDIARY HAS OUTSTANDING.**

<table>
<thead>
<tr>
<th>BUSINESS/SUBSIDIARY NAME</th>
<th>NAME, ADDRESS OF HOLDER</th>
<th>MORTGAGE OR DEBT</th>
<th>MORTGAGE/DEBT AMOUNT</th>
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CSL 0829A (R 12/13/07) (310.1.4)
## Donations

List all reportable contributions by the business to any local, state or federal political committee in California for the past five years that is reportable under any existing state or federal law. (8880.57(b)(7))

<table>
<thead>
<tr>
<th>Candidate's Name</th>
<th>Candidate's Office/Jurisdiction</th>
<th>Date of Contribution</th>
<th>Amount Contributed</th>
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## Subcontractors

List all known subcontractors the business intends to utilize with the CSL contract if awarded the contract. List the name(s), address(es), and contact person(s) for each subcontractor. Identify in detail the service each subcontractor is to provide, including the monetary value of the sub-contract. Also provide copies of pertinent agreements made with each subcontractor. (8880.57(a)(7))
PLEASE ATTACH COPIES OF THE BELOW LISTED DOCUMENTS TO YOUR DISCLOSURE PACKAGE. PLACE “N/A” TO THE LEFT OF THE DOCUMENT NAME IF THE DOCUMENT DOES NOT APPLY. FAILURE TO PROVIDE A REQUIRED DOCUMENT MAY BE DEEMED SUFFICIENT CAUSE FOR REJECTING A BID.

<table>
<thead>
<tr>
<th>Document Type</th>
<th>Description</th>
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<tbody>
<tr>
<td>Initial Formation/Registration Documents</td>
<td>(Articles of Incorp/Org, Certificate of Limited Partnership, LLP Registration, etc…)</td>
</tr>
<tr>
<td>All Amendment Documents</td>
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<tr>
<td>Annual Statement of Information</td>
<td>(last change and current, if current reports no change of information) (Corp or LLC Only)</td>
</tr>
<tr>
<td>Corporate Disclosure Statement (Publicly Traded Corp)</td>
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<tr>
<td>Partnership Agreement (Limited and General Partnerships)</td>
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<tr>
<td>Trust Agreement</td>
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<td>Joint Venture Agreement</td>
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<td>Annual Reports</td>
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<td>Quarterly Reports</td>
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<td>Interim Reports</td>
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<tr>
<td>Financial Reports (last 3 years)</td>
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<tr>
<td>Bankruptcy Filings, Receivership Proceedings</td>
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</table>
STATE OF: _____________________________
COUNTY OF: ___________________________

I, _________________________________, have read the foregoing disclosure documentation and know the contents thereof; that the statements contained herein are true and correct and contain a full and true account of information requested; that this statement is executed with the knowledge that misrepresentation or failure to reveal information requested may be deemed sufficient cause for rejecting the submitted bid. Further, that I am aware that later discovery of an omission or misrepresentation made in the above statements may be grounds for denying or canceling a contract. I also understand that public disclosure of this application is governed by the California Public Records Act, which law mandates disclosure of this application, upon request, except for information concerning personal worth, personal financial data, criminal history, military discipline, and personal information such as home telephone number, home address, social security number, driver’s license number, etc.

I swear under penalty of perjury that
the foregoing is true and correct.

_________________________
Signature of Applicant

Subscribed and Sworn to before me this _____________ day
Of __________________, 20__________.

_______________________________________ (SEAL)
Notary Public
LIST ALL LAWSUITS FOR THE LAST 10 YEARS, INCLUDING CURRENT LAWSUITS, INVOLVING THE BUSINESS, ANY OWNER, OFFICER, DIRECTOR OR STOCKHOLDER OF THE BUSINESS, PARENT COMPANY OR ANY SUBSIDIARY, EXCLUDING ANY FAMILY LAW PROCEEDING. IN THE EVENT OF A PUBLICLY HELD CORPORATION, INCLUDE ONLY THOSE STOCKHOLDERS KNOWN TO OWN 5% OR MORE OF THE CORPORATE STOCK. 8880.57(b)(10)

<table>
<thead>
<tr>
<th>DATE FILED</th>
<th>DOCKET NUMBER</th>
<th>NAME, ADDRESS OF COURT</th>
<th>DEFENDANT</th>
<th>PLAINTIFF(S)</th>
<th>NATURE OF SUIT</th>
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<tbody>
<tr>
<td>March 1, 2013</td>
<td>CSL 0829A (R 12/13/07) (310.1.4)</td>
<td>RFP #9210 AACM</td>
<td>RFP #9210 AACM</td>
<td>March 1, 2013</td>
<td>RFP #9210 AACM</td>
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