

	<p align="center">State of South Carolina</p> <p align="center">Request for Proposals</p>	Solicitation: 01122018AMPOSRFP Date Issued: January 12, 2018 Procurement Officer: Petrina F. Marsh, CPPB Phone: 803-737-2808 E-Mail Address: Petrina.Marsh@sclot.com Mailing Address: South Carolina Education Lottery Attention: Petrina F. Marsh PO Box 11949 Columbia, SC Columbia SC 29211-1949
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DESCRIPTION: **Advertising Media Placement and Other Services**

USING GOVERNMENTAL UNIT: **South Carolina Lottery Commission**

SUBMIT YOUR OFFER ON-LINE AT THE FOLLOWING ADDRESS: Petrina.Marsh@sclot.com

SUBMIT OFFER BY (Opening Date/Time): **03/05/2018 2PM ET** (See "Deadline For Submission Of Offer" provision)

QUESTIONS MUST BE RECEIVED BY: **01/25/2018 2PM ET** (See "Questions From Offerors" provision)

NUMBER OF COPIES TO BE SUBMITTED: One (1) Original Hardcopy Each of Technical & Price Proposals marked "Original," Five additional Hardcopies of the Technical Proposal, One (1) Electronic Media Copy of Technical & Price Proposals marked "Copy", and One (1) Redacted Copy via Electronic Media marked "Redacted." (See "Submitting Redacted Offers" provision Section IV, "Submitting Confidential Information," Section II.A.)

CONFERENCE TYPE: N/A DATE & TIME: <small>(As appropriate, see "Conferences - Pre-Bid/Proposal" & "Site Visit" provisions)</small>	LOCATION: N/A
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AWARD & AMENDMENTS	The award, this solicitation, any amendments, and any related notices will be posted at the following web address: http://www.sceducationlottery.com/lottery/procurement.aspx
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You must submit a signed copy of this form with Your Offer. By signing, You agree to be bound by the terms of the Solicitation. You agree to hold Your Offer open for a minimum of ninety (90) calendar days after the Opening Date. (See "Signing Your Offer" provision.)

NAME OF Offeror <small>(full legal name of business submitting the offer)</small>	Any award issued will be issued to, and the contract will be formed with, the entity identified as the Offeror. The entity named as the offeror must be a single and distinct legal entity. Do not use the name of a branch office or a division of a larger entity if the branch or division is not a separate legal entity, i.e., a separate corporation, partnership, sole proprietorship, etc.
AUTHORIZED SIGNATURE <small>(Person must be authorized to submit binding offer to contract on behalf of Offeror.)</small>	DATE SIGNED
TITLE <small>(business title of person signing above)</small>	STATE VENDOR NO. <small>(Register to Obtain S.C. Vendor No. at www.procurement.sc.gov)</small>
PRINTED NAME <small>(printed name of person signing above)</small>	STATE OF INCORPORATION <small>(If you are a corporation, identify the state of incorporation.)</small>

Offeror's TYPE OF ENTITY: (Check one) <small>(See "Signing Your Offer" provision.)</small>		
<input type="checkbox"/> Sole Proprietorship	<input type="checkbox"/> Partnership	<input type="checkbox"/> Other _____
<input type="checkbox"/> Corporate entity (not tax-exempt)	<input type="checkbox"/> Corporation (tax-exempt)	<input type="checkbox"/> Government entity (federal, state, or local)

PAGE TWO

(Return Page Two with Your Offer)

HOME OFFICE ADDRESS (Address for offeror's home office / principal place of business)	NOTICE ADDRESS (Address to which all procurement and contract related notices should be sent.) (See "Notice" clause) <hr/> Area Code - Number - Extension Facsimile <hr/> E-mail Address
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PAYMENT ADDRESS (Address to which payments will be sent.) (See "Payment" clause) <hr/> Payment Address same as Home Office Address <hr/> Payment Address same as Notice Address (check only one)	ORDER ADDRESS (Address to which purchase orders will be sent) (See "Purchase Orders and "Contract Documents" clauses) <hr/> Order Address same as Home Office Address <hr/> Order Address same as Notice Address (check only one)
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ACKNOWLEDGMENT OF AMENDMENTS
 Offerors acknowledges receipt of amendments by indicating amendment number and its date of issue. (See "Amendments to Solicitation" Provision)

Amendment No.	Amendment Issue Date	Amendment No.	Amendment Issue Date	Amendment No.	Amendment Issue Date	Amendment No.	Amendment Issue Date

DISCOUNT FOR PROMPT PAYMENT (See "Discount for Prompt Payment" clause)	10 Calendar Days (%)	20 Calendar Days (%)	30 Calendar Days (%)	_____ Calendar Days (%)
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PREFERENCES - A NOTICE TO VENDORS: On June 16, 2009, the South Carolina General Assembly rewrote the law governing preferences available to in-state vendors, vendors using in-state subcontractors, and vendors selling in-state or US end products. This law appears in Section 11-35-1524 of the South Carolina Code of Laws. A summary of the new preferences is available at <http://www.procurement.sc.gov/preferences>. *ALL THE PREFERENCES MUST BE CLAIMED AND ARE APPLIED BY LINE ITEM, REGARDLESS OF WHETHER AWARD IS MADE BY ITEM OR LOT.* VENDORS ARE CAUTIONED TO CAREFULLY REVIEW THE STATUTE BEFORE CLAIMING ANY PREFERENCES. THE REQUIREMENTS TO QUALIFY HAVE CHANGED. IF YOU REQUEST A PREFERENCE, YOU ARE CERTIFYING THAT YOUR OFFER QUALIFIES FOR THE PREFERENCE YOU'VE CLAIMED. IMPROPERLY REQUESTING A PREFERENCE CAN HAVE SERIOUS CONSEQUENCES. [11-35-1524(E)(4)&(6)]

Specific provisions in the South Carolina Education Lottery Act [Section 59-150-140(E)(1)(2)&(3)] must be considered in conjunction with Section 11-35-1524. Attachment B is provided at the end of this solicitation to assist Offeror in determining eligibility for this preference. In order to be considered for vendor preferences, please provide the information required in Attachment B.

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I. SCOPE OF SOLICITATION

ACQUIRE SERVICES (JAN 2006)

The purpose of this solicitation is to acquire services complying with the enclosed description and/or specifications and conditions. [01-1010-1]

MAXIMUM CONTRACT PERIOD – ESTIMATED (JAN 2006)

Start date: **April 10, 2018**. End date: **April 9, 2025**. Dates provided are estimates only. Any resulting contract will begin on the date specified in the notice of award. See clause entitled “TERM OF CONTRACT”. [01-1040-1]

SCHEDULE OF KEY EVENTS. All dates are subject to change.

1. Request for Proposal Issued	January 12, 2018
2. Deadline for Offerors to submit Questions, Round 1	January 25, 2018
3. State’s Written Responses to Questions, Round 1	February 2, 2018
4. Deadline for Offerors to submit Questions, Round 2	February 9, 2018
5. State’s Written Responses to Questions, Round 2	February 15, 2018
6. Submission and Opening of Proposals (2PM ET)	March 5, 2018
7. Intent to Award Posting Date	March 30, 2018
8. Contract Begins	April 10, 2018

II. INSTRUCTIONS TO OFFERORS - A. GENERAL INSTRUCTIONS

DEFINITIONS, CAPITALIZATION, AND HEADINGS (DEC 2015)

CLAUSE HEADINGS USED IN THIS SOLICITATION ARE FOR CONVENIENCE ONLY AND SHALL NOT BE USED TO CONSTRUE MEANING OR INTENT. EVEN IF NOT CAPITALIZED, THE FOLLOWING DEFINITIONS ARE APPLICABLE TO ALL PARTS OF THE SOLICITATION, UNLESS EXPRESSLY PROVIDED OTHERWISE.

AMENDMENT means a document issued to supplement the original solicitation document.

AUTHORITY means the State Fiscal Accountability Authority or its successor in interest.

BUSINESS means any corporation, partnership, individual, sole proprietorship, joint stock company, joint venture, or any other legal entity. [11-35-310(3)]

CHANGE ORDER means any written alteration in specifications, delivery point, rate of delivery, period of performance, price, quantity, or other provisions of any contract accomplished by mutual agreement of the parties to the contract. [11-35-310(4)]

CONTRACT See clause entitled Contract Documents & Order of Precedence.

CONTRACT MODIFICATION means a written order signed by the procurement officer, directing the Contractor to make changes which the clause of the contract titled "Changes," if included herein, authorizes the Procurement Officer to order without the consent of the Contractor. [11-35-310(9)]

Contractor means the Offeror receiving an award as a result of this solicitation.

COVER PAGE means the top page of the original solicitation on which the solicitation is identified by number. Offerors are cautioned that Amendments may modify information provided on the Cover Page.

OFFER means the bid or proposal submitted in response this solicitation. The terms Bid and Proposal are used interchangeably with the term Offer.

Offeror means the single legal entity submitting the offer. The term Bidder is used interchangeably with the term Offeror. See bidding provisions entitled Signing Your Offer and Bid/Proposal As Offer To Contract.

PAGE TWO means the second page of the original solicitation, which is labeled Page Two.

PROCUREMENT OFFICER means the person, or his successor, identified as such on either the Cover Page, an amendment, or an award notice.

YOU and YOUR means Offeror.

SOLICITATION means this document, including all its parts, attachments, and any Amendments.

STATE means the Using Governmental Unit(s) identified on the Cover Page.

Subcontractor means any person you contract with to perform or provide any part of the work.

US or WE means the using governmental unit.

USING GOVERNMENTAL UNIT means the unit(s) of government identified as such on the Cover Page. If the Cover Page identifies the Using Governmental Unit as "Statewide Term Contract," the phrase "Using Governmental Unit" means any South Carolina Public Procurement Unit [11-35-4610(5)] that has submitted a Purchase Order to you pursuant to the contract resulting from this solicitation. Reference the clauses titled "Purchase Orders" and "Statewide Term Contract."

WORK means all labor, materials, equipment, services, or property of any type, provided or to be provided by the Contractor to fulfill the Contractor's obligations under the Contract.

[02-2A003-3]

AMENDMENTS TO SOLICITATION (JAN 2004)

(a) The Solicitation may be amended at any time prior to opening. All actual and prospective Offerors should monitor the following web site for the issuance of Amendments:
<http://www.sceducationlottery.com/lottery/procurement.aspx>

- (b) Offerors shall acknowledge receipt of any amendment to this solicitation
- (1) by signing and returning the amendment,
 - (2) by identifying the amendment number and date in the space provided for this purpose on Page Two,
 - (3) by letter, or
 - (4) by submitting a bid that indicates in some way that the bidder received the amendment.
- (c) If this solicitation is amended, then all terms and conditions which are not modified remain unchanged.
- [02-2A005-1]

AUTHORIZED AGENT (FEB 2015)

All authority regarding this procurement is vested solely with the responsible Procurement Officer. Unless specifically delegated in writing, the Procurement Officer is the only government official authorized to bind the government with regard to this procurement or the resulting contract. [02-2A007-1]

AWARD NOTIFICATION (FEB 2015)

Notice regarding any award, cancellation of award, or extension of award will be posted at the location and on the date specified on the Cover Page or, if applicable, any notice of extension of award. Should the contract resulting from this Solicitation have a total or potential value of one hundred thousand dollars or more, such notice will be sent to all Offerors responding to the Solicitation and any award will not be effective until the eleventh day after such notice is given. [02-2A010-2]

BID/PROPOSAL AS OFFER TO CONTRACT (JAN 2004)

By submitting Your Bid or Proposal, You are offering to enter into a contract with the Using Governmental Unit(s). Without further action by either party, a binding contract shall result upon final award. Any award issued will be issued to, and the contract will be formed with, the entity identified as the Offeror on the Cover Page. An Offer may be submitted by only one legal entity; "joint bids" are not allowed. [02-2A015-1]

BID ACCEPTANCE PERIOD (JAN 2004)

In order to withdraw Your Offer after the minimum period specified on the Cover Page, You must notify the Procurement Officer in writing. [02-2A020-1]

BID IN ENGLISH and DOLLARS (JAN 2004)

Offers submitted in response to this solicitation shall be in the English language and in US dollars, unless otherwise permitted by the Solicitation. [02-2A025-1]

AUTHORITY AS PROCUREMENT AGENT (DEC 2015)

The Procurement Officer is an employee of the Authority acting on behalf of the Using Governmental Unit(s) pursuant to the Consolidated Procurement Code. Any contracts awarded as a result of this procurement are between the Contractor and the Using Governmental Units(s). The Authority is not a party to such contracts, unless and to the extent that the Authority is a using governmental unit, and bears no liability for any party's losses arising out of or relating in any way to the contract. [02-2A030-3]

CERTIFICATE OF INDEPENDENT PRICE DETERMINATION (MAY 2008)

GIVING FALSE, MISLEADING, OR INCOMPLETE INFORMATION ON THIS CERTIFICATION MAY RENDER YOU SUBJECT TO PROSECUTION UNDER SECTION 16-9-10 OF THE SOUTH CAROLINA CODE OF LAWS AND

OTHER APPLICABLE LAWS.

(a) By submitting an offer, the offeror certifies that-

(1) The prices in this offer have been arrived at independently, without, for the purpose of restricting competition, any consultation, communication, or agreement with any other offeror or competitor relating to-(i) Those prices; (ii) The intention to submit an offer; or (iii) The methods or factors used to calculate the prices offered.

(2) The prices in this offer have not been and will not be knowingly disclosed by the offeror, directly or indirectly, to any other offeror or competitor before bid opening (in the case of a sealed bid solicitation) or contract award (in the case of a negotiated solicitation) unless otherwise required by law; and

(3) No attempt has been made or will be made by the offeror to induce any other concern to submit or not to submit an offer for the purpose of restricting competition.

(b) Each signature on the offer is considered to be a certification by the signatory that the signatory-

(1) Is the person in the offeror's organization responsible for determining the prices being offered in this bid or proposal, and that the signatory has not participated and will not participate in any action contrary to paragraphs (a)(1) through (a)(3) of this certification; or (2)(i) Has been authorized, in writing, to act as agent for the offeror's principals in certifying that those principals have not participated, and will not participate in any action contrary to paragraphs (a)(1) through (a)(3) of this certification [As used in this subdivision (b)(2)(i), the term "principals" means the person(s) in the offeror's organization responsible for determining the prices offered in this bid or proposal]; (ii) As an authorized agent, does certify that the principals referenced in subdivision (b)(2)(i) of this certification have not participated, and will not participate, in any action contrary to paragraphs (a)(1) through (a)(3) of this certification; and (iii) As an agent, has not personally participated, and will not participate, in any action contrary to paragraphs (a)(1) through (a)(3) of this certification.

(c) If the offeror deletes or modifies paragraph (a)(2) of this certification, the offeror must furnish with its offer a signed statement setting forth in detail the circumstances of the disclosure. [02-2A032-1]

CERTIFICATION REGARDING DEBARMENT AND OTHER RESPONSIBILITY MATTERS (JAN 2004)

(a) (1) By submitting an Offer, Offeror certifies, to the best of its knowledge and belief, that-

(i) Offeror and/or any of its Principals-

(A) Are not presently debarred, suspended, proposed for debarment, or declared ineligible for the award of contracts by any state or federal agency;

(B) Have not, within a three-year period preceding this offer, been convicted of or had a civil judgment rendered against them for: commission of fraud or a criminal offense in connection with obtaining, attempting to obtain, or performing a public (Federal, state, or local) contract or subcontract; violation of Federal or state antitrust statutes relating to the submission of offers; or commission of embezzlement, theft, forgery, bribery, falsification or destruction of records, making false statements, tax evasion, or receiving stolen property; and

(C) Are not presently indicted for, or otherwise criminally or civilly charged by a governmental entity with, commission of any of the offenses enumerated in paragraph (a)(1)(i)(B) of this provision.

(ii) Offeror has not, within a three-year period preceding this offer, had one or more contracts terminated for default by any public (Federal, state, or local) entity.

(2) "Principals," for the purposes of this certification, means officers; directors; owners; partners; and, persons having primary management or supervisory responsibilities within a business entity (e.g., general manager; plant manager; head of a subsidiary, division, or business segment, and similar positions).

(b) Offeror shall provide immediate written notice to the Procurement Officer if, at any time prior to contract award, Offeror learns that its certification was erroneous when submitted or has become erroneous by reason of changed circumstances.

(c) If Offeror is unable to certify the representations stated in paragraphs (a)(1), Offer must submit a written explanation regarding its inability to make the certification. The certification will be considered in connection with a review of the Offeror's responsibility. Failure of the Offeror to furnish additional information as requested by the Procurement Officer may render the Offeror nonresponsible.

(d) Nothing contained in the foregoing shall be construed to require establishment of a system of records in order to render, in good faith, the certification required by paragraph (a) of this provision. The knowledge and information of an Offeror is not required to exceed that which is normally possessed by a prudent person in the ordinary course of business dealings.

(e) The certification in paragraph (a) of this provision is a material representation of fact upon which reliance was placed when making award. If it is later determined that the Offeror knowingly or in bad faith rendered an erroneous certification, in addition to other remedies available to the State, the Procurement Officer may terminate the contract resulting from this solicitation for default.

[02-2A035-1]

CODE OF LAWS AVAILABLE (MODIFIED)

The South Carolina Code of Laws, including the Consolidated Procurement Code, is available at:

<http://www.scstatehouse.gov/code/statmast.php>

S.C. Code of Laws, Section 59-150-10, S.C. Education Lottery Act:

<http://www.scstatehouse.gov/code/t59c150.php>

The South Carolina Regulations are available at:

<http://www.scstatehouse.gov/coderegs/statmast.php>

S.C. Code of Regulations, 44-10, S.C. Lottery Commission:

<http://www.scstatehouse.gov/coderegs/Ch%2044.pdf>

DISCLOSURE OF CONFLICTS OF INTEREST OR UNFAIR COMPETITIVE ADVANTAGE (MODIFIED)

By submitting a Proposal, the Offeror is certifying that it has no conflicts of interest or unfair competitive advantage as provided by applicable statutes, regulations, and interpretive authorities.

DEADLINE FOR SUBMISSION OF OFFER (JAN 2004)

Any offer received after the Procurement Officer of the governmental body or his designee has declared that the time set for opening has arrived, shall be rejected unless the offer has been delivered to the designated purchasing office or the governmental body's mail room which services that purchasing office prior to the opening. [R.19-445.2070(G)] [02-2A050-1]

DRUG FREE WORK PLACE CERTIFICATION (JAN 2004)

By submitting an Offer, Contractor certifies that, if awarded a contract, Contractor will comply with all applicable provisions of The Drug-free Workplace Act, Title 44, Chapter 107 of the South Carolina Code of Laws, as amended. [02-2A065-1]

DUTY TO INQUIRE (FEB 2015)

Offeror, by submitting an Offer, represents that it has read and understands the Solicitation and that its Offer is made in compliance with the Solicitation. Offerors are expected to examine the Solicitation thoroughly and should request an explanation of any ambiguities, discrepancies, errors, omissions, or conflicting statements in the Solicitation. Failure to do so will be at the Offeror's risk. All ambiguities, discrepancies, errors, omissions, or conflicting statements in the Solicitation shall be interpreted to

require the better quality or greater quantity of work and/or materials, unless otherwise directed by amendment. Offeror assumes responsibility for any patent ambiguity in the Solicitation that Offeror does not bring to the State's attention. See clause entitled "Questions from Offerors." [02-2A070-2]

ETHICS CERTIFICATE (MODIFIED)

By submitting an Offer, the Offeror certifies that the Offeror has and will comply with, and has not, and will not, induce a person to violate Title 8, Chapter 13 of the South Carolina Code of Laws, as amended (ethics act). The following statutes require special attention: Section 8-13-700, regarding use of official position for financial gain; Section 8-13-705, regarding gifts to influence action of public official; Section 8-13-720, regarding offering money for advice or assistance of public official; Sections 8-13-755 and 8-13-760, regarding restrictions on employment by former public official; Section 8-13-775, prohibiting public official with economic interests from acting on contracts; Section 8-13-790, regarding recovery of kickbacks; Section 8-13-1150, regarding statements to be filed by consultants; and Section 8-13-1342, regarding restrictions on contributions by Contractor to candidate who participated in awarding of Contract.

Additionally, by submitting an Offer, the Offeror certifies that the Offeror has and will comply with, and has not, and will not, violate or induce a person to violate S.C. Code Ann. § 59-150-130(E) and 59-150-150(B). The State may rescind any Contract and recover all amounts expended as a result of any action taken in violation of this provision. If Contractor participates, directly or indirectly, in the evaluation or award of public contracts, including without limitation, change orders or task orders regarding a public contract, Contractor shall, if required by law to file such a statement, provide the statement required by Section 8-13-1150 to the Procurement Officer at the same time the law requires the statement to be filed.

IRAN DIVESTMENT ACT - CERTIFICATION (DEC 2015)

(a) The Iran Divestment Act List is a list published by the Authority pursuant to Section 11-57-310 that identifies persons engaged in investment activities in Iran. Currently, the list is available at the following URL: [http://procurement.sc.gov/PS/PS-iran-divestment.phtm\(.\)](http://procurement.sc.gov/PS/PS-iran-divestment.phtm(.)) Section 11-57-310 requires the government to provide a person ninety days written notice before he is included on the list. The following representation, which is required by Section 11-57-330(A), is a material inducement for the State to award a contract to you. (b) By signing your Offer, you certify that, as of the date you sign, you are not on the then-current version of the Iran Divestment Act List. (c) You must notify the Procurement Officer immediately if, at any time before posting of a final statement of award, you are added to the Iran Divestment Act List. [02-2A077-2]

OMIT TAXES FROM PRICE (JAN 2004)

Do not include any sales or use taxes in Your price that the State may be required to pay. [02-2A080-1]

OPEN TRADE REPRESENTATION (JUN 2015)

By submitting an Offer, Offeror represents that Offeror is not currently engaged in the boycott of a person or an entity based in or doing business with a jurisdiction with whom South Carolina can enjoy open trade, as defined in SC Code Section 11-35-5300. [02-2A083-1]

PROTESTS (JUN 2006)

Any prospective bidder, offeror, Contractor, or Subcontractor who is aggrieved in connection with the solicitation of a contract shall protest within fifteen days of the date of issuance of the applicable

solicitation document at issue. Any actual bidder, offeror, Contractor, or Subcontractor who is aggrieved in connection with the intended award or award of a contract shall protest within ten days of the date notification of award is posted in accordance with this code. A protest shall be in writing, shall set forth the grounds of the protest and the relief requested with enough particularity to give notice of the issues to be decided, and must be received by the appropriate Chief Procurement Officer within the time provided. See clause entitled "Protest-CPO". [Section 11-35-4210] [02-2A085-1]

PROHIBITED COMMUNICATIONS AND DONATIONS (FEB 2015)

Violation of these restrictions may result in disqualification of your offer, suspension or debarment, and may constitute a violation of law.

- (a) During the period between publication of the solicitation and final award, **you must not communicate, directly or indirectly, with the Using Governmental Unit or its employees, agents or officials regarding any aspect of this procurement activity**, unless otherwise approved in writing by the Procurement Officer. All communications must be solely with the Procurement Officer. [R. 19-445.2010]
- (b) You are advised to familiarize yourself with Regulation 19-445.2165, which restricts donations to a governmental entity with whom you have or seek to have a contract. **You represent that your offer discloses any gifts made, directly or through an intermediary, by you or your named Subcontractors to or for the benefit of the Using Governmental Unit during the period beginning eighteen months prior to the Opening Date.** [R. 19-445.2165] [02- 2A087-1]

PUBLIC OPENING (JAN 2004)

Offers will be publicly opened at the date/time and at the location identified on the Cover Page, or last Amendment, whichever is applicable. [02-2A090-1]

QUESTIONS FROM OFFERORS (MODIFIED)

- (a) Any prospective offeror desiring an explanation or interpretation of the solicitation, drawings, specifications, etc., must request it in writing. Questions regarding the original solicitation must be received by **January 25, 2018**; Questions regarding any amendment must be received by the Procurement Officer no later than 2PM ET on **March 05, 2018**. Label any communication regarding your questions with the name of the procurement officer, and the solicitation's title and number. Oral explanations or instructions will not be binding. [See R. 19-445.2042(B)] Any information given a prospective offeror concerning a solicitation will be furnished promptly to all other prospective offerors as an Amendment to the solicitation, if that information is necessary for submitting offers or if the lack of it would be prejudicial to other prospective offerors. See clause entitled "Duty to Inquire."
- (b) The State seeks to permit maximum practicable competition. Offerors are urged to advise the Procurement Officer -- as soon as possible -- regarding any aspect of this procurement, including any aspect of the Solicitation that unnecessarily or inappropriately limits full and open competition. [See R. 19-445.2140] [02-2A095-2]

REJECTION/CANCELLATION (JAN 2004)

The State may cancel this solicitation in whole or in part. The State may reject any or all proposals in whole or in part. [SC Code Section 11-35-1710 & R.19-445.2065] [02-2A100-1]

RESPONSIVENESS/IMPROPER OFFERS

- (a) Bid as Specified. Offers for supplies or services other than those specified will not be considered unless authorized by the Solicitation.
- (b) Responsiveness. Any Offer which fails to conform to the material requirements of the Solicitation

may be rejected as nonresponsive. Offers which impose conditions that modify material requirements of the Solicitation may be rejected. If a fixed price is required, an Offer will be rejected if the total possible cost to the State cannot be determined. Offerors will not be given an opportunity to correct any material nonconformity. Any deficiency resulting from a minor informality may be cured or waived at the sole discretion of the Procurement Officer. [R.19- 445.2070 and Section 11-35-1520(13)]

(c) Price Reasonableness: Any offer may be rejected if the Procurement Officer determines in writing that it is unreasonable as to price. [R. 19-445.2070].

(d) Unbalanced Bidding. The State may reject an Offer as nonresponsive if the prices bid are materially unbalanced between line items or subline items. A bid is materially unbalanced when it is based on prices significantly less than cost for some work and prices which are significantly overstated in relation to cost for other work, and if there is a reasonable doubt that the bid will result in the lowest overall cost to the State even though it may be the low evaluated bid, or if it is so unbalanced as to be tantamount to allowing an advance payment.

(e) **Do not submit bid samples or descriptive literature unless expressly requested.** Unsolicited bid samples or descriptive literature will not be examined or tested, will not be used to determine responsiveness, and will not be deemed to vary any of the provisions of the solicitation. S.C. Code Ann. Reg. 19-445.2077(D).

SIGNING YOUR OFFER (JAN 2004)

Every Offer must be signed by an individual with actual authority to bind the Offeror. (a) If the Offeror is an individual, the Offer must be signed by that individual. If the Offeror is an individual doing business as a firm, the Offer must be submitted in the firm name, signed by the individual, and state that the individual is doing business as a firm. (b) If the Offeror is a partnership, the Offer must be submitted in the partnership name, followed by the words by its Partner, and signed by a general partner. (c) If the Offeror is a corporation, the Offer must be submitted in the corporate name, followed by the signature and title of the person authorized to sign. (d) An Offer may be submitted by a joint venture involving any combination of individuals, partnerships, or corporations. If the Offeror is a joint venture, the Offer must be submitted in the name of the Joint Venture and signed by every participant in the joint venture in the manner prescribed in paragraphs (a) through (c) above for each type of participant. (e) If an Offer is signed by an agent, other than as stated in subparagraphs (a) through (d) above, the Offer must state that it has been signed by an Agent. Upon request, Offeror must provide proof of the agent's authorization to bind the principal. [02-2A115-1]

STATE OFFICE CLOSINGS (JAN 2004)

If an emergency or unanticipated event interrupts normal government processes so that offers cannot be received at the government office designated for receipt of bids by the exact time specified in the solicitation, the time specified for receipt of offers will be deemed to be extended to the same time of day specified in the solicitation on the first work day on which normal government processes resume. In lieu of an automatic extension, an Amendment may be issued to reschedule bid opening. If state offices are closed at the time a pre-bid or pre-proposal conference is scheduled, an Amendment will be issued to reschedule the conference. Useful information may be available at: <http://www.scemd.org/closings>. [02-2A120-3]

SUBMITTING CONFIDENTIAL INFORMATION (FEB 2015)

(An overview is available at www.procurement.sc.gov) For every document Offeror submits in response to or with regard to this solicitation or request, Offeror must separately mark with the word "CONFIDENTIAL" every page, or portion thereof, that Offeror contends contains information that is

exempt from public disclosure because it is either (a) a trade secret as defined in Section 30-4-40(a)(1), or (b) privileged and confidential, as that phrase is used in Section 11-35-410. For every document Offeror submits in response to or with regard to this solicitation or request, Offeror must separately mark with the words "TRADE SECRET" every page, or portion thereof, that Offeror contends contains a trade secret as that term is defined by Section 39-8-20 of the Trade Secrets Act. For every document Offeror submits in response to or with regard to this solicitation or request, Offeror must separately mark with the word "PROTECTED" every page, or portion thereof, that Offeror contends is protected by Section 11-35- 1810. All markings must be conspicuous; use color, bold, underlining, or some other method in order to conspicuously distinguish the mark from the other text. Do not mark your entire response (bid, proposal, quote, etc.) as confidential, trade secret, or protected. If your response, or any part thereof, is improperly marked as confidential or trade secret or protected, the State may, in its sole discretion, determine it nonresponsive. If only portions of a page are subject to some protection, do not mark the entire page. By submitting a response to this solicitation or request, Offeror (1) agrees to the public disclosure of every page of every document regarding this solicitation or request that was submitted at any time prior to entering into a contract (including, but not limited to, documents contained in a response, documents submitted to clarify a response, and documents submitted during negotiations), unless the page is conspicuously marked "TRADE SECRET" or "CONFIDENTIAL" or "PROTECTED", (2) agrees that any information not marked, as required by these bidding instructions, as a "Trade Secret" is not a trade secret as defined by the Trade Secrets Act, and (3) agrees that, notwithstanding any claims or markings otherwise, any prices, commissions, discounts, or other financial figures used to determine the award, as well as the final contract amount, are subject to public disclosure. In determining whether to release documents, the State will detrimentally rely on Offeror's marking of documents, as required by these bidding instructions, as being either "Confidential" or "Trade Secret" or "PROTECTED". By submitting a response, Offeror agrees to defend, indemnify and hold harmless the State of South Carolina, its agencies, officers and employees, from every claim, demand, loss, expense, cost, damage or injury, including attorney's fees, arising out of or resulting from withholding information by the State of South Carolina or any of its agencies, that Offeror marked as "confidential" or "trade secret" or "PROTECTED". (All references to S.C. Code of Laws.) [02-2A125-2]

SUBMITTING A PAPER OFFER OR MODIFICATION (MAR 2015):

Unless specifically instructed otherwise in the solicitation, you should submit your offer or modification in accordance with the clause titled "ON-LINE BIDDING INSTRUCTIONS." Paper offers are discouraged. If you must submit a paper offer or modification the following instructions apply.

(a) All prices and notations should be printed in ink or typewritten. Errors should be crossed out, corrections entered and initialed by the person signing the bid. Do not modify the solicitation document itself (including bid schedule).

(b) (1) All copies of the offer or modification, and any other documents required to be submitted with the offer shall be enclosed in a sealed, opaque envelope or package. (2) Submit your offer or modification to the address on the Cover Page. (3) The envelope or package must show the time and date specified for opening, the solicitation number, and the name and address of the bidder. If the offer or modification is sent by mail or special delivery service (UPS, Federal Express, etc.), the outermost envelope or wrapper must be labeled "OFFER ENCLOSED" on the face thereof.

(c) If you are responding to more than one solicitation, submit each offer in a separate envelope or package.

(d) Submit the number of copies indicated on the Cover Page.

(e) Facsimile or e-mail offers, modifications, or withdrawals, will not be considered unless authorized by the Solicitation. [02-2A130-2]

TAX CREDIT FOR SUBCONTRACTING WITH DISADVANTAGED SMALL BUSINESSES (JAN 2008)

Pursuant to Section 12-6-3350, a taxpayer having a contract with this State who subcontracts with a socially and economically disadvantaged small business is eligible for an income tax credit equal to four percent of the payments to that Subcontractor for work pursuant to the contract. The Subcontractor must be certified as a socially and economically disadvantaged small business as defined in Section 11-35-5010 and regulations pursuant to it. The credit is limited to a maximum of fifty thousand dollars annually. A taxpayer is eligible to claim the credit for ten consecutive taxable years beginning with the taxable year in which the first payment is made to the Subcontractor that qualifies for the credit. After the above ten consecutive taxable years, the taxpayer is no longer eligible for the credit. A taxpayer claiming the credit shall maintain evidence of work performed for the contract by the Subcontractor. The credit may be claimed on Form TC-2, "Minority Business Credit." A copy of the Subcontractor's certificate from the Governor's Office of Small and Minority Business (OSMBA) is to be attached to the Contractor's income tax return. Questions regarding the tax credit and how to file are to be referred to: SC Department of Revenue, Research and Review, Phone: (803) 898-5786, Fax: (803) 898-5888. Questions regarding Subcontractor certification are to be referred to: Governor's Office of Small and Minority Business Assistance, Phone: (803) 734-0657, Fax: (803) 734-2498. [02-2A135-1]

VENDOR REGISTRATION MANDATORY (JAN 2006)

You must have a state vendor number to be eligible to submit an offer. To obtain a state vendor number, visit www.procurement.sc.gov and select New Vendor Registration. (To determine if your business is already registered, go to "Vendor Search"). Upon registration, you will be assigned a state vendor number. Vendors must keep their vendor information current. If you are already registered, you can update your information by selecting Change Vendor Registration. (Please note that vendor registration does not substitute for any obligation to register with the S.C. Secretary of State or S.C. Department of Revenue. You can register with the agencies at <http://www.scbos.com/default.htm>) [02-2A145-1]

WITHDRAWAL OR CORRECTION OF OFFER (JAN 2004)

Offers may be withdrawn by written notice received at any time before the exact time set for opening. If the Solicitation authorizes facsimile offers, offers may be withdrawn via facsimile received at any time before the exact time set for opening. A bid may be withdrawn in person by a bidder or its authorized representative if, before the exact time set for opening, the identity of the person requesting withdrawal is established and the person signs a receipt for the bid. The withdrawal and correction of Offers is governed by S.C. Code Section 11-35-1520 and Regulation 19-445.2085. [02-2A150-1]

II. INSTRUCTIONS TO OFFERORS -- B. SPECIAL INSTRUCTIONS

CONTENTS OF OFFER (RFP) (FEB 2015)

(a) Offers should be complete and carefully worded and should convey all of the information requested.

(b) Offers should be prepared simply and economically, providing a straightforward, concise description of offeror's capabilities to satisfy the requirements of the RFP. Emphasis should be on completeness and clarity of content.

(c) The contents of your offer must be divided into two parts, the technical proposal and the business proposal. Each part should be bound in a single volume.

(d) If your offer includes any comment over and above the specific information requested in the solicitation, you are to include this information as a separate appendix to your offer. Offers which include either modifications to any of the solicitation's contractual requirements or an offeror's standard terms and conditions may be deemed non-responsive and not considered for award.

[02-2B040-2]

CLARIFICATION (NOV 2007)

Pursuant to Section 11-35-1520(8), the Procurement Officer may elect to communicate with you after opening for the purpose of clarifying either your offer or the requirements of the solicitation. Such communications may be conducted only with offerors who have submitted an offer which obviously conforms in all material aspects to the solicitation. Clarification of an offer must be documented in writing and included with the offer. Clarifications may not be used to revise an offer or the solicitation.

[Section 11-35-1520(8); R.19-445.2080] [02-2B055-1]

ELECTRONIC COPIES – REQUIRED MEDIA AND FORMAT (MAR 2015)

In addition to your original offer, you must submit an electronic copy or copies on compact disk (CD), DVD, or USB drive. Submit the number of copies indicated on the cover page. Each copy should be on separate media. Your business and technical proposals must be on separate media. Every disk or USB drive must be labeled with the solicitation number and the offeror's name, and specify whether its contents address technical proposal or business proposal. If multiple-disk sets are provided, each disk in the set must be appropriately identified as to its relationship to the set, e.g., 1 of 2. The electronic copy must be identical to the original offer. File format shall be compatible with Microsoft Office (version 2003 or later), or Adobe Acrobat or equivalent Portable Document Format (.pdf) viewer. The Procurement Officer must be able to view, search, copy and print electronic documents without a password. [02-2B070-2]

OPENING PROPOSALS -- INFORMATION NOT DIVULGED (FEB 2015)

In competitive sealed proposals, neither the number, identity of offerors, nor prices will be divulged at opening. [Section 11-35-1530 & R. 19-445.2095(C)(1)] [02-2B110-2]

PREFERENCES - RESIDENT CONTRACTOR PREFERENCE (SEP 2009)

To qualify for the RCP, you must maintain an office in this state. An office is a non-mobile place for the regular transaction of business or performance of a particular service which has been operated as such by the bidder for at least one year before the bid opening and during that year the place has been staffed for at least fifty weeks by at least two employees for at least thirty five hours a week each. In addition, you must, at the time you submit your bid, directly employ, or have a documented commitment with, individuals domiciled in South Carolina that will perform services expressly required

by the solicitation and your total direct labor cost for those individuals to provide those services must exceed fifty percent of your total bid price. [11-35-1524(C)(1)(iii)] Upon request by the procurement officer, you must identify the persons domiciled in South Carolina that will perform the services involved in the procurement upon which you rely in qualifying for the preference, the services those individuals are to perform, and documentation of the your labor cost for each person identified. If requested, your failure to provide this information promptly will be grounds to deny the preference (and, potentially, for other enforcement action). [02-2B113A-1]

PROTEST – SCEL ADDRESS (MODIFIED)

Any protest must be addressed to the Procurement Officer at the South Carolina Education Lottery, and submitted in writing to:

(a) by email to Petrina.Marsh@sclot.com, or

(b) by post or delivery to 1333 Main Street, Suite 400, Columbia, SC 29201.

III. SCOPE OF WORK/SPECIFICATIONS

A. BACKGROUND

SCEL is a Public Commission and Instrumentality of the State of South Carolina (the State) and operates as an Enterprise Entity. SCEL's sole purpose is to operate the State's lottery business in a socially responsible manner to transfer its profits to the State to support education. SCEL is a traditional lottery selling a product mix of terminal generated ("numbers") games with drawings to select winners and instant ticket ("scratch off") games. SCEL receives no appropriations from the State and any expense affects the transfer to the State for Education. SCEL advertises the two (2) national jackpot games: Mega Millions® and Powerball®; one (1) multi-state regional game Lucky For Life®; numerous instant win or scratch-off tickets; and three (3) daily state draw games (Pick 3, Pick 4, and Palmetto Cash 5). Beneficiary and Responsible Play messaging are also advertised with both paid advertising and public service announcements. These products and messages are advertised across all advertising mediums.

SCEL's Commission and its employees are subject to the South Carolina Consolidated Procurement Code. All procurement contracts must be compliant with South Carolina Code of Laws and Regulations. SCEL will not purchase media where the identified market is skewed toward individuals younger than eighteen years of age. Please review Subsections 59-150-60(A)(8) and (18) of the South Carolina Code of Laws (Annotated), relating to "targeting" of advertising.

SCEL seeks to maintain existing lottery players at their current purchasing levels while increasing play among those who rarely purchase lottery products, have never purchased lottery products, or have lapsed from the purchase of lottery products within the past year. The Contractor must be able to place media to assist SCEL in achieving the goal of broadening its player base in order to maximize transfers to the Education Lottery Account. By law, SCEL's media purchasing is capped at not more than one percent (1%) of the previous year's total gross sales. SCEL seeks to maintain sales in excess of \$1.6B and maintain transfers at FY2016 and FY2017, \$405M and \$400, respectively. Maximization SCEL's media investment is critical for an optimal return on investment (ROI). SCEL seeks to increase the alignment of its creative and media placement strategies to meet ongoing and evolving expectations of customers.

Data on advertising purchases.

The advertising media commission is capped by law at three percent (3%) of gross advertising placement for the fiscal year. The total media placement purchase cannot exceed one percent (1%) of SCEL's gross sales for the preceding fiscal year. Historically, the total media placement purchase has been less than one percent (1%) of the gross sales for the preceding fiscal year.

SCEL's FY18 commissionable production advertising budget is \$7.3 million and \$200,000 budgeted for commissions. See Attachment E, SCEL Game Revenue, for sales growth from Fiscal Year 2014 through Fiscal Year 2017.

The existing vendor will preplan the media buy for FY19 in or around February or March 2018. SCEL's Board of Commissioners will meet and approve the budget in its quarterly meeting in May 2018. Once the budget is approved, the agreements to procure media are signed and the existing vendor will prepare a transition plan and work, as needed, with the Contractor selected as a result of this RFP.

Chernoff Newman is the current media placement vendor. Mad Monkey, LLC is the current vendor responsible for developing the creative content for production of television and radio advertising. SCEL staff is involved in the development of print, point of sale, Advertising Display Unit (ADU) (located in each retail outlet), outdoor digital advertising content, social content, web development and web content as well as other advertising mediums.

B. SERVICES REQUIRED

The Contractor must meet SCEL's needs for advertising media placement and other related services throughout the term of the Contract. The Contractor's primary responsibility will be to develop and implement a comprehensive and strategic statewide marketing and advertising plan for media placement that increases awareness of SCEL's products and its mission to support education. The Contractor must acquire media placement services that assist in supporting the launch of new or revised lottery games and promotions while enhancing SCEL's message and brand. The Contractor will be expected to identify and develop new strategies over the term of the Contract that may not be currently in use.

The Contractor is responsible for procuring media placements (consistent with media industry best practices), which include, but is not limited to: radio, print, television, outdoor advertising, sports sponsorships, event sponsorships and social media/web advertising. The Contractor is responsible for ensuring all advertising media placement procurements are conducted through a competitive process with evaluations and negotiation to obtain pricing from media outlets that is most advantageous to SCEL and then executing/placing orders as directed and approved by SCEL. The Contractor is responsible for negotiating rates, "bonus" or "added value" advertising space or time, and recommending the most effective and efficient choice of media placement based on the advertising media budget approved by the Board of Commissioners each fiscal year. The Contractor must maximize SCEL's media exposure in an effective and efficient manner while providing value-added options to optimize media placement and minimize costs.

C. STRATEGIC PLANNING AND CONSULTING SERVICES

The Contractor must develop a comprehensive and strategic advertising media placement plan ("Plan") as referenced in Part III. This plan must be updated annually or as directed by SCEL's Marketing Management Team and achieve the following:

1. Increase public awareness of SCEL's products and its mission to support education;
2. Enhance and optimize SCEL's brand awareness and extend the reach of SCEL's messaging throughout all media placement – maximizing and leveraging traditional media channels such as television, print, radio, with innovative social media and web-based platforms;
3. Explain why the Plan strategy allocation(s) of the various types of media placements are best suited for SCEL while considering the other options that could have been proposed;
4. Apply effective content for marketing and promotional strategies in a manner consistent with media industry best practices to attract new players, engage potential players, and retain existing players through event marketing efforts with special events and sponsorship packages;
5. Identify new approaches to establish and enhance relations with SCEL's statewide television draw partners that play a critical role in conveying a positive image of SCEL through their telecasts of lottery drawings and other lottery broadcasts;
6. Present and propose media purchasing strategies that target media markets on local, regional, and/or statewide levels;
7. In conjunction with SCEL develop a Plan budget that maximizes the utilization of all media

purchases and media placement;

8. Conceive, develop, and provide placement advice on implementation strategies for advertising media not currently utilized by SCEL or media placement options that may be developed during the term of the Contract that were not available on the award date; and
9. Consider other beneficial items or goals that the Contractor and the SCEL may incorporate during the term of the Contract.

Throughout the year, the Contractor must provide the following services:

1. Designate a single point of contact, committed to SCEL's account, who will consult with SCEL's Marketing Management Team and provide continuous feedback/evaluation on the status of media placement performance, opportunities to optimize performance, and recommend adjustments to better satisfy SCEL's marketing objectives;
2. Create and implement a systematic approach to evaluate the effectiveness of SCEL's Plan by analyzing sales performance data collected from former and current products while identifying the type of media platform and content used when tracking this information;
3. Media research, tools, and analytics including, but not limited to, purchasing advertising space in real time and using audience insights, cross-channel measurement and attribution, and econometric models that are able to forecast future trends in consumer purchasing based on consumer buying history and use these tools in evaluating performance and optimizing the ROI for SCEL's Plan;
4. Monitor, stay knowledgeable of, and keep SCEL informed on emerging advertising trends and media platforms that may be relevant in the development and implementation of SCEL's Plan;
5. Unless otherwise directed by SCEL, quarterly status meetings must be held with SCEL to discuss the Plan and any other aspect of the work required for this Contract. The Contractor is responsible keeping records of these meetings and providing written summaries to SCEL within a week of the conclusion of these meetings;
6. Make oral or written presentations and/or briefings regarding SCEL's marketing campaigns at SCEL Board of Commissioners meetings, other meetings, conferences, or other events upon the request of SCEL;

D. MEDIA PLACEMENT SERVICES

The Contractor must provide best-in-class media buying services that reach across all relevant and emerging communication channels including, but not limited to, local broadcast (television and radio), print, outdoor digital billboards, and digital media (i.e. web-based search engine marketing, social media, and mobile marketing). The Contractor must meet the needs of SCEL for advertising media placement and other services during the term of the Contract. The Contractor will purchase media, in all its forms, including any other media format developed during the term of the Contract. Contractor must provide a very high level of participation, professionalism, and self-initiation. SCEL seeks to maximize media exposure to the greatest extent possible given the budget approved and the SCEL Board of Commissioners. The services include, but are not limited to the following:

1. Provide estimates for all advertising and media services to be procured on behalf of SCEL; acquire all statewide media placements through a competitive process, and execute the purchase as authorized by SCEL, and in a manner consistent with media industry best practices and review/evaluate all media placements;
2. Negotiate cash alternatives for any non-cash incentives or rewards offered for the purchase of media or other services to reduce costs. The Contractor must suggest cost cutting or, at the very least, cost containment and “bonus spots” or value-added options (which amount to greater services for the same price or reduced pricing for media placement) during the term of this Contract. Non-cash incentives or rewards will neither be accepted nor used by the Contractor on SCEL’s behalf;
3. Obtain or continue contracts with television draw partners that telecast SCEL draws and feature lottery broadcasts. The Contractor shall initiate communications with stations for media opportunities, negotiate pricing, renew and/or cancel media based on performance (i.e. comparing the number of estimated and scheduled airings to actual airings or broadcasts, etc.);
4. Provide event marketing evaluation (determining ROI) for special events, promotions, and sponsorships and review/evaluate all media placement relating to events, promotions, and sponsorship proposals;
5. Maximize event marketing opportunities by negotiating added value with media buys for special events and sports sponsorships (i.e. promotions, VIP events, celebrity meetings, and other statewide or local events) as well as execute any contract or place orders for advertising media placement, promotional events, and any other related services upon written authorization to proceed by SCEL;
6. Verify and provide proof of performance for the broadcast, display, or publication of all requested media placements according to contracts and placement instructions through management and ongoing performance evaluations; and
7. Prepare and provide weekly (or as otherwise directed) status reports with updates on all planned, open, and pending jobs, and prepare and provide SCEL with quarterly pre and post-evaluations for all media purchases; provide detailed spreadsheets and/or other reports acceptable to SCEL that tracks the ongoing expenses and remaining balances relating to the Plan, and recommend potential cost savings when applicable.

E. DIGITAL AND MOBILE MEDIA SERVICES

The Contractor is expected to be on the cutting edge of advertising and the latest technologies in digital, mobile, and emerging media platforms. With the continual growth of consumer usage of digital devices for entertainment and information, these channels will be crucial in reaching new, potential, and existing players.

1. The Contractor will be responsible for creating a real-time, data-driven, strategic plan that increases public awareness of SCEL’s social media marketing platform and enhances SCEL’s in-house efforts (including the SCEL website) to manage the production and direction of social media; and
2. Upon the direction and approval of SCEL’s Board of Commissioners, the Contractor may be

responsible for developing an integrated digital media campaign that implements innovative marketing concepts with interactive and digital media methods to optimize SCEL's search engines, and to track and report the development of mobile applications.

F. MEDIA INVENTORY MANAGEMENT AND CONTROL

The Contractor must maintain and manage media inventory effectively and efficiently while adhering to the following requirements;

1. The Contractor must maintain an inventory control system to ensure adequate media inventory quantities, or "Spot Inventory," is available for advertisement placement in all media formats, including inventory that is purchased from television draw partners and billboard companies (i.e. schedules for airing lottery draws and updating jackpot amounts to billboard signage);
2. The Contractor should have inventory that contains predetermined spots with unit lengths of fifteen (15) seconds, thirty (30) seconds, and sixty (60) seconds. 60 second spots are rarely used unless they are make-goods. 30 second spots have been the standard length for the past three fiscal years. Recommendations for spot lengths other than those listed herein must be made in advance to SCEL;
3. The Contractor shall ensure media inventory is well-managed to minimize any potential shortages or overages of stock; the Contractor is responsible for the timeliness of the movement and replacement of media inventory; and the Contractor must make recommendations to SCEL on any changes that need to be made to existing spot inventory, including inventory of media schedules purchased from media vendors such as television stations and billboard companies;
4. Prepare and provide monthly and/or quarterly reports with updated media inventory status as directed by SCEL;

G. OTHER MEDIA RELATED SERVICES

The Contractor is expected to learn SCEL's processes, culture, and expectations to have the capability and experience to provide a high level of quality account service no matter what timelines or deadlines are imposed. To the extent that SCEL's needs require attention outside of normal business hours, the Contractor must be willing to meet SCEL's demand for quality account service.

1. The Contractor must oversee, and perform contract management services for SCEL's outdoor digital billboards and signage displaying jackpot amounts for Powerball®, Mega Millions®, and any other jackpot game, as directed by SCEL;
2. Assist SCEL in identifying and developing experiential and promotional programs that engage new, potential, and existing players; assist SCEL with recurring promotional partnerships (i.e. the Darlington 500 Race), sports sponsorships, local and regional events, and other similar promotional events or projects on an as needed basis; pre and post-media buy evaluations must be provided for these events;
3. Provide advice and/or develop a plan to enhance SCEL's Public Relations program as it relates to media relations, crisis communications, event management, and cross-cultural outreach;
4. Conduct market research studies to assist SCEL with understanding consumer and retailer behaviors, and perform retail audits that measure the quality of service provided to players

through mystery shopping and other techniques (i.e. recall tests, copy and motivation tests, and media weight tests); Market research studies may be ad hoc or ongoing projects that are qualitative or quantitative in nature;

5. Provide any other media related services as requested by SCEL.

H. REPORTING AND ACCOUNT BILLING MANAGEMENT

The Contractor must provide account supervision, documentation, and ongoing communication with SCEL on the status and timeline of all activities undertaken with respect to this contract.

1. Provide SCEL with billing for all purchased media related services at net cost. The Contractor must not markup goods or services purchased on behalf of SCEL. In addition, the Contractor must fully disclose and credit SCEL with any discounts or special offers that the Contractor received through any media related purchases made on behalf of SCEL;
2. The Contractor must provide monthly and quarterly account management reports, including progress reports and budget reports itemized by project and or activity, estimates, accounting documentation, and other financial information as necessary to comply with the contract payment terms and conditions as established by SCEL; and ensure all invoices, authorization forms, and all other correspondence include the SCEL reference name and job order number;
3. The Contractor must retain documentation of all contract records for the duration of the contract term **AND** for three (3) additional fiscal years past the contract end date. Records should include, but are not limited to: media buys, proof of performance, billing records, job orders, bank records and payment transactions, including hard copy and digital records. All contract related transactions made by the Contractor are subject to inspection and audit during normal hours of operation. Records may be maintained and stored at SCEL's main office upon the Contractor's request and SCEL's approval;

I. COMPENSATION

1. SCEL shall provide the Contractor with estimated expenditures for media placement in advance of each fiscal year (July 1-June 30), usually in February, which is subject to the approval of SCEL's Board of Commissioners generally held in May.
2. Each fiscal year, the Contractor's commission rate will be applied to the annual budget estimated for advertising media placement and the Contractor will be paid in twelve (12) equal monthly installments.
3. If the actual value of media placement has increased or decreased during the course of any fiscal year, SCEL will adjust the Contractor's compensation in the following manner. If, at the end of the fiscal year, the total amount of the approved media budget has not been spent, the Contractor's twelfth installed payment will be reduced accordingly. If the total amount spent is greater than the approved budget, then the Contractor will only receive payment for the twelfth installment with no additional compensation provided. However, if SCEL directs and approves expenditures in excess of the initial budget, the Contractor will be paid for the media approved for placement by SCEL.
5. The cost for preparing and accomplishing any "Other Services Media Related Services" (Part III, G.) is separate from and in addition to the "up to three percent (3%) compensation rate"

("Compensation Rate") allowed by law that is payable for media placement services. No fee in addition to the Commission Rate may be charged for the services listed in Part III B., C., D., E., F., and H. Compensation for Part III, G. services is seventy-five dollars (\$75.00) per hour.

DELIVERY/PERFORMANCE LOCATION -- SPECIFIED (JAN 2006)

After award, all deliveries shall be made and all services provided to the following address, unless otherwise specified:

South Carolina Education Lottery

1333 Main Street, Suite 400

Columbia SC 29201

[03-3030-1]

IV. INFORMATION FOR OFFERORS TO SUBMIT

All Proposals must be complete and carefully worded and must convey all of the information requested by the State. If significant errors are found in the Offeror's proposal, or if the proposal fails to conform to the essential requirements of the RFP, the State and the State alone will be the judge as to whether that variance is significant enough to reject the Proposal. Proposals must be prepared simply and economically, providing a straightforward, concise description of the Offeror's capabilities to satisfy the requirements of the RFP. Emphasis must be on completeness and clarity of content.

INFORMATION FOR OFFERORS TO SUBMIT – EVALUATION (JAN 2006)

In addition to information requested elsewhere in this solicitation, offerors should submit the following information for purposes of evaluation:

Offerors must restate each of the items listed below and provide their response immediately thereafter. **All information must be presented in the listed order.**

CONTENTS OF TECHNICAL PROPOSAL

1. Experience of Personnel Assigned to SCEL.

- a. The Offeror must explain the background, knowledge, and expertise of the individual(s) providing the services required in Part III.C. to SCEL. The Offeror must also explain the background, knowledge, and expertise of the person designated as “single point of contact” for providing those respective services as required in Part III.C. In its response, the Offeror is not expected to, and should not follow item by item the structure in Part III., C. Rather, the Offeror should consider all of the items required in Section C. and fully explain how the background, knowledge, and expertise of the “single point of contact” and others, if any, will serve needs of SCEL in developing, implementing and supporting/adjusting the Plan on an ongoing basis.
- b. To the extent not covered in sub item a. above, the Offeror must explain the background, knowledge, and expertise of the individual(s) who are working in the South Carolina markets and who will be assigned to work on this Contract in each of the core areas as defined in Part IV.3. below for the provision of the services required in Part III., B., C., and D. The Offeror must explain how the background, knowledge, and expertise of each individual will serve the needs of SCEL in obtaining the services required in Part III., B., C., and D.
- c. The Offeror must explain the knowledge and experience of the personnel working in regional and national markets who will be assigned to this Contract in each of the core areas as defined in Part IV.3. below and how the efforts of these individual(s) will enhance the services the Offeror will provide as required in Part III., B., C., and D.

In response to Section IV.1.a., b., and c., above the Offeror may provide resumes or short biographies of all management, supervisory, and/or key personnel who will be performing the planning and consulting, media purchasing, and placement services. Provide an average number of clients that each of the key personnel will be responsible for, and whether or not SCEL will be their main client.

No substitution of personnel identified in response to this section of the RFP will be allowed so long as that individual(s) is a member or employee of the Offeror unless the change is approved or

requested by SCEL in writing during the term of the Contract.

2. Approach and Methodology in the Provision of Required Services.

- a. The Offeror must explain its approach to providing comprehensive services to meet or exceed the requirements as described in Part III., B., C., and D. The Offeror must also explain how it monitors and adapts shifts the media marketing environment that would lead to changes in the Plan during a given fiscal year to proactively to shift from one form of advertising to another as dictated by consumer behavior or market conditions. For purposes of the response to this section, the Offeror need not specifically reference and present the material in the order listed in Part III., B., C., and D. so long as the Offeror clearly explains its approach and ability to provide all of the required services. In sum, the Offeror is free to explain how it can best meet the SCEL's need for the required services organized as it deems appropriate to best explain how it will meet SCEL's needs so long as all of the required items in these sections are addressed in the response.
- b. The Offeror must explain its approach to providing the services required as described in Part III., E., F., and G.
- c. The Offeror must explain its approach to providing the services required as described in Part III. H.

3. Current Volume of Business – Offeror Experience.

- a. The Offeror must present its overall volume (dollar value) of media placements in the last three calendar years (or Fiscal years) and the overall volume (dollar value) of media placement in South Carolina for the same period, and the effectiveness of media purchases and placements as measured by industry standard Return on Investment calculations and evaluations for the core areas expressed in Part III (i.e., television, radio, outdoor digital, and social/digital media).
- b. The Offeror must provide a brief history of the Offeror (the firm/business entity submitting the proposal), and any professional trade affiliations or memberships held by it or its employees. Include an organizational chart highlighting the names, positions, and only to the extent not expressed in response to Part IV., Section 1. a., b., and c. above, the experience of those individuals who will be involved in supporting the Contract resulting from this RFP (Offerors should focus only on the individual(s) who will be responsible for ongoing support and/or the day-to-day management of this account).

[04-4005-1]

INFORMATION FOR OFFERORS TO SUBMIT – GENERAL (MAR 2015)

You shall submit a signed Cover Page and Page Two. **If you submit your offer electronically, you must upload an image of a signed Cover Page and Page Two.** Your offer should include all other information and documents requested in this part and in parts II.B. Special Instructions; III. Scope of Work; V. Qualifications; VIII. Bidding Schedule/Price Proposal; and any appropriate attachments addressed in Part IX. Attachments to Solicitations. You should submit a summary of all insurance policies you have or plan to acquire to comply with the insurance requirements stated herein, if any, including policy types; coverage types; limits, sub-limits, and deductibles for each policy and coverage type; the carrier's A.M. Best rating; and whether the policy is written on an occurrence or claims-made basis. [04-4010-2]

4. Identifying Information Pursuant to the South Carolina Education Lottery Act.

Please note that one (1) representative must be clearly designated as the person authorized to discuss the Offeror's proposal response. Offerors must include this representative's name, telephone number, e-mail address and any other appropriate means for contact of the representative.

(Note: Prior to issuing a Final Award, an Offeror and certain personnel will undergo the background investigation as required by the Education Lottery Act. Additional information may be requested at the appropriate time to complete the investigation. By submitting a proposal, the Offeror agrees to timely provide the needed information as outlined below.)

As required by S.C. Code § 59-150-130, Offerors must submit the following information (if the Offeror believes that a particular item is inapplicable, please state so):

- a) The name, address, telephone number, and fax number of the legal entity (type of entity) with whom the contract would be executed and, as applicable, the names and addresses of the following, if the Offeror is:
 - b) a corporation, the officers and directors and each stockholder in the corporation, except that in the case of owners of equity securities of a publicly-traded corporation, the names and addresses of only those known to the corporation to own beneficially five percent or more of the securities must be disclosed; a trust, the trustee, and all persons entitled to receive income or benefits from the trust; an association, the members, officers, and directors; and a partnership or joint venture, all of the general partners, limited partners, or joint ventures;
 - c) The states and jurisdictions in which the Offeror does business and the nature of the business for each such state or jurisdiction.
 - d) The states and jurisdictions in which the Offeror 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.
 - e) The states and jurisdictions in which the Offeror has applied for, sought renewal of, received, been denied, or had revoked, or has issuance pending of, a lottery or gaming license of any kind or had fines or penalties assessed to his license, contract, or operation and the disposition of each in each state or jurisdiction. If a lottery or gaming license or contract has been revoked or has not been renewed or a lottery or gaming license or application has been denied or is pending and has remained pending for more than six months, all of the facts and circumstances underlying the failure to receive a license must be disclosed.
 - f) Details of a finding or any plea, conviction, or adjudication of guilt in a state or federal court of the Offeror for a felony or other criminal offense other than a traffic violation.
 - g) Details of any bankruptcy, insolvency, reorganization, or corporate or individual purchase or takeover of another corporation, including bonded indebtedness, or pending litigation of the

lottery vendor.

- h) Name, address, telephone number, and fax number of the South Carolina office, if different from above.
- i) A statement that the Offeror understands that a lottery vendor ["Lottery vendor" means a person who provides or proposes to provide goods or services to the South Carolina Lottery Commission pursuant to a procurement contract, but does not include an employee of the commission, a lottery retailer, or a state agency or instrumentality of the State. The term includes a corporation whose shares are traded publicly and which is the parent company of the contracting party in a procurement contract.] shall not contribute, for a period of twelve months before entering into the procurement process, except that during the first twelve months the period must be from the date of enactment, and during the term of the contract, to or make independent expenditures relative to the campaign of a candidate for the General Assembly or a statewide constitutional office; to any political party, as defined in Section 8-13-1300(26); or to a committee, as defined in Section 8-13-1300(6). These prohibitions and restrictions described do not apply to a lottery vendor that is a federally-chartered or insured financial institution that provides only usual and customary banking services as a lottery vendor, but do apply to the vendor's employees and their immediate family members who are involved on a day-to-day basis in providing the goods or services that are the subject of the contract with the commission.
- j) A statement that the Offeror understands that a lottery vendor must not enter into a contract for the purpose of influencing a political decision in connection with the operation of the lottery, and a lottery vendor must not employ, contract with, or otherwise authorize a lobbyist, as defined in Section 2-17-10(13), to engage in lobbying, as defined in Section 2-17-10(12), on behalf of the lottery vendor for the purpose of influencing a political decision in connection with the operation of the lottery.

NOTE: If at least twenty percent (20%) of the cost of this contract will be subcontracted or performed by a third-party partner, the Offeror shall identify that person for whom additional information may be required.

MINORITY PARTICIPATION (DEC 2015):

Is the bidder a South Carolina Certified Minority Business? Yes No

Is the bidder a Minority Business certified by another governmental entity? Yes No

If so, please list the certifying governmental entity: _____

Will any of the work under this contract be performed by a SC certified Minority Business as a subcontractor? Yes No

If so, what percentage of the total value of the contract will be performed by a SC certified Minority Business as a subcontractor? _____

Will any of the work under this contract be performed by a minority business certified by another governmental entity as a subcontractor? Yes No

If so, what percentage of the total value of the contract will be performed by a minority business certified by another governmental entity as a subcontractor? _____

If a certified Minority Business is participating in this contract, please indicate all categories for which the Business is certified:

- Traditional minority
- Traditional minority, but female
- Women (Caucasian females)
- Hispanic minorities
- DOT referral (Traditional minority)

- DOT referral (Caucasian female)
- Temporary certification
- SBA 8 (a) certification referral
- Other minorities (Native American, Asian, etc.)

(If more than one minority contractor will be utilized in the performance of this contract, please provide the information above for each minority business.)

The Department of Administration, Division of Small and Minority Business Contracting and Certification, publishes a list of certified minority firms. The Minority Business Directory is available at the following URL: <http://osmba.sc.gov/directory.html>

[04-4015-3]

OFFSHORE CONTRACTING (JAN 2006):

Work that will be performed offshore by the Offeror and/or its subcontractors must be identified in the Offeror's response. For the purpose of this solicitation, offshore is defined as outside the 50 States and US territories. Offeror is to include an explanation for the following:

- (a) What type of work is being contracted offshore? _____
- (b) What percentage (%) of the total work is being contracted offshore?

- (c) What percentage (%) of the total value of the contract is being contracted offshore?

(d) Provide a Service Level Agreement (SLA) demonstrating the arrangement between the off-shore contractor and the Offeror. Attach Service Level Agreement to this document or paste here. Data provided by the Offeror in regards to this clause is for information only and will not be used in the evaluation and determination of an award.

[04-4020-1]

SUBMITTING REDACTED OFFERS (MAR 2015)

If your offer includes any information that you marked as "Confidential," "Trade Secret," or "Protected" in accordance with the clause entitled "Submitting Confidential Information," you must also submit one complete copy of your offer from which you have removed or concealed such information (the redacted copy). The redacted copy should (i) reflect the same pagination as the original, (ii) show the empty space from which information was redacted, and (iii) be submitted on magnetic media. (See clause entitled "Electronic Copies - Required Media and Format.") Except for the information removed or concealed, the redacted copy must be identical to your original offer, and the Procurement Officer must be able to view, search, copy and print the redacted copy without a password. [04-4030-2]

V. QUALIFICATIONS

QUALIFICATIONS OF OFFEROR (MAR 2015)

(1) To be eligible for award, you must have the capability in all respects to perform fully the contract requirements and the integrity and reliability which will assure good faith performance. We may also consider a documented commitment from a satisfactory source that will provide you with a capability. We may consider information from any source at any time prior to award. We may elect to consider (i) key personnel, any predecessor business, and any key personnel of any predecessor business, including any facts arising prior to the date a business was established, and/or (ii) any Subcontractor you identify.

(2) You must promptly furnish satisfactory evidence of responsibility upon request. Unreasonable failure to supply requested information is grounds for rejection.

(3) **Corporate subsidiaries are cautioned that the financial capability of an affiliated or parent company will not be considered in determining financial capability;** however, we may elect to consider any security, e.g., letter of credit, performance bond, parent-company corporate guaranty, that you offer to provide Instructions and forms to help assure acceptability are posted on procurement.sc.gov, link to "Standard Clauses & Provisions."

[05-5005-2]

QUALIFICATIONS - SPECIAL STANDARDS OF RESPONSIBILITY (MODIFIED)

(a) This section establishes special standards of responsibility. **UNLESS YOU POSSESS THE FOLLOWING MANDATORY MINIMUM QUALIFICATIONS, DO NOT SUBMIT AN OFFER:**

(i) On the date the proposal is submitted, a qualified Offeror must be an entity that has at least five (5) years of experience in placing and/or supervising television, outdoor, and radio media with an individual(s) (owner or employee) who will be performing the required services who also has at least five (5) years of experience in placing and/or supervising television, outdoor, and radio media who will be performing the services in this RFP. A Subcontractor or an employee of a Subcontractor may NOT fulfill this experience requirement.

(ii) On the date the proposal is submitted, a qualified Offeror's firm, an employee of the Offeror or the owner of the Offeror must have been responsible for placing annual statewide or regional television media for \$1,000,000 for each of the past three (3) years. The annual \$1,000,000 television media minimum has to be placed for no more than (5) clients collectively. The clients for each of the past three (3) years do not have to be identical each year. The Offeror must state whether this person(s) will be performing the services required in this RFP. A Subcontractor or an employee of a Subcontractor may NOT fulfill this experience requirement.

(iii) At the time the Offeror submits a proposal, it must be authorized to do business in South Carolina

(b) Provide a detailed, narrative statement with adequate information to establish that you meet all the requirements stated in subparagraph (a) above. Include all appropriate documentation. If you intend for us to consider the qualifications of your key personnel, predecessor business(es), or Subcontractor(s), explain the relationship between you and such person or entity. [R. 19-445.2125(F)]

QUALIFICATIONS - REQUIRED INFORMATION (MAR 2015)

Submit the following information or documentation for you and for any Subcontractor (at any tier level) that you identify pursuant to the clause titled Subcontractor – Identification. Err on the side of inclusion. You represent that the information provided is complete.

(a) The general history and experience of the business in providing work of similar size and scope.

(b) Information reflecting the current financial position. Include the most current financial statement

and financial statements for the last two fiscal years. If the financial statements have been audited in accordance with the following requirements, provide the audited version of those statements. [Reference Statement of Financial Accounting Concepts No. 5 (FASB, December, 1984), as amended.]

(c) A detailed, narrative statement listing the three most recent, comparable contracts (including contact information) which have been performed. For each contract, describe how the supplies or services provided are similar to those requested by this solicitation, and how they differ.

(d) A list of every business for which supplies or services substantially similar to those sought with this solicitation have been provided, at any time during the past three years.

(e) A list of every South Carolina public body for which supplies or services have been provided at any time during the past three years, if any.

(f) List of failed projects, suspensions, debarments, and significant litigation.

[05-5015-2]

SUBCONTRACTOR – IDENTIFICATION

If you intend to subcontract, at any tier level, with another business for any portion of the work and that portion either (1) exceeds **20%** of your cost, (2) involves access to any “government information,” as defined in the clause entitled “Information Security - Definitions,” if included, or (3) otherwise involves services critical to your performance of the work (err on the side of inclusion), your offer must identify that business and the work which they are to perform. Identify potential Subcontractors by providing the business name, address, phone, taxpayer identification number, and point of contact. In determining your responsibility, the state may contact and evaluate your proposed Subcontractors.

VI. AWARD CRITERIA

AWARD CRITERIA -- PROPOSALS (JAN 2006)

Award will be made to the highest ranked, responsive and responsible offeror whose offer is determined to be the most advantageous to the State. [06-6030-1]

AWARD TO ONE OFFEROR (JAN 2006)

Award will be made to one Offeror. [06-6040-1]

DISCUSSIONS AND NEGOTIATIONS - OPTIONAL (FEB 2015)

Submit your best terms from both a price and a technical standpoint. Your proposal may be evaluated and your offer accepted without any discussions, negotiations, or prior notice. Ordinarily, nonresponsive proposals will be rejected outright without prior notice. Nevertheless, the State may elect to conduct discussions, including the possibility of limited proposal revisions, but only for those proposals reasonably susceptible of being selected for award. [11-35- 1530(6); R.19-445.2095(l)] If improper revisions are submitted during discussions, the State may elect to consider only your unrevised initial proposal, provided your initial offer is responsive. The State may also elect to conduct negotiations, beginning with the highest ranked offeror, or seek best and final offers, as provided in Section 11-35-1530(8). Negotiations may involve both price and matters affecting the scope of the contract, so long as changes are within the general scope of the request for proposals. If negotiations are conducted, the State may elect to disregard the negotiations and accept your original proposal. [06-6058-1]

EVALUATION FACTORS -- PROPOSALS (JAN 2006)

Offers will be evaluated using only the factors stated below. Evaluation factors are stated in the relative order of importance, with the first factor being the most important. Once evaluation is complete, all responsive offerors will be ranked from most advantageous to least advantageous. [06-6065-1]

TECHNICAL PROPOSAL – 700 potential points. Experience of personnel, approach and methodology, business experience.

The completeness and suitability of the Offeror's proposal, as well as Offeror understanding of the scope of work and ability to meet or exceed all of the following review elements:

1. **Experience of Personnel.** The knowledge and experience of the Offeror's key personnel in working in the South Carolina, regional, and national markets for each of the core areas involved to provide comparable comprehensive services for SCEL. RFP Section IV.1.
2. **Approach and Methodology.** The Offeror's approach to providing comprehensive services to meet or exceed the requirements as described in Scope of Work. RFP Section IV.2.
3. **Business Experience.** The company's knowledge and experiences of working in the South Carolina market, the overall volume of placements, and the effectiveness of those placements. RFP Section IV.3.

PRICE PROPOSAL – 300 potential points

The Price Proposal must be submitted separately from the Technical Proposal, and will not be considered until after the Technical Proposal has been evaluated. The Price Proposal must be the inclusive percentage value of the media being placed.

VII. TERMS AND CONDITIONS - A. GENERAL

ASSIGNMENT, NOVATION, AND CHANGE OF NAME, IDENTITY, OR STRUCTURE (FEB 2015)

(a) Contractor shall not assign this contract, or its rights, obligations, or any other interest arising from this contract, or delegate any of its performance obligations, without the express written consent of the responsible procurement officer. The foregoing restriction does not apply to a transfer that occurs by operation of law (e.g., bankruptcy; corporate reorganizations and consolidations, but not including partial asset sales). Notwithstanding the foregoing, Contractor may assign monies receivable under the contract provided that the state shall have no obligation to make payment to an assignee until thirty days after Contractor (not the assignee) has provided the responsible procurement officer with (i) proof of the assignment, (ii) the identity (by contract number) of the specific state contract to which the assignment applies, and (iii) the name of the assignee and the exact address or account information to which assigned payments should be made. (b) If Contractor amends, modifies, or otherwise changes its name, its identity (including its trade name), or its corporate, partnership or other structure, or its FEIN, Contractor shall provide the procurement officer prompt written notice of such change. (c) Any name change, transfer, assignment, or novation is subject to the conditions and approval required by Regulation 19-445.2180, which does not restrict transfers by operation of law. [07-7A004-2]

BANKRUPTCY - GENERAL (FEB 2015)

(a) Notice. In the event the Contractor enters into proceedings relating to bankruptcy, whether voluntary or involuntary, the Contractor agrees to furnish written notification of the bankruptcy to the Using Governmental Unit. This notification shall be furnished within two (2) days of the initiation of the proceedings relating to the bankruptcy filing. This notification shall include the date on which the bankruptcy petition was filed, the identity of the court in which the bankruptcy petition was filed, and a listing of all State contracts against which final payment has not been made. This obligation remains in effect until final payment under this Contract. (b) Termination. This contract is voidable and subject to immediate termination by the State upon the Contractor's insolvency, including the filing of proceedings in bankruptcy. [07-7A005-2]

CHOICE-OF-LAW (JAN 2006)

The Contract, any dispute, claim, or controversy relating to the Contract, and all the rights and obligations of the parties shall, in all respects, be interpreted, construed, enforced and governed by and under the laws of the State of South Carolina, except its choice of law rules. As used in this paragraph, the term "Contract" means any transaction or agreement arising out of, relating to, or contemplated by the solicitation. [07-7A010-1]

CONTRACT DOCUMENTS and ORDER OF PRECEDENCE (FEB 2015)

- (a) Any Contract resulting from this solicitation shall consist of the following documents:
- (1) a Record of Negotiations, if any, executed by you and the Procurement Officer,
 - (2) the solicitation, as amended,
 - (3) documentation of clarifications [11-35-1520(8)] or discussions [11-35-1530(6)] of an Offer, if applicable,
 - (4) your Offer,
 - (5) any statement reflecting the State's final acceptance (a/k/a "award"), and
 - (6) purchase orders. These documents shall be read to be consistent and complementary. Any conflict among these documents shall be resolved by giving priority to these documents in the order listed above.

- (b) The terms and conditions of documents (1) through (5) above shall apply notwithstanding any additional or different terms and conditions in any other document, including without limitation,
- (i) a purchase order or other instrument submitted by the State,
 - (ii) any invoice or other document submitted by Contractor, or
 - (iii) any privacy policy, terms of use, or end user agreement. Except as otherwise allowed herein, the terms and conditions of all such documents shall be void and of no effect.
- (c) No Contract, license, or other agreement containing contractual terms and conditions will be signed by any Using Governmental Unit. Any document signed or otherwise agreed to by persons other than the Procurement Officer shall be void and of no effect.

[07-7A015-2]

DISCOUNT FOR PROMPT PAYMENT (JAN 2006)

(a) Discounts for prompt payment will not be considered in the evaluation of offers. However, any offered discount will form a part of the award, and will be taken if payment is made within the discount period indicated in the offer by the offeror. As an alternative to offering a discount for prompt payment in conjunction with the offer, offerors awarded contracts may include discounts for prompt payment on individual invoices.

(b) In connection with any discount offered for prompt payment, time shall be computed from the date of the invoice. If the Contractor has not placed a date on the invoice, the due date shall be calculated from the date the designated billing office receives a proper invoice, provided the state annotates such invoice with the date of receipt at the time of receipt. For the purpose of computing the discount earned, payment shall be considered to have been made on the date that appears on the payment check or, for an electronic funds transfer, the specified payment date. When the discount date falls on a Saturday, Sunday, or legal holiday when Federal Government offices are closed and Government business is not expected to be conducted, payment may be made on the following business day. [07-7A020-1]

DISPUTES (JAN 2006)

(1) Choice-of-Forum. All disputes, claims, or controversies relating to the Agreement shall be resolved exclusively by the appropriate Chief Procurement Officer in accordance with Title 11, Chapter 35, Article 17 of the South Carolina Code of Laws, or in the absence of jurisdiction, only in the Court of Common Pleas for, or a federal court located in, Richland County, State of South Carolina. Contractor agrees that any act by the Government regarding the Agreement is not a waiver of either the Government's sovereign immunity or the Government's immunity under the Eleventh Amendment of the United States Constitution. As used in this paragraph, the term "Agreement" means any transaction or agreement arising out of, relating to, or contemplated by the solicitation.

(2) Service of Process. Contractor consents that any papers, notices, or process necessary or proper for the initiation or continuation of any disputes, claims, or controversies relating to the Agreement; for any court action in connection therewith; or for the entry of judgment on any award made, may be served on Contractor by certified mail (return receipt requested) addressed to Contractor at the address provided as the Notice Address on Page Two or by personal service or by any other manner that is permitted by law, in or outside South Carolina. Notice by certified mail is deemed duly given upon deposit in the United States mail.

[07-7A025-1]

EQUAL OPPORTUNITY (JAN 2006):

Contractor is referred to and shall comply with all applicable provisions, if any, of Title 41, Part 60 of the

Code of Federal Regulations, including but not limited to Sections 60-1.4, 60-4.2, 60-4.3, 60-250.5(a), and 60-741.5(a), which are hereby incorporated by reference. [07-7A030-1]

FALSE CLAIMS (JAN 2006)

According to the S.C. Code of Laws Section 16-13-240, “a person who by false pretense or representation obtains the signature of a person to a written instrument or obtains from another person any chattel, money, valuable security, or other property, real or personal, with intent to cheat and defraud a person of that property is guilty” of a crime. [07-7A035-1]

FIXED PRICING REQUIRED (JAN 2006)

Any pricing provided by Contractor shall include all costs for performing the work associated with that price. Except as otherwise provided in this solicitation, Contractor's price shall be fixed for the duration of this contract, including any optional terms. This clause does not prohibit Contractor from offering lower pricing after award. [07-7A040-1]

NO INDEMNITY OR DEFENSE (FEB 2015)

Any term or condition is void to the extent it requires the State to indemnify, defend, or pay attorney’s fees to anyone for any reason. [07-7A045-2]

NOTICE (JAN 2006)

(A) After award, any notices shall be in writing and shall be deemed duly given

- (1) upon actual delivery, if delivery is by hand,
- (2) upon receipt by the transmitting party of automated confirmation or answer back from the recipient’s device if delivery is by telex, telegram, facsimile, or electronic mail, or
- (3) upon deposit into the United States mail, if postage is prepaid, a return receipt is requested, and either registered or certified mail is used.

(B) Notice to Contractor shall be to the address identified as the Notice Address on Page Two. Notice to the state shall be to the Procurement Officer’s address on the Cover Page. Either party may designate a different address for notice by giving notice in accordance with this paragraph. [07-7A050-1]

OPEN TRADE (JUN 2015)

During the contract term, including any renewals or extensions, Contractor will not engage in the boycott of a person or an entity based in or doing business with a jurisdiction with whom South Carolina can enjoy open trade, as defined in SC Code Section 11-35-5300. [07-7A053-1]

PAYMENT & INTEREST (FEB 2015)

(a) The State shall pay the Contractor, after the submission of proper invoices or vouchers, the prices stipulated in this contract for supplies delivered and accepted or services rendered and accepted, less any deductions provided in this contract. Unless otherwise specified herein, including the purchase order, payment shall not be made on partial deliveries accepted by the Government. (b) Unless otherwise provided herein, including the purchase order, payment will be made by check mailed to the payment address on “Page Two.” (c) Notwithstanding any other provision, payment shall be made in accordance with S.C. Code Section 11-35-45, or Chapter 6 of Title 29 (real property improvements) when applicable, which provides the Contractor's exclusive means of recovering any type of interest from the Owner. Contractor waives imposition of an interest penalty unless the invoice submitted specifies that the late penalty is applicable. Except as set forth in this paragraph, the State shall not be liable for the payment of interest on any debt or claim arising out of or related to this contract for any reason. (d)

Amounts due to the State shall bear interest at the rate of interest established by the South Carolina Comptroller General pursuant to Section 11-35-45 ("an amount not to exceed fifteen percent each year"), as amended, unless otherwise required by Section 29-6-30. (e) Any other basis for interest, including but not limited to general (pre- and post-judgment) or specific interest statutes, including S.C. Code Ann. Section 34-31-20, are expressly waived by both parties. If a court, despite this agreement and waiver, requires that interest be paid on any debt by either party other than as provided by items (c) and (d) above, the parties further agree that the applicable interest rate for any given calendar year shall be the lowest prime rate as listed in the first edition of the Wall Street Journal published for each year, applied as simple interest without compounding. (f) The State shall have all of its common law, equitable and statutory rights of set-off. [07-7A055-3]

PUBLICITY (JAN 2006)

Contractor shall not publish any comments or quotes by State employees, or include the State in either news releases or a published list of customers, without the prior written approval of the Procurement Officer. [07-7A060- 1]

PURCHASE ORDERS (JAN 2006)

Contractor shall not perform any work prior to the receipt of a purchase order from the using governmental unit. The using governmental unit shall order any supplies or services to be furnished under this contract by issuing a purchase order. Purchase orders may be used to elect any options available under this contract, e.g., quantity, item, delivery date, payment method, but are subject to all terms and conditions of this contract. Purchase orders may be electronic. No particular form is required. An order placed pursuant to the purchasing card provision qualifies as a purchase order. [07-7A065-1]

IRAN DIVESTMENT ACT - ONGOING OBLIGATIONS (JAN 2015)

(a) You must notify the procurement officer immediately if, at any time during the contract term, you are added to the Iran Divestment Act List. (b) Consistent with Section 11-57-330(B), you shall not contract with any person to perform a part of the Work, if, at the time you enter into the subcontract, that person is on the then-current version of the Iran Divestment Act List. [07-7A072-1]

SURVIVAL OF OBLIGATIONS (JAN 2006)

The Parties' rights and obligations which, by their nature, would continue beyond the termination, cancellation, rejection, or expiration of this contract shall survive such termination, cancellation, rejection, or expiration, including, but not limited to, the rights and obligations created by the following clauses: Indemnification - Third Party Claims, Intellectual Property Indemnification, and any provisions regarding warranty or audit. [07-7A075-1]

TAXES (JAN 2006)

Any tax the Contractor may be required to collect or pay upon the sale, use or delivery of the products shall be paid by the State, and such sums shall be due and payable to the Contractor upon acceptance. Any personal property taxes levied after delivery shall be paid by the State. It shall be solely the State's obligation, after payment to Contractor, to challenge the applicability of any tax by negotiation with, or action against, the taxing authority. Contractor agrees to refund any tax collected, which is subsequently determined not to be proper and for which a refund has been paid to Contractor by the taxing authority. In the event that the Contractor fails to pay, or delays in paying, to any taxing authorities, sums paid by the State to Contractor, Contractor shall be liable to the State for any loss (such as the assessment of additional interest) caused by virtue of this failure or delay. Taxes based on Contractor's net income or assets shall be the sole responsibility of the Contractor. [07-7A080-1]

TERMINATION DUE TO UNAVAILABILITY OF FUNDS (JAN 2006)

Payment and performance obligations for succeeding fiscal periods shall be subject to the availability and appropriation of funds therefor. When funds are not appropriated or otherwise made available to support continuation of performance in a subsequent fiscal period, the contract shall be canceled. In the event of a cancellation pursuant to this paragraph, Contractor will be reimbursed the resulting unamortized, reasonably incurred, nonrecurring costs. Contractor will not be reimbursed any costs amortized beyond the initial contract term. [07-7A085-1]

THIRD PARTY BENEFICIARY (JAN 2006)

This Contract is made solely and specifically among and for the benefit of the parties hereto, and their respective successors and assigns, and no other person will have any rights, interest, or claims hereunder or be entitled to any benefits under or on account of this Contract as a third party beneficiary or otherwise. [07-7A090-1]

WAIVER (JAN 2006)

The State does not waive any prior or subsequent breach of the terms of the Contract by making payments on the Contract, by failing to terminate the Contract for lack of performance, or by failing to strictly or promptly insist upon any term of the Contract. Only the Procurement Officer has actual authority to waive any of the State's rights under this Contract. Any waiver must be in writing. [07-7A095-1]

VII. TERMS AND CONDITIONS -- B. SPECIAL

BANKRUPTCY – GOVERNMENT INFORMATION (FEB 2015)

(a) All government information (as defined in the clause herein entitled “Information Security - Definitions”) shall belong exclusively to the State, and Contractor has no legal or equitable interest in, or claim to, such information. Contractor acknowledges and agrees that in the event Contractor enters into proceedings relating to bankruptcy, whether voluntary or involuntary, government information in its possession and/or under its control will not be considered property of its bankruptcy estate.

(b) Contractor agrees to notify the State within forty-eight (48) hours of any determination that it makes to file for bankruptcy protection, and Contractor further agrees to turn over to the State, before such filing, all government information that is in Contractor’s possession in a format that can be readily utilized by the State.

(c) In order to protect the integrity and availability of government information, Contractor shall take reasonable measures to evaluate and monitor the financial circumstances of any Subcontractor that will process, store, transmit or access government information. [07-7B007-1]

CHANGES (JAN 2006)

(1) Contract Modification. By a written order, at any time, and without notice to any surety, the Procurement Officer may, subject to all appropriate adjustments, make changes within the general scope of this contract in any one or more of the following: (a) drawings, designs, or specifications, if the supplies to be furnished are to be specially manufactured for the [State] in accordance therewith; (b) method of shipment or packing; (c) place of delivery; (d) description of services to be performed; (e) time of performance (i.e., hours of the day, days of the week, etc.); or, (f) place of performance of the services. Subparagraphs (a) to (c) apply only if supplies are furnished under this contract. Subparagraphs (d) to (f) apply only if services are performed under this contract.

(2) Adjustments of Price or Time for Performance. If any such change increases or decreases the Contractor’s cost of, or the time required for, performance of any part of the work under this contract, whether or not changed by the order, an adjustment shall be made in the contract price, the delivery schedule, or both, and the contract modified in writing accordingly. Any adjustment in contract price made pursuant to this clause shall be determined in accordance with the Price Adjustment Clause of this contract. Failure of the parties to agree to an adjustment shall not excuse the Contractor from proceeding with the contract as changed, provided that the State promptly and duly make such provisional adjustments in payment or time for performance as may be reasonable. By proceeding with the work, the Contractor shall not be deemed to have prejudiced any claim for additional compensation, or an extension of time for completion.

(3) Time Period for Claim. Within 30 days after receipt of a written contract modification under Paragraph (1) of this clause, unless such period is extended by the Procurement Officer in writing, the Contractor shall file notice of intent to assert a claim for an adjustment. Later notification shall not bar the Contractor’s claim unless the State is prejudiced by the delay in notification.

(4) Claim Barred After Final Payment. No claim by the Contractor for an adjustment hereunder shall be allowed if notice is not given prior to final payment under this contract.

[07-7B025-1]

COMPLIANCE WITH LAWS (JAN 2006):

During the term of the contract, contractor shall comply with all applicable provisions of laws, codes, ordinances, rules, regulations, and tariffs. [07-7B035-1]

CONFERENCE – PRE-PERFORMANCE (JAN 2006):

Unless waived by the Procurement Officer, a pre-performance conference between the contractor, state and Procurement Officer shall be held at a location selected by the state within five (5) days after final award, and prior to commencement of work under the contract. The responsibilities of all parties involved will be discussed to assure a meeting of the minds of all concerned. The successful contractor or his duly authorized representative shall be required to attend at contractor’s expense.

[07-7B040-1]

CONTRACTOR PERSONNEL (JAN 2006):

The Contractor shall enforce strict discipline and good order among the Contractor’s employees and other persons carrying out the Contract. The Contractor shall not permit employment of unfit persons or persons not skilled in tasks assigned to them. [07-7B060-1]

CONTRACTOR’S OBLIGATION – GENERAL (JAN 2006):

The contractor shall provide and pay for all materials, tools, equipment, labor and professional and non-professional services, and shall perform all other acts and supply all other things necessary, to fully and properly perform and complete the work. The contractor must act as the prime contractor and assume full responsibility for any subcontractor’s performance. The contractor will be considered the sole point of contact with regard to all situations, including payment of all charges and the meeting of all other requirements. [07-7B065-1]

CONTRACT INTERPRETATION

In the event there are any disagreements between the parties regarding the application of this Contract or SCEL’s requirements arising from any interpretation of the Request for Proposal, the Contract, or otherwise, Contractor agrees to defer to the reasonable interpretations of SCEL. This provision applies to all matters including, but not limited to, disputes concerning whether Contractor is required to provide some service or item including scope of work issues, whether particular items or services were included in the scope of work agreed to by the parties, change orders, contract modifications or other deviations. Failure to receive the prior written and express approval of SCEL prior to implementing any changes to the requirements provided for hereunder, for which requests for extra or additional compensation are thereafter submitted by the Contractor to SCEL, shall impose no liability for payment upon SCEL and may be rejected by SCEL without recourse. In summary, if both parties have a reasonable interpretation regarding application of the Contract, Contractor agrees to defer to SCEL’s interpretation.

CONTRACTOR’S USE OF STATE PROPERTY (JAN 2006)

Upon termination of the contract for any reason, the State shall have the right, upon demand, to obtain access to, and possession of, all State properties, including, but not limited to, current copies of all State application programs and necessary documentation, all data, files, intermediate materials and supplies held by the Contractor. Contractor shall not use, reproduce, distribute, display, or sell any data, material, or documentation owned exclusively by the State without the State’s written consent, except to the extent necessary to carry out the work. [07-7B067-1]

DEFAULT (JAN 2006):

(a) (1) The State may, subject to paragraphs (c) and (d) of this clause, by written notice of default to the Contractor, terminate this contract in whole or in part if the Contractor fails to:

(i) Deliver the supplies or to perform the services within the time specified in this contract or any extension;

(ii) Make progress, so as to endanger performance of this contract (but see paragraph (a)(2) of this clause); or

(iii) Perform any of the other material provisions of this contract (but see paragraph (a)(2) of this clause).

(2) The State's right to terminate this contract under subdivisions (a)(1)(ii) and (1)(iii) of this clause, may be exercised if the Contractor does not cure such failure within 10 days (or more if authorized in writing by the Procurement Officer) after receipt of the notice from the Procurement Officer specifying the failure.

(b) If the State terminates this contract in whole or in part, it may acquire, under the terms and in the manner the Procurement Officer considers appropriate, supplies or services similar to those terminated, and the Contractor will be liable to the State for any excess costs for those supplies or services. However, the Contractor shall continue the work not terminated.

(c) Except for defaults of subcontractors at any tier, the Contractor shall not be liable for any excess costs if the failure to perform the contract arises from causes beyond the control and without the fault or negligence of the Contractor. Examples of such causes include (1) acts of God or of the public enemy, (2) acts of the State in either its sovereign or contractual capacity, (3) fires, (4) floods, (5) epidemics, (6) quarantine restrictions, (7) strikes, (8) freight embargoes, and (9) unusually severe weather. In each instance the failure to perform must be beyond the control and without the fault or negligence of the Contractor.

(d) If the failure to perform is caused by the default of a subcontractor at any tier, and if the cause of the default is beyond the control of both the Contractor and subcontractor, and without the fault or negligence of either, the Contractor shall not be liable for any excess costs for failure to perform, unless the subcontracted supplies or services were obtainable from other sources in sufficient time for the Contractor to meet the required delivery schedule.

(e) If this contract is terminated for default, the State may require the Contractor to transfer title and deliver to the State, as directed by the Procurement Officer, any (1) completed supplies, and (2) partially completed supplies and materials, parts, tools, dies, jigs, fixtures, plans, drawings, information, and contract rights (collectively referred to as "manufacturing materials" in this clause) that the Contractor has specifically produced or acquired for the terminated portion of this contract. Upon direction of the Procurement Officer, the Contractor shall also protect and preserve property in its possession in which the State has an interest.

(f) The State shall pay contract price for completed supplies delivered and accepted. The Contractor and Procurement Officer shall agree on the amount of payment for manufacturing materials delivered and accepted and for the protection and preservation of the property; if the parties fail to agree, the Procurement Officer shall set an amount subject to the Contractor's rights under the Disputes clause. Failure to agree will be a dispute under the Disputes clause. The State may withhold from these amounts any sum the Procurement Officer determines to be necessary to protect the State against loss because of outstanding liens or claims of former lien holders.

(g) If, after termination, it is determined that the Contractor was not in default, or that the default was excusable, the rights and obligations of the parties shall, if the contract contains a clause providing for termination for convenience of the State, be the same as if the termination had been issued for the convenience of the State. If, in the foregoing circumstances, this contract does not contain a clause providing for termination for convenience of the State, the contract shall be adjusted to compensate for such termination and the contract modified accordingly subject to the contractor's rights under the Disputes clause.

(h) The rights and remedies of the State in this clause are in addition to any other rights and remedies provided by law or under this contract.

[07-7B075-1]

ILLEGAL IMMIGRATION (NOV 2008):

(An overview is available at www.procurement.sc.gov) By signing your offer, you certify that you will comply with the applicable requirements of Title 8, Chapter 14 of the South Carolina Code of Laws and agree to provide to the State upon request any documentation required to establish either: (a) that Title 8, Chapter 14 is inapplicable to you and your subcontractors or sub-subcontractors; or (b) that you and your subcontractors or sub-subcontractors are in compliance with Title 8, Chapter 14. Pursuant to Section 8-14-60, "A person who knowingly makes or files any false, fictitious, or fraudulent document, statement, or report pursuant to this chapter is guilty of a felony, and, upon conviction, must be fined within the discretion of the court or imprisoned for not more than five years, or both." You agree to include in any contracts with your subcontractors language requiring your subcontractors to (a) comply with the applicable requirements of Title 8, Chapter 14, and (b) include in their contracts with the sub-subcontractors language requiring the sub-subcontractors to comply with the applicable requirements of Title 8, Chapter 14. [07-7B097-1]

INDEMNIFICATION-THIRD PARTY CLAIMS – GENERAL (NOV 2011):

Notwithstanding any limitation in this agreement, and to the fullest extent permitted by law, Contractor shall defend and hold harmless Indemnitees for and against any and all suits or claims of any character (and all related damages, settlement payments, attorneys' fees, costs, expenses, losses or liabilities) by a third party which are attributable to bodily injury, sickness, disease or death, or to injury to or destruction of tangible property arising out of or in connection with the goods or services acquired hereunder or caused in whole or in part by any act or omission of contractor, its subcontractors, their employees, workmen, servants, agents, or anyone directly or indirectly employed by them or anyone for whose acts any of them may be liable, regardless of whether or not caused in part by an Indemnitee, and whether or not such claims are made by a third party or an Indemnitee; however, if an Indemnitee's negligent act or omission is subsequently determined to be the sole proximate cause of a suit or claim, the Indemnitee shall not be entitled to indemnification hereunder. Contractor shall be given timely written notice of any suit or claim. Contractor's obligations hereunder are in no way limited by any protection afforded under workers' compensation acts, disability benefits acts, or other employee benefit acts. This clause shall not negate, abridge, or reduce any other rights or obligations of indemnity which would otherwise exist. The obligations of this paragraph shall survive termination, cancelation, or expiration of the parties' agreement. This provision shall be construed fairly and reasonably, neither strongly for nor against either party, and without regard to any clause regarding insurance. As used in this clause, "Indemnitees" means the State of South Carolina, its instrumentalities, agencies, departments, boards, political subdivisions and all their respective officers, agents and employees. [07-7B100-2]

LICENSES AND PERMITS (JAN 2006):

During the term of the contract, the Contractor shall be responsible for obtaining, and maintaining in good standing, all licenses (including professional licenses, if any), permits, inspections and related fees for each or any such licenses, permits and /or inspections required by the State, county, city or other government entity or unit to accomplish the work specified in this solicitation and the contract. [07-7B115-1]

OFFSHORE CONTRACTING PROHIBITED (FEB 2015)

No part of the resulting contract from this solicitation may be performed offshore of the United States by persons located offshore of the United State or by means, methods, or communications that, in whole or in part, take place offshore of the United States. [07-7B122-1]

OBLIGATIONS AND REQUIREMENTS AT END OF CONTRACT TERM

Unless terminated as provided in this Contract, the Contract term is for a maximum seven (7) year period, with a fixed contract term awarded for five (5) years with the potential for two (2) optional one (1) year renewal terms. As the end of the term of this Contract approaches, the Contractor providing services under this Contract agrees to cooperate with SCEL and the next Contractor (Successor) to assist in the conversion of the System provided for in this Contract by providing any and all materials, data, records, databases, software and all other things that are the property of SCEL in the Contractor's possession. These services and information will be provided without delay as needed by the Successor provider at no cost to SCEL with the understanding that this requirement does not include proprietary materials listed by the Contractor pursuant to this Contract. Contractor understands and agrees that the purpose of these requirements and duties imposed on the Contractor is so that no disruption of media placement or other services as provided in this Contract, will occur at any time during any transition from the Contractor to the Successor.

OWNERSHIP OF DATA & MATERIALS (JAN 2006)

All data, material and documentation prepared for the state pursuant to this contract shall belong exclusively to the State. [07-7B125-1]

PRICING DATA – AUDIT – INSPECTION (JAN 2006)

[Clause Included Pursuant to Section 11-35-1830, - 2210, & -2220]

(a) Cost or Pricing Data. Upon Procurement Officer's request, you shall submit cost or pricing data, as defined by 48 C.F.R. Section 2.101 (2004), prior to either (1) any award to contractor pursuant to 11-35-1530 or 11-35-1560, if the total contract price exceeds \$500,000, or (2) execution of a change order or contract modification with contractor which exceeds \$100,000. Your price, including profit or fee, shall be adjusted to exclude any significant sums by which the state finds that such price was increased because you furnished cost or pricing data that was inaccurate, incomplete, or not current as of the date agreed upon between parties. (b) Records Retention. You shall maintain your records for three years from the date of final payment, or longer if requested by the chief Procurement Officer. The state may audit your records at reasonable times and places. As used in this subparagraph (b), the term "records" means any books or records that relate to cost or pricing data submitted pursuant to this clause. In addition to the obligation stated in this subparagraph (b), you shall retain all records and allow any audits provided for by 11-35-2220(2).

(c) Inspection. At reasonable times, the state may inspect any part of your place of business which is related to performance of the work.

(d) Instructions Certification. When you submit data pursuant to subparagraph (a), you shall (1) do so in accordance with the instructions appearing in Table 15-2 of 48 C.F.R. Section 15.408 (2004) (adapted as necessary for the state context), and (2) submit a Certificate of Current Cost or Pricing Data, as prescribed by 48 CFR Section 15.406-2(a) (adapted as necessary for the state context).

(e) Subcontracts. You shall include the above text of this clause in all of your subcontracts.

(f) Nothing in this clause limits any other rights of the state.

[07-7B185-1]

RELATIONSHIP OF THE PARTIES (JAN 2006)

Neither party is an employee, agent, partner, or joint venturer of the other. Neither party has the right or ability to bind the other to any agreement with a third party or to incur any obligation or liability on behalf of the other party. [07-7B205-1]

TERM OF CONTRACT – OPTION TO RENEW (JAN 2015)

(a) At the end of the initial term, and at the end of each renewal term, this contract shall automatically renew for a period of 1 year, unless contractor receives notice that the state elects not to renew the contract at least ninety (90) days prior to the date of renewal. Regardless, this contract expires no later than the last date stated on the final statement of award. (b) Contractor acknowledges that, unless excused by Section 11-57-320, if the contractor is on the then-current Iran Divestment Act List as of the date of any contract renewal, the renewal will be void ab initio. [07-7B245-2]

TERMINATION FOR CONVENIENCE (JAN 2006)

(1) Termination. The Procurement Officer may terminate this contract in whole or in part, for the convenience of the State. The Procurement Officer shall give written notice of the termination to the Contractor specifying the part of the contract terminated and when termination becomes effective.

(2) Contractor's Obligations. The Contractor shall incur no further obligations in connection with the terminated work and on the date set in the notice of termination the Contractor will stop work to the extent specified. The Contractor shall also terminate outstanding orders and subcontracts as they relate to the terminated work. The Contractor shall settle the liabilities and claims arising out of the termination of subcontracts and orders connected with the terminated work. The Procurement Officer may direct the Contractor to assign the Contractor's right, title, and interest under terminated orders or subcontracts to the State. The Contractor must still complete the work not terminated by the notice of termination and may incur obligations as are necessary to do so.

(3) Right to Supplies. The Procurement Officer may require the Contractor to transfer title and deliver to the State in the manner and to the extent directed by the Procurement Officer: (a) any completed supplies; and (b) such partially completed supplies and materials, parts, tools, dies, jigs, fixtures, plans, drawings, information, and contract rights (hereinafter called "manufacturing material") as the Contractor has specifically produced or specially acquired for the performance of the terminated part of this contract. The Contractor shall, upon direction of the Procurement Officer, protect and preserve property in the possession of the Contractor in which the State has an interest. If the Procurement Officer does not exercise this right, the Contractor shall use best efforts to sell such supplies and manufacturing materials in accordance with the standards of Uniform Commercial Code Section 2-706. Utilization of this Section in no way implies that the State has breached the contract by exercise of the Termination for Convenience Clause.

(4) Compensation.

(a) The Contractor shall submit a termination claim specifying the amounts due because of the termination for convenience together with cost or pricing data required by Section 11-35-1830 bearing on such claim. If the Contractor fails to file a termination claim within one year from the effective date of termination, the Procurement Officer may pay the Contractor, if at all, an amount set in accordance with Subparagraph (c) of this Paragraph.

(b) The Procurement Officer and the Contractor may agree to a settlement and that the settlement does not exceed the total contract price plus settlement costs reduced by payments previously made by the State, the proceeds of any sales of supplies and manufacturing materials under Paragraph (3) of this clause, and the contract price of the work not terminated;

(c) Absent complete agreement under Subparagraph (b) of this Paragraph, the Procurement Officer shall pay the Contractor the following amounts, provided payments agreed to under Subparagraph (b) shall not duplicate payments under this Subparagraph:

(i) contract prices for supplies or services accepted under the contract;

(ii) costs reasonably incurred in performing the terminated portion of the work less amounts paid or to be paid for accepted supplies or services;

(iii) reasonable costs of settling and paying claims arising out of the termination of subcontracts or

orders pursuant to Paragraph (2) of this clause. These costs must not include costs paid in accordance with Subparagraph (c)(ii) of this paragraph;

(iv) any other reasonable costs that have resulted from the termination. The total sum to be paid the Contractor under this Subparagraph shall not exceed the total contract price plus the reasonable settlement costs of the Contractor reduced by the amount of payments otherwise made, the proceeds of any sales of supplies and manufacturing materials under Subparagraph (b) of this Paragraph, and the contract price of work not terminated.

(d) Contractor must demonstrate any costs claimed, agreed to, or established under Subparagraphs (b) and (c) of this Paragraph using its standard record keeping system, provided such system is consistent with any applicable Generally Accepted Accounting Principles.

(5) Contractor's failure to include an appropriate termination for convenience clause in any subcontract shall not (i) affect the state's right to require the termination of a subcontract, or (ii) increase the obligation of the state beyond what it would have been if the subcontract had contained an appropriate clause.

[07-7B265-1]

VIII. BIDDING SCHEDULE / PRICE-BUSINESS PROPOSAL

PRICE PROPOSAL (JAN 2006).

Notwithstanding any other instructions herein, you shall submit the following price information as a separate sealed document:

The Offeror agrees to perform the media placement services specified herein for _____% of the value of the media being placed. The commission rate is expressed as a percentage of gross dollar value of advertising media placement. **THE PERCENTAGE QUOTED BY THE OFFEROR MAY NOT TO EXCEED THREE PERCENT (3%) as provided in Section 59-150-60(A)(15) and (18).**

The rate quoted in this Subpart will apply to the value of advertising purchased by the Contractor and will not apply to **OTHER MEDIA RELATED SERVICES** as identified in Section III.G. SCEL will pay the Contractor a fixed hourly rate of seventy-five dollars per hour (\$75.00/hr.) for those services. [08-8015-1].

Price proposals must be submitted in a sealed envelope and separate from the proposal. No pricing information shall be included in the technical proposal.

IX. ATTACHMENTS TO SOLICITATION

ATTACHMENTS LIST [09-9002-1]

The following documents are attached to this solicitation:

- A. IMPORTANT TAX NOTICE - NONRESIDENTS ONLY
- B. RESIDENT VENDOR PREFERENCE
- C. FORMULA USED TO CALCULATE THE RESIDENT VENDOR PREFERENCE AND CONVERT COST TO POINTS.
- D. SOUTH CAROLINA EDUCATION LOTTERY ADVERTISING GUIDELINES
- E. SCEL GAME REVENUE, FY13 – FY17

A. IMPORTANT TAX NOTICE - NONRESIDENTS ONLY

Withholding Requirements for Payments to Nonresidents: Section 12-8-550 of the South Carolina Code of Laws requires persons hiring or contracting with a nonresident conducting a business or performing personal services of a temporary nature within South Carolina to withhold 2% of each payment made to the nonresident. The withholding requirement does not apply to (1) payments on purchase orders for tangible personal property when the payments are not accompanied by services to be performed in South Carolina, (2) nonresidents who are not conducting business in South Carolina, (3) nonresidents for contracts that do not exceed \$10,000 in a calendar year, or (4) payments to a nonresident who (a) registers with either the S.C. Department of Revenue or the S.C. Secretary of State and (b) submits a Nonresident Taxpayer Registration Affidavit - Income Tax Withholding, Form I-312 to the person letting the Contract.

The withholding requirement applies to every governmental entity that uses a Contract ("Using Entity"). Nonresidents should submit a separate copy of the Nonresident Taxpayer Registration Affidavit - Income Tax Withholding, Form I-312 to every Using Entity that makes payment to the nonresident pursuant to this solicitation. Once submitted, an affidavit is valid for all contracts between the nonresident and the Using Entity, unless the Using Entity receives notice from the Department of Revenue that the exemption from withholding has been revoked.

Section 12-8-540 requires persons making payment to a nonresident taxpayer of rentals or royalties at a rate of \$1,200.00 or more a year for the use of or for the privilege of using property in South Carolina to withhold 7% of the total of each payment made to a nonresident taxpayer who is not a corporation and 5% if the payment is made to a corporation. Contact the Department of Revenue for any applicable exceptions.

For information about other withholding requirements (e.g., employee withholding), contact the Withholding Section at the South Carolina Department of Revenue at 803-898-5383 or visit the Department's website at: <https://dor.sc.gov>

This notice is for informational purposes only. This agency does not administer and has no authority over tax issues. All registration questions should be directed to the License and Registration Section at 803-898-5872 or to the South Carolina Department of Revenue, Registration Unit, Columbia, S.C. 29214-0140. All withholding questions should be directed to the Withholding Section at 803-896-1420.

B. RESIDENT VENDOR PREFERENCE

In pertinent part to this solicitation, Section 11-35-1524 (C) provides "(1)When evaluating pricing for purposes of making an award determination, the procurement officer shall decrease a bidder's price by seven percent if the bidder maintains an office in this State **and** ...(iii) at the time of bidding, directly employs or has a documented commitment with individuals domiciled in South Carolina that will perform services expressly required by the solicitation and the total direct labor cost to bidder for those individuals to provide those services exceeds fifty percent of the bidder's total bid price.... (3) If a bidder is requesting this preference, the bidder, upon request by the procurement officer, must provide documentation that establishes the bidder's qualifications for the preference and, for the preference claimed pursuant to subsection (C)(1)(iii), must identify the persons domiciled in South Carolina that will perform the services involved in the procurement upon which bidder relies in qualifying for the preference, the services those individuals are to perform, and documentation of the bidder's labor cost for each person identified. Bidder's failure to provide this information promptly is grounds to deny the preference and for enforcement under subsection (E)(6) ..." [Emphasis Added.] As used in (C)(1)(iii), the term "documented commitment" means "a written commitment by the offeror "to employ directly an individual, and by the individual to be employed by the bidder, both contingent on the bidder receiving the award." (Section 11-35-1524(E)(8))

For purposes of this solicitation, the procurement officer requires that an offeror claiming the 11-35-1524(C)(1)(iii) preference provide the necessary documentation specified (C)(3) in its proposal. The procurement officer reserves the right to request additional information.

In pertinent part to this solicitation, Section 59-150-140(E) provides: "In all contracts entered into in connection with this chapter [Lottery Act], the resident lottery vendor preference provided in Section 11-35-1524 must apply to procurements made by the commission, except that the following additional provisions apply: (1) the preference also must apply to the procurement of services, as defined in Section 11-35-310(29), and ... (3) with respect to the procurement of services.., instead of providing the certifications provided in Section 11-35-1524(C), **the lottery vendor shall certify in writing in the bid:**

- (a) that he is a resident of the State;
- (b) the services or advertising is available; and
- (c) the cost of the services ...is not unreasonable." [Emphasis Added.]

For purposes of this solicitation, in addition to the term "office" as used in Section 11-35-1524(C) "resident of this State" is defined to be a financial institution that staffs and provides fully functional banking services and branches in the midlands, upstate and coastal regions of South Carolina. "Office" means a nonmobile place for the regular transaction of business or performance of a particular service which has been operated as such by the offeror for at least one year before the bid opening and during that year the place has been staffed for at least fifty weeks by at least two employees for at least thirty-five hours a week each.

The exact form of the certification may be determined by the offeror so long as it is clear that the offeror is certifying that it is a "resident of the State" as defined above meets the requirements

Section 59-150-140(E)(3)(b) and (c) and signed by a person authorized to bind the financial institution. The documentation specified in Section 11-35-1524(C)(3) should immediately follow the certification.

Additionally, please provide the **address and phone number for your in-state office**. An in-state office is necessary to claim either the Resident Vendor Preference (11-35-1524(C)(1)(i)&(ii)) or the Resident contractor Preference (11-35-1524(C)(1)(iii)). Accordingly, you must provide this information to qualify for the preference. An in-state office is not required, but can be beneficial, if you are claiming the Resident Subcontractor Preference (11-35-1524(D)).

C. Formula Used to Calculate the Resident Vendor Preference and Convert Cost to Points

For the purposes of applying the Resident Vendor Preference, the percentage quoted by each offeror to perform the work described in SECTION III – SCOPE OF WORK will be applied to the average advertising budget for FY 14 through FY 17. The total media budget for FY 14 was \$7,142,000; the total media budget for FY 15 was \$7,082,000; the total media budget for FY 16 was \$7,294,800 and the total media budget for FY 17 was \$7,213,800. **The average media budget for FY 14 through FY 17 was \$7,183,150.**

Using the evaluation criteria set forth in Section VI, the example below illustrates how the State of South Carolina calculates the Resident Vendor Preference (7%) and applies it to the Offeror's price prior to converting those costs into points. The Offeror's final rank and score will be based on the total number of points awarded to that Offeror.

The conversion from cost to points is then determined using the formula below. The lowest cost proposal will receive the maximum number of points allocated to price. The point allocations for cost on the other proposals will be determined using the evaluation criteria set forth in Section VI. The maximum amount of points that may be allocated is 1,000 points with 300 points (30%) allotted towards price and 700 points (70%) allotted to the technical content.

$$\frac{[(\text{Price of Lowest Cost Proposal}) \times (\text{Maximum Points for Cost})]}{(\text{Cost of Each Higher Priced Proposal})} = \text{POINTS}$$

Offeror #1 – Resident Offeror: \$200,409.88

Offeror 1 submits a price proposal to perform the required services as specified with a commission rate of 3.00% of \$7,183,150 which equals \$215,494.50. Offeror 1 claims (and qualifies for) the resident vendor preference resulting in his/her proposed price (of \$215,494.50) decreasing by seven percent which yields a total of \$200,409.88 (7% of \$215,494.50 = \$15,084.62 and \$215,494.50 – \$15,084.62 = \$200,409.88). Consequently, Offeror #1 is awarded the maximum amount points since its price proposal results in a lower cost than the others.

Offeror #1 is awarded 300 Points from applying the Resident Vendor Preference.

Offeror #2 - Non-Resident Offeror: \$215,494.50

Offeror 2 submits a price proposal to perform the required services as specified with a commission rate of 3.00% (same as Offeror 1) of \$7,183,150 which equals \$215,494.50. Offeror 2 does not claim (nor qualify) for the resident vendor preference; therefore his/her proposed price of \$215,494.50 remains the same.

The lowest cost proposal (\$200,409.88 from Offeror #1) is then multiplied by the maximum points for price (300) and is then divided by Offeror #2's higher priced proposal (\$215,494.50). As a result, Offeror #2 is awarded a lower number of points at 279 than Offeror #1 who was awarded the maximum number of points at 300.

Offeror #2 is awarded 279 Points with no Resident Vendor Preference being applied.

D. SCEL ADVERTISING GUIDELINES

ADOPTED 10/12/01

Introduction

The South Carolina Education Lottery and its Board of Commissioners urges adults who choose to play the lottery, do so responsibly.

Content

1. Advertising should be consistent with principles of dignity, integrity, mission and values, befitting the state of South Carolina and the lottery industry.
 - Advertising should neither contain nor imply lewd or indecent language, images or actions.
 - Advertising should not portray product abuse, excessive play or a preoccupation with gambling.
 - Advertising should not imply or portray any illegal activity.
2. Advertising should not degrade the image or exploit the status of persons of any ethnic, minority, religious group, economic class of people or protected class.
3. Advertising should be in compliance with the state and federal standards of truth in advertising, which govern private advertisers engaged in interstate commerce, and including the restrictions described in this document.
4. Advertising by lotteries should recognize the diversity of the public, its players, and stakeholders in an appropriate manner.
5. Advertising may use interviews, pictures or statements from people who have won lottery prizes to show that prizes are won and awarded.
6. Advertising should not contain the name or picture of a South Carolina elected official or state seal or its likeness.
7. Advertising should not encourage people to play excessively or beyond their means.
 - Advertising and marketing materials should include a responsible play message when appropriate.
 - Responsible play public service messages are appropriate, especially during large jackpot periods.
 - Support for compulsive gambling programs, including publications, referrals and employee training is an appropriate adjunct to lottery advertising.
 - Advertising should not present, directly or indirectly, any lottery game as a potential means of relieving any person's financial personal difficulties.
 - Advertising should not exhort play as a means of recovering past gambling or other financial losses.
 - Advertising should not knowingly be placed in or adjacent to other media that dramatize or glamorize inappropriate use of the product.

Tone

1. The Lottery should not be promoted as an alternative to employment, a financial investment, nor as a way to achieve financial security.
2. Lottery advertisements should not be designed so as to imply urgency, should not make false promises and should not present winning as the probable outcome.
3. Advertising should not denigrate a person who does not buy a lottery ticket or unduly praise a person who does buy a lottery ticket.
4. Advertising should emphasize the fun and entertainment aspect of playing lottery games and not imply, directly or indirectly, a promise of winning.

5. Advertising should not exhort the public to wager by directly or indirectly misrepresenting a person's chance of winning a prize.
6. Advertising should not imply that lottery games are games of skill.

Minors

1. Persons depicted as lottery players advertising should not be, nor appear to be, under the age of 18, the legal age required to purchase tickets.
2. Age restrictions should be posted at the point of sale, at a minimum.
3. Advertising should not appear in media directed primarily to those under the legal age.
4. Lotteries should not be advertised or marketed at venues where the audience is reasonably and primarily expected to be below the legal purchase age.
5. Ads should not contain symbols, mascots, or language with the intention of appealing to minors or those under the legal purchase age.
6. The use of animation should be monitored to ensure that characters are not associated with animated characters on children's programs, nor should they appeal to persons under the legal purchase age.
7. Celebrity or other testimonials should not be used which would primarily appeal to persons under the legal purchase age.

Game Information

1. Odds of winning must be readily available to the public and be clearly stated.
2. Advertising should state alternative cash and annuity values where reasonable and appropriate.
3. Advertising, when appropriate, must provide information regarding resources for persons with gambling problems.

Beneficiaries

1. The South Carolina Education Lottery should provide information regarding the use of lottery proceeds for education, upon allocation of the proceeds.
2. Advertising should clearly depict where lottery proceeds go, and avoid any statements that could be confusing or misinterpreted.

E. SCEL GAME REVENUE, FY13 – FY17

South Carolina Education Lottery Game Revenue FY 2013 - 2017 July - June

