

PROFESSIONAL ADVERTISING AND RELATED SERVICES AGREEMENT

This Professional Advertising and Related Services Agreement (the "**Agreement**") is made and entered into as of 10/4/2021 (the "**Effective Date**"), by and between the North Carolina Education Lottery (the "**NCEL**"), a state agency created pursuant to the North Carolina State Lottery Act (G.S. § 18C-101 et seq.) (as may be amended from time to time, the "**Act**"), located at 2728 Capital Boulevard, Suite 144, Raleigh, North Carolina, 27604, and **CACTUS COMMUNICATIONS, INC.**, located at 2128 15th Street, Denver, CO, a corporation organized under the laws of the State of Colorado ("**VENDOR**").

WITNESSETH:

WHEREAS, the NCEL was created to organize and operate a state lottery in the State of North Carolina (the "**Lottery**");

WHEREAS, VENDOR submitted the proposal, dated on or about August 19, 2021 (the "**Proposal**," Exhibit A) to the NCEL in response to the NCEL's Request for Proposal dated May 24, 2021 (RFP #LC-000058) (the "**RFP**," Exhibit B), as integrated by the NCEL's Questions and Answers concerning the RFP, which were last distributed by the NCEL on or about July 16, 2021 (the "**Questions and Answers**," Exhibit C). Exhibits A, B, and C are attached hereto and incorporated by reference herein; and

WHEREAS, subject to the terms and conditions hereinafter set forth, the NCEL desires to retain VENDOR to provide professional advertising and related services to the NCEL, and VENDOR desires to provide such services for the NCEL.

NOW, THEREFORE, for and in consideration of the premises, the mutual promises, covenants and agreements contained herein, and other good and valuable consideration, the receipt and sufficiency of which are hereby expressly acknowledged, the parties hereto hereby agree as follows:

1. SERVICES

Subject to the terms and conditions set forth in this Agreement, the NCEL retains VENDOR to provide professional advertising and related services to the NCEL as contemplated by this Agreement, the RFP and the Proposal (collectively, the "**Services**"), and VENDOR agrees to provide such Services to the NCEL. Capitalized terms not otherwise defined herein shall be defined as set forth in the RFP.

2. DUTIES AND RESPONSIBILITIES OF VENDOR AND SUBCONTRACTORS

VENDOR and its Subcontractors will work in conjunction with the Executive Director of the NCEL (the "**Director**"), the NCEL staff, the NCEL Commission (the "**Commission**") and the other vendors, subcontractors, employees, agents, retailers and consultants of the NCEL. VENDOR and its Subcontractors will provide the Services to the NCEL as detailed in the RFP, the Answers and the Proposal and will perform such specific services and provide such deliverables as requested, from time to time, orally or in writing, by the Director, their designee(s) and/or the Commission. Except as otherwise set forth herein, VENDOR agrees that all Services and deliverables to be provided to the NCEL under this Agreement shall meet or exceed the requirements as set forth in this Agreement, the RFP, the Answers and the Proposal.

A. VENDOR, and its Subcontractors as requested from time to time, shall meet regularly with the Director or their designee(s) and shall establish work plans, implementation schedules and timetables for completion as and when required by the Director or their designee(s).

B. VENDOR hereby agrees to use its best efforts to make available to the NCEL, such of its employees and its Subcontractors as may be necessary or appropriate for the timely performance of VENDOR's obligations pursuant to this Agreement.

C. Scope of Services: Subject to the instructions and decisions of the NCEL, VENDOR will be responsible for the scope of work in the RFP, Questions and Answers, the Proposal, and any additional terms contained herein.

3. **SUBCONTRACTORS**

A. Neither VENDOR nor any Subcontractors will subcontract or otherwise assign any or all of its rights, duties or obligations under this Agreement to any individual or entity without the prior written consent of the NCEL in each instance, which consent may be withheld in the NCEL's sole discretion. The NCEL shall have the right to approve or disapprove of any subcontractor. VENDOR will provide the NCEL with the name, qualifications, experience and expected duties of each proposed subcontractor under this Agreement each time it desires to retain a subcontractor. All approved subcontractors, sub-vendors, employees, joint venturers, partners or other parties working with or for VENDOR in performing services under this Agreement or for the NCEL will be defined collectively as the "**Subcontractors**" and individually as a "**Subcontractor**" and will become a subcontractor for purposes hereof and must execute such agreements or other documentation as may be necessary pursuant to the Act or as the NCEL may require. VENDOR agrees that it will obtain the prior consent of the Director or their designee(s) prior to having any Subcontractor perform any activities for the NCEL under this Agreement.

B. Upon the request of the NCEL, VENDOR will promptly provide the NCEL with copies of all subcontracts and other agreements entered into by VENDOR with respect to its obligations under this Agreement. No such subcontract or other agreement may contain any terms or conditions inconsistent or in conflict with the terms and conditions contained in this Agreement. In the event of any such inconsistent or conflicting provisions, such inconsistencies or conflicts will be resolved in favor of this Agreement.

C. The NCEL shall have the right, at any time and from time to time, to instruct VENDOR not to use the services of any Subcontractor, individual or employee in connection with the work to be performed for the NCEL under this Agreement, and VENDOR agrees to comply with all such instructions.

D. Notwithstanding anything herein to the contrary, VENDOR will remain fully liable and responsible for all Services, deliverables and work to be performed under this Agreement, whether or not subcontracted to or performed by a Subcontractor or any other person or entity retained by VENDOR or under VENDOR's control, and VENDOR will ensure the compliance of its employees, and will exercise its best efforts to ensure the compliance of, and in any event be responsible for, Subcontractors and their employees with the terms of this Agreement, the Act and all other applicable laws which govern the performance of services pursuant to this Agreement and such other standards or policies as the NCEL may establish from time to time.

4. **INDEPENDENT CONTRACTOR**

A. Both the NCEL and VENDOR, in the performance of this Agreement, will be acting in their own separate capacities and not as agents, employees, partners, joint

venturers or associates of one another. The employees or agents of one party shall not be deemed or construed to be the employees, agents or partners of the other party for any purposes whatsoever. Neither party will assume any liability for any injury (including death) to any persons, or any damage to any property or other claim arising out of the acts or omissions of the other party or any of its agents, employees or subcontractors. It is expressly understood and agreed that VENDOR is an independent contractor of the NCEL in all manners and respects and that neither party to this Agreement is authorized to bind the other party to any liability or obligation or to represent that it has any such authority, except for the limited authority of VENDOR to procure selected materials and services as authorized by the NCEL and as specifically set forth in, and subject to the limitations described in, the RFP and/or this Agreement. No Subcontractor is authorized to bind the NCEL to any liability or obligation or to represent that it has any such authority.

B. VENDOR shall be solely responsible for all payments to Subcontractors and all compensation, withholding taxes and benefits for its employees and for providing all necessary unemployment and workmen's compensation insurance for its employees.

5. COMPENSATION

(a) As full and complete compensation for all Services and deliverables provided by VENDOR pursuant to this Agreement, the NCEL will pay VENDOR, and VENDOR will accept, an amount (the "**Vendor's Fee**") equal to:

Contract Period	Annual Cost	Per Month
1st Year (October 1, 2021 - June 30, 2022)	\$2,070,000	\$230,000
2nd Year (July 1, 2022 - June 30, 2023)	\$3,000,000	\$250,000
3rd Year (July 1, 2023 - June 30, 2024)	\$3,180,000	\$265,000

(b) Unless otherwise noted, VENDOR shall be responsible for all charges incidental to the routine conduct of business including, but not limited to mileage, meals, telephone calls, facsimile, copying, color copies, postage and delivery charges from VENDOR to the NCEL. Notwithstanding the immediately foregoing, NCEL agrees to pay (or reimburse VENDOR) for the travel expenses including airline tickets, rental car, mileage, meals, and hotel accommodations for up to three (3) VENDOR employees to attend no more than one (1) in-person meeting lasting up to three (3) days per month at NCEL headquarters. Air travel must be coach class and reimbursement for mileage, meals, hotel accommodations, and any other pre-approved expenses will be made at the rates allowed by the State of North Carolina.

(c) Except as otherwise provided herein, the NCEL shall not under any circumstances be liable or responsible for any costs, expenses, reimbursements or fees incurred by VENDOR or Subcontractors (or any other individual or entity) in connection with any Services or the VENDOR's performance under this Agreement.

(d) VENDOR shall, at its own expense, conduct url, trademark, and service mark knockout searches (online searches for exact name matches) with respect to trademarks, service marks, logos or trade names proposed by VENDOR for commercial use by NCEL. Copies of all such search reports will be delivered to the NCEL and its Chief Legal Officer. For the purpose of clarification, VENDOR does not provide legal services and any search reports shall contain lists of information returned by such knockout searches only without any analyses or recommendations. NCEL acknowledges and agrees to the known limitations of knockout searches, including but not limited to logos, design marks, and images. New trademarks and service marks developed for the NCEL will be registered by legal counsel chosen by the NCEL solely in the name of the NCEL for its sole use and at NCEL's expense.

(e) Subject to the availability of funds and any other restrictions imposed by the Act, the "Governing Laws and Regulations" (as defined in Section 13) or this Agreement, the NCEL will pay to VENDOR all nondisputed amounts due under this Agreement on (i) in the case of media invoices, the fifteenth (15th) day of every month; and (ii) in the case of production invoices, the thirtieth (30th) day of every month, unless the parties otherwise agree upon a less frequent payment schedule, in accordance with the policies and procedures established by the NCEL from time to time and subject to setoff or offset for all sums owed by VENDOR or its Subcontractors.

6. **TERM**

A. Unless sooner terminated in accordance with the provisions of Section 18 or other provisions of this Agreement and the RFP, the term of this Agreement shall commence as of the Effective Date and shall continue until June 30, 2024 (the "**Initial Term**"). This Agreement shall be automatically renewed for a period of one (1) year (each a "**Renewal Term**") upon the completion of the immediately preceding Initial Term or Renewal Term, as the case may be, for a total of no more than three (3) Renewal Terms, unless the NCEL sends VENDOR at least thirty (30) days prior to the end of the then-current Initial Term or Renewal Term, as the case may be, written notice that it intends to terminate this Agreement at the end of the then-current Initial Term or Renewal Term, as the case may be. If the NCEL and VENDOR fail to mutually agree in writing on a Vendor Fee for any Renewal Term prior to the beginning of any such Renewal Term, then the Vendor Fee shall be the same as specified for the preceding year and this Agreement shall be terminated by the NCEL at any time during such Renewal Term.

B. VENDOR acknowledges and agrees that, prior to the expiration of the term of this Agreement, the NCEL may award a new contract for replacement of the Services and deliverables provided by VENDOR under this Agreement and that VENDOR has no right or expectation in or to any such new contract. VENDOR further agrees that the NCEL may use the final one hundred eighty (180) days or less, of the term of this Agreement for transitioning the provision of such Services and deliverables; provided that VENDOR shall continue to be compensated in accordance with Section 5 hereof during such period. VENDOR shall cooperate fully and in good faith, and shall assist the NCEL and the new contractor, to the extent reasonable and practical, to accomplish such conversion in a timely and efficient manner without any interruption to the NCEL's current marketing efforts, at no additional cost to the NCEL or such new contractor.

7. **WORK STANDARD**

A. VENDOR hereby agrees that it and its Subcontractors shall at all times comply with and abide by all terms and conditions set forth in this Agreement, all applicable policies and procedures of the NCEL and all requirements of the Act and Governing Laws and Regulations. VENDOR further agrees that it and its Subcontractors shall perform their respective duties and responsibilities as set forth in this Agreement by following and applying the highest professional and technical guidelines and standards applicable to the VENDOR's industry.

B. VENDOR hereby agrees that it and its Subcontractors will perform their respective duties and responsibilities as set forth in this Agreement with integrity and dignity and free from political influence, collusion and fraud. VENDOR further agrees that none of it, its Subcontractors, nor any of their respective employees or agents will solicit or accept, or attempt to solicit or accept, any kickbacks or other inducements from any offeror, supplier, manufacturer, subcontractor or other individual or entity in connection with the performance of its obligations under this Agreement.

C. If the NCEL becomes dissatisfied with the Services, deliverables or work product of or the working relationship with any of the individuals assigned to perform Services under this Agreement by VENDOR or any Subcontractors, the NCEL may require the prompt replacement of any or all of such individuals. Important personnel identified in VENDOR's Proposal as performing Services under this Agreement will continue to perform such Services in their designated capacities until such Services are completed unless: (i) they cease to be employed by VENDOR or a Subcontractor; (ii) the NCEL requests their removal, in which case a person or persons of suitable competency and acceptable to the NCEL, in its discretion, will be substituted forthwith; or (iii) VENDOR wishes to have them replaced by someone of equal or better qualifications and VENDOR obtains NCEL's prior written consent to such change.

D. Nothing in this Section 7 shall be construed to prevent VENDOR from using the services of others to perform tasks ancillary to those tasks which directly require the expertise of such key personnel, including secretarial, clerical and common labor duties. VENDOR shall at all times remain responsible for the performance of all necessary tasks under the scope of this Agreement, whether performed by key personnel or other workers.

E. Nothing in this Agreement shall prohibit the NCEL from retaining the services of any individual or entity to perform any services on its behalf, whether or not such or similar services were initially contemplated to be performed by VENDOR or a Subcontractor. The NCEL is not prohibited by this Agreement from retaining the services of any individual or entity to perform any services it requires, and it is under no obligation to exclusively use the Services of VENDOR or any Subcontractors.

F. VENDOR hereby designates Jeffrey Graham, or such other person or persons as it may from time to time notify the NCEL, as its primary contact with the NCEL for purposes of this Agreement. VENDOR must notify the NCEL, in writing and within five (5) business days, regarding designation of a new primary contact person for the VENDOR

8. CHANGES IN WORK

By written or oral request by the Director or their designee(s) to VENDOR, the NCEL may from time to time make changes in the Services or deliverables to be provided by VENDOR or any Subcontractor, or the place of performance of such Services. Oral requests for material changes in the Services must be confirmed in writing by NCEL. VENDOR and all applicable Subcontractors shall promptly comply with such requests and

take all necessary or appropriate actions to effect such change. If such changes add material obligations or expenses not contemplated by this Agreement (including the Answers, RFP or Proposal), the NCEL and VENDOR shall negotiate in good faith any changes required to this Agreement or the compensation to be provided pursuant hereto.

9. BOOKS AND RECORDS

Upon request by the NCEL, VENDOR and each Subcontractor shall provide, as soon as it is available, to the NCEL a copy of its latest audited financial statements; provided, however, if a Subcontractor does not obtain audited financial statements, then its financial statements must be certified by its chief financial officer. VENDOR and all Subcontractors shall maintain all books, documents, papers, accounting records and other evidence pertaining to the Services to be performed under this Agreement in accordance with the Act, Governing Laws and Regulations, generally accepted accounting principles and any other applicable procedures established by the NCEL from time to time. VENDOR and all Subcontractors shall make all such materials available at its offices at all reasonable times during the term of this Agreement and for five (5) years after the date of final payment under this Agreement, for inspection by the NCEL, by any authorized representative of the NCEL and/or the State of North Carolina Auditor of State's Office ("**State Auditor**"), and copies thereof shall be furnished to the NCEL and/or the State Auditor by the appropriate entity, at no cost to the NCEL or the State Auditor, if requested by the NCEL or the State Auditor. The NCEL and/or the State Auditor shall have the right to audit the records and operations of VENDOR and each Subcontractor with respect to the Services to be performed pursuant to this Agreement. VENDOR and Subcontractor shall also comply with all other requirements of the Act and Governing Laws and Regulations.

10. CONFIDENTIALITY; OWNERSHIP OF WORK PRODUCT, MATERIALS AND RIGHTS OF USE

A. For purposes of this Agreement:

(i) "**Confidential Information**" means any and all items or information of a party which are: (A) marked "Confidential" or some such similar designation; or are (B) valuable, proprietary and confidential information belonging to or pertaining to such party that does not constitute a "Trade Secret" (as hereafter defined) and that is not generally known but is generally known only to said party and those of its employees, independent contractors or agents to whom such information must be confided for business purposes, including, without limitation, information regarding said party's customers, suppliers, manufacturers and distributors. For purposes of this Agreement, the financial statements provided pursuant to Section 9 of this Agreement shall be deemed to be VENDOR's Confidential Information; and

(ii) a "**Trade Secret**" means business or technical information, including but not limited to a formula, pattern, program, device, compilation of information, method, technique, or process that: (A) derives independent actual or potential commercial value from not being generally known or readily ascertainable through independent development or reverse engineering by persons who can obtain economic value from its disclosure or use; and (B) is the subject of efforts that are reasonable under the circumstances to maintain its secrecy.

- B. In recognition of the need of VENDOR to protect its legitimate business interests, the NCEL hereby covenants and agrees that with regard to any: (i) VENDOR Confidential Information, at all times during the term of this Agreement and for a period of three (3) years following the expiration or termination of this Agreement for any reason; and (ii) VENDOR Trade Secrets, at all times such information remains a Trade Secret under applicable law, the NCEL will regard and treat all such items as strictly confidential and wholly owned by VENDOR and will not, for any reason or in any fashion, either directly or indirectly use, disclose, transfer, assign, disseminate, reproduce, copy, or otherwise communicate any such VENDOR Confidential Information or VENDOR Trade Secrets to any individual or entity for any purpose other than in accordance with this Agreement, pursuant to the instructions from a duly authorized representative of VENDOR or except to the extent necessary to fulfill the purposes of this Agreement or conduct the North Carolina Education Lottery. The NCEL shall not be liable, however, to VENDOR or to any other person or entity, if despite the NCEL's reasonable efforts, VENDOR Confidential Information or Vendor Trade Secrets are disclosed in breach of the foregoing. Notwithstanding anything contained herein to the contrary, the entirety of Section 1.5 of the RFP, the Act, the Governing Laws and Regulations, the Open Meetings Law G.S. §143-318.9 et. seq. and the Public Records Law G.S. §132-1 et. seq. (collectively, the “**Superseding Provisions and Statutes**”) shall supersede and control any provision of this Agreement, and the NCEL's confidentiality and nondisclosure obligations and liabilities set forth herein, or in the RFP or Proposal, shall be subject to, and never be greater than, as set forth in any of the Superseding Provisions and Statutes.
- C. In recognition of the need of the NCEL to protect its legitimate business interests, VENDOR hereby covenants and agrees that with regard to any: (i) NCEL Confidential Information, at all times during the term of this Agreement and for a period of three (3) years following the expiration or termination of this Agreement for any reason; and (ii) Trade Secrets, at all times such information remains a Trade Secret under applicable law, VENDOR and all Subcontractors will regard and treat all such items as strictly confidential and wholly owned by the NCEL and will not, for any reason or in any fashion, either directly or indirectly use, disclose, transfer, assign, disseminate, reproduce, copy, or otherwise communicate any such NCEL Confidential Information or NCEL Trade Secrets to any individual or entity for any purpose other than in accordance with this Agreement or pursuant to the instructions from a duly authorized representative of the NCEL. In addition, to the extent the Act or any other Governing Laws and Regulations law imposes any greater restrictions or prohibitions with respect to any NCEL Confidential Information, NCEL Trade Secrets or other information or property of the NCEL, VENDOR covenants and agrees that it and all Subcontractors shall comply with such greater restrictions or prohibitions. To ensure the compliance by it and all Subcontractors with the provisions of this Section 10(C), VENDOR shall use its best efforts, including, without limitation, obtaining written confidentiality agreements with all Subcontractors which incorporate requirements no less restrictive than those set forth herein and which contain provisions which permit NCEL to independently enforce the requirements set forth in such agreements.
- D. Notwithstanding the foregoing, the nondisclosure restrictions of Section 10(B) shall not apply to either party's information that is: (i) generally known to the public other than due to a disclosure by the Disclosing Party; (ii) already known to the Receiving Party at the time it is disclosed by the Disclosing Party to the Receiving Party; (iii)

independently developed by the Receiving Party; or (iv) received by the Receiving Party from a party that the Receiving Party believed in good faith had the right to make such disclosure.

- E. Neither the VENDOR nor any of its approved Subcontractor shall have any proprietary rights or interests in any intellectual properties (including, without limitation, patents, copyrights, equipment, firmware, mask works, trademarks (and the goodwill associated therewith) and service marks (and the goodwill associated therewith)) (all of the foregoing being collectively defined as the “**Intellectual Property Rights**”) products, materials, intellectual properties developed, data, documentation, approaches, systems, programs, methodologies, or concepts, ideas or other content or items of any kind or nature developed, produced or provided in connection with the Services provided for the NCEL under this Agreement (collectively, the “**NCEL Intellectual Properties**”). All deliverables, written materials, campaigns, designs, tangible or intangible materials, intellectual or other property or other work product of any kind or nature produced, revised, created, modified or prepared by VENDOR and any of its Subcontractors in connection with this Agreement, the RFP or for the NCEL (collectively, the “**Work Product**”) will be deemed, to the greatest extent possible, “work made for hire” under Section 101 of the United States Copyright Act, 17 U.S.C. Section 101 to be exclusively owned by the NCEL. To the extent that any Work Product does not qualify as a “work made for hire,” VENDOR and each of the Subcontractors hereby irrevocably transfer, assign and convey to the NCEL all right, title and interest in the Work Product, together with all copyrights, patents, trade secrets, confidential information, trademarks and service marks (and the goodwill associated therewith) and rights (all of the foregoing being collectively defined as the “**Intellectual Property Rights**”), free and clear of any liens, security interests, hypothecations, pledges, claims or other encumbrances of any kind or nature, to the fullest extent permitted by law. At the NCEL’s request, VENDOR and its Subcontractors shall execute, and shall cause its or their personnel to execute, all assignments, applications, writings, instruments or other documentation of any kind or nature deemed necessary or beneficial by the NCEL so that the NCEL may perfect or protect its rights as provided herein. VENDOR and its Subcontractors shall require its and their employees, and permitted agents, independent contractors and consultants to execute agreements assigning all of their rights in the Work Products, and all Intellectual Property Rights therein, to the NCEL, directly or indirectly, and shall provide the NCEL with documentation evidencing its compliance with this requirement upon the NCEL’s request. The intent of the NCEL is that the NCEL is the sole owner of, and is able to continue to use any or all of, the Work Product that it chooses in the conduct of its lottery games and other activities.
- F. The NCEL grants to VENDOR during the period from the Effective Date until the expiration of this Agreement, or is otherwise earlier terminated, a non-exclusive license to use, sublicense, modify and create derivative works of the NCEL Intellectual Properties which are owned by the NCEL and created solely by VENDOR or its Subcontractors, provided such use by VENDOR or its Subcontractors is only for the benefit of the NCEL and solely for the purpose of performing the Agreement.

11. NONDISCRIMINATION; AFFIRMATIVE ACTION

A. Neither VENDOR nor any Subcontractors shall discriminate against any employee or applicant for employment because of their race, color, religion, sex, handicap, disability, national origin or ancestry. Breach of this covenant by VENDOR, or VENDOR's failure to use its best efforts to require all Subcontractors to comply with this covenant, may be regarded as a material breach of this Agreement. VENDOR and Subcontractors shall take affirmative action to ensure that applicants are employed, and that employees are treated during employment, without regard to their race, color, religion, sex, handicap, disability, national origin or ancestry.

B. Consistent with the Act and all other applicable North Carolina laws, VENDOR agrees to make every reasonable effort to include the participation by minorities in the performance of its Services pursuant hereto. Specifically, and without limitation, any human resources services performed for the NCEL will include appropriate attention to the hiring and training of qualified minority applicants in accordance with the Act, all Governing Laws and Regulations, and the policies and procedures adopted by the NCEL from time to time. VENDOR shall provide a monthly report to the NCEL, in a format prescribed or approved by the NCEL, detailing VENDOR's monthly purchases/spend with minority businesses.

12. LIMITATION OF LIABILITY

THE PAYMENT OBLIGATIONS UNDERTAKEN BY THE NCEL UNDER THIS AGREEMENT ARE SUBJECT TO THE AVAILABILITY OF FUNDS TO THE NCEL. THERE SHALL BE NO LIABILITY ON THE PART OF THE NCEL EXCEPT TO THE EXTENT OF AVAILABLE FUNDS PERMITTED TO BE PAID FROM THE PROCEEDS OF LOTTERY OPERATIONS AND OTHER FUNDS AVAILABLE TO THE NCEL. NOTWITHSTANDING ANYTHING HEREIN TO THE CONTRARY, UNDER NO CIRCUMSTANCES WILL THE STATE OF NORTH CAROLINA, ITS GENERAL FUND OR ANY OF ITS AGENCIES OR POLITICAL SUBDIVISIONS BE RESPONSIBLE OR LIABLE AS A RESULT OF THIS AGREEMENT OR ANY LIABILITY CREATED HEREBY OR ARISING HEREUNDER.

13. COMPLIANCE WITH LAWS

VENDOR agrees to comply with all applicable rules, procedures and regulations adopted from time to time by the NCEL under the Act and all other applicable federal, state and local laws, rules, regulations, ordinances or executive orders, including, without limitation, the Americans with Disabilities Act of 1990 (42 U.S.C. §§ 1201 *et. seq.*) and all other labor, employment and anti-discrimination laws, and all provisions required thereby to be included herein, are hereby incorporated by reference (all of the foregoing being sometimes referred to collectively as the "**Governing Laws and Regulations**"). For purposes of clarity, Governing Laws and Regulations also include, without limitation, N.C.G.S. §133-32 and Executive Order 24 which prohibit the VENDOR and its employees from offering or giving any gift, gratuity, favor, meal, entertainment, loan, or anything of monetary value (individually and collectively, a "Benefit") to any NCEL Commissioner or any NCEL employee, and, if offered, prohibits such NCEL Commissioner or employee from accepting them. Additionally, neither VENDOR nor any of its employees shall accept any Benefit from any Subcontractor or any other entity (or their respective employees) providing any goods and/or services directly or indirectly to the NCEL in connection with this Agreement.

14. ANTITRUST ACTIONS

VENDOR hereby conveys, sells, assigns and transfers to the NCEL all of its right, title and interest in and to all causes of action it may now have or hereafter acquire under the antitrust laws of the United States of America and the State of North Carolina relating to any Services or deliverables provided by VENDOR to the NCEL under this Agreement.

15. REPRESENTATIONS, WARRANTIES AND ADDITIONAL COVENANTS

VENDOR hereby represents, warrants or covenants, as the case may be, to NCEL, on its own behalf and with respect to each of its Subcontractors, that as of the Effective Date and at all times throughout the term of this Agreement, as follows:

A. VENDOR has the power and authority to execute and deliver this Agreement and to perform its obligations under this Agreement, and VENDOR has taken all necessary and appropriate action to authorize the execution and delivery of this Agreement and the performance of its obligations under this Agreement. The execution and delivery of this Agreement and the performance of its obligations under this Agreement are not in contravention of any provisions of law or any material indenture or agreement by which VENDOR is bound and do not require the consent or approval of any governmental body, agency, authority or other person or entity which has not been obtained. This Agreement constitutes the valid and legally binding obligation of VENDOR, enforceable against VENDOR in accordance with its terms.

B. VENDOR and its Subcontractors have disclosed or will disclose to the NCEL all matters required to be disclosed under the Governing Laws and Regulations. VENDOR shall ensure that it is aware of any statutory limitations or restrictions affecting its Agreement with the NCEL, such as certain political contributions, its ability to conduct future business with the NCEL and/or its ability to conduct business with certain third parties. Any employee of the VENDOR who works directly on the NCEL Contract/Account, and members of such employee's households, shall be prohibited from purchasing NCEL tickets and/or claiming any NCEL prizes.

C. To the best of VENDOR's knowledge, neither VENDOR, the Subcontractors nor any of its or their respective officers, directors, partners or major shareholders have ever been found guilty of, or plead guilty to, any crime in any way related to the security, integrity or operation of any lottery in any jurisdiction, nor are VENDOR, the Subcontractors nor any of its or their respective officers, directors, partners or major shareholders currently under indictment for any crime in any way related to the security, integrity or operation of any lottery in any jurisdiction. VENDOR shall be obligated to notify the NCEL if VENDOR or any one of its officers and directors has been convicted of a felony or any gambling offense in any state or federal court of the United States within ten (10) years of entering into the contract (NCGS §18C-151(a)(5)).

D. No "public official" has an ownership interest of five percent (5%) or more in VENDOR or any of the Subcontractors.

E. To the extent required by applicable law, VENDOR and all Subcontractors are, and will remain at all times during the term of this Agreement, qualified to do business in the State of North Carolina and will file North Carolina income tax returns.

F. All Work Product: (i) shall be prepared, worked on and completed solely by employees of VENDOR or a Subcontractor in the scope of their employment or by independent contractors of VENDOR or a Subcontractor working under the strict and

direct supervision of such employees; (ii) shall be original works of authorship; (iii) shall not infringe, plagiarize, pirate or constitute misappropriations of any Intellectual Property Rights, Confidential Information, Trade Secrets or other intellectual properties or proprietary rights of any individuals or entities; and (iv) shall not be false, misleading, actionable, defamatory, libelous or constitute an invasion of privacy of any individual or entity.

G. Neither VENDOR nor any Subcontractors, nor any of its or their respective employees, officers, directors, partners or major shareholders, shall issue any press release, conduct any press or news conference, participate in any media interview or otherwise make any public statement or announcement on behalf of, with respect to or in connection with this Agreement or the Services without the prior written consent of the Director or their designee(s) in each instance.

H. Neither VENDOR nor any Subcontractors, nor any of its or their respective employees, officers, directors, partners or major shareholders, shall use NCEL's name, logos, images or any other information or data related to the Services to be provided pursuant to this Agreement as a part of or in connection with any commercial advertising without the prior written consent of the Director or their designee(s) in each instance.

I. All Services rendered and deliverables provided pursuant to this Agreement have been and shall be prepared or done in a workman-like manner consistent with the highest standards of the industry in which the Services and deliverables are normally performed.

16. OBLIGATIONS OF VENDOR

A. Upon request by the NCEL, VENDOR shall provide the NCEL an updated certificate of existence showing that it and each Subcontractor are qualified to transact business in the State of North Carolina.

B. To avoid not only actual impropriety but also the appearance of impropriety, VENDOR is expected to follow the rules and procedures established and from time to time amended by NCEL, to enforce a code of conduct for all employees, independent vendors and subcontractors that will help achieve the NCEL's objective of maintaining integrity in its operation, as well as, follow the rules and procedures established.

C. VENDOR and its Subcontractors shall disclose all written and oral agreements with all lobbyists and consultants doing work on its behalf in the State of North Carolina and before the federal government. VENDOR and its approved Subcontractors shall also comply with all state and federal lobbying laws. This Agreement may be terminated, at the sole option and discretion of the NCEL, if VENDOR has not complied with these disclosure requirements.

D. VENDOR agrees to fully disclose to the NCEL all matters materially affecting the NCEL, this Agreement or the performance of this Agreement and all matters reasonably necessary to perform and legally required background and security investigations with respect to VENDOR, the Subcontractors, their respective officers, directors and employees, and the individuals performing services pursuant to this Agreement or otherwise for the benefit of the NCEL or the State of North Carolina. In addition, VENDOR acknowledges that to the extent under Applicable Laws some or all of its employees,

officers, directors and its Subcontractors and their respective employees, officers and directors may be required to submit to background and other investigations, VENDOR shall cause any such individuals or Subcontractors to fully cooperate with any such investigations and to provide all necessary information and authorizations in connection therewith. VENDOR further agrees that it will routinely update all information disclosed to the NCEL pursuant to this Agreement or the RFP; including, without limitation, any breaches of all representations, warranties and additional covenants set forth in 14 hereof, no less often than every six (6) months; provided, however, VENDOR shall as soon as possible notify the NCEL upon the occurrence of any event the effect or results of which VENDOR would be required to disclose, or to update a previous disclosure, to the NCEL under this Agreement or the RFP and which materially affect the NCEL, VENDOR, the Subcontractors, any of their respective officers, directors, partners, major shareholders or employees, this Agreement or the performance of this Agreement. VENDOR further agrees to notify the NCEL: (i) as soon as possible, but no more than five (5) days after the filing of any criminal proceeding or issuance of any indictment involving VENDOR or any Subcontractor or any officer, director or employee of VENDOR or any Subcontractor; and (ii) within thirty (30) days of VENDOR's first learning of any civil or administrative proceeding involving VENDOR or any Subcontractor or any officer, director or employee of VENDOR or any Subcontractor; provided, however, if any such proceeding would have a material adverse effect on VENDOR or a Subcontractor or their ability to perform pursuant to this Agreement, then such notice must be delivered to the NCEL no more than five (5) days after VENDOR learns of such proceeding.

- (i) In accordance with N.C.G.S. 18C-114(a)(8), VENDOR shall, pay NCEL for all such background checks immediately upon receipt of an invoice from the NCEL. The NCEL also reserves the right to deduct such background check fees from payments due to VENDOR hereunder.

E. VENDOR must, within five (5) days after the execution of this Agreement, post and maintain at least throughout the term of this Agreement (i) a performance bond (the "**Performance Bond**") or letter of credit with the NCEL in an amount equal to five hundred thousand dollars (\$500,000), and (ii) a payment bond (the "**Payment Bond**") or letter of credit with the NCEL in an amount equal to five hundred thousand dollars (\$500,000), unless such bond or letter of credit is replaced by alternate acceptable security if approved by the NCEL in its sole discretion. The security provided by VENDOR pursuant to the Performance Bond shall provide funds to the NCEL in the event the NCEL suffers any liability, loss, damage or expense as a result of VENDOR's failure to fully and completely perform any or all of the requirements contained in this Agreement, including, without limitation, VENDOR's obligation to indemnify the NCEL pursuant hereto. The security provided by VENDOR pursuant to the Payment Bond shall provide funds to the NCEL in the event the NCEL suffers any liability, loss, damage or expense as a result of VENDOR's failure to fully and completely pay any obligation contained in this Agreement. The Bonds may be renewable annually, provided that: (i) each Bond provides that, in the event such Bond will not be renewed for an additional year, the NCEL will be provided written notice thereof at least thirty (30) days prior to the expiration thereof; and (ii) if such Bond is not renewed for an additional year, VENDOR must obtain a replacement equivalent Bond or letter of credit to be in place so that at no time is VENDOR in violation of its obligation pursuant to this Section to maintain a performance bond and a payment bond at least throughout the term of this Agreement.

F. VENDOR shall at all times maintain at least the following types and amounts of insurance during the term of this Agreement:

- (i) General liability insurance in the amount of at least one million dollars (\$1,000,000);
- (ii) Such other types and amounts of insurance as the NCEL shall from time to time reasonably require;
- (iii) Workers Compensation Insurance at or above levels required by the State of North Carolina; and
- (iv) An advertising agency liability insurance policy which shall insure against any and all claims against the NCEL based on libel, slander, piracy, plagiarism, invasion of privacy or Intellectual Property Rights infringement arising out of any Work Product, other product or service prepared by, or services performed by, VENDOR, its employees or its Subcontractors, notwithstanding the fact that any such material may have been approved by the NCEL, in the amount of at least five hundred thousand dollars (\$500,000) per incident and one million dollars (\$1,000,000) in the aggregate.

G. Such insurance policies shall name the NCEL as an additional insured, and shall provide that such policies cannot be terminated, canceled, or modified without giving VENDOR and NCEL written notice at least ten (10) days prior to the effective date of any termination, cancellation or modification. VENDOR shall be required to provide proof of insurance coverage in accordance with this Agreement and its Proposal prior to execution of this Agreement and at least annually during the term hereof. Renewed bonds and/or insurance policies must be submitted to the NCEL within five (5) days prior to the expiration of the then existing bonds and/or insurance policies. All bonds and insurance required of VENDOR by this Agreement must be issued by companies or financial institutions which are finally rated A or better (or a comparable rating) by a nationally recognized rating agency and duly licensed, admitted and authorized to transact business in the State of North Carolina.

17. TAXES

The NCEL will not be responsible for any taxes levied on VENDOR or any Subcontractor as a result of the execution, delivery or performance of the Services or this Agreement. VENDOR and Subcontractors shall pay and discharge any and all such taxes in a timely manner.

18. TERMINATION

A. Notwithstanding anything herein to the contrary, the NCEL may cancel and terminate this Agreement if VENDOR fails to correct or cure any breach of this Agreement within ten (10) business days of the earlier of: (a) VENDOR's having knowledge of such breach; or (b) VENDOR's receiving oral or written notice of such breach from the NCEL; or

B. VENDOR may cancel and terminate this Agreement if the NCEL, after thirty (30) calendar day's prior written notice from VENDOR, fails to correct or cure any breach of this Agreement.

C. The NCEL may cancel and terminate this Agreement with thirty (30) calendar day's prior written notice to VENDOR with no early termination fees.

D. In the event that either party hereto is unable to perform any of its obligations under this Agreement, or to enjoy any of its benefits because of natural disaster, actions or decrees of governmental bodies or communication line failure, or other events of force majeure not the fault of the affected party, the affected party shall immediately give notice to the other party and shall do everything possible to resume performance. Upon receipt of such notice, each party's obligations under this Agreement shall be immediately suspended. If the period of non-performance exceeds thirty (30) days from the receipt of notice of an event described in this Section, the party whose ability to perform has not been so affected may terminate this Agreement by giving written notice thereof to the other party.

E. If, for any reason other than a breach of this Agreement by the NCEL, VENDOR is unable to perform its obligations hereunder, the NCEL shall acquire a usufruct in all contractual items owned by VENDOR or any Subcontractor which is used in conjunction with, and is necessary to, the performance of this Agreement, which usufruct shall exist until the expiration or termination of this Agreement.

19. INDEMNIFICATION

VENDOR agrees to indemnify, defend and hold harmless the NCEL, the Commission, its Executive Director, directors and officers, the State of North Carolina and its agencies and political subdivisions, and their respective agents, officers and employees, against any and all suits, damages, expenses (including, without limitation, court costs, attorneys' fees and other damages), losses, liabilities and claims of any kind, caused by or resulting from: (a) any breach of this Agreement or any other act or omission of VENDOR, the Subcontractors, or any of its or their respective agents or employees, whether the same may be the result of negligence, responsibility under strict liability standards, any other substandard conduct or otherwise; or (b) the development, possession, license, modifications or use of any copyrighted or non-copyrighted composition, trademark, service mark, service process, patented invention or item, trade secret, article or appliance furnished to the NCEL, or used in the performance of the Services or this Agreement, by VENDOR, its employees or any Subcontractor.

The NCEL shall only provide intellectual property to VENDOR for inclusion in Work Product if the NCEL owns, is licensed to use, or otherwise has permission to utilize such intellectual property in the manner and for the purposes it requests of VENDOR. Subject to the limitations of the North Carolina Tort Claims Act, without waiving sovereign immunity, and only in the manner and to the extent provided by North Carolina law, the NCEL shall be responsible for any claims or actions arising out of or resulting from intellectual property which the NCEL provides to VENDOR for inclusion into Work Product.

20. CONFLICT RESOLUTION PROCEDURES

Prior to bringing any judicial enforcement action with respect to any claims or controversies arising in connection with the performance of this Agreement, VENDOR must first pursue and exhaust any and all remedies available to it in accordance with the dispute resolution procedures adopted by the NCEL, as amended from time to time (collectively, the "**Dispute Resolution Procedures**").

21. NOTICES

A. All notices and statements provided for or required by this Agreement shall be in writing, and shall be delivered personally to the other designated party, or mailed by certified or registered mail, return receipt requested, or delivered by a recognized national overnight courier service, as follows:

If to NCEL: North Carolina Education Lottery
2728 Capital Boulevard, Suite 144
Raleigh, NC 27604
Attn: M. Mark Michalko, Executive Director

With a copy to: North Carolina Education Lottery
2728 Capital Boulevard, Suite 144
Raleigh, NC 27604
Attn: William Traurig, Chief Legal Officer

If to VENDOR: Cactus Communications, Inc.
2128 15th Street
Denver, CO 80202
Attn: Jeffrey Graham, President

B. Either party hereto may change the address and/or person to which notice is to be sent by written notice to the other party in accordance with the provisions of this Section.

22. MISCELLANEOUS

A. This Agreement, together with the Proposal, the Answers and the RFP, contains the entire agreement and understanding concerning the subject matter hereof between the parties hereto. Notwithstanding anything herein to the contrary, in the event of an inconsistency among this Agreement, the Proposal and/or the RFP, the terms of this Agreement, as may be amended pursuant hereto, shall control the Answers, the terms of the Answers shall control the RFP, and the terms of the RFP shall control the Proposal. No waiver, termination or discharge of this Agreement, or any of the terms or provisions hereof, shall be binding upon either party hereto unless confirmed in writing. This Agreement may not be modified or amended, except by a writing executed by both parties hereto. No waiver by either party hereto of any term or provision of this Agreement or of any default hereunder shall affect such party's rights thereafter to enforce such term or provision or to exercise any right or remedy in the event of any other default, whether or not similar.

B. THIS AGREEMENT SHALL BE GOVERNED BY AND CONSTRUED IN ACCORDANCE WITH THE LAWS OF THE STATE OF NORTH CAROLINA. ONLY AFTER EXHAUSTION OF ALL REMEDIES AND PROCEDURES IN THE DISPUTE RESOLUTION PROCEDURES OF THE NCEL, IF APPLICABLE LAW PERMITS ANY FURTHER APPEALS, ANY SUCH APPEAL MUST BE BROUGHT SOLELY IN THE SUPERIOR COURT OF WAKE COUNTY, NORTH CAROLINA. VENDOR HEREBY IRREVOCABLY WAIVES, TO THE FULLEST EXTENT PERMITTED BY LAW, ANY RIGHT WHICH IT MAY NOW OR HEREAFTER HAVE TO APPEAL ANY FINAL

DECISIONS OF THE COMMISSION MADE PURSUANT TO THE DISPUTE RESOLUTION PROCEDURES, AND VENDOR IRREVOCABLY WAIVES ANY OBJECTION WHICH IT MAY NOW OR HEREAFTER HAVE TO THE VENUE OF ANY APPEAL BEING SOLELY IN THE SUPERIOR COURT OF WAKE COUNTY, NORTH CAROLINA.

C. Neither party hereto shall assign this Agreement, in whole or in part, without the prior written consent of the other party hereto, and any attempted assignment not in accordance herewith shall be null and void and of no force or effect; provided, however, nothing herein shall prevent the NCEL from freely assigning this Agreement, without requiring VENDOR's prior written consent, to any entity which operates or will operate the Lottery. For purposes of this Section, any sale or transfer of a controlling equity interest in, or substantially all of the assets of, VENDOR will be deemed an assignment for which the NCEL's consent is required.

D. This Agreement shall be binding on VENDOR, and its Subcontractors, successors and permitted assigns.

E. The headings contained herein are for the convenience of the parties only and shall not be interpreted to limit or affect in any way the meaning of the language contained in this Agreement.

F. This Agreement may be executed in one or more counterparts, each of which shall be deemed to be an original, but all of which together shall constitute the same Agreement. Any signature page of any such counterpart, or any electronic facsimile thereof, may be attached or appended to any other counterpart to complete a fully executed counterpart of this Agreement, and any telecopy or other facsimile transmission of any signature shall be deemed an original and shall bind such party.

G. If any provision of this Agreement shall be held void, voidable, invalid or inoperative, no other provision of this Agreement shall be affected as a result thereof, and accordingly, the remaining provisions of this Agreement shall remain in full force and effect as though such void, voidable, invalid or inoperative provision had not been contained herein.

H. Upon the request of either party, the other party agrees to take, and VENDOR agrees to cause any Subcontractor to take, any and all actions, including, without limitation, the execution of certificates, documents or instruments, necessary or appropriate to give effect to the terms and conditions set forth in this Agreement.

23. ADDITIONAL SERVICES

In the event the NCEL desires to retain the services of VENDOR for activities in addition to those contemplated by this Agreement, and VENDOR agrees to perform such services, payment therefore shall not exceed the rates identified in this Agreement unless agreed to in writing by the NCEL. Any such services, the rates and the terms of payment shall be approved, in writing, prior to the commencement of any such additional work. In no event shall VENDOR or any Subcontractor be paid for work not authorized, or for work in excess of that authorized, in writing by the NCEL.

24. APPROVAL OF REQUIRED INVESTIGATIONS AND INSURANCE

The NCEL and VENDOR hereby agree that this Agreement, and all of the terms and conditions contained herein, is subject to the NCEL's receipt of the performance bond, payment

bond, and certificate(s) of insurance required herein and successful completion of all criminal and other background investigations required by the Act, other Applicable Laws, Governing Laws and Regulations or NCEL. This Agreement will not be binding upon the NCEL until the completion of all such investigations and the receipt of such bonds and certificate(s) of insurance.

[SIGNATURE PAGE FOLLOWS]


IN WITNESS WHEREOF, the parties hereto have caused their duly authorized representatives to execute this Agreement to be effective as of the Effective Date.

"NCEL"
NORTH CAROLINA EDUCATION LOTTERY

By: DocuSigned by:


M. Mark Michalko
Its: Executive Director

"VENDOR"
CACTUS COMMUNICATIONS, INC.

By: DocuSigned by:


Jeffrey Graham
Its: President

EXHIBIT A
[COST PROPOSAL]

EXHIBIT B
[RFP]

EXHIBIT C
[QUESTIONS AND ANSWERS]

EXHIBIT D
[PHASE I PROPOSAL]

EXHIBIT E
[PHASE II TECHNICAL PROPOSAL]

EXHIBIT A



COST PROPOSAL

(MUST BE IN A SEPARATELY SEALED ENVELOPE FROM THE TECHNICAL PROPOSAL)

Cactus Marketing Communications

(Responding Contractor's Name)

Creative, Advertising and Marketing Communication Services

Responding Contractors are required to submit an annual fee for professional services. The annual fee must be stated for years one, two, and three. This annual fee for professional services (retainer) will be paid on a monthly basis to the Successful Contractor. Responding Contractors are reminded that the cost quotation should cover all of the services and other items covered and required by this RFP. Contractors are encouraged to submit a cost proposal that will provide best value solutions to the NCEL in order to maximize the NCEL's transfer of funds to North Carolina educational programs.

Contract Period	Annual Cost	Per Month
1st Year (October 1, 2021 - June 30, 2022)	\$2,070,000	\$230,000
2nd Year (July 1, 2022 - June 30, 2023)	\$3,000,000	\$250,000
3rd Year (July 1, 2023 - June 30, 2024)	\$3,180,000	\$265,000

Signed by: _____

Title: Jeff Graham, President

Date: August 17, 2021



COST PROPOSAL

(MUST BE IN A SEPARATELY SEALED ENVELOPE FROM THE TECHNICAL PROPOSAL)

Cactus Marketing Communications

(Responding Contractor's Name)

Creative, Advertising and Marketing Communication OPTIONAL Services

Responding Contractor submits the following compensation provisions for Optional Services:

Cactus Compensation for Optional Professional Services:

Cactus recommends that agency compensation for additional, optional services be priced as a flat project fee based on a defined scope of work and set deliverables, as agreed upon with the North Carolina Lottery on a project-by-project basis. Hourly rates are provided here for estimating purposes and NCEL's competitive rate analysis.

The hourly rates reflected in this cost proposal extend a blended "retainer" rate in consideration of our proposed annual agreement with NCEL.

Hourly Rates	
Marketing Events	Hourly Rate
Community	\$165
Sports	\$165
Promotions	Hourly Rate
Retailer	\$165
Statewide	\$165
Public Relations	Hourly Rate
Public Relations	\$175
Research	Hourly Rate
Research Management	\$165
Strategy & Insights	\$175
Retail Design	Hourly Rate
Design & Prod Mnmt	\$165
Direct Marketing	Hourly Rate
Email Mktg / Loyalty Pgrm	\$165
Website Development	Hourly Rate
Content Design	\$165
Digital Strategy / UX	\$175
Logo Design/Brand Work	Hourly Rate
Design	\$165

Signed by: _____

Title: Jeff Graham, President

Date: August 17, 2021

EXHIBIT B



Request For Proposals
#LC-000058

Professional Advertising and Related Services
May 24, 2021

Table of Contents

Sections

PART I – GENERAL INFORMATION.....3

PART II – SCOPE OF WORK.....7

PART III – PROPOSAL PROCESS.....17

PART IV – PHASE I AND PHASE II PROPOSALS.....18

PART V – STUFF THE LAWYERS MADE US INCLUDE.....29

PART VI – ADDITIONAL PHASE II FINALIST COMMITMENTS.....31

ATTACHMENTS.....35

EXHIBIT A.....56

EXHIBIT B.....59

PART I – GENERAL INFORMATION

1.1 HELLO

We are the North Carolina Education Lottery and we're eager to join forces with an awesome advertising and creative services partner. If you don't already know us, the North Carolina Education Lottery ("**NCEL**") is a state agency created pursuant to the North Carolina State Lottery Act (G.S. § 18C-101 et seq.)("**Lottery Act**" or "**Act**"), and we are issuing this Request for Proposal ("**RFP**") to invite responses ("**Proposals**") from qualified and reputable Advertising Agency Services firms licensed to do business in North Carolina ("**Contractors**") to provide: Creative, Advertising and Marketing Communications Services.

When we hear back from some great agencies like yours, then we will look to select, through this RFP process, a "**Successful Contractor**," an agency who will become a strategic partner with the NCEL and will work in cooperation with our NCEL Brand Management and Communications staff in planning, developing and executing impactful, innovative and effective NCEL advertising, marketing and PR programs that will drive our business and help us to achieve the NCEL's key objectives, including maximizing net revenues for education.

To help us learn about your agency and ultimately make an informed choice, we've decided on a two-phased approach for this process, and so this RFP is being issued in two (2) distinct phases.

In the first phase, aptly named Phase I, we'd like to learn more about your agency; that is more about your team and more about your work. Phase I is our chance to get to know about your relevant experience and what sets you apart. Any interested agency is welcome to submit a completed Capabilities Proposal describing its qualifications as described in the Phase I submissions section. The NCEL will evaluate and assign a score to each Capabilities Proposal according to the evaluation criteria specified in this RFP. The Contractors receiving the highest scores (not more than six (6) firms) will be selected as finalists and invited to submit detailed Phase II Proposals for further evaluation.

If invited to submit for Phase II, we'll want to see your creative and strategic capabilities in action. Phase II finalists will submit detailed Technical and Cost Proposals and will be invited to make formal presentations of their Proposals. The Technical proposal will include a creative assignment that will allow each firm to demonstrate its capabilities. The NCEL will evaluate and rank the Proposals according to the evaluation criteria specified in this RFP. The NCEL will then issue a notice of award to the Contractor(s) receiving the highest score and will look to award a contract.

You can find the details about what should be submitted for Phase I in Section 4.1 and you can find all the submission information for Phase II in Section 4.2. Before we ask you to tell us about your agency, we want to tell you a little bit about the NCEL and what we are looking for in a partner.

1.2 OUR PURPOSE

Because we asked and listened to what they had to say, we know that lottery players in North Carolina opt to play for the chance to dream about life changing possibilities for themselves and their community. In fact, you might say, we're in the business of possibilities. Dreaming about a personal win can make our players feel energized and optimistic. But dreaming of life changing possibilities also extends to the positive impact play can have on education and the community as a whole in our state. Over the past 15 years, the North Carolina Education

Lottery has raised more than \$8 billion for education programs. Education Lottery dollars have been distributed to every county in our state. This money has helped build and repair school buildings, provide quality pre-kindergarten programs, fund school support staff, and provide college scholarships.

Our brand messaging taps into lottery players' inherent optimism and desire to dream about a possible win for themselves and for their community. This positioning has provided a way to talk about the NCEL that is relatable and relevant to all North Carolinians and helpful in building a deeper emotional connection among players. In all communications, the NCEL strives for a voice that is playful, optimistic, fresh and approachable.

Our Brand Purpose
Igniting the Power to Dream

Playing and supporting the NCEL creates a world of winning possibilities for the entire state. Through the fun of play and the billions raised for education, the NCEL provides the fuel for our community's most important dreams.

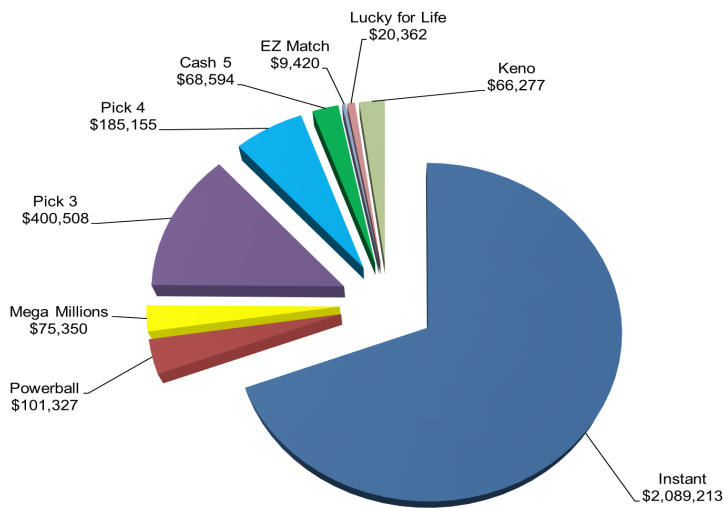
Building brands is at the core of what we do every day. The NCEL has built a strong corporate brand in the state and industry thanks to our commitment to driving consistent growth responsibly. We have a total of 11 brands that we have created and continue to grow.

Our Brands



In addition to our core brands identified above, we also have a robust pipeline of scratch-off games which allows us to launch four to five new scratch-off games every month. A key part of what we do is driving awareness around those monthly launches, each with their own unique themes and branding, to drive sales.

FY 2020 Ticket Sales (in \$ thousands)



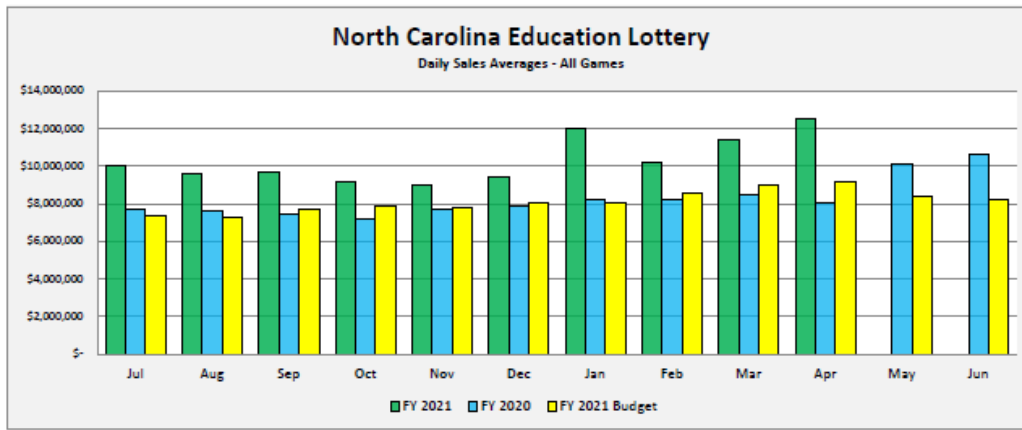
1.3 AN INDUSTRY GROWTH LEADER

Our mission is to raise revenue to maximize contributions to education for the State of North Carolina. This is accomplished by providing entertaining games through a dynamic business enterprise built upon honesty, integrity, innovation and teamwork. Over the past 15 years the NCEL has grown fiscal year sales to more than \$3 billion, making it one of the most successful lotteries in the country. The NCEL is the only US lottery to achieve year-over-year growth in sales for every year since its inception.

Other highlights of FY20 include (for purposes of this RFP, NCEL Fiscal Year (FY) is based upon the time period of July 1 through June 30):

- \$3.02 billion in sales, an increase of 5.5% over FY19
- \$729.4 million in earnings for education, up 2.8% over FY19
- Supporting Historically Underutilized Businesses (HUB) and self-identified minority-owned businesses in North Carolina with approximately \$24 million in spend either from the NCEL or its Contractors in FY20.

Despite the challenges that were faced over the last year by all businesses, we have experienced phenomenal growth of more than 31% in FY21 year-to-date versus FY20. This truly highlights our need for a strong agency partner that can keep pace with our continued rapid growth.



1.4 GROWING RESPONSIBLY

We market and sell our games with a deep commitment to corporate social responsibility and responsible play. In short, we care about our players. These principles and values govern the protection of lottery players, cooperation with stakeholders, advertising practices and the monitoring of game activities, shaping every decision we make and allowing us to sustain our mission over time for the betterment of our state. Toward that end, we chose early on to obtain the highest certification possible for responsible gaming as outlined by the World Lottery Association's Responsible Gaming Framework. In 2009, just three years after selling our first lottery ticket, we took the first step by obtaining Level 1 certification. We kept improving. We received Level 2 certification in 2011 and our Level 3 certification in 2014. We kept learning and refining. We reached our goal, Level 4 certification, in 2017. At that time, we were the youngest U.S. lottery to obtain Level 4 certification.

We believe that it is not only our responsibility to help raise awareness of treatment resources available for North Carolinians who might be experiencing a problem with gambling, but also our responsibility to prevent our players from developing a problem. That is why we created our own prevention program, Play Smart. With its creation in January 2020, we became the first U.S. lottery to create and develop an original player-focused, lottery-specific responsible gaming and prevention program centered on the education and empowerment of lottery players.

PART II – SCOPE OF WORK

2.1 OVERVIEW

We are proud that the NCEL has experienced steady growth since inception and we want to continue becoming an integral part of the state's culture in terms of awareness, perception, and entertainment value. We believe a best-in-class advertising partner can help continue to raise the caliber of external communications to drive our brand and business goals. Outstanding strategic guidance for optimization of current efforts can greatly aid the creation of new creative work. The NCEL strives to create effective communications programs that have the potential to work rationally in order to have immediate business effects, as well as emotionally to drive advocacy and brand equity over the long term. We believe quality ads should be persuasive and memorable. They should engage viewers and listeners and provide useful information in such a way that they can break through the clutter, all while building the brand.

2.2 GOALS AND OBJECTIVES

Our Successful Contractor will play a vital role in the future growth of the NCEL and our efforts to responsibly generate game sales to raise money for education. As such, the selection, performance, and management of the creative services agency is critical in helping to deliver the NCEL's business and brand goals. When responding to this RFP, Contractors should be aware of the following NCEL goals and objectives:

- To provide innovative and effective solutions for the NCEL statewide, multi-channel advertising programs utilizing the most effective creative for the individual campaign goals and objectives.
- To expand top-of-mind awareness of the NCEL while responding to changes in the industry and the demands of the marketplace.
- To conduct advertising and related programs in such a manner as to promote the positive image and integrity of the NCEL and the programs funded with Lottery proceeds.
- To ensure meaningful minority representation and a commitment to nondiscrimination (see Sections 6.6 and 6.7 of this RFP).
- To obtain the highest quality, creative advertising and related services at competitive prices.

The NCEL is a consistently fast-paced, retail account with multiple marketing, communications, research, and creative projects requiring on-going, concurrent services. On average, the NCEL launches 48 to 52 scratch-off games each year, supporting approximately 12 of these monthly launches with unique broadcast campaigns. In addition, the NCEL is on-air at least four times a year with unique draw game messaging. Campaigns are also required for branding, beneficiary, and responsible gaming messaging, with typically three such campaigns per year. It is normal for the NCEL to have multiple campaigns running simultaneously throughout the state. Simply put, we stay busy.

With this rapid pace, it is critical that the Successful Contractor for Creative, Advertising and Marketing Communication Services demonstrates proficiency in developing television, radio, social, and digital campaigns to support these initiatives. Substantial time and creative development also go into the retail point-of-sale and educational materials that must be developed and produced for timely distribution to more than 7,100 retail locations to aid game launches and other key initiatives.

2.3 ADVERTISING STANDARDS

The NCEL has very specific guidelines outlining its advertising standards and it is critical that a Potential Contractor understand our commitment to designing and presenting ads in such a way

as to avoid appealing to minors. The use of cartoon characters or of false, misleading or deceptive information in NCEL advertising is prohibited. All advertising promoting the sale of NCEL tickets or shares for a particular game must include the actual or estimated overall odds of winning the game and any other items required by the Act. Every effort should be made to comply with the advertising guidelines as established by the National State and Provincial Lottery Association (NASPL) Advertising Guidelines (see attached Exhibit A). These standards shall continue to apply to all NCEL advertising created and executed by the Successful Contractor.

2.4 BUDGET

The NCEL's advertising specific budget is currently set at one percent (1%) of its total annual revenues (pursuant to the North Carolina General Statutes §18C-162(a)(3)). Although there can be no assurance as to what advertising and marketing budgets the NCEL may adopt from year to year, it is important that the Successful Contractor be able to manage significant budget growth with limited lead-time. Below is a listing of the NCEL's advertising and marketing budgets for the last five (5) years:

Fiscal Year	Total Advertising Budget	Total Marketing Budget	POS Budget
2017	\$22,000,000	5,361,929	\$1,066,831
2018	\$25,000,000	7,543,002	\$1,263,450
2019	\$26,000,000	6,712,786	\$1,026,479
2020	\$27,000,000	6,413,838	\$1,021,248
2021	\$29,000,000	5,582,289	\$900,000

2.5 SCOPE OF SERVICES

The Successful Contractor(s) will perform all functions normally required of full-service advertising agencies. Section 2.5.1 outlines the scope of services requested. Services identified as optional, outside of the scope of work include, but are not limited to, research, public relations, marketing promotions management, and retail design. Additional budget dollars will be made available for these services from the research, communications, and marketing budgets when these services are needed by the NCEL. Proposals must include fees associated with such out-of-scope services if the Successful Contractor anticipates providing any or all of these out-of-scope services.

2.5.1 CREATIVE, ADVERTISING AND MARKETING COMMUNICATION SERVICES

Each proposal to provide Creative, Advertising and Marketing Communication Services must address the following estimated Scope of Work. Note: This estimated Scope of Work is intended to allow each Potential Contractor to respond to uniform requirements to enable the NCEL to fairly compare and evaluate competing Proposals; it is not intended to completely describe all the requirements for the Creative, Advertising and Marketing Communication Services Contractor throughout the term of the proposed contract.

Subject to the instructions and decisions of the NCEL, the Successful Contractor will be responsible for the following services including, but not limited to, the following:

- A. Business Development and Collaboration** – Become a partner in the development and evolution of the NCEL business, brand and product portfolio to further the NCEL’s mission of maximizing net revenues for education. The NCEL expects that the entire Contractor team will be committed to the same goals as the NCEL and will create and execute programs that will deliver on those objectives. Prior to the start of each Fiscal Year (July), the NCEL will provide a marketing plan to the Contractor, including product introduction schedules and business priorities, as well as an estimated annual budget (pending approval by the NC State Lottery Commission). The plan shall clearly define marketing and advertising strategies. The NCEL staff and the Successful Contractor staff will meet as required, and at least on a monthly basis, to review the marketing objectives and strategies, with modifications being made as market and/or business needs arise.

Although some turn-over of Contractor staff is anticipated by the NCEL, Contractor staff should be trained on the business to minimize the impact of such turnover. Furthermore, the NCEL anticipates growth and expects agency’s teams to increase as needed to manage such volume when necessary for the NCEL’s continued growth.

1. The NCEL must be notified of any personnel changes on the account at least five (5) days prior to the departure of any given employee in the event of resignation. In the event of termination, the NCEL must be notified within 24 hours. Contractor senior management must present the NCEL with a transition plan within five (5) business days of an announcement that a position will be vacated.
 2. Contractor personnel assigned to the account are expected to build and maintain an industry knowledge base that will support business decisions and recommendations.
 3. Each year, two (2) individuals from the Contractor team must attend industry conferences or training seminars, presented by entities such as Public Gaming Research Institute, North American Association of State and Provincial Lotteries, and World Lottery Association, and share learnings and industry best practice with the broader team and NCEL Brand Management & Communications team. The NCEL will be responsible for the travel expenses including airline tickets, rental car, mileage, meals, and hotel accommodation associated with these industry conferences/tradeshows. Reimbursement for mileage, meals, and hotel accommodation will be made at the approved state-rate.
 4. Manage the NCEL account without over dependence on email or other electronic correspondence. Although there are many acceptable uses for electronic correspondence, such as email, in-person or video-conference meetings are required for creative presentations, including additional follow up as a result of those meetings.
 5. On-site meetings at NCEL offices or video conferences will be held as required and at a minimum of twice monthly to discuss the state of the business and plans for upcoming initiatives.
- B. Dedicated Account Management** – Provide a seasoned, dedicated account team that will work collaboratively with the NCEL’s Advertising team to manage the daily activities of the account. This Account Team will be assigned exclusively to the NCEL business. A key role of the Account Management Team is to become thoroughly involved with the NCEL’s business and keep on top of industry trends, sales performance, and product developments. They will also work closely with the Account Planning Team to ensure that consumer-centric strategies are being developed that tie into the NCEL’s business objectives. The Account Team will be responsible for establishing regular communications with the NCEL’s Media Agency, and any additional agency teams supporting the NCEL business to ensure seamless integration of the advertising program. The Account Team will also be responsible for preparation of the following reports:

1. Status Report – Weekly status reports will be issued detailing all current projects, production jobs, promotional events, reporting and meetings. Status reports shall include timelines for all initiatives, allowing no fewer than five (5) business days for NCEL approval at any stage.
 2. Annual Advertising Plans – Based on the NCEL's Fiscal Year (July - June) and following receipt of the NCEL's Marketing Plan, the Contractor is expected to prepare an annual advertising plan in partnership with the Director of Advertising which must include at a minimum:
 - a. Innovative approaches for planned business initiatives, including how these strategies achieve the NCEL's goals with measurable Key Performance Indicators for post-initiative evaluations.
 - b. A general breakdown of proposed spending for production, talent, research, and other projected expenses.
 - c. Anticipated annual production calendar for all media channels.
 - d. Opportunities for special events, promotional activities, and any other topics specified by the NCEL.
- C. Strategic Account Planning / Market Research Recommendations / Brand Metric and Advertising Communication Tracking** – Provide a team of experts in strategic planning. The team's responsibility will be to gain and transfer extensive knowledge of the NCEL's current and potential player groups. Alongside the NCEL's Advertising and Research Teams, it is also their responsibility to propose market research as necessary to gain such consumer insights to inform strategic direction for the account.
1. The Strategic Account Planners must be responsible for the development of consumer-led strategies for all initiatives, providing relevant consumer insights or recommendations to support the proposed initiatives in annual advertising planning and drafting of all creative briefs. Planners will work closely with the Account Team(s) to gain a thorough understanding of the NCEL's business objectives and product specifications to enable the Planners to develop consumer insights to deliver effective marketing and advertising strategies that will achieve stated objectives for each initiative and the account as a whole.
 2. A Strategic Account Planner is expected to attend any research presentations or testing involving information the NCEL believes to be beneficial to the Successful Contractor's lottery business knowledge even if the research has been conducted by another NCEL vendor/partner.
- D. Creative development and production of Advertising, Marketing Communications and Retail Point-of-Sale materials** – Develop effective, breakthrough creative and produce it with high-quality production standards in the most cost-efficient manner. Creative includes, but is not limited to, television, radio, print, out-of-home, and digital advertising, plus an extensive array of merchandising items/point-of-sale materials for a retailer network of more than 7,000. The Contractor shall ensure all creative elements are produced and distributed on time and on budget.
1. Creative Management – Among other things, the Successful Contractor shall provide comprehensive creative management through direct involvement from a dedicated Creative Director(s), from concept presentation to final approval of produced work. The Creative Director(s) may work with different creative teams and is not required to be exclusive to the NCEL, but must be the key creative team member(s) and a part of all meetings involving creative and attend all productions.
 2. Creative Brief – The NCEL shall provide the Contractor with a briefing document for each advertising initiative that provides business opportunity, product overview, campaign objectives, general strategy, key consumer insights, project budget, sales

targets and other measurable Key Performance Indicators (KPIs) against which the campaign will be evaluated. The Contractor Account Planning team and Account Management team will then develop a Creative Brief, to include a key message, which will inform the Creative Teams about strategy and the initiative details and guide creative development. The Agency's Creative Brief shall be approved by the NCEL prior to briefing the Creative Teams and all creative presented will be evaluated based on its delivery against the creative brief.

3. Creative Concepts – The Contractor shall develop advertising and marketing creative that represents the NCEL brand in a positive light and in a manner consistent with the brand identity, and where there is a relevant existing campaign platform (e.g., Instant Scratch Off's "First Tuesday") consistent with that campaign platform. For new campaigns, the Contractor shall present overarching 360° big idea platforms, with at least three (3) on-brief creative routes for each potential platform. This 360° big idea platform includes creative executions for TV (story-boards required), radio (scripts required), digital, POS/POP layouts, and social media and all elements should be presented during the creative presentation. For existing campaigns, the Contractor shall present at least three (3) creative options for each medium that fit with the campaign's overarching 360° big idea platform.
4. Creative Timelines – The Contractor shall plan creative development schedules that allow sufficient time for developing and presenting integrated creative solutions, editing and revising selected options, obtaining final approvals from the NCEL staff, producing the final product, and distributing the finished product according to NCEL specifications. Creative development timelines should also allow for concept and script refinement, through concept testing ensuring message clarity, general comprehension and appeal. Additionally, Contractor time plans need to allow for a signed off 360° big idea platform, creative route, and executional style guides for use by the NCEL in-house creative department. Unless otherwise approved by the NCEL, all timelines shall include a minimum of three (3) business days for approval by the NCEL at every stage of each job or project. The Contractor shall provide detailed production schedules with task milestones for each job.
5. Casting – Talent recommendations must be made to the NCEL for any and all advertising and marketing creative. Casting auditions must be provided for all On-camera talent and must be presented with alternates, allowing the NCEL a minimum of three (3) business days for review and approval. In most instances, casting auditions will also be required for Voice-over talent and must be presented with alternates, allowing the NCEL a minimum of three (3) business days for review and approval. In some instances, the NCEL may choose to review demo reels only for Voice-over talent; in such an instance alternates will still be required as well as a minimum review and approval period of two (2) business days.
 - a. Investigate and obtain talent releases for all persons appearing in any NCEL advertising, including television, radio, print and outdoor, whether or not the talent utilized is bound by a collective bargaining agreement and whether or not the talent appears at the forefront or in the background, and is speaking or nonspeaking.
 - b. The NCEL acknowledges that the Successful Contractor may be bound by certain agreements with respect to the employment of talent, including such agreements with the American Federation of Television and Radio Artist ("AFTRA"), Screen Actors Guild ("SAG") and/or American Federation of Musicians ("AFM"), and that the production of advertising material from which the employment of talent is required may necessitate the negotiation, review, approval and/or execution by the Successful Contractor and/or the NCEL of a separate agreement with AFTRA, SAG and AFM or other relevant association with respect to employment of specific talent.

6. **Creative Approvals** – The Contractor shall obtain written approval from the NCEL Executive Director and/or their Designee(s), prior to producing any advertisement, promotional item, related materials or other services. When producing any creative work, the Contractor shall not vary from approved scripts, storyboards or print layouts without written approval from the NCEL. Failure to adhere to approved scripts, storyboards or layouts may void the NCEL’s approval of the estimate for the project. The Contractor shall incorporate all changes required by the NCEL, as well as submit any other alternative creative solutions deemed prudent by the Contractor. The NCEL reserves the right to approve, and in its sole discretion to modify or reject any and all schedules and plans submitted by the Successful Contractor, and to direct the Successful Contractor to cease work in connection with any such plan. The Contractor shall be responsible for all unauthorized expenses.
- E. **Digital Advertising** – Create innovative digital advertising campaigns to effectively communicate with target audiences through all digital consumer touch points. There will be an emphasis placed on creativity and effectiveness of digital initiatives, with KPIs and measurement tools established with the NCEL prior to the development of any campaign. Digital programs must work synergistically with other advertising communications to achieve stated goals. The Contractor must remain current on all emerging technologies and provide the NCEL with timely recommendations for digital marketing opportunities.
- F. **Social Media** – As part of the comprehensive, 360° big idea platform, assist in strategic development of the NCEL’s social media including content and creative development. The goal of the social program is to build brand advocacy by increasing engagement with the NCEL brand among existing players and future players, communicating brand and product news, and reinforcing the NCEL’s advertising and marketing initiatives in the social arena. The Successful Contractor’s responsibilities will also include optimization and performance analysis through monthly reporting.
- G. **Multi-cultural Marketing** – The Successful Contractor shall develop effective strategies for reaching the diverse North Carolina population and integrate such marketing efforts into general market advertising to achieve stated goals, as defined by the NCEL. If a distinct communications initiative would better serve the NCEL’s diversity business objectives, the Successful Contractor shall provide a recommendation and rationale for the effort to the NCEL for approval.
- H. **Budget / Billing Management** – Due to the size of the NCEL’s advertising budget, a dedicated budget/billing staff is required to work directly with the NCEL Advertising Department on a daily basis. This individual must be (become) familiar with competitive bidding requirements and have the capability to track production costs of advertising and retail materials on a per unit basis.

Note: The NCEL has formal, highly detailed procedures for budget management and expenditure requirements. Poor budget management and failure to comply with these procedures may result in delayed authorizations to proceed with production projects as well as substantially delayed payment of bills and invoices based upon inadequate billing documentation. Responding Contractors should give strong consideration to the allocation of at least one, full-time person for NCEL budget management support.

1. **Expense Bidding and Approval** – The Successful Contractor shall not incur any liability on the NCEL’s behalf for any item of space or time in an advertising medium or for the purchase of materials and services, or incur any other expense without first securing the

written authorization of the NCEL Executive Director or their Designee. In connection with such authorization, the Successful Contractor is subject to the following guidelines:

- a. The Successful Contractor must prepare and evaluate competitive bids for productions, prepare and submit estimates and invoices to the NCEL for all work performed under the Contract, and reconcile the advertising budget with the NCEL on a monthly and quarterly basis.
- b. The Successful Contractor must provide a cost estimate to the NCEL that provides documentation of three (3) bids for any projects costing over five thousand dollars (\$5,000). If three (3) appropriate vendors are not available for the project as approved, the Contractor shall provide written documentation of such to accompany the cost estimate.
- c. If the Successful Contractor recommends any vendor other than the lowest vendor, the Successful Contractor shall provide written documentation supporting such recommendation, which shall accompany the cost estimate. The NCEL may or may not choose, in the NCEL's sole discretion, to follow the Successful Contractor's recommendation.
- d. Bids shall be secured from North Carolina-based vendors whenever possible. If local vendors are not available for project as approved, the Contractor shall provide written documentation to accompany the cost estimate and shall secure written approval from the NCEL prior to seeking out-of-state vendors.
- e. Cost estimates shall be presented by the Successful Contractor to the NCEL in a timely manner, no less than three (3) business days prior to commencement of any work in order to allow for adequate processing time by the NCEL.
- f. The estimate number used to track each project will be issued by the Successful Contractor and invoices shall be numbered consistent with estimate number.
- g. All cost estimates/authorizations must be approved and signed by the NCEL Executive Director or their Designee and the Successful Contractor may not begin work until the Successful Contractor has received a signed estimate/authorization from the NCEL.
- h. A revised estimate reflecting all services or charges amounting to more than ten percent (10%) of the original estimate must be approved by the NCEL prior to additional performance and must be accompanied by a written justification stating why the increase in cost is necessary. Revised estimates should also include previously approved amounts and/or history of amounts.
- i. Any canceled jobs must be followed by a revised closed estimate reflecting all canceled portions of the job and any expenses actually incurred prior to cancellation. Once an estimate is closed, no further billing can be submitted. The Successful Contractor is required to mark "Closed" on the last invoice to be submitted to the NCEL for payment for each job.
- j. The NCEL's Fiscal Year ends June 30th. All invoices for that Fiscal Year must be submitted by September 30th of the new Fiscal Year. The NCEL reserves the right not to pay any invoices received after September 30th.
- k. Payment by the NCEL is due within thirty (30) days of receipt of properly prepared and uncontested Successful Contractor invoices, unless as otherwise agreed upon by both parties.
- l. The Successful Contractor shall make payment to its vendors and Subcontractors that are working on NCEL projects or advertising within fifteen (15) days of receipt of such payment from the NCEL to the Successful Contractor. In the event that the NCEL becomes aware of Successful Contractor's default of these terms, the NCEL will notify the Successful Contractor immediately and such default shall be deemed a breach of the Contract.

- m. The Successful Contractor agrees to retain all financial and accounting records pertaining to the NCEL for five (5) years to comply with the NCEL's accounting procedures for all submissions of work order, estimates and invoices.
 2. Monthly Activity Report – Provide the NCEL a detailed written monthly activity report and media review with a brief summary and recommendations. The monthly activity report should list all open jobs as of the end of the month and provide at least the following information: (i) job number; (ii) brief description of job; (iii) original estimate amount; (iv) an estimate of the costs incurred to date that have not yet been billed; and (v) billings rendered to date on each job.
 3. Approved Expenditure Report - Provide to the NCEL, as requested and within one (1) week, a report summarizing all NCEL approved expenditures to date for the current Fiscal Year. The summary must indicate the total amount available for the year and the total amount currently committed, the current amount billed to the NCEL during the year, the amount billed that has not yet been paid and the amounts committed that have not been billed.
 4. Agency Fee Reconciliation Reports – The Contractor will be responsible for providing all back-up documentation on staffing hours on a monthly basis to enable NCEL to track labor costs against Annual Fee.
- I. **Advertising Effectiveness Analysis / Optimization** – The NCEL will evaluate the effectiveness of all advertising initiatives upon completion based on established KPIs from the corresponding relevant creative brief and monthly campaign tracking / brand metrics. KPIs may include improvements in participation, frequency and awareness measures, sales goals or other criteria determined as 'What success looks like' by the NCEL prior to the development of the work and detailed in each initiative brief and/or annual plan objectives.
1. Post-Campaign/Promotional Report – In the quarter following the conclusion of a campaign phase or promotional event, the Contractor shall provide a recap of the initiative, including total expenses and performance against established KPIs to assist the NCEL in the evaluation of its success.
- J. **Annual Agency Review** – Once a year, the Successful Contractor shall participate in an Annual Agency Review of overall account performance to inform account decisions in next Fiscal Year, including determining if any staffing changes are required. This opportunity will also allow the NCEL to review the prior year's activity to ensure proper contract compliance by the Successful Contractor. The Annual Agency Review will consist of the following three (3) components:
1. Performance Evaluation – Based on written qualitative evaluation by the NCEL, the Successful Contractor's performance across all disciplines will be evaluated based on the Successful Contractor's ability to meet established client expectations.
 2. Agency Metrics – As the second component of the Annual Agency Review process, the Successful Contractor will be evaluated on their ability to drive consumer attitudes and behaviors that can be attributed to marketing. At the Annual Agency Review, the NCEL will determine if the specific pre-determined brand metrics / KPI's were met for each project initiative completed by the Successful Contractor during the Fiscal Year.
 3. Business Metrics – The final component of the Annual Agency Review measures the Successful Contractor's ability to help the NCEL deliver against pre-established sales goals.

2.5.2 OPTIONAL PROFESSIONAL SERVICES

Optional Professional Services may be requested during the Contract period. Professional Services will be priced per project. Note: The estimated Optional Professional Services are intended to allow each Potential Contractor to respond to uniform requirements; these are not

intended to completely describe all potential opportunities for Optional services for Successful Contractor throughout the term of the proposed contract. The Responding Contractors should respond with an hourly rate for any or all services offered. If the Responding Contractors does not offer one or any of the optional services it is acceptable to not respond with an hourly rate by leaving the rate blank. Responding Contractors will not be penalized for services not offered. Optional services are as follows:

1. **State & Local Marketing Efforts** – From time to time, the NCEL may request that the Successful Contractor(s) partner with the Marketing Department for development and analysis of sports marketing, experiential marketing, local events and promotions. This may include the Successful Contractor(s) bringing forward new and viable opportunities to build brand awareness and promote NCEL products and/or developing and providing creative assets for these marketing programs, ensuring that they work synergistically with the overall marketing and advertising plans.
2. **Promotions** – From time to time, the NCEL may request that the Successful Contractor(s) assist in development and on-going management of promotional projects, including media-driven promotions and online promotions involving chance. The Successful Contractor will ensure that all promotional activity is effective and measurable based on KPIs pre-determined by the NCEL and is consistent with the NCEL brand character.
3. **Retail Design** – From time to time, the NCEL may request that the Successful Contractor(s) assist in design development and implementation for the refresh of NCEL claims centers and/or similar retail spaces designed to sale lottery tickets and pay lottery prizes.
4. **Research** – From time to time and in conjunction with the NCEL, the Successful Contractor may be asked to develop and facilitate advertising and market research studies that involve advertising research such as recall tests, copy and motivation tests, and attitude studies. The Successful Contractor may also conduct market research studies that assist the NCEL in the areas of strategic planning, retailer attitudes and retail audits. These studies may be qualitative or quantitative and may be ad hoc or ongoing projects. The NCEL will manage and contribute significantly in developing study objectives and design.
5. **Public Relations** – From time to time, the NCEL may request that the Successful Contractor(s) assist in developing strategies and implementing integrated tactics to create differentiated positioning and amplify messaging to frame public perception of the NCEL. This may include:
 1. Developing and executing large scale PR events to build brand awareness and/or launch new lottery products.
 2. Analyzing attitudes and issues that may impact the NCEL's operations or goals.
 3. Creating content to educate and engage citizens aiding organizational aims.
 4. Protecting the reputation of the NCEL.
 5. Pitching on-air interviews and campaigns with media outlets and/or advertising partners.
 6. Soliciting/evaluating promotional opportunities from media partners.
 7. Assisting with planning and scheduling public relations media events.
6. **Direct Marketing / Database Management / Customer Relationship Marketing** – From time to time, the NCEL may request that the Successful Contractor(s) work as needed with the NCEL to develop and implement a comprehensive strategy for building and maintaining a solid customer base that is loyal to the NCEL brand. This may be done

through email marketing, Lucke-Rewards customer loyalty program, couponing, database management, and other tactics deemed appropriate to achieve the NCEL's business goals through all current and future channels.

7. Creative Development / Content for NCEL Websites – From time to time, the NCEL may request that the Successful Contractor(s) provide creative input into the design and content management of NCEL websites and a retailer-focused website to ensure they enhance the player/retailer experience with the NCEL brand and work synergistically with all other marketing and advertising communications. Actual programming will be conducted by the NCEL's web development team and its Contractors.

8. Logo Design / Brand Work – From time to time, the NCEL may request that the Successful Contractor(s) provide creative input into the design and content of various new logos or features as well as evolutions of existing logos, ensuring any new designs work synergistically with all other marketing and advertising communications. Along with logo development, the Successful Contractor(s) are responsible for developing and updating the NCEL's brand guidelines.

Optional Professional Services will be paid from other existing budgets as designated by the NCEL. An hourly rate should be included in all Proposals for Optional Professional Services.

PART III – PROPOSAL PROCESS

3.1 SUMMARY OF KEY DATES

PHASE I (all Potential Contractors)	
RFP Issuance Date	May 24, 2021
Deadline for Submission of Phase I Questions 4:00 p.m. ET	June 3, 2021
Phase I Answers Posted	June 8, 2021
Deadline for Submission of Phase I Contractor Capability Proposals 4:00 p.m. ET <u>DELIVERY ADDRESS:</u> North Carolina Education Lottery Professional Advertising, Media and Related Services Attn: Anthony Downey, Purchasing Administrator RFP #LC-000058 2728 Capital Boulevard Suite 144 Raleigh, NC 27604	June 22, 2021
PHASE II (invited Potential Contractors only)	
Phase II Potential Contractors Selected and Notified	June 28, 2021
Deadline for Submission of Phase II Questions 4:00 p.m. ET	July 9, 2021
Phase II Answers Posted	July 16, 2021
Phase II Phone Questions Session 4:00 p.m. ET	July 19, 2021
Deadline for Submission of Phase II Proposals 4:00 p.m. ET	August 19, 2021
Phase II Presentations	August 25-27, 2021
Target date for Decision of Successful Contractor followed by Contract Execution, subject to Commission approval	September 21, 2021

The NCEL reserves the right to change any dates and schedule contained in this RFP, including those shown above. If changes are made, the changes will be communicated on the NCEL's Website.

3.2 CONTACT PERSON

The **sole point of contact** (the "Contact Person") for inquiries and additional information concerning this RFP will be Anthony Downey, Purchasing Administrator, who can be reached as follows:

Email: bid.submission@lotterync.net
Fax: 919-715-2711

North Carolina Education Lottery
Professional Advertising, Media and Related Services RFP #LC-000058
2728 Capital Boulevard
Suite 144
Raleigh, NC 27604

No direct or indirect contact or other solicitation initiated by Contractors or their representatives, in connection with this Procurement, should occur with any NCEL employee or commission member other than the Contact Person. This contact limitation extends from the RFP issuance date until an Apparent Successful Contractor has been

approved by the NCEL Commission. Employees of current Contractors who are required to work with the NCEL under existing Contracts will be permitted to continue their regular contacts under that agreement; however, they may not have any discussions or exchange any information in connection with or regarding this Procurement or RFP.

3.3 INQUIRIES

All inquiries regarding this RFP must be submitted in the form of questions or requests for clarification (collectively, the “**Questions**”). Such Questions must be in writing and received by the Contact Person identified in Section 3.2 of this RFP on or before 4:00 p.m. ET on June 3, 2021 (the “**Phase I Question Deadline**”) for Phase I questions and on or before 4:00 p.m. ET on July 9, 2021 (the “**Phase II Question Deadline**”) for Phase II questions. The NCEL’s responses (the “**Answers**”) to Questions properly received prior to the Question Deadlines will be posted on the NCEL’s Website <https://www.nclottery.com/Business>.

PART IV – PHASE I AND PHASE II PROPOSALS

4.1 PHASE I CONTRACTOR CAPABILITIES PROPOSAL

In preparation of the Proposal, each Potential Contractor should pay special attention to the requirements and information being requested in order to respond fully to the RFP. Any Proposal found to be incomplete or placing conditions in response to the requirements under this RFP may be deemed non-responsive and removed from further consideration.

Phase I will determine whether the Responding Contractor meets the minimum qualifications defined herein, and the business credentials. Responding Contractors who meet the minimum qualifications and receive a score higher than the minimum scored defined, will be notified that they are a finalist, and will be invited to proceed to Phase II, which will consist of development of responses to specific creative scenarios. No more than six (6) Potential Contractors will proceed to Phase II. If more than six (6) Responding Contractors meet the minimum qualifications and receive a score higher than the minimum score, the six (6) Responding Contractors with the highest scores will proceed to Phase II.

To be eligible for Phase I evaluation, each Responding Contractor must provide the following information in the order and format specified:

A. Cover Letter

Each Responding Contractor must provide a cover letter signed by an individual authorized to legally bind the Responding Contractor. For multiple Responding Contractors submitting joint proposals, Responding Contractors must provide the information as required under Section 4.4.

B. Address

1. Name, address, principal place of business, email address, and telephone number of legal entity with whom the contract is to be written.
2. Name and location of major offices and other facilities that relate to the Contractor’s performance under the terms of this RFP.

C. Responding Contractor’s Contact

Name, address, email address, and business telephone number of the Responding Contractor’s contact person, for purposes of this procurement.

D. Experience and Personnel

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

2. Contractor must demonstrate that its organization is of sufficient size and has the qualifications required to perform the requested services as defined in this RFP. The Proposal must include the following:
 - a. Evidence that Contractor has annual billings of at least five million dollars (\$5,000,000)
 - b. Thorough description of the organization demonstrating the employee capacity to undertake and successfully carry out the proposed services.
 - c. An organization diagram which indicates reporting relationships and location of the staff.
 - d. Indicate staff positions that will be new hires.
3. In the following format, summarize the total billings for calendar years 2018, 2019 and 2020, number of employees, and number of accounts currently being handled directly by Responding Contractor's office.

	2018	2019	2020
Total Billings Per Year			
Number of Employees			
Number of Accounts			

4. Responding Contractor must include in its Proposal a list of its ten (10) largest, current accounts and the date of acquisition of each account. Responding Contractor should list the accounts by approximate annual billing size (beginning with the largest account) and must include for each account a description of the type of projects billed. Each Responding Contractor must disclose information regarding any potential, actual or apparent conflicts of interest between any current client of the Responding Contractor and the NCEL. Each Responding Contractor must provide contact information for a minimum of two (2) accounts to serve as references. References will be contacted.
5. Responding Contractor must also include a list of accounts terminated in the past two (2) years and reason for such termination.
6. Provide one (1) example of how the Responding Contractor saved money and/or maximized value for a client, including the following areas:
 - a. Broadcast production cost efficiencies
 - b. Print production cost efficiencies
 - c. Additional example relevant and appropriate to the NCEL account

E. Scope and Nature of Contractor Services

1. Written description (not to exceed five (5) pages) outlining the various services offered by the Responding Contractor and the number of full-time employees dedicated to each department (e.g. account management, strategic services (including account and communications planning, research, etc.), creative (including digital), production (broadcast, online, print production, etc.), CRM, PR, promotion and experiential marketing).
2. In addition to any digital services listed above, please describe established strengths and capabilities in the digital realm including Responding Contractor's online marketing, website development and database analytics and maintenance capabilities.
3. List any other specialized services Responding Contractor offers to its clients, either directly or indirectly through its parent or sister companies, subsidiaries or network of affiliations.
4. Written demonstration of Responding Contractor's ability to handle highly active retail advertising accounts.

5. Brief description of the Responding Contractor's strategic process including determination of audience, determination of insight and development of the strategy which delivers on this insight.
6. Explain account planning capabilities, and how account planning interfaces with the various departments or areas of Responding Contractor's organization.
7. Describe how Responding Contractor would provide the NCEL information and insights from emerging consumer trends, new ideas, and new advertising techniques.
8. Explain how Responding Contractor would, on an ongoing basis, monitor the effectiveness of the NCEL advertising. Describe Responding Contractor's market, product, and consumer analysis methods.
9. Describe why Responding Contractor is uniquely suited to address the challenges and opportunities of the NCEL account.
10. Responding Contractor must be authorized and registered to do business in North Carolina.

F. Case Histories

Add attachments as necessary, and use whatever format(s) that best demonstrate(s) Responding Contractor's capabilities.

1. Creative, Advertising and Marketing Communication Services – To demonstrate capabilities in these areas:
 - a. Present a case study of not more than ten (10) pages, excluding exhibits, in which Responding Contractor developed and executed a new brand platform.
 - i. What insights were leveraged in creation of the strategy? What research was implemented?
 - ii. Who was the audience? Why was this segment chosen?
 - iii. How was the brand platform launched? Provide examples of launched creative.
 - iv. What were the results?
 - b. Present a case study of not more than ten (10) pages, excluding exhibits, describing an advertising campaign to launch or promote a product that is representative of Responding Contractor's work from start to finish. (This case study must be from a different campaign than the case study submitted pursuant to Subsection 4.1(F)(1)(a), above). Of particular relevance to the NCEL is work in entertainment environments and and/or competitive retail-driven product categories such as soft drinks, candy, etc. Responding Contractor must address the following items in the case study:
 - i. What were key facts and problems/opportunities identified from research and analysis? What insights were leveraged in creation of the strategy? What research was implemented?
 - ii. What was the creative strategy and positioning?
 - iii. What was the budget?
 - iv. Advertising objectives?
 - v. How was the program executed? Showcase all mediums with particular emphasis on in-store communications
 - vi. Tools used by Responding Contractor to evaluate the campaign's effectiveness against the audience(s).
 - vii. What were the results (i.e., sales, market research)?

4.2 PHASE II CONTRACTOR CAPABILITIES PROPOSAL/ FINALIST PROPOSALS

Phase II requires that each finalist prepare both a (1) the Technical Proposal, and (2) the Cost Proposal. Each proposal will be submitted in writing and also presented in person to the NCEL

at the Contractor's offices, or through video conferencing as needed, during a scheduled 90-minute time slot during the week of August 25 through August 27, 2021. The Technical Proposals will include assignments that are based on the NCEL's business challenges, and Responding Contractor's solutions to these challenges will, in part, determine who is awarded the contract. Responding Contractor is not required to furnish completed creative materials; however, the written assignments should be sufficiently detailed to enable the NCEL to evaluate accurately the capabilities of Responding Contractor for the respective areas in which services are sought.

A. Technical Proposal: Creative, Advertising and Marketing Communication Services

1. Samples of Work – Responding Contractor shall submit with its Proposal creative samples produced within the past two (2) years by Responding Contractor's office and identify the creative director that will be servicing the NCEL account. **Samples must be from at least two (2) different campaigns and must be different from the case studies submitted pursuant to Section 4.1(E)(1)(a) and 4.1(E)(1)(b) above.** For each of the samples submitted pursuant to this Section, Responding Contractor must provide a write-up of not more than two (2) pages indicating the account name, product name, marketing objective, creative strategy, and creative team(s) responsible for the work. Responding Contractor should include the following items as available in the samples submitted in connection with this Section:
 - a. TV ads on a zip drive;
 - b. Radio ads on a zip drive;
 - c. Digital ads on a zip drive;
 - d. Retail POS/POP layout samples on a zip drive;
 - e. Additional items (any medium) that illustrate Responding Contractor's unique creative strengths.

2. Creative Assignment – New Monthly Scratch-Off Launch Campaign
The NCEL is interested in the Contractor's process and approach to product launches and communication challenges. The NCEL will assess the Contractor's ability to produce effective marketing messages based on the input document provide in Attachment F.

3. Instant Scratch-Off Games Overview – The NCEL typically creates and distributes 48 to 50 instant scratch-off games per year ranging in price from \$1 to \$30. Scratch-Off games offer players the opportunity to scratch off a latex cover and immediately see if they have won a prize. The NCEL's goal is to keep these games fresh and to offer a wide variety of tickets based on theme, price point and play style. In FY13, the NCEL took steps to improve the overall portfolio of instant games and their prizes resulting in instant ticket sales exceeding the \$1 billion mark for the first time in its history and becoming only the 12th US lottery to achieve \$1 billion in instant ticket sales in a year. In FY14, the NCEL implemented a monthly launch strategy for instant tickets releasing games on the first Tuesday of each month and once again achieved instant sales of more than \$1 billion. In FY20 total gross sales of Instant Scratch-Offs reached \$2.09 billion, accounting for 69.11% of total revenue.

4. Advertising Strategy – Each Responding Contractor must prepare a marketing and advertising strategy grounded in consumer insight and supporting creative 360° big idea and associated campaign(s) that will meet the stated objective. The campaign's creative strategy should present original and engaging ideas that demonstrate the Responding Contractor's creative capabilities and strategic thinking. The creative response should include at a minimum:
 - One 30-second TV spot

- One 30-second radio spot; with Pandora banner unit
- Live radio reads (live-liners)
- Digital campaign with a minimum of one 15-second video spot
- Social media strategy and creative concepts for Facebook, Instagram, and Twitter
- In-store POS/POP

In addition to showcasing Responding Contractor's creative product for this assignment, each Responding Contractor must also clearly define in their written and oral presentations how they approached the following areas as they relate to the creative campaign(s) being presented:

- a. Analysis of the marketing situation
- b. Determination of audience
- c. How the consumer insight was determined
- d. Development of marketing and advertising strategy to deliver on the consumer insight
- e. Creative Development Process
- f. Include Creative Brief against which campaign was developed
- g. Determination of Project budget as it relates to the annual budget allocation
- h. Production Process
- i. Tracking and Analysis of Effectiveness

Responding Contractor should also include an overview as to how the campaign(s) would be evaluated for effectiveness and efficiency to ensure that dollars invested are being maximized and that the creative is meeting its stated objectives. The proposal must include specific measurement tools and processes the Contractor intends to use to evaluate the campaign(s).

5. Staffing Plan - As part of the Phase II Technical Proposal evaluation, each Responding Contractor must provide an in-depth staffing plan and indicate the specific team(s) that will be the Responding Contractor's proposed Account Team to work on the NCEL business if successful. Key members of the proposed Account Team should be a part of the on-site presentation.
 - a. The in-depth staffing plan must identify the employees who will be responsible for work on the NCEL account and include resumés or other descriptions of their qualifications. Information about those employees should include nature and scope of each person's responsibilities, the percentage of their time that will be dedicated to the NCEL team, accounts handled by such staff person while employed by Responding Contractor and previous employers, and the level of responsibility on those accounts.
 - b. Describe any new or currently vacant positions Responding Contractor will need to fill in order to execute the proposed plan for the NCEL and the timeline for filling those positions.
 - c. The Responding Contractor must ensure that the recommended staffing planning can adequately support the NCEL's rapid pace and volume of work as described in Part II – Scope of Work. In particular, please note that while not all campaigns require fully new creative development each year, the Responding Contractor should plan at a minimum for the NCEL's current on-air advertising cadence, which includes 12 monthly scratch-off, four draw game and two NCEL brand/beneficiary on-air campaigns in a fiscal year.

B. Cost Proposal

The NCEL desires to acquire Creative, Advertising and Marketing Communication Services fulfilling the scope of services as provided in this RFP, at the best competitive price.

All production charges incurred by the Contractor on behalf of the NCEL shall be billed to the NCEL at the Contractor's net cost, that is the net rate offered by the production source. The NCEL will not pay commissions or a percentage markup to the Contractor. Production costs are defined as the preparation and purchase of all materials, services and talents necessary to complete the scope of work, including but not limited to, production cost such as finished art, photography, mechanicals, printing, films, talent payments, recording sessions, TV and radio production charges, video tapes, and studio functions. Upon determination of the amount due to the Successful Contractor in the case of production invoices, the thirtieth (30th) day of every month, payment (less applicable damages and penalties which may be deducted) will be processed in an expedited manner. Responding Contractors may propose any alternative methods or schedules of payments which will be considered during contract negotiations with the Apparent Successful Contractor.

For Creative, Advertising and Marketing Communication Services, responding Contractors must submit a cost proposal that is based on an annual fee for professional services. The annual fee must be stated for years one, two, and three. This annual fee for professional services (retainer) will be paid on a monthly basis to the Successful Contractor. Responding Contractors are reminded that the cost quotation should cover all of the services and other items covered and required by this RFP, as well as other services deemed necessary by Responding Contractor, to be provided by the Successful Contractor during the entire term of the Contract. Specifically, the Successful Contractor shall be responsible for all charges incidental to the routine conduct of business including, but not limited to telephone calls, copying, color copies, postage and delivery charges from the Successful Contractor to the NCEL. The NCEL will reimburse the Successful Contractor at the State Rate for travel related expenses for up to three (3) employees, with prior NCEL approval, for production related travel expenses. Any additional mileage and meal related expenses will be the responsibility of the Successful Contractor. The Successful Contractor shall also coordinate and submit entries for award recognition designated by the NCEL. The NCEL shall be responsible for the associated entry fees and shall retain any awards, trophies, plaques, etc., that may be awarded for creative work that was created and produced by the Successful Contractor for the NCEL. Costs agreed to in the resulting contract shall be firm and remain constant throughout the life of the contract and any extensions thereof.

4.3 PROPOSAL SUBMISSION AND FORMAT

4.3.1 PHASE I – SUBMISSION OF CONTRACTOR'S CAPABILITIES PROPOSALS (OPEN TO ALL POTENTIAL CONTRACTORS)

To be eligible to participate in the competition for contract awards, a Potential Contractor must first submit a completed Contractor's Capabilities Proposal, as described in Section 4.1 of this RFP. **Potential Contractor shall submit one (1) signed original and four (4) paper copies of each completed Contractor's Capabilities Proposal and one (1) USB flash drive containing an unredacted PDF version (or other suitable format) of the Contractor's Capabilities Proposal and a redacted PDF version (or other suitable format) of its Contractor's Capabilities Proposal with redacted information that Contractor deemed as**

confidential or contained trade secrets or such other proprietary rights as dictated by law. The NCEL will evaluate and score the Responding Contractor's Capabilities Proposal. The Responding Contractors will then be ranked according to the assigned scores, and no more than six (6) finalists achieving the highest scores in each category of desired services will be invited to submit detailed Finalist Proposals for evaluation in Phase II.

4.3.2 PHASE II - SUBMISSION OF FINALIST PROPOSALS (OPEN TO INVITED POTENTIAL CONTRACTORS ONLY)

Each finalist Proposal must be submitted in two parts: (1) the Technical Proposal; and (2) the Cost Proposal, as described in Section 4.2 of this RFP. Parts (1) and (2) must completely address each question detailed in Section 4.2 and be submitted at or before the time and date specified in Section 3.1 of this RFP. **Each Proposal must be submitted in a sealed envelope or container, with the Cost Proposal under separate cover in a separate, sealed envelope or container.** If multiple envelopes or containers for each part of the Proposal are used, the envelopes or containers must be numbered in the following fashion: 1 of 4, 2 of 4, etc. **Each finalist shall submit a signed original hard copy of the Cost Proposal, and a signed original hard copy, four (4) paper copies, and one (1) USB flash drive containing an unredacted PDF version (or other suitable format) of the Technical Proposal and a redacted PDF version (or other suitable format) of the Technical Proposal with redacted information that Contractor deemed as confidential or contained trade secrets or such other proprietary rights as dictated by law.**

THE COST PROPOSAL MUST BE SEALED SEPARATELY FROM THE TECHNICAL PROPOSAL.

4.3.3 FINALIST PROPOSAL FORMAT

Each Proposal should provide a straightforward, concise description of a Responding Contractor's ability to meet the requirements of this RFP. Proposals should not contain unsolicited, extraneous or duplicative information.

Proposals should be organized and presented in the order and by the Section numbers assigned in this RFP. Pagination of a Proposal should be consecutive, and the two parts - the Technical Proposal and the Cost Proposal - must be separate as required by this RFP. All RFP requirements and specifications are mandatory unless stated otherwise and any failure to respond thereto may be the basis for disqualification.

Proposals must be received by the Contact Person no later than the Proposal Deadline in the sealed envelopes or containers. Late Proposals will not be accepted. Postmarks and/or shipping receipts will not be considered as proof of timely submissions. Responding Contractors must provide responses for all items contained herein that request or call for a response or information, and responses and signatures are required for any Attachments referenced within, or attached to, this RFP that are due with the Proposal. Proposals shall be complete and must convey all of the information requested by the NCEL. Also, the Proposal must designate a single authorized official from one of the entities to serve as the sole contact between the NCEL and the Responding Contractor.

4.4 MULTIPLE CONTRACTORS, JOINT PROPOSALS, AND SUBCONTRACTORS

In response to this RFP, a combination of two or more qualified advertising agencies may submit a joint Proposal or Proposals seeking the available contract. If a firm intends to participate in a joint Proposal, each participating firm must be identified in Phase I together with all the other intended participants in the joint Proposal, and each of the intended participants must submit a completed Contractor's Capabilities Proposal for Phase I evaluation. A joint

proposal must clearly identify one company to serve as the principal contractor, which will be responsible for the performance of all participants in the joint Proposal. The joint proposal must define completely the roles, responsibilities, duties and obligations that each entity that is a part of a joint venture, strategic partnership or prime contractor team proposes to undertake, as well as the proposed responsibilities of each subcontractor of each entity. The Proposal must be signed by an authorized officer or agent of each entity. Also, the Proposal must designate a single authorized official from one of the entities to serve as the sole contact between the NCEL and the joint venture, strategic partnership or prime contractor team. Any Contract resulting from a joint Proposal must be signed by an authorized officer or agent of each entity. Any entity which is part of a joint venture, strategic partnership or prime contractor team included in the submission of a joint Proposal will be jointly and severally liable during the term of the Contract.

The Successful Contractor that submits a Proposal whereby any subcontractor will provide some portion of the specifications of this RFP shall retain ultimate responsibility for all Services provided by any subcontractor, and any claims or liabilities arising from or related to the subcontractor's performance, and compliance with the requirements of this RFP, the terms and conditions of the Contract, and the requirements of any and all applicable laws, rules, and regulations.

A Responding Contractor who submits a Proposal whereby any subcontractor will provide twenty-five percent (25%) or more of the specifications of this RFP must also provide the information described in Part VI, Proposal Requirements, for each such subcontractor.

4.5 CHANGES, MODIFICATIONS AND CANCELLATION

The NCEL reserves the right, in its sole discretion, at any time prior to the Proposal Deadline to make changes to this RFP by issuance of written addendum(s) or amendment(s) or to cancel all or part of this RFP and Procurement. Any addendum(s), amendment(s) or cancellation(s) will be posted on the NCEL's Website.

4.6 PROPOSAL CONSTITUTES OFFER

By submitting a Proposal, a Contractor agrees to be governed by the terms and conditions set forth in this RFP, and any amendments thereto, and further agrees that the Contract will incorporate the terms and conditions of this RFP and any amendments hereto and the Questions and Answers, the Contractor's Proposal and any terms and conditions subsequently negotiated with such Contractor. A Contractor submitting a Proposal must complete and submit, as part of its Proposal, the Contractor Certification Form included as **Attachment A**, and made a part hereof, as referenced in Section 6.1.

4.7 PROPOSAL EVALUATION

A variety of factors (including, but not limited to, experience, integrity, proposed services, cost/price and value to the NCEL, background, financial viability, ability to perform the Contract) shall be considered by the NCEL in determining the Successful Contractor it believes provides the best overall solution at a fair and reasonable price and consistent with the goals and objectives of the NCEL. These factors are not necessarily listed in the order of importance or weight. Furthermore, the NCEL shall also consider the Potential Contractor's responses to Section 6.7 pertaining to Minority Business Participation, as part of the evaluation. Thus, while Potential Contractors are strongly encouraged to offer the lowest price and total cost and highest value possible, the Potential Contractor offering the lowest price and total cost may not be selected as the Successful Contractor. The NCEL will conduct a fair, comprehensive and impartial evaluation of all Proposals deemed responsive using an evaluation committee (the "**Evaluation Committee**" or "**Committee**") selected by the Executive Director. During Phase II, the Evaluation Committee may request clarifications or answers to any questions it may have of

a Potential Contractor as a result of any information or representations contained in its Proposal or otherwise identified, and may ask a Potential Contractor to address technical questions or seek additional information regarding any Proposal before completing the initial evaluation.

It is not the intent of the NCEL to disqualify any Proposal based on minor technicalities. However, the NCEL reserves the right to determine if a particular deficiency or inadequacy is significant enough to disqualify the Proposal and Contractor. The NCEL also reserves the right to disqualify the Contractor's Proposal if the Contractor has violated Section 3.2 of this RFP. It is the intent of the evaluation procedure established by the NCEL to determine whether each Proposal meets the needs of the NCEL, as outlined in this RFP, and then to determine which Proposal best suits those needs.

The evaluation involves, at a minimum, a two-part process: Phase I Initial Evaluation of Contractors Capabilities and Phase II Final Competition.

4.8 EVALUATION AND SELECTION

This section describes the evaluation process that will be used to determine which Proposal provides the optimal price-value that will be responsive to the NCEL's needs. The ability of the NCEL to evaluate a Responding Contractor's Proposal is dependent upon the completeness and proper submission of the Proposal. The failure of a Responding Contractor to provide information requested by this RFP, to submit the Proposal according to the required format, or to respond appropriately to a clarification request or demonstration request, may result in rejection of Responding Contractor's Proposal or reduction in scoring during the evaluation.

A. Evaluation Methodology

The NCEL will conduct a comprehensive, fair, and impartial evaluation of Proposals received in response to this RFP. In making a selection, the NCEL will be represented by the Evaluation Committee, as designated by the NCEL Executive Director, comprising of NCEL staff members. The NCEL reserves the right to make changes in the Committee's membership as necessary.

Scoring of the Technical Proposals will be by consensus of the Committee. The Pricing Proposals will be scored separately by the NCEL Finance Department.

B. Evaluation and Award Steps

The evaluation and award process will comprise all of the following:

PHASE I

1. Review of Phase I Proposals to assess compliance with Proposal submission requirements, including responsiveness to terms, conditions and requirements.
2. Detailed review by the Committee of the Phase I Contractor Capabilities Proposals relative to proposed functions, features, services, and references, using the requirements and criteria defined in this RFP.
3. Proposal clarifications, if applicable.
4. Evaluation and scoring of Phase I Contractor Capabilities Proposals.
5. Phase I Finalist selection will be based on scores of at least 70% of points available for Phase I.

PHASE II

6. Detailed review by the Committee of the Phase II Technical Proposals relative to proposed functions, features, services, and references, using the requirements and criteria defined in this RFP.

7. Evaluation of financial responsibility and stability based on financial statements provided.
8. Proposal clarifications, if applicable.
9. Onsite or video conference presentations.
10. Evaluation and scoring of Phase II Proposals and Presentations by the Committee.
11. Assessment and scoring of Pricing Proposals after finalization of Phase II Technical Scoring.
12. Compilation of the Phase I Technical score, Phase II Technical score, and Pricing score.
13. Ranking of Contractors based on final score to determine optional price-value.
14. Preparation and submission of a Final Report and Recommendation by the Evaluation Committee, to the Executive Director for review and acceptance of the Committee's recommendation to designate one or more Responding Contractor(s) as the Apparent Successful Contractor(s).
15. Review and Adoption of the Committee's Recommendation by the Commissioners.
16. Notice of Award to the Apparent Successful Contractor(s).
17. Negotiation of Contract (as needed).
Review and approval by the North Carolina State Attorney General's Office for contracts greater than \$15 million.
18. Contract execution to permit a potential transition period.

C. Information from Other Sources

The NCEL reserves the right to obtain from sources other than Responding Contractor, information concerning a Responding Contractor, Responding Contractor's offerings and capabilities, and Responding Contractor's performance, that the NCEL deems pertinent to this RFP and to consider such information in evaluating Responding Contractor's Proposal. This may include, but is not limited to, the Evaluation Committee engaging Responding Contractors and additional experts from outside the Committee to better inform the Committee's findings, as well as references from other lotteries and gaming jurisdictions (if applicable).

In addition, as provided in Section (4.1)(D)(4) of this RFP, references will be checked regarding Responding Contractor's past experience. The NCEL reserves the right to contact references as many times as is necessary and to contact as many references as is necessary, to obtain a complete understanding of Responding Contractor's performance and experience.

D. Evaluation and Selection Criteria

Proposals determined to comply with the requirements set forth in this RFP and submission requirements outlined in Section 4.1 and 4.2 of this RFP will be evaluated based on the following criteria:

The Evaluation Committee will review Contractor Capabilities Proposals for Phase I, and Technical and Pricing Proposals for finalists that move on to Phase II, as outlined in the RFP.

PHASE I - CREDENTIALS

CONTRACTOR CAPABILITIES PROPOSAL

1. Relevant Experience & Capabilities

The depth and relevance of overall experience, values and current practices of Responding Contractor's organization will be evaluated in relation to its ability to provide the services defined in this RFP. Specifically, the NCEL will look at related

branding, marketing, and advertising expertise demonstrated in the submitted case studies. Of particular interest is experience with gaming-related accounts or other mass market and high-volume consumer goods accounts reaching an audience similar to that of the NCEL. The Contractor will also be evaluated on specific capabilities, processes employed, and depth of industry knowledge as it relates to the scope of work outlined in this RFP.

2. **Management Philosophy and Organizational Structure** Responding Contractor will be evaluated on the type of systems and organizational structure in place to properly manage the account and deliver the end products in a timely manner and of the highest quality. Responding Contractor will also be evaluated based on perceived compatibility of Contractor values/mission/culture, as well as the quality of references.

Only those Proposals that meet the minimum qualifying score of 70% of the total number of points available in Phase I will advance to Phase II. Those Proposals not meeting this minimum qualifying score will not be considered further in this evaluation process.

PHASE II – TECHNICAL AND COST PROPOSALS

1. Technical Proposal

For those individuals identified to work on the NCEL account, their level of relevant experience and longevity with the Contractor will be evaluated as will the organization's approach to staff changes and training. Creative and Media assignments will be evaluated with respect to originality and clarity of strategic thinking, as well as quality of the executions. The NCEL is seeking responses that show innovation, creativity, and an understanding of the traditional NCEL business. The campaign(s) must also be designed to achieve the stated objectives of the assignment.

3. Financial Viability

Responding Contractor will be evaluated on the financial viability and stability of the Responding Contractor.

2. Cost Proposal

After the Technical proposal is scored, the Finance Department will open the Pricing Proposals and will conduct an evaluation of such Proposals. Every Phase II Responding Contractor shall prepare and submit a cost proposal as described in Section 4.2 of this RFP. In addition, Responding Contractors are encouraged to be creative in proposing an alternative compensation package. Scoring is based upon all proposed pricing models that will produce the best value to the NCEL over the term of the Contract.

3. Oral presentations

Oral presentations will be evaluated based upon factors, including the Responding Contractor's ability to establish a rapport with the Committee; quality, originality, clarity and completeness of presentation; capabilities and resources; and a corporate atmosphere consistent with NCEL's brand character.

- Finalists may not modify their original Proposal (including written assignments).
- Finalists may submit samples of creative materials, such as commercials, print, graphics, etc. which demonstrate the concepts presented in the written assignments.

- The Evaluation Committee desires to meet the senior advertising agency management team and those staff individuals who will be assigned to manage the NCEL advertising account on a daily basis.

4. Minority Business Participation

In addition to the above-referenced evaluation criteria, the NCEL shall also consider the Responding Contractor's responses to Section 6.7 pertaining to Minority Business Participation as part of the evaluation.

E. Final Composite Score and Determination of Award Process

Both Technical Scores and Pricing score will be combined to determine the final composite score for each Responding Contractor. The Evaluation Committee's recommendation for contract award will be made to the responsive and responsible Responding Contractor who achieves the highest composite score.

4.9 DISPUTE PROCEDURE

All claims and disputes, including but not limited to protests related to this RFP, the Procurement and the award of the Contract to the Successful Contractor shall be handled solely and exclusively under and in accordance with the North Carolina Education Lottery Dispute Resolution Procedures (the "**Dispute Procedures**"), as adopted and/or amended from time to time by the NCEL Commission (<https://www.nclottery.com/Content/Docs/6.02%20Vendor%20Dispute%20Resolution.pdf>)

. Any Potential Contractor that submits a Proposal hereby expressly acknowledges and agrees that: (a) the Dispute Procedures represent the exclusive procedure and the exclusive forum for binding resolution of all claims, disputes, complaints and Dispute Resolution Requests of any kind relating in any way to any RFP, Procurement, Contract, offer, quote, Proposal or agreement entered into by the NCEL; (b) it is estopped from objecting to any court, agency or other entity as to the Dispute Procedures being such sole and exclusive forum for binding resolution; and (c) it agrees to be completely, solely and irrevocably bound by such Dispute Procedures. In addition, each Potential Contractor submitting a Proposal irrevocably waives any claim it might have had to protest or object to this RFP or its contents.

4.10 NEGOTIATION AND EXECUTION OF CONTRACT

A Successful Contractor under this RFP shall negotiate and execute a Contract containing such terms and conditions as shall be satisfactory to the NCEL. The occurrence of negotiations with any Contractor(s) conveys no right or status on such Contractor(s). By submitting a Proposal, each Contractor acknowledges and agrees that the NCEL may negotiate with one or more Contractors, under such circumstances, at such times and in such a manner as it determines to be in the best interest of the NCEL.

4.11 NONEXCLUSIVE RIGHTS

Nothing in this RFP or any Contract resulting from this RFP shall preclude the NCEL from purchasing other advertising, public relations, creative services or related services for its use from other vendors, individuals or entities as the NCEL, in its sole discretion, shall determine.

PART V – STUFF THE LAWYERS MADE US INCLUDE

The NCEL intends to obtain what it believes to be the best creative advertising solutions, at the optimal price-value that will be responsive to the NCEL's needs. The NCEL intends to execute one Contract as a result of this procurement under this RFP (the "**Procurement**") with an initial term from date of execution of the Contract to June 30, 2024, and three (3) one-year renewal terms; provided, however, nothing obligates the NCEL to sign any Contracts, or only one

Contract, or to allow the Auto-Renewal, and **the NCEL may do whatever it determines in its sole discretion to be in the best interests of the NCEL and the State of North Carolina.** It is the NCEL's desire to have a Contractor who is able to provide (through itself or its subcontractors) full advertising services. All Subcontractors must fully acquaint themselves with the NCEL's needs and requirements and obtain all necessary information and understandings to be able to submit responsive and effective Proposals.

All Proposals and any Contract are automatically subject to the requirements of, and must comply with, the North Carolina State Lottery Act (the "**Act**"), **in particular NCGS §§18C-114(a)(2) and 18C-130(e) establishing NCEL standards for advertising**, and the regulations, policies and procedures of the NCEL as they may be adopted or amended from time to time (collectively, the "**Regulations, Policies and Procedures**"). Copies of these documents may be obtained either from the NCEL or through a link on the NCEL's website, www.nclottery.com (the "**Website**").

5.1 PROPOSAL SUBJECT TO PUBLIC RECORDS LAWS

All Proposals, data, materials and documentation originated, prepared and submitted to the NCEL pursuant to this RFP shall belong exclusively to the NCEL and may become available to the public in accordance with the North Carolina Public Records Act as provided in N.C.G.S. §132-1 et. seq. (the "**Public Records Laws**"). The NCEL will make reasonable attempts to maintain, in accordance with the Public Records Laws and the Act and all applicable laws of its domicile, the State of North Carolina and the United States of America (all of the forgoing being collectively defined as, the "**Applicable Laws**"), the confidentiality of any trade secrets or confidential information that meets the requirements of N.C.G.S. §132-1.2 of the Public Records Laws (collectively, "**Confidential Information**") if such Contractors properly and conspicuously identify the particular data or other materials which are Confidential Information in accordance with the Public Records Laws.

5.2 REJECTION OF PROPOSALS AND CANCELLATION OF RFP; REISSUE OF RFP

Issuance of this RFP does not constitute a commitment on the part of the NCEL to award or execute a Contract. **The NCEL retains the right, in its sole discretion, at any time to reject any or all Proposals, in whole or in part, and to cancel or cancel and reissue this RFP, before or after receipt and opening of Proposals in response thereto, or take any other actions, if it considers it to be in the best interests of the NCEL.**

5.3 PROPOSAL VALIDITY; INCURRED EXPENSES

All **Phase II** Proposals shall remain valid for one hundred eighty (180) calendar days (the "**Proposal Offer Period**") after 4:00 p.m. Eastern Time ("**ET**") August 19, 2021 (the "**Proposal Deadline**"). A Proposal constitutes an offer by the Contractor to contract with the NCEL in accordance with the terms of the Proposal and this RFP, which offer is irrevocable for the duration of the Proposal Offer Period and may not be withdrawn or amended during the Proposal Offer Period without the written consent of the NCEL. The NCEL shall not be liable or responsible for any costs, expenses, reimbursements or fees incurred by a Contractor in preparing and submitting a Proposal or in performing any other action in connection with this Procurement.

5.4 RIGHT TO USE INFORMATION IN THE PROPOSAL

Upon submission, all materials submitted to the NCEL by Contractors shall become the NCEL's property and may be used as the NCEL deems appropriate for the purpose of selecting the Successful Contractor. Any original creative presented by the Responding Contractors, as requested in Phase II, may be marked appropriately as proprietary by Responding Contractors, and the NCEL will ensure that appropriate compensation is paid to the respective Contractor,

even if such Contractor is not selected as the Successful Contractor, if the NCEL intends to utilize any portion of the original creative.

5.5 GOVERNING LAW

This Procurement and any Contract resulting from this RFP shall be governed by and construed in accordance with the laws of the State of North Carolina, including the Lottery Act. Any and all claims or disputes arising under or in connection with this RFP or the Contract shall be exclusively governed by the Dispute Procedures, as they may be adopted or amended from time to time by the Commission.

5.6 CONTRACT ELEMENTS

The terms of this RFP, as may be amended by the NCEL from time to time, and the Proposal of the Successful Contractor will be incorporated into and form a part of the Contract, as will the Questions and Answers. In the event of any conflict or contradiction between or among these documents, the documents shall control in the following order of precedence: the Contract, this RFP and any amendments thereto as well as Answers to the Questions, and finally the Proposal of the Successful Contractor, all of which must comply with the Lottery Act. The NCEL reserves the right to negotiate the form of contract and offer such Contract to the Successful Contractor as the NCEL determines is in the best interests of the NCEL.

The currently proposed draft Contract is attached to this RFP as Exhibit B (the "Proposed Contract"). The NCEL may modify the language of the Proposed Contract prior to the execution of the Contract with the Successful Contractor, which may, in the sole discretion of the NCEL, include any requested changes by the Successful Contractor.

PART VI – ADDITIONAL PHASE II FINALIST COMMITMENTS

6.1 VENDOR COMMITMENT

The integrity of the NCEL is essential. The NCEL must maintain control over all functions and be assured that they are performed to provide the greatest long-term benefit to the State of North Carolina, the greatest integrity for the NCEL and the best service for the public, all in a manner consistent with the dignity of the State of North Carolina. Responding Contractor must sign and submit the Contractor Certification Form included as **Attachment A** and made a part hereof. The form must be signed by a person duly authorized to legally bind such Responding Contractor.

6.2 VENDOR CONTACT PERSON

Responding Contractor shall provide the name, address, telephone number, e-mail address and facsimile number of the person to provide notification or contact concerning questions regarding its Proposal.

6.3 BACKGROUND INFORMATION AND BOND REQUIREMENT (PHASE II FINALISTS ONLY)

The NCEL will investigate, at a minimum, the financial responsibility and security of any Responding Contractor that submits a Proposal for Phase II evaluation. Responding Contractor must complete and submit as part of its Proposal the Background Disclosure Form, included as **Attachment B** and made a part hereof. Responding Contractors must also fully comply and cooperate with all investigations conducted under N.C.G.S. §18C-151(c) and §18C- 152 and other applicable Sections of the Act or Applicable Laws.

Responding Contractor must complete and submit, as part of its Phase II Proposal, for itself and all of the individuals listed in this paragraph, the Authorization for Contractor Investigation Form, included as **Attachment C** and made a part hereof, and Authorization for Individual Investigation, included as **Attachment D** and made a part hereof, in both cases to allow the NCEL access to the criminal, civil, and financial history of Responding Contractor and its employees assigned to this project. Such forms shall authorize access to the backgrounds of the following persons, as well as Responding Contractor, as applicable: (i) if the Responding Contractor is a corporation (or any business entity other than a partnership or joint venture), the officers, directors and each person who owns five percent (5%) or more of the equity interests in any member of a Responding Contractor Team; (ii) if Responding Contractor is a partnership or joint venture, all of the general partners, limited partners or joint ventures; and (iii) for any Responding Contractor, any person who can exercise control or authority, or both, on behalf of Responding Contractor.

Contemporaneously with the delivery of a Phase II Finalist Proposal, Responding Contractor must post a bond or letter of credit from a bank or credit provider acceptable to the NCEL in the amount of not less than five percent (5%) of the Cost Proposal. The calculation of the amount of the bond or letter of credit (5%) must be substantiated and explained in the Contractor's Proposal.

Responding Contractor must also submit a check or other similar financial instrument of immediately available funds (the "**Record Check Fee**") to the NCEL to cover the cost of criminal record check conducted under N.C.G.S. §114-19-6 pursuant to §18C-151(a)(3) of the Act. The Record Check Fee that must be submitted by EACH Responding Contractor with their Proposal in the amount equal to the sum of:

- i) One thousand dollars (\$1,000) (the "**Corporate Search Fee**") for Responding Contractor and any parent company of Responding Contractor; plus
- ii) Two hundred fifty dollars (\$250) (the "**Individual Search Fee**") for each officer and director of Responding Contractor and for each shareholder of Responding Contractor who owns an interest of five percent (5%) or more in Responding Contractor.

In addition, contemporaneously with the execution of the Contract, **only the Successful Contractor** shall provide a performance bond or letter of credit from a bank or credit provider acceptable to the NCEL and in a form reasonably acceptable to the NCEL (the "**Performance Bond**") in the amount not less than five hundred thousand dollars (\$500,000) and a payment bond (the "**Payment Bond**") or letter of credit in an amount not less than five hundred thousand dollars (\$500,000).

The NCEL intends to conduct full background checks only on the apparent Successful Contractor. After the Contract is awarded, the NCEL will return all bonds and fees to the nonselected Contractor(s).

6.4 DISCLOSURE OF LITIGATION AND LEGAL MATTERS

A Responding Contractor should include in its Proposal a disclosure of any pending or overtly threatened civil or criminal litigation or indictment involving such Responding Contractor. Responding Contractor must also disclose any civil or criminal litigation or indictment involving any of its subcontractors participating in its Proposal. Specifically, Responding Contractor must disclose, on behalf of itself and each of the persons or entities described in N.C.G.S. §18C-152(b), all of the items and information described in N.C.G.S. §18C-152(c). This disclosure

requirement is a continuing obligation, and any litigation commenced after a Responding Contractor has submitted a Proposal under this RFP must be disclosed to the NCEL in writing within five (5) days after it is filed.

6.5 FINANCIAL SOUNDNESS

Under the Act, a Contractor must provide adequate information to permit an evaluation of its financial responsibility, stability and its capabilities to undertake and complete satisfactorily any Contract awarded and, executed pursuant to this RFP. In that regard, a Responding Contractor must submit a copy of its last three (3) years' financial statements that have been audited by an independent public accounting firm, or if audited financial statements are not regularly produced, the NCEL will accept financial statements that are reviewed (rather than audited) provided that the financial statements are certified as being accurate by an executive officer of Responding Contractor.

6.6 COMMITMENT TO NONDISCRIMINATION AND MINORITY PARTICIPATION

The Act has specific references to minority participation in the formation and operation of the NCEL and requires compliance with Article 8 Chapter 143 as applicable. The NCEL strongly encourages participation by, and involvement of, minority-owned businesses. In order to achieve or exceed the goals established by the Act and Applicable Laws, and to provide equal business opportunities in the procurement process, the NCEL encourages Responding Contractors to contract with minority-owned businesses whenever and wherever possible. Given the NCEL policy regarding participation of minority businesses and the express provisions of the Act, a Responding Contractor shall carefully consider the inclusion, of, and shall commit not to discriminate against, minority businesses in the development of its Proposal and provisions of its Services.

6.7 MINORITY BUSINESSES PARTICIPATION

Each Responding Contractor should describe in its Proposal what actions it currently takes in the areas of: (a) utilizing minority-owned businesses; (b) encouraging full participation of qualified, capable, competent and competitive minority-owned businesses; (c) assisting minority businesses or minority persons; and (d) any plans to continue to provide interested minority businesses with adequate information about any subcontracting opportunities. Proposals should describe the following:

- What minority businesses Responding Contractor uses or intends to use.
- Plan to continue to provide interested minority businesses with adequate information about any subcontracting opportunities available in connection the NCEL.
- Plan to continue to provide equal opportunity to minorities when replacing or adding subcontractors and suppliers.
- Efforts that have been undertaken to recruit qualified minority employees named in its Proposal and efforts that will be undertaken to recruit minority employees for positions that are not yet filled, including outreach to educational institutions.
- The total number of full-time positions for this project that are or will be held by minorities, and the number and percentage of the above that are or will be residents of the State of North Carolina.
- The percentage and number of supervisory positions that will be filled by minority employees.

To facilitate that process, each Responding Contractor should complete and include in its Proposal either Affidavits A and B, or Affidavit C (Equal Business Opportunity Forms). Any additional and supplemental information in this area is also highly encouraged. **If Responding Contractor is a minority business vendor (certified or otherwise), Responding Contractor is still required to submit the requested information, excluding its own business.**

6.8 NON-DISCRIMINATION

Each Responding Contractor should describe in its Proposal what actions it currently takes, in the areas of: (a) ensuring a workplace free of all discrimination on the basis of race, color, religion, national origin, age, sex, sexual orientation, disability or otherwise; (b) ensuring a diverse workforce and providing equal opportunities; and (c) ensuring and maintaining a work environment free of harassment, intimidation and coercion.

COST PROPOSAL

(MUST BE IN A SEPARATELY SEALED ENVELOPE FROM THE TECHNICAL PROPOSAL)

 (Responding Contractor's Name)
Creative, Advertising and Marketing Communication Services

Responding Contractors are required to submit an annual fee for professional services. The annual fee must be stated for years one, two, and three. This annual fee for professional services (retainer) will be paid on a monthly basis to the Successful Contractor. Responding Contractors are reminded that the cost quotation should cover all of the services and other items covered and required by this RFP. Contractors are encouraged to submit a cost proposal that will provide best value solutions to the NCEL in order to maximize the NCEL's transfer of funds to North Carolina educational programs.

Contract Period	Annual Cost	Per Month
1st Year (October 1, 2021 - June 30, 2022)	\$	\$
2nd Year (July 1, 2022 - June 30, 2023)	\$	\$
3rd Year (July 1, 2023 - June 30, 2024)	\$	\$

Signed by: _____

Title: _____

Date: _____

COST PROPOSAL

(MUST BE IN A SEPARATELY SEALED ENVELOPE FROM THE TECHNICAL PROPOSAL)

(Responding Contractor's Name)

Creative, Advertising and Marketing Communication OPTIONAL Services

Responding Contractor submits the following compensation provisions for Optional Services:

Hourly Rates	
<i>Marketing Events</i>	<i>Hourly Rate</i>
Community	
Sports	
<i>Promotions</i>	<i>Hourly Rate</i>
Retailer	
Statewide	
<i>Public Relations</i>	<i>Hourly Rate</i>
<i>Research</i>	<i>Hourly Rate</i>
<i>Retail Design</i>	<i>Hourly Rate</i>
<i>Direct Marketing</i>	<i>Hourly Rate</i>
<i>Website Development</i>	<i>Hourly Rate</i>
Content Design	
Other	
<i>Logo Design/Brand Work</i>	<i>Hourly Rate</i>

Signed by: _____

Title: _____

Date: _____

ATTACHMENT A

CONTRACTOR CERTIFICATION

PROFESSIONAL ADVERTISING, MEDIA AND RELATED SERVICES

I do hereby certify as follows:

1. The initial prices and other terms and provisions included in the Proposal submitted by _____ (the “Responding Contractor”) are accurate and binding for 180 days from the Proposal due date (the “Proposal Offer Period”);
2. All charges are, to the best of my knowledge, accurate and complete;
3. Responding Contractor acknowledges and agrees that this Proposal will be considered valid and irrevocable for the Proposal Offer Period and, if an award is not made within the Proposal Offer period or if a Contract with the Successful Contractor is for any reason not executed within the Proposal Offer Period, it shall be incumbent upon the Responding Contractor to notify the designated contact person identified in Section 2.2 of the RFP in writing if it does not want its Proposal to be further considered beyond the Proposal Offer Period (i.e., in the event of a breach or termination, the NCEL may decide to return to the remaining Contractors’ Proposals). Failure on the part of Responding Contractor to notify the designated contact person identified in Section 2.2 of this RFP will mean that its Proposal remains valid even after the Proposal Offer Period;
4. The cost and other terms and provisions contained in the Proposal accurately reflect Responding Contractor’s total proposed cost, including any applicable discounts, and Responding Contractor would deliver the services and related items for that amount and according to those terms and provisions if the NCEL wanted to accept the prices and other terms and provisions described in its Proposal without negotiation;
5. All inquiries to the NCEL and other pre-Proposal review and evaluation efforts have been completed and that no extra costs or payments to any entity, including this Responding Contractor, will be allowed for any miscalculation, deficiency, oversight and failure to make suggestions regarding possible additional needs for desired features, or any other difference in cost if later discovered;
6. By submission of this Proposal, Responding Contractor agrees to fully comply with all requirements of the RFP, and its separate parts, and any deviation noted in Responding Contractor’s submission may be the basis for rejection of its Proposal by the NCEL without recourse;
7. Responding Contractor has read and understands the Act and all of the requirements contained in the RFP and any amendments thereto, the responses to written questions submitted by Responding Contractors and its Proposal, and agrees to be bound by all the terms and conditions contained in each of these documents, without exception;

8. Responding Contractor has taken appropriate steps to completely and fully familiarize itself with the requirements of the RFP in order to render full performance under any resulting relationship between the NCEL and Responding Contractor; and

9. This Proposal is made without prior understanding, agreement, or connection with any corporation, firm or person submitting a Proposal for the services and is in all respects fair and without collusion or fraud.

(Signature of Authorized Representative)

(Print Name)

(Title)

(Date)

ATTACHMENT B

BACKGROUND DISCLOSURE FORM

For any subcontractor that comprises at least twenty-five (25%) of the cost of the Responding Contractor's Proposal (a "25% Subcontractor"), disclose all the same information for each 25% Subcontractor as if each 25% Subcontractor were itself the Responding Contractor. In addition, disclose all of the same information for each member of a joint venture, a strategic partnership or a prime contractor team as if each such joint venturer, strategic partner or member of a prime contractor team were itself the Responding Contractor. (Responding Contractor and all members of a joint venture, a strategic partnership or a prime contractor team are sometimes herein referred to as "Responding Contractor Team.")

[These pages may be copied and used as needed]

PLEASE PROVIDE THE FOLLOWING INFORMATION:

1. Name of Business:
2. Type of legal entity and the state under whose laws the business entity is organized:
3. EIN:
4. List the name, address, area code and telephone number, and social security number of the Responding Contractor's officers, directors and each stockholder if the Responding Contractor is a corporation (in the case of a publicly-traded corporation, only those stockholders known to the corporation to own beneficially five percent (5%) or more of such corporation's securities), as well as the same information for a parent corporation of such Responding Contractor corporation if the parent corporation's shares are publicly traded; if the Responding Contractor is a trust, the trustee and all persons entitled to receive income or benefits from the trust; if the Responding Contractor is an association, the member, officers and directors; if the Responding Contractor is a partnership or joint venture, all general partners, limited partners or joint venturers:
 - a. Name:
Relationship to Responding Contractor:
Address:
Telephone number, including area code:
Social Security number:
 - b. Name:
Relationship to Responding Contractor:
Address:

Telephone number, including area code:

Social Security number:

c. Name:

Relationship to Responding Contractor:

Address:

Telephone number, including area code:

Social Security number:

5. Disclose all the states and jurisdictions (domestic and foreign) in which any member of the Responding Contractor Team does business and the nature of the business for each such state or jurisdiction:

6. Disclose all the states and jurisdictions (domestic and foreign) in which any member of the Responding Contractor Team has contracts to supply gaming goods or services, including, but not limited to, lottery goods and services, and the nature of the good or services involved for each such state or jurisdiction:

7. List all states and jurisdictions (domestic and foreign) in which any member of the Responding Contractor Team has applied for, sought renewal of, has received, has been denied, has pending, or has had revoked a lottery or gaming license or lottery contract of any kind or has had fines or penalties assessed to their or its license, contract or operation and the disposition of such in each such state or jurisdiction. Include all facts or circumstances underlying the revocation or non-renewal of any lottery or gaming license or contract or any lottery or gaming license or application that has been either denied or is pending and has remained pending for more than six (6) months:

a. State:

Type of license:

Status of license:

Fines or penalties:

Circumstances:

b. State:

Type of license:

Status of license:

Fines or penalties:

Circumstances:

c. State:

Type of license:

Status of license:

Fines or penalties:

Circumstances:

8. For each member of the Responding Contractor Team, if applicable, list the details of any finding or pleas, conviction or adjudication of guilt in a state or federal court, or in another jurisdiction, for any felony or any other criminal offense other than a traffic violation, including, but not limited to, felonies related to the security or integrity of a lottery by:

Charge:

Date of proceeding:

Custodian of records concerning this proceeding:

Outcome of proceeding:

Charge:

Date of proceeding:

Custodian of records concerning this proceeding:

Outcome of proceeding:

9. For each member of the Responding Contractor Team, if applicable, list the details of any finding or plea, conviction or adjudication of guilt in a state or federal court, or in another jurisdiction, of any involving gambling, theft, computer offenses, forgery, perjury, dishonesty or for unlawfully selling or providing a product or substance to a minor by:

Charge:

Date of proceeding:

Custodian or records concerning this proceeding:

Outcome of proceeding:

Charge:

Date of proceeding:

Custodian or records concerning this proceeding:

Outcome of proceeding:

10. For each member of the Responding Contractor Team, if applicable, list the details of any bankruptcy, insolvency, reorganization or corporate or individual purchase or takeover of another business, including bonded indebtedness, or any pending litigation:
 - a. Filing or action:
Date of filing or action:
Court of filing or action:
Date of discharge if bankruptcy:
Pending litigation:
 - b. Filing or action:
Date of filing or action:
Court of filing or action:
Date of discharge if bankruptcy:
Pending litigation:
11. List the business entities that are a part of the Responding Contractor Team, and list the Fiscal Years for each team member. Complete an Authorization For Contractor Investigation for each (see Attachment C.)
12. List all the individuals constituting the Responding Contractor Team who will work on the NCEL Contract. Complete an Authorization For Individual Investigation for each (see Attachment D).
13. Does the Responding Contractor Team or any individual member thereof have an ownership interest in any entity that has supplied consultation services under contract to the NCEL regarding this RFP? If yes, please provide details.
14. Does any "public officer" or employee of such public officer have an ownership interest of five percent (5%) or more in any member of the Responding Contractor Team? If yes, please provide details.
15. List any conflict of interest with the products, promotions and goals contemplated by the NCEL that could result from other projects in which the Responding Contractor Team or any of the staff members designated to work on the project are involved. Failure to disclose any such conflict may be cause for Contract termination or disqualification of the Proposal.
16. List all lobbyists and consultants working on behalf of the Responding Contractor Team in connection with this Proposal or any subsequent Contract.

Attachment B Certification

I, _____, hereby certify that I am duly authorized to act on behalf of the Responding Contractor and Responding Contractor Team. In that capacity, I hereby certify that the Responding Contractor and all members of the Responding Contractor Team have filed appropriate tax returns as provided by the laws of the State of North Carolina. I further warrant that the information contained in this Background Disclosure Form is true and complete, and acknowledge that a finding that it is not true or complete may result in a cancellation of the Contract.

I further certify that the Responding Contractor and each member of the Responding Contractor Team recognizes and acknowledges that there are certain limitations on their activities, now and in the future, including, but not limited to, limitation on certain political contributions, limitation of the ability to submit Proposals, in response to subsequent request for Proposals issued by the NCEL, limitation on the ability to purchase lottery tickets. The restrictions on the ability to purchase lottery tickets and entering into contracts or other arrangements apply to the employees of the Responding Contractor and the members of the Responding Contractor Team as well as the members of all such employees' households, and the Responding Contractor and each member of the Responding Contractor Team will enforce such restrictions upon its employees and subcontractors.

(Signature of Authorized Representative)

(Print Name)

(Title)

(Date)

ATTACHMENT C

AUTHORIZATION FOR CONTRACTOR INVESTIGATION

I, _____, hereby authorize the North Carolina Education Lottery or its designee to conduct a Contractor background investigation (N.C.G.S. §18C-152), including the civil, criminal and financial credit history of _____. I hereby release all organizations, individuals, agencies, and other employees and agents from any liability that may result from their furnishing such information and authorize all organizations, individuals, agencies and their employees and agents contacted by the North Carolina Education Lottery or its designee to provide such information. A photocopy of this release will be valid as an original thereof, even though said photocopy does not contain an original writing of my signature.

(Signature)

(Print Name)

(Title)

(Date)

ATTACHMENT D

ACKNOWLEDGMENT AND AUTHORIZATION FOR BACKGROUND CHECK

I hereby authorize the obtaining of the “consumer reports” and /or “investigation consumer reports” by the NCEL at any time after receipt of this authorization and throughout the term of my employer’s contract with the NCEL, if applicable. To this end, I hereby authorize, without reservation, any law enforcement agency, administrator, state or federal agency, institution, school or university (public or private), information service bureau, employer, or insurance company to furnish any and all background information requested by **FirstPoint, Inc., P.O. Box 26140 Greensboro, NC 27402, 800-449-0245, www.firstpointresources.com**, the NCEL, and/or the NCEL’s designee. I agree that a facsimile (“fax”), electronic or photographic copy of this authorization shall be as valid as the original. **Do not disclose any sealed or expunged records.**

Signature _____ Date _____

Please Print Clearly

Name (First, Middle, Last) _____ Date of Birth (mo/day/yr) _____

Maiden Name / Other Name (First, Middle, Last) _____

Date used (yr) from _____ to _____. Driver’s License

_____ State _____

Social Security # _____ Male/Female (circle one)

Employer _____ Position _____

Current and previous address(es). Provide all addresses for previous 7 years

Street _____ from _____

City, State,

Zip _____ to _____

Street _____ from _____

City, State,

Zip _____ to _____

Street _____ from _____

City, State,

Zip _____ to _____

California, Minnesota & Oklahoma residents only: I want to receive a free copy of any Consumer Report, Investigative Consumer Report or Credit Report on me that is requested. [yes/no]

Notary:

State of _____, County of _____

Subscribed and sworn to before me this _____ day of _____ 20____.

Notary Public _____

My commission expires _____

[SEAL]

ATTACHMENT E

Equal Business Opportunity Forms

Affidavit A -- Identification of Minority Business Participation

State of _____

County of _____

Affidavit of _____ (Name of Responding Contractor)

I do hereby certify that on this Proposal, we will subcontract the following minority business enterprises as vendors, suppliers or providers of professional services.

Firm Name, Address and Phone #	Work type	*Minority Category

*Minority categories: Black, African American (**B**), Hispanic (**H**), Asian American (**A**) American Indian (**I**), Female (**F**), Socially and Economically Disadvantaged (**D**)

The total value of minority business contracting will be (\$) _____.

The undersigned hereby certifies that they have read the terms of the minority business commitment and are authorized to bind the Responding Contractor to the commitment herein set forth.

(Signature of Authorized Representative)

(Print Name)

(Title)

(Date)

NOTARY:

State of _____, County of _____

Subscribed and sworn to before me this _____ day of _____ 20__.

Notary Public _____

My commission expires _____

[SEAL]

Affidavit B- Listing of Good Faith Efforts

State of _____

County of _____

Affidavit of _____ (Name of Responding Contractor)

I have made a good faith effort to comply under the following areas checked:

Responding Contractors must earn at least 50 points from the good faith efforts listed for their Proposal to be considered responsive.

- 1 – (10 pts)** Contacted minority businesses that reasonably could have been expected to submit a quote and that were known to the Contractor, or available on State or local government maintained lists, at least 10 days before the Proposal date and notified them of the nature and scope of the work to be performed.
- 2 --(10 pts)** Made the construction plans, specifications and requirements available for review by prospective minority businesses, or providing these documents to them at least 10 days before the Proposals are due.
- 3 – (15 pts)** Divided or combined elements of work into economically feasible units to facilitate minority participation.
- 4 – (10 pts)** Worked with minority trade, community, or contractor organizations identified by the Office of Historically Underutilized Businesses and included in the Proposal documents that provide assistance in recruitment of minority businesses.
- 5 – (10 pts)** Attended pre-Proposal meetings scheduled by the NCEL.
- 6 – (20 pts)** Provided assistance in getting required bonding or insurance or provided alternatives to bonding or insurance for subcontractors.
- 7 – (15 pts)** Negotiated in good faith with interested minority businesses and did not reject them as unqualified without sound reasons based on their capabilities. (Any rejection of a minority business based on lack of qualification should have the reasons documented in writing.)
- 8 – (25 pts)** Provided assistance to an otherwise qualified minority business in need of equipment, loan capital, lines of credit, or joint pay agreements to secure loans, supplies, or letters of credit, including waiving credit that is ordinarily required. Assisted minority businesses in obtaining the same unit pricing with the Contractor's suppliers in order to help minority businesses in establishing credit.
- 9 – (20 pts)** Negotiated joint venture and partnership arrangements with minority businesses in order to increase opportunities for minority business participation on a public construction or repair project when possible.

- 10 - (20 pts)** Provided quick pay agreements and policies to enable minority contractors and suppliers to meet cash-flow demands.

The undersigned, if declared to be the Successful Contractor, will enter into a formal agreement with the firms listed in the Identification of Minority Business Participation schedule conditional upon scope of Contract to be executed with the NCEL. Substitution of contractors must be in accordance with N.C.G.S. §143-128.2(d). Failure to abide by this statutory provision will constitute a breach of the Contract.

The undersigned hereby certifies that they have read the terms of the minority business commitment and are authorized to bind the Contractor to the commitment herein set forth.

 (Signature of Authorized Representative)

 (Print Name)

 (Title)

 (Date)

NOTARY:

State of _____, County of _____

Subscribed and sworn to before me this _____ day of _____ 20__.

Notary Public _____

My commission expires _____

[SEAL]

Affidavit C-- Intent to Perform Contract with Own Workforce

State of _____

County of _____

Affidavit of _____ (Name of Responding Contractor)

I hereby certify that it is our intent to perform 100% of the work required for the NCEL contract for Professional Advertising, Media and Related Services.

In making this certification, the Responding Contractor states that the Responding Contractor does not customarily subcontract elements of this type project, and normally performs and has the capability to perform and will perform all elements of the work on this project with its own current work forces; and

The Responding Contractor agrees to provide any additional information or documentation requested by the NCEL in support of the above statement.

The undersigned hereby certifies that they have read this certification and are authorized to bind the Responding Contractor to the commitments herein contained.

(Signature of Authorized Representative)

(Print Name)

(Title)

(Date)

NOTARY:

State of _____, County of _____

Subscribed and sworn to before me this _____ day of _____ 20__.

Notary Public _____

My commission expires _____

[SEAL]

ATTACHMENT F

NCEL / Monthly Scratch-Off Launch Job #: TBD

WHAT ARE WE TRYING TO ACHIEVE

Business objective and details of what it is we are trying to accomplish

Background –

This month the NCEL is **launching four, exciting new scratch-off games**. Quite often scratch-offs are connected by a shared theme or playstyle and when the lottery launches these types of games, we communicate the unique feature(s) of the scratch-off family and why players would want to try them. However, this month, the NCEL will launch four scratch-offs that do not share a common theme or playstyle – giving us the opportunity to create a campaign that focuses on what motivates scratch-off play.

Lottery players play to win, so clearly the chance to win is a huge motivation. And players believe the most likely time to win is when “all” the new prizes are waiting to be won. For this reason, the introduction of new scratch-offs on the first Tuesday of each month fills players with optimism. Brand new games, loaded with brand new prizes, what’s not to love?

New scratch-offs and their new prizes feel like a fresh opportunity. They ignite players’ imaginations with thoughts of what could be. With new winning possibilities available, players are eager to seize the moment and try their luck.

Let’s focus on the world of winning possibilities that new scratch-offs offer. With new games and loads of new prizes available, it’s easy to imagine a winning experience could be just a scratch away.

Campaign elements for the launch should be designed, wherever possible, so that the creative can be updated and used in the future.

See *Additional Considerations*.

This month’s games:

- **Fast \$50** (\$1) with a top prize of \$5,000
- **Fat Wallet** (\$2) with a top prize of \$20,000
- **Mega Bucks** (\$5) with a top prize of \$200,000
- **100X The Cash** (\$20) with a top prize of \$2,000,000

How to Play – Scratch-Off games are simple scratch and match games – understanding how to play is easy.

Goal –

- Generate awareness for this month’s new scratch-offs with over \$160 million in total prizes.
- Encourage trial for new or lapsed players
- Maintain a strong NCEL brand

<p>WHO ARE WE TALKING TO <i>The audience we are communicating with</i></p>	<p>Engaged Explorers – Skew in their early 40s. Enjoy trying what is new and sharing those experiences with their friends. They use lottery as entertainment to feel alive and live in the moment.</p> <p>Informed Connectors – Skew in their early 30’s. Are on the lookout to stay in-the-know. They are self-described risk takers always seeking adventure. Informed Connectors are social butterflies and want the guidance of their peers when shopping to ensure they make a good purchase.</p>
--	--

<p>WHAT DO WE WANT OUR AUDIENCE TO THINK What should the audience think about this particular game or ticket launch?</p>	<p>“Look at all the prizes packed into these new scratch-off games. They do feel like they could really be my chance at a win.”</p>
<p>WHY SHOULD OUR AUDIENCE BELIEVE US Why should the audience believe us?</p>	<ul style="list-style-type: none"> • Over \$160 Million in total prizes • Large \$2,000,000 top prize on the \$20 scratch-off • ISO Experience/Playstyle <ul style="list-style-type: none"> ○ Key number match playstyle ○ \$20 with multiplier feature and bonus win box • Variety of price points
<p>MAIN TAKEAWAY What is the one thing we want people to know?</p>	<p>With this month’s new scratch-offs and \$160 million in total prizes, my chance at a win could be just a scratch away.</p>

<p>TONE</p>	<p>Optimistic, Playful, Fresh, Approachable</p>
<p>COMMS HIEARCHY</p>	<p>TV and Radio</p> <ol style="list-style-type: none"> 1. Over \$160 million in total prizes 2. New scratch-offs 3. Tickets – see tickets/ticket art <p>POS</p> <ol style="list-style-type: none"> 4. Over \$160 million in total prizes 5. New scratch-offs; arranged to see the individual scratch-offs’ top prizes 6. 2nd Chance Element – \$20 ticket eligible second-chance drawing by entering ticket number online.
<p>MANDATORIES What are the required must haves?</p>	<p>TV MUST BE 18 TO PLAY. Approximate overall odds of winning, including breakeven prizes, range from 1 in 3.35 to 4.81. Approximate odds to win the top prizes range from 1 in 1,020,000 to 1,260,000. \$2,000,000 annuity prize with lump sum cash value of \$1,200,000. Problem Gambling Helpline:</p>

	<p>877-718-5543.</p> <p><u>POS</u> MUST BE 18 TO PLAY. Approximate overall odds of winning, including breakeven prizes, range from 1 in 3.35 to 4.81. Approximate odds to win the top prizes range from 1 in 1,020,000 to 1,260,000. \$2,000,000 annuity prize with lump sum cash value of \$1,200,000. Problem Gambling Helpline: 877-718-5543.</p> <p><u>Radio</u> MUST BE 18 TO PLAY. Approximate overall odds of winning range from 1 in 3.35 to 4.81. Problem Gambling Helpline: 877-718-5543.</p> <p><u>Social and Digital /Ads should link to website for full legal</u> MUST BE 18 TO PLAY. Problem Gambling Helpline: 877-718-5543.</p>								
<p>DELIVERABLES What assets do we need to deliver?</p>	<p>:30 TV :15 Video for YouTube and/or pre-roll (Potentially a cutdown of the :30 video) :30 Radio for terrestrial and streaming Live radio reads Pandora added value banner (300 X 250) Social Extensions for Facebook, Instagram & Twitter –</p> <ul style="list-style-type: none"> • Consider ways to make the launch feel bigger and engaging to lottery players <p>Digital – will cover standard and/or rich media across six (6) standard sizes: 300x250, 320x50, 728x90, 300x50, 300x600, 970x250</p> <p>POS (dimensions and specs provided separately.)</p> <ul style="list-style-type: none"> • Poster displayed at playcenter • Dispenser Topper displayed at the scratch-off point of purchase • Pole sign displayed outside of retail establishment • Window Cling typically displayed on store front (glass) 								
<p>ADDITIONAL CONSIDERATIONS Creative watch outs</p>	<p>Players feel lucky when new games go on sale, but they are not actually more likely to win. That is to say, the odds of winning are not different or better. Tapping into the optimism that new games bring is acceptable. Promising or guaranteeing a win is not. Showing someone winning is acceptable. Showing winning as the likely outcome is not.</p> <p>Examples:</p> <table border="0" style="width: 100%;"> <tr> <td style="width: 50%;">Acceptable statement –</td> <td style="width: 50%;">Packed with prizes With loads of chances to wins Could be your chance to win</td> </tr> <tr> <td>Unacceptable statement –</td> <td>So many prizes you’re sure to win The best odds ever to win prizes</td> </tr> <tr> <td>Acceptable winning experience –</td> <td>A player shouts, “I won.”</td> </tr> <tr> <td>Unacceptable winning experience –</td> <td><u>All</u> of the players shout, “I won.”</td> </tr> </table> <p>See Exhibit A: RESPONSIBLE MARKETING AND ADVERTISING STANDARDS</p>	Acceptable statement –	Packed with prizes With loads of chances to wins Could be your chance to win	Unacceptable statement –	So many prizes you’re sure to win The best odds ever to win prizes	Acceptable winning experience –	A player shouts, “I won.”	Unacceptable winning experience –	<u>All</u> of the players shout, “I won.”
Acceptable statement –	Packed with prizes With loads of chances to wins Could be your chance to win								
Unacceptable statement –	So many prizes you’re sure to win The best odds ever to win prizes								
Acceptable winning experience –	A player shouts, “I won.”								
Unacceptable winning experience –	<u>All</u> of the players shout, “I won.”								

CONTENT ASSETS	NCEL logo and ticket art will be provided. Luck-e Rewards logo provided for POS.
MEDIA CONSIDERATIONS	Initial flight is 3-weeks. Creative maybe updated and used for a future launch.
TIMING AND BUDGET	<p>TV Budget \$350,000 includes related COVID expenses.</p> <p>Timing Anticipate a 16 to 20-week production timeline.</p>
<p>HOW WILL WE KNOW THAT IT WORKED AND KPIs What needs to be measured?</p>	<ul style="list-style-type: none"> • Overall ticket sales • YOY ticket sales; compared to same month of prior year • Game sales indices • Individual ticket sales compared to similar product launches

EXHIBIT A

RESPONSIBLE MARKETING AND ADVERTISING STANDARDS

PURPOSE

To establish the best practices for the North Carolina Education Lottery's marketing and advertising efforts in order to uphold and promote its responsible gaming commitment.

BACKGROUND

The North Carolina Education Lottery recognizes that its marketing and advertising communications are critical to the responsible sale of lottery games. In an effort to ensure that our advertising and marketing practices fully reflect both State/Federal regulation and industry best practices, the NCEL has created a Marketing and Advertising Code of Conduct for all marketing and advertising endeavors based on World Lottery Association (WLA) and National State and Provincial Lottery Association (NASPL) standards as we believe they are in our best interest of the general public. We encourage individual responsibility in decision-making regarding lottery play by adults, and discourage abusive use of lottery products. NCEL advertising urges adults who choose to play the lottery, to do so responsibly. We support and comply with the laws of our state and are committed to applying the highest ethical standards and principals of the WLA and NASPL as outlined in our Standards. This policy establishes standards for responsible marketing and advertising to make certain all advertising, marketing and communications are conducted responsibly.

POLICY

1. All marketing, advertising, and communications initiatives conducted by the NCEL and potentially effecting lottery stakeholders will adhere to the standards and requirements outlined in the Standards section.
2. To ensure that these Standards are followed and all initiatives appropriately reviewed, routing forms will be utilized for the consideration and approval of all creative communications including but not limited to: TV ads, radio ads, point-of-sale material, social ads, digital ads, Hulu ads and out-of-home signage. This process provides an important safeguard to confirm consistent review of all marketing and advertising campaigns in order to guarantee that these meet responsible gaming principles as outlined in this Policy.
3. A *Review Guide for Final Ad Approval* must be completed for each communication. Required approvals are based on the specific communication for which approval is sought.
4. A minimum of two (2) individuals listed on the *Review Guide for Final Ad Approval* and the DED of Brand Management and Communications must review and sign for all ads including: social ads, digital ads, Hulu ads and out-of-home signage. Individuals included for potential review are as follows: Advertising Coordinator, Digital Communications Specialist, Digital Marketing Coordinator, Communications Director, Advertising Director, and Marketing Director.
5. A minimum of two (2) individuals listed on the *Review Guide for Final Ad Approval* and the NCEL Executive Director must review and sign for approval of all TV, radio, and point-of-sale. In the case of point-of-sale (POS) material, at least one piece of POS from a campaign must be reviewed and found compliant with the required standards. The Director of Marketing is responsible for applying the approved creative to any other

POS pieces included in the campaign.

6. For marketing and advertising communications that require a greater investment of creative time and financial resources from the NCEL, a *Review Guide for Creative Concept Approval* must be completed at the onset of a project such that accountability and enforcement of responsible marketing is managed throughout the creative process. Although every effort will be made to avoid bringing forward for evaluation any concept which does not align with the NCEL's marketing and advertising Standards, diligent examination of concepts prior to production will allow sufficient time to make changes deemed necessary to successfully address a potential concern or risk.
7. A minimum of one director and deputy executive director, as well as the Executive Director, must review and sign the *Review Guide for Creative Concept Approval* before any production work may begin.
8. Original copies of all *Review Guides for Creative Concept Approval* and *Review Guides for Final Ad Approval* will be maintained by the originating department (marketing, advertising or communication) and will be subject to review by management and/or NCEL auditors.

RESPONSIBLE GAMING MARKETING STANDARDS

Content

1. Advertising should be consistent with principles of dignity, integrity, mission and values of the industry and the North Carolina Education Lottery.
 - 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 nor portray any illegal activity.
 - No advertising may have the primary purpose of inducing persons to participate in the Lottery.
 - No advertising may intentionally target specific groups or economic classes.
2. Advertising should not degrade the image or status of persons of any ethnic, minority, religious group nor protected class.
3. Advertising should appropriately recognize diversity in both audience and media, consistent with these standards.
4. Advertising should not encourage people to play excessively nor beyond their means.
 - Advertising and marketing materials should include a responsible play message when appropriate.
 - Responsible play public service announcement or purchased media messages are appropriate, especially during large jackpot periods.
 - Support for problem gambling programs, including publications, referrals and employee training is a necessary adjunct to lottery advertising.
 - Advertising should not present, directly nor indirectly, any lottery game as a potential means of relieving any person's financial or personal difficulties.
 - Advertising should not exhort play as a means of recovering past gambling nor 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 in derogation of nor as an alternative to employment, nor as a financial investment nor a way to achieve financial security.
2. Lottery advertisements 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 nor unduly praise a person who does buy a ticket.
4. Advertising should emphasize the fun and entertainment aspect of playing lottery games and not imply 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 in lottery advertising should not be, nor appear to be, under the legal purchase age.
2. Age requirements should, at a minimum, be posted at the point of sale.
3. Advertising should not appear in media directed primarily to those under the legal age.
4. Lotteries should not be advertised nor marketed at venues where the audience is reasonably and primarily expected to be below the legal purchase age.
5. Advertising should not contain symbols or language that is primarily intended to appeal 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.
7. Celebrity or other testimonials should not be used which would primarily appeal to persons under the legal purchase age.
8. NCEL advertising must be tastefully designed and presented in a manner to avoid appeal of NCEL games to minors.

Game Information

1. Odds of winning must be readily available to the public and be clearly stated.
2. All advertising promoting the sale of lottery tickets or shares of a particular game must include the actual or estimated overall odds of winning the game and any other items required by the Lottery Act.
3. Advertising should state alternative cash and annuity values where reasonable and appropriate.

Beneficiaries

1. Lotteries should provide information regarding the use of lottery proceeds.
2. Advertising should clearly denote where lottery proceeds go, avoiding statements that could be confusing or misinterpreted.

EXHIBIT B

PROFESSIONAL ADVERTISING AND RELATED SERVICES AGREEMENT

This Professional Advertising and Related Services Agreement (the "**Agreement**") is made and entered into this ___ day of _____, 2021 (the "**Effective Date**"), by and between the North Carolina Education Lottery (the "**NCEL**"), a state agency created pursuant to the North Carolina State Lottery Act (G.S. § 18C-101 et seq.) (as may be amended from time to time, the "**Act**"), located at 2728 Capital Boulevard, Suite 144, Raleigh, North Carolina, 27604, and _____, located at _____, a corporation organized under the laws of the State of _____ ("**VENDOR**").

WITNESSETH:

WHEREAS, the NCEL was created to organize and operate a state lottery in the State of North Carolina (the "**Lottery**");

WHEREAS, VENDOR submitted the proposal, dated _____, 2021 (the "**Proposal**," Exhibit A) to the NCEL in response to the NCEL's Request for Proposal dated May 24, 2021 (RFP #LC-000058) (the "**RFP**," Exhibit B), as integrated by the NCEL's Questions and Answers concerning the RFP, which were last distributed by the NCEL on _____, 2021 (the "**Questions and Answers**," Exhibit C). Exhibits A, B and C are attached hereto and incorporated by reference herein; and

WHEREAS, subject to the terms and conditions hereinafter set forth, the NCEL desires to retain VENDOR to provide professional advertising and related services to the NCEL, and VENDOR desires to provide such services for the NCEL.

NOW, THEREFORE, for and in consideration of the premises, the mutual promises, covenants and agreements contained herein, and other good and valuable consideration, the receipt and sufficiency of which are hereby expressly acknowledged, the parties hereto hereby agree as follows:

1. SERVICES

Subject to the terms and conditions set forth in this Agreement, the NCEL retains VENDOR to provide professional advertising and related services to the NCEL as contemplated by this Agreement, the RFP and the Proposal (collectively, the "**Services**"), and VENDOR agrees to provide such Services to the NCEL. Capitalized terms not otherwise defined herein shall be defined as set forth in the RFP.

2. DUTIES AND RESPONSIBILITIES OF VENDOR AND SUBCONTRACTORS

VENDOR and its Subcontractors will work in conjunction with the Executive Director of the NCEL (the "**Director**"), the NCEL staff, the NCEL Commission (the "**Commission**") and the other vendors, subcontractors, employees, agents, retailers and consultants of the NCEL. VENDOR and its Subcontractors will provide the Services to the NCEL as detailed in the RFP, the Answers and the Proposal and will perform such specific services and provide such deliverables as requested, from time to time, orally or in writing, by the Director, their designee(s) and/or the Commission. Except as otherwise set forth herein, VENDOR agrees that all Services and deliverables to be provided to the NCEL under this Agreement shall meet or exceed the requirements as set forth in this Agreement, the RFP, the Answers and the Proposal.

A. VENDOR, and its Subcontractors as requested from time to time, shall meet regularly with the Director or their designee(s) and shall establish work plans,

implementation schedules and timetables for completion as and when required by the Director or their designee(s).

B. VENDOR hereby agrees to use its best efforts to make available to the NCEL, such of its employees and its Subcontractors as may be necessary or appropriate for the timely performance of VENDOR's obligations pursuant to this Agreement. No employee or agent of VENDOR or any of its Subcontractors shall undertake or participate in, during the term of this Agreement, any other engagement which will interfere with the completion of the work contemplated by this Agreement. VENDOR will provide the NCEL, as requested from time to time, written reports of the names and work schedules of VENDOR's and the Subcontractors' employees who will be performing services pursuant to this Agreement.

C. Scope of Services: Subject to the instructions and decisions of the NCEL, VENDOR will be responsible for the scope of work in the RFP, Questions and Answers, the Proposal, and any additional terms contained herein.

3. **SUBCONTRACTORS**

A. Neither VENDOR nor any Subcontractors will subcontract or otherwise assign any or all of its rights, duties or obligations under this Agreement to any individual or entity without the prior written consent of the NCEL in each instance, which consent may be withheld in the NCEL's sole discretion. The NCEL shall have the right to approve or disapprove of any subcontractor. VENDOR will provide the NCEL with the name, qualifications, experience and expected duties of each proposed subcontractor under this Agreement each time it desires to retain a subcontractor. All approved subcontractors, sub-vendors, employees, joint venturers, partners or other parties working with or for VENDOR in performing services under this Agreement or for the NCEL will be defined collectively as the "**Subcontractors**" and individually as a "**Subcontractor**" and will become a subcontractor for purposes hereof and must execute such agreements or other documentation as may be necessary pursuant to the Act or as the NCEL may require. VENDOR agrees that it will obtain the prior consent of the Director or their designee(s) prior to having any Subcontractor perform any activities for the NCEL under this Agreement.

B. Upon the request of the NCEL, VENDOR will promptly provide the NCEL with copies of all subcontracts and other agreements entered into by VENDOR with respect to its obligations under this Agreement. No such subcontract or other agreement may contain any terms or conditions inconsistent or in conflict with the terms and conditions contained in this Agreement. In the event of any such inconsistent or conflicting provisions, such inconsistencies or conflicts will be resolved in favor of this Agreement.

C. The NCEL shall have the right, at any time and from time to time, to instruct VENDOR not to use the services of any Subcontractor, individual or employee in connection with the work to be performed for the NCEL under this Agreement, and VENDOR agrees to comply with all such instructions.

D. Notwithstanding anything herein to the contrary, VENDOR will remain fully liable and responsible for all Services, deliverables and work to be performed under this Agreement, whether or not subcontracted to or performed by a Subcontractor or any other person or entity retained by VENDOR or under VENDOR's control, and VENDOR will ensure the compliance of its employees, and will exercise its best efforts to ensure the compliance of, and in any event be responsible for, Subcontractors and their employees with the terms of this Agreement, the Act and all other applicable laws which govern the performance of services pursuant to this Agreement and such other standards or policies as the NCEL may establish from time to time.

4. **INDEPENDENT CONTRACTOR**

A. Both the NCEL and VENDOR, in the performance of this Agreement, will be acting in their own separate capacities and not as agents, employees, partners, joint venturers or associates of one another. The employees or agents of one party shall not be deemed or construed to be the employees, agents or partners of the other party for any purposes whatsoever. Neither party will assume any liability for any injury (including death) to any persons, or any damage to any property or other claim arising out of the acts or omissions of the other party or any of its agents, employees or subcontractors. It is expressly understood and agreed that VENDOR is an independent contractor of the NCEL in all manners and respects and that neither party to this Agreement is authorized to bind the other party to any liability or obligation or to represent that it has any such authority, except for the limited authority of VENDOR to procure selected materials and services as authorized by the NCEL and as specifically set forth in, and subject to the limitations described in, the RFP and/or this Agreement. No Subcontractor is authorized to bind the NCEL to any liability or obligation or to represent that it has any such authority.

B. VENDOR shall be solely responsible for all payments to Subcontractors and all compensation, withholding taxes and benefits for its employees and for providing all necessary unemployment and workmen's compensation insurance for its employees.

5. **COMPENSATION**

(a) As full and complete compensation for all Services and deliverables provided by VENDOR pursuant to this Agreement, the NCEL will pay VENDOR, and VENDOR will accept, an amount (the "Vendor's Fee") equal to: **[SUCCESSFUL VENDOR'S RATE AFTER NEGOTIATION PURSUANT TO RFP]**.

(b) Unless otherwise noted, VENDOR shall be responsible for all charges incidental to the routine conduct of business including, but not limited to mileage, meals, telephone calls, facsimile, copying, color copies, postage and delivery charges from VENDOR to the NCEL.

(c) Except as otherwise provided herein, the NCEL shall not under any circumstances be liable or responsible for any costs, expenses, reimbursements or fees incurred by VENDOR or Subcontractors (or any other individual or entity) in connection with any Services or the VENDOR's performance under this Agreement.

(d) VENDOR shall, at its own expense, conduct trademark and service mark searches with respect to trademarks, service marks, logos or trade names used by VENDOR in connection with the NCEL. Copies of all such search reports will be delivered to the NCEL and its Chief Legal Officer. New trademarks and service marks developed for the NCEL will be registered by legal counsel chosen by the NCEL solely in the name of the NCEL for its sole use.

(e) Subject to the availability of funds and any other restrictions imposed by the Act, the "Governing Laws and Regulations" (as defined in Section 13) or this Agreement, the NCEL will pay to VENDOR all nondisputed amounts due under this Agreement on (i) in the case of media invoices, the fifteenth (15th) day of every month; and (ii) in the case of production invoices, the thirtieth (30th) day of every month, unless the parties otherwise agree upon a less frequent payment schedule, in accordance with the policies and procedures established by the NCEL from time to time and subject to setoff or offset for all sums owed by VENDOR or its Subcontractors.

6. **TERM**

A. Unless sooner terminated in accordance with the provisions of Section 18 or other provisions of this Agreement and the RFP, the term of this Agreement shall commence as of the Effective Date and shall continue until June 30, 2024 (the "Initial

Term”). This Agreement shall be automatically renewed for a period of one (1) year (each a “**Renewal Term**”) upon the completion of the immediately preceding Initial Term or Renewal Term, as the case may be, for a total of no more than three (3) Renewal Terms, unless the NCEL sends VENDOR at least thirty (30) days prior to the end of the then-current Initial Term or Renewal Term, as the case may be, written notice that it intends to terminate this Agreement at the end of the then-current Initial Term or Renewal Term, as the case may be. If the NCEL and VENDOR fail to mutually agree in writing on a Vendor Fee for any Renewal Term prior to the beginning of any such Renewal Term, then the Vendor Fee shall be the same as specified for the preceding year and this Agreement shall be terminated by the NCEL at any time during such Renewal Term.

B. VENDOR acknowledges and agrees that, prior to the expiration of the term of this Agreement, the NCEL may award a new contract for replacement of the Services and deliverables provided by VENDOR under this Agreement and that VENDOR has no right or expectation in or to any such new contract. VENDOR further agrees that the NCEL may use the final one hundred eighty (180) days or less, of the term of this Agreement for transitioning the provision of such Services and deliverables; provided that VENDOR shall continue to be compensated in accordance with Section 5 hereof during such period. VENDOR shall cooperate fully and in good faith, and shall assist the NCEL and the new contractor, to the extent reasonable and practical, to accomplish such conversion in a timely and efficient manner without any interruption to the NCEL’s current marketing efforts, at no additional cost to the NCEL or such new contractor.

7. WORK STANDARD

A. VENDOR hereby agrees that it and its Subcontractors shall at all times comply with and abide by all terms and conditions set forth in this Agreement, all applicable policies and procedures of the NCEL and all requirements of the Act and Governing Laws and Regulations. VENDOR further agrees that it and its Subcontractors shall perform their respective duties and responsibilities as set forth in this Agreement by following and applying the highest professional and technical guidelines and standards applicable to the VENDOR’s industry.

B. VENDOR hereby agrees that it and its Subcontractors will perform their respective duties and responsibilities as set forth in this Agreement with integrity and dignity and free from political influence, collusion and fraud. VENDOR further agrees that none of it, its Subcontractors, nor any of their respective employees or agents will solicit or accept, or attempt to solicit or accept, any kickbacks or other inducements from any offeror, supplier, manufacturer, subcontractor or other individual or entity in connection with the performance of its obligations under this Agreement.

C. If the NCEL becomes dissatisfied with the Services, deliverables or work product of or the working relationship with any of the individuals assigned to perform Services under this Agreement by VENDOR or any Subcontractors, the NCEL may require the prompt replacement of any or all of such individuals. Important personnel identified in VENDOR’s Proposal as performing Services under this Agreement will continue to perform such Services in their designated capacities until such Services are completed unless: (i) they cease to be employed by VENDOR or a Subcontractor; (ii) the NCEL requests their removal, in which case a person or persons of suitable competency and acceptable to the NCEL, in its discretion, will be substituted forthwith; or (iii) VENDOR wishes to have them replaced by someone of equal or better qualifications and VENDOR obtains NCEL’s prior written consent to such change.

D. Nothing in this Section 7 shall be construed to prevent VENDOR from using the services of others to perform tasks ancillary to those tasks which directly require the expertise of such key personnel, including secretarial, clerical and common labor duties.

VENDOR shall at all times remain responsible for the performance of all necessary tasks under the scope of this Agreement, whether performed by key personnel or other workers.

E. Nothing in this Agreement shall prohibit the NCEL from retaining the services of any individual or entity to perform any services on its behalf, whether or not such or similar services were initially contemplated to be performed by VENDOR or a Subcontractor. The NCEL is not prohibited by this Agreement from retaining the services of any individual or entity to perform any services it requires, and it is under no obligation to exclusively use the Services of VENDOR or any Subcontractors.

F. VENDOR hereby designates _____, or such other person or persons as it may from time to time notify the NCEL, as its primary contact with the NCEL for purposes of this Agreement. VENDOR must notify the NCEL, in writing and within five (5) business days, regarding designation of a new primary contact person for the VENDOR

8. CHANGES IN WORK

By written or oral request by the Director or their designee(s) to VENDOR, the NCEL may from time to time make changes in the Services or deliverables to be provided by VENDOR or any Subcontractor, or the place of performance of such Services. VENDOR and all applicable Subcontractors shall promptly comply with such requests and take all necessary or appropriate actions to effect such change. If such changes add material obligations or expenses not contemplated by this Agreement (including the Answers, RFP or Proposal), the NCEL and VENDOR shall negotiate in good faith any changes required to this Agreement or the compensation to be provided pursuant hereto.

9. BOOKS AND RECORDS

Upon request by the NCEL, VENDOR and each Subcontractor shall provide, as soon as it is available, to the NCEL a copy of its latest audited financial statements; provided, however, if a Subcontractor does not obtain audited financial statements, then its financial statements must be certified by its chief financial officer. VENDOR and all Subcontractors shall maintain all books, documents, papers, accounting records and other evidence pertaining to the Services to be performed under this Agreement in accordance with the Act, Governing Laws and Regulations, generally accepted accounting principles and any other applicable procedures established by the NCEL from time to time. VENDOR and all Subcontractors shall make all such materials available at its offices at all reasonable times during the term of this Agreement and for five (5) years after the date of final payment under this Agreement, for inspection by the NCEL, by any authorized representative of the NCEL and/or the State of North Carolina Auditor of State's Office ("**State Auditor**"), and copies thereof shall be furnished to the NCEL and/or the State Auditor by the appropriate entity, at no cost to the NCEL or the State Auditor, if requested by the NCEL or the State Auditor. The NCEL and/or the State Auditor shall have the right to audit the records and operations of VENDOR and each Subcontractor with respect to the Services to be performed pursuant to this Agreement. VENDOR and Subcontractor shall also comply with all other requirements of the Act and Governing Laws and Regulations.

10. CONFIDENTIALITY; OWNERSHIP OF WORK PRODUCT, MATERIALS AND RIGHTS OF USE

A. For purposes of this Agreement:

(i) "**Confidential Information**" means any and all items or information of a party which are: (A) marked "Confidential" or some such similar designation; or

are (B) valuable, proprietary and confidential information belonging to or pertaining to such party that does not constitute a "Trade Secret" (as hereafter defined) and that is not generally known but is generally known only to said party and those of its employees, independent contractors or agents to whom such information must be confided for business purposes, including, without limitation, information regarding said party's customers, suppliers, manufacturers and distributors. For purposes of this Agreement, the financial statements provided pursuant to Section 9 of this Agreement shall be deemed to be VENDOR's Confidential Information; and

(ii) a "**Trade Secret**" means business or technical information, including but not limited to a formula, pattern, program, device, compilation of information, method, technique, or process that: (A) derives independent actual or potential commercial value from not being generally known or readily ascertainable through independent development or reverse engineering by persons who can obtain economic value from its disclosure or use; and (B) is the subject of efforts that are reasonable under the circumstances to maintain its secrecy.

B. In recognition of the need of VENDOR to protect its legitimate business interests, the NCEL hereby covenants and agrees that with regard to any: (i) VENDOR Confidential Information, at all times during the term of this Agreement and for a period of three (3) years following the expiration or termination of this Agreement for any reason; and (ii) VENDOR Trade Secrets, at all times such information remains a Trade Secret under applicable law, the NCEL will regard and treat all such items as strictly confidential and wholly owned by VENDOR and will not, for any reason or in any fashion, either directly or indirectly use, disclose, transfer, assign, disseminate, reproduce, copy, or otherwise communicate any such VENDOR Confidential Information or VENDOR Trade Secrets to any individual or entity for any purpose other than in accordance with this Agreement, pursuant to the instructions from a duly authorized representative of VENDOR or except to the extent necessary to fulfill the purposes of this Agreement or conduct the North Carolina Education Lottery. The NCEL shall not be liable, however, to VENDOR or to any other person or entity, if despite the NCEL's reasonable efforts, VENDOR Confidential Information or Vendor Trade Secrets are disclosed in breach of the foregoing. Notwithstanding anything hereto the contrary, the entirety of Section 1.5 of the RFP, the Act, the Governing Laws and Regulations, the Open Meetings Law G.S. §143-318.9 et. seq. and the Public Records Law G.S. §132-1 et. seq. (collectively, the "**Superseding Provisions and Statutes**") shall supersede and control any provision of this Agreement, and the NCEL's confidentiality and nondisclosure obligations and liabilities set forth herein, or in the RFP or Proposal, shall be subject to, and never be greater than, as set forth in any of the Superseding Provisions and Statutes.

C. In recognition of the need of the NCEL to protect its legitimate business interests, VENDOR hereby covenants and agrees that with regard to any: (i) NCEL Confidential Information, at all times during the term of this Agreement and for a period of three (3) years following the expiration or termination of this Agreement for any reason; and (ii) Trade Secrets, at all times such information remains a Trade Secret under applicable law, VENDOR and all Subcontractors will regard and treat all such items as strictly confidential and wholly owned by the NCEL and will not, for any reason or in any fashion, either directly or indirectly use, disclose, transfer, assign, disseminate, reproduce, copy, or otherwise communicate any such NCEL Confidential Information or NCEL Trade Secrets to any individual or entity for any purpose other than in accordance with this Agreement or pursuant to the instructions from a duly authorized representative of the NCEL. In addition, to the extent the Act or any other Governing Laws and Regulations law imposes any greater restrictions or prohibitions with respect to any

NCEL Confidential Information, NCEL Trade Secrets or other information or property of the NCEL, VENDOR covenants and agrees that it and all Subcontractors shall comply with such greater restrictions or prohibitions. To ensure the compliance by it and all Subcontractors with the provisions of this Section 10(C), VENDOR shall use its best efforts, including, without limitation, obtaining written confidentiality agreements with all Subcontractors which incorporate requirements no less restrictive than those set forth herein and which contain provisions which permit NCEL to independently enforce the requirements set forth in such agreements.

D. Notwithstanding the foregoing, the nondisclosure restrictions of Section 10(B) shall not apply to either party's information that is: (i) generally known to the public other than due to a disclosure by the Disclosing Party; (ii) already known to the Receiving Party at the time it is disclosed by the Disclosing Party to the Receiving Party; (iii) independently developed by the Receiving Party; or (iv) received by the Receiving Party from a party that the Receiving Party believed in good faith had the right to make such disclosure.

E. Neither the VENDOR nor any of its approved Subcontractor shall have any proprietary rights or interests in any intellectual properties (including, without limitation, patents, copyrights, equipment, firmware, mask works, trademarks (and the goodwill associated therewith) and service marks (and the goodwill associated therewith)) (all of the foregoing being collectively defined as the "**Intellectual Property Rights**") products, materials, intellectual properties developed, data, documentation, approaches, systems, programs, methodologies, or concepts, ideas or other content or items of any kind or nature developed, produced or provided in connection with the Services provided for the NCEL under this Agreement (collectively, the "**NCEL Intellectual Properties**"). All deliverables, written materials, campaigns, designs, tangible or intangible materials, intellectual or other property or other work product of any kind or nature produced, revised, created, modified or prepared by VENDOR and any of its Subcontractors in connection with this Agreement, the RFP or for the NCEL (collectively, the "**Work Product**") will be deemed, to the greatest extent possible, "work made for hire" under Section 101 of the United States Copyright Act, 17 U.S.C. Section 101 to be exclusively owned by the NCEL. To the extent that any Work Product does not qualify as a "work made for hire," VENDOR and each of the Subcontractors hereby irrevocably transfer, assign and convey to the NCEL all right, title and interest in the Work Product, together with all copyrights, patents, trade secrets, confidential information, trademarks and service marks (and the goodwill associated therewith) and rights (all of the foregoing being collectively defined as the "**Intellectual Property Rights**"), free and clear of any liens, security interests, hypothecations, pledges, claims or other encumbrances of any kind or nature, to the fullest extent permitted by law. At the NCEL's request, VENDOR and its Subcontractors shall execute, and shall cause its or their personnel to execute, all assignments, applications, writings, instruments or other documentation of any kind or nature deemed necessary or beneficial by the NCEL so that the NCEL may perfect or protect its rights as provided herein. VENDOR and its Subcontractors shall require its and their employees, and permitted agents, independent contractors and consultants to execute agreements assigning all of their rights in the Work Products, and all Intellectual Property Rights therein, to the NCEL, directly or indirectly, and shall provide the NCEL with documentation evidencing its compliance with this requirement upon the NCEL's request. The intent of the NCEL is that the NCEL is the sole owner of, and is able to continue to use any or all of, the Work Product that it chooses in the conduct of its lottery games and other activities.

F. The NCEL grants to VENDOR during the period from the Effective Date until the expiration of this Agreement, or is otherwise earlier terminated, a non-exclusive license to use, sublicense, modify and create derivative works of the NCEL Intellectual

Properties which are owned by the NCEL and created solely by VENDOR or its Subcontractors, provided such use by VENDOR or its Subcontractors is only for the benefit of the NCEL and solely for the purpose of performing the Agreement.

11. NONDISCRIMINATION; AFFIRMATIVE ACTION

A. Neither VENDOR nor any Subcontractors shall discriminate against any employee or applicant for employment because of their race, color, religion, sex, handicap, disability, national origin or ancestry. Breach of this covenant by VENDOR, or VENDOR's failure to use its best efforts to require all Subcontractors to comply with this covenant, may be regarded as a material breach of this Agreement. VENDOR and Subcontractors shall take affirmative action to ensure that applicants are employed, and that employees are treated during employment, without regard to their race, color, religion, sex, handicap, disability, national origin or ancestry.

B. Consistent with the Act and all other applicable North Carolina laws, VENDOR agrees to make every reasonable effort to include the participation by minorities in the performance of its Services pursuant hereto. Specifically, and without limitation, any human resources services performed for the NCEL will include appropriate attention to the hiring and training of qualified minority applicants in accordance with the Act, all Governing Laws and Regulations, and the policies and procedures adopted by the NCEL from time to time. VENDOR shall provide a monthly report to the NCEL, in a format prescribed or approved by the NCEL, detailing VENDOR's monthly purchases/spend with minority businesses.

12. LIMITATION OF LIABILITY

THE PAYMENT OBLIGATIONS UNDERTAKEN BY THE NCEL UNDER THIS AGREEMENT ARE SUBJECT TO THE AVAILABILITY OF FUNDS TO THE NCEL. THERE SHALL BE NO LIABILITY ON THE PART OF THE NCEL EXCEPT TO THE EXTENT OF AVAILABLE FUNDS PERMITTED TO BE PAID FROM THE PROCEEDS OF LOTTERY OPERATIONS AND OTHER FUNDS AVAILABLE TO THE NCEL. NOTWITHSTANDING ANYTHING HEREIN TO THE CONTRARY, UNDER NO CIRCUMSTANCES WILL THE STATE OF NORTH CAROLINA, ITS GENERAL FUND OR ANY OF ITS AGENCIES OR POLITICAL SUBDIVISIONS BE RESPONSIBLE OR LIABLE AS A RESULT OF THIS AGREEMENT OR ANY LIABILITY CREATED HEREBY OR ARISING HEREUNDER.

13. COMPLIANCE WITH LAWS

VENDOR agrees to comply with all applicable rules, procedures and regulations adopted from time to time by the NCEL under the Act and all other applicable federal, state and local laws, rules, regulations, ordinances or executive orders, including, without limitation, the Americans with Disabilities Act of 1990 (42 U.S.C. §§ 1201 et. seq.) and all other labor, employment and anti-discrimination laws, and all provisions required thereby to be included herein, are hereby incorporated by reference (all of the foregoing being sometimes referred to collectively as the "**Governing Laws and Regulations**").

14. ANTITRUST ACTIONS

VENDOR hereby conveys, sells, assigns and transfers to the NCEL all of its right, title and interest in and to all causes of action it may now have or hereafter acquire under the antitrust laws of the United States of America and the State of North Carolina relating to any Services or deliverables provided by VENDOR to the NCEL under this Agreement.

15. REPRESENTATIONS, WARRANTIES AND ADDITIONAL COVENANTS

VENDOR hereby represents, warrants or covenants, as the case may be, to NCEL, on its own behalf and with respect to each of its Subcontractors, that as of the Effective Date and at all times throughout the term of this Agreement, as follows:

A. VENDOR has the power and authority to execute and deliver this Agreement and to perform its obligations under this Agreement, and VENDOR has taken all necessary and appropriate action to authorize the execution and delivery of this Agreement and the performance of its obligations under this Agreement. The execution and delivery of this Agreement and the performance of its obligations under this Agreement are not in contravention of any provisions of law or any material indenture or agreement by which VENDOR is bound and do not require the consent or approval of any governmental body, agency, authority or other person or entity which has not been obtained. This Agreement constitutes the valid and legally binding obligation of VENDOR, enforceable against VENDOR in accordance with its terms.

B. VENDOR and its Subcontractors have disclosed or will disclose to the NCEL all matters required to be disclosed under the Governing Laws and Regulations. VENDOR shall ensure that it is aware of any statutory limitations or restrictions affecting its Agreement with the NCEL, such as certain political contributions, its ability to conduct future business with the NCEL and/or its ability to conduct business with certain third parties. Any employee of the VENDOR who works directly on the NCEL Contract/Account, and members of such employee's households, shall be prohibited from purchasing NCEL tickets and/or claiming any NCEL prizes.

C. Neither VENDOR, the Subcontractors nor any of its or their respective officers, directors, partners or major shareholders have ever been found guilty of, or plead guilty to, any crime in any way related to the security, integrity or operation of any lottery in any jurisdiction, nor are VENDOR, the Subcontractors nor any of its or their respective officers, directors, partners or major shareholders currently under indictment for any crime in any way related to the security, integrity or operation of any lottery in any jurisdiction. VENDOR shall be obligated to notify the NCEL if VENDOR or any one of its officers and directors has been convicted of a felony or any gambling offense in any state or federal court of the United States within ten (10) years of entering into the contract (NCGS §18C-151(a)(5)).

D. No "public official" has an ownership interest of five percent (5%) or more in VENDOR or any of the Subcontractors.

E. To the extent required by applicable law, VENDOR and all Subcontractors are, and will remain at all times during the term of this Agreement, qualified to do business in the State of North Carolina and will file North Carolina income tax returns.

F. All Work Product: (i) shall be prepared, worked on and completed solely by employees of VENDOR or a Subcontractor in the scope of their employment or by independent contractors of VENDOR or a Subcontractor working under the strict and direct supervision of such employees; (ii) shall be original works of authorship; (iii) shall not infringe, plagiarize, pirate or constitute misappropriations of any Intellectual Property Rights, Confidential Information, Trade Secrets or other intellectual properties or proprietary rights of any individuals or entities; and (iv) shall not be false, misleading, actionable, defamatory, libelous or constitute an invasion of privacy of any individual or entity.

G. Neither VENDOR nor any Subcontractors, nor any of its or their respective employees, officers, directors, partners or major shareholders, shall issue any press release, conduct any press or news conference, participate in any media interview or otherwise make any public statement or announcement on behalf of, with respect to or in connection with this Agreement or the Services without the prior written consent of the Director or their designee(s) in each instance.

H. Neither VENDOR nor any Subcontractors, nor any of its or their respective employees, officers, directors, partners or major shareholders, shall use NCEL's name, logos, images or any other information or data related to the Services to be provided pursuant to this Agreement as a part of or in connection with any commercial advertising without the prior written consent of the Director or their designee(s) in each instance.

I. All Services rendered and deliverables provided pursuant to this Agreement have been and shall be prepared or done in a workman-like manner consistent with the highest standards of the industry in which the Services and deliverables are normally performed.

16. OBLIGATIONS OF VENDOR

A. Upon request by the NCEL, VENDOR shall provide the NCEL an updated certificate of existence showing that it and each Subcontractor are qualified to transact business in the State of North Carolina.

B. To avoid not only actual impropriety but also the appearance of impropriety, VENDOR is expected to establish and enforce a code of conduct for all employees, independent vendors and subcontractors that will help achieve the NCEL's objective of maintaining integrity in its operation, as well as, follow the rules and procedures established, and from time to time, amended, by the NCEL.

C. VENDOR and its Subcontractors shall disclose all written and oral agreements with all lobbyists and consultants doing work on its behalf in the State of North Carolina and before the federal government. VENDOR and its approved Subcontractors shall also comply with all state and federal lobbying laws. This Agreement may be terminated, at the sole option and discretion of the NCEL, if VENDOR has not complied with these disclosure requirements.

D. VENDOR agrees to fully disclose to the NCEL all matters materially affecting the NCEL, this Agreement or the performance of this Agreement and all matters reasonably necessary to perform and legally required background and security investigations with respect to VENDOR, the Subcontractors, their respective officers, directors and employees, and the individuals performing services pursuant to this Agreement or otherwise for the benefit of the NCEL or the State of North Carolina. In addition, VENDOR acknowledges that to the extent under Applicable Laws some or all of its employees, officers, directors and its Subcontractors and their respective employees, officers and directors may be required to submit to background and other investigations, VENDOR shall cause any such individuals or Subcontractors to fully cooperate with any such investigations and to provide all necessary information and authorizations in connection therewith. VENDOR further agrees that it will routinely update all information disclosed to the NCEL pursuant to this Agreement or the RFP; including, without limitation, any breaches of all representations, warranties and additional covenants set forth in 14 hereof, no less often than every six (6) months; provided, however, VENDOR shall as soon as possible notify the NCEL upon the occurrence of any event the effect or results of which VENDOR would be required to disclose, or to update a previous disclosure, to the NCEL under this Agreement or the RFP and which materially affect the NCEL, VENDOR, the Subcontractors, any of their respective officers, directors, partners, major shareholders or employees, this Agreement or the performance of this Agreement. VENDOR further agrees to notify the NCEL: (i) as soon as possible, but no more than five (5) days after the filing of any criminal proceeding or issuance of any indictment involving VENDOR or any Subcontractor or any officer, director or employee of VENDOR or any Subcontractor; and (ii) within thirty (30) days of VENDOR's first learning of any civil or administrative proceeding involving VENDOR or any Subcontractor or any officer, director or employee of VENDOR or any Subcontractor; provided, however, if any such proceeding would have a material adverse effect on

VENDOR or a Subcontractor or their ability to perform pursuant to this Agreement, then such notice must be delivered to the NCEL no more than five (5) days after VENDOR learns of such proceeding.

E. VENDOR must, contemporaneously with the execution of this Agreement, post and maintain at least throughout the term of this Agreement (i) a performance bond (the "**Performance Bond**") or letter of credit with the NCEL in an amount equal to five hundred thousand dollars (\$500,000), and (ii) a payment bond (the "**Payment Bond**") or letter of credit with the NCEL in an amount equal to five hundred thousand dollars (\$500,000), unless such bond or letter of credit is replaced by alternate acceptable security if approved by the NCEL in its sole discretion. The security provided by VENDOR pursuant to the Performance Bond shall provide funds to the NCEL in the event the NCEL suffers any liability, loss, damage or expense as a result of VENDOR's failure to fully and completely perform any or all of the requirements contained in this Agreement, including, without limitation, VENDOR's obligation to indemnify the NCEL pursuant hereto. The security provided by VENDOR pursuant to the Payment Bond shall provide funds to the NCEL in the event the NCEL suffers any liability, loss, damage or expense as a result of VENDOR's failure to fully and completely pay any obligation contained in this Agreement. The Bonds may be renewable annually, provided that: (i) each Bond provides that, in the event such Bond will not be renewed for an additional year, the NCEL will be provided written notice thereof at least thirty (30) days prior to the expiration thereof; and (ii) if such Bond is not renewed for an additional year, VENDOR must obtain a replacement equivalent Bond or letter of credit to be in place so that at no time is VENDOR in violation of its obligation pursuant to this Section to maintain a performance bond and a payment bond at least throughout the term of this Agreement.

F. VENDOR shall at all times maintain at least the following types and amounts of insurance during the term of this Agreement:

- (i) General liability insurance in the amount of at least one million dollars (\$1,000,000);
- (ii) Such other types and amounts of insurance as the NCEL shall from time to time reasonably require;
- (iii) Workers Compensation Insurance at or above levels required by the State of North Carolina; and
- (iii) An advertising agency liability insurance policy which shall insure against any and all claims against the NCEL based on libel, slander, piracy, plagiarism, invasion of privacy or Intellectual Property Rights infringement arising out of any Work Product, other product or service prepared by, or services performed by, VENDOR, its employees or its Subcontractors, notwithstanding the fact that any such material may have been approved by the NCEL, in the amount of at least five hundred thousand dollars (\$500,000) per incident and one million dollars (\$1,000,000) in the aggregate.

G. Such insurance policies shall name the NCEL as an additional insured, and shall provide that such policies cannot be terminated, canceled, or modified without giving VENDOR and NCEL written notice at least ten (10) days prior to the effective date of any termination, cancellation or modification. VENDOR shall be required to provide proof of insurance coverage in accordance with this Agreement and its Proposal prior to execution of this Agreement and at least annually during the term hereof. Renewed bonds and/or insurance policies must be submitted to the NCEL within five (5) days prior to the expiration of the then existing bonds and/or insurance policies. All bonds and insurance required of VENDOR by this Agreement must be issued by companies or financial institutions which are finally rated A or better (or a comparable rating) by a nationally recognized rating agency and duly licensed, admitted and authorized to transact business in the State of North Carolina.

17. TAXES

The NCEL will not be responsible for any taxes levied on VENDOR or any Subcontractor as a result of the execution, delivery or performance of the Services or this Agreement. VENDOR and Subcontractors shall pay and discharge any and all such taxes in a timely manner.

18. TERMINATION

A. Notwithstanding anything herein to the contrary, the NCEL may cancel and terminate this Agreement if VENDOR fails to correct or cure any breach of this Agreement within three (3) business days of the earlier of: (a) VENDOR's having knowledge of such breach; or (b) VENDOR's receiving oral or written notice of such breach from the NCEL; or

B. VENDOR may cancel and terminate this Agreement if the NCEL, after thirty (30) calendar day's prior written notice from VENDOR, fails to correct or cure any breach of this Agreement.

C. The NCEL may cancel and terminate this Agreement with thirty (30) calendar day's prior written notice to VENDOR with no early termination fees.

D. In the event that either party hereto is unable to perform any of its obligations under this Agreement, or to enjoy any of its benefits because of natural disaster, actions or decrees of governmental bodies or communication line failure, or other events of force majeure not the fault of the affected party, the affected party shall immediately give notice to the other party and shall do everything possible to resume performance. Upon receipt of such notice, each party's obligations under this Agreement shall be immediately suspended. If the period of non-performance exceeds thirty (30) days from the receipt of notice of an event described in this Section, the party whose ability to perform has not been so affected may terminate this Agreement by giving written notice thereof to the other party.

E. If, for any reason other than a breach of this Agreement by the NCEL, VENDOR is unable to perform its obligations hereunder, the NCEL shall acquire a usufruct in all contractual items owned by VENDOR or any Subcontractor which is used in conjunction with, and is necessary to, the performance of this Agreement, which usufruct shall exist until the expiration or termination of this Agreement.

19. INDEMNIFICATION

VENDOR agrees to indemnify, defend and hold harmless the NCEL, the Commission, its Executive Director, directors and officers, the State of North Carolina and its agencies and political subdivisions, and their respective agents, officers and employees, against any and all suits, damages, expenses (including, without limitation, court costs, attorneys' fees and other damages), losses, liabilities and claims of any kind, caused by or resulting from: (a) any breach of this Agreement or any other act or omission of VENDOR, the Subcontractors, or any of its or their respective agents or employees, whether the same may be the result of negligence, responsibility under strict liability standards, any other substandard conduct or otherwise; or (b) the development, possession, license, modifications or use of any copyrighted or non-copyrighted composition, trademark, service mark, service process, patented invention or item, trade secret, article or appliance furnished to the NCEL, or used in the performance of the Services or this Agreement, by VENDOR, its employees or any Subcontractor.

20. CONFLICT RESOLUTION PROCEDURES

Prior to bringing any judicial enforcement action with respect to any claims or controversies arising in connection with the performance of this Agreement, VENDOR

must first pursue and exhaust any and all remedies available to it in accordance with the dispute resolution procedures adopted by the NCEL, as amended from time to time (collectively, the “**Dispute Resolution Procedures**”).

21. NOTICES

A. All notices and statements provided for or required by this Agreement shall be in writing, and shall be delivered personally to the other designated party, or mailed by certified or registered mail, return receipt requested, or delivered by a recognized national overnight courier service, as follows:

If to NCEL: North Carolina Education Lottery
2728 Capital Boulevard, Suite 144
Raleigh, NC 27604
Attn: M. Mark Michalko, Executive Director

With a copy to: North Carolina Education Lottery
2728 Capital Boulevard, Suite 144
Raleigh, NC 27604
Attn: William Traurig, Chief Legal Officer

If to VENDOR: [VENDOR INFORMATION]

B. Either party hereto may change the address and/or person to which notice is to be sent by written notice to the other party in accordance with the provisions of this Section.

22. MISCELLANEOUS

A. This Agreement, together with the Proposal, the Answers and the RFP, contains the entire agreement and understanding concerning the subject matter hereof between the parties hereto. Notwithstanding anything herein to the contrary, in the event of an inconsistency among this Agreement, the Proposal and/or the RFP, the terms of this Agreement, as may be amended pursuant hereto, shall control the Answers, the terms of the Answers shall control the RFP, and the terms of the RFP shall control the Proposal. No waiver, termination or discharge of this Agreement, or any of the terms or provisions hereof, shall be binding upon either party hereto unless confirmed in writing. This Agreement may not be modified or amended, except by a writing executed by both parties hereto. No waiver by either party hereto of any term or provision of this Agreement or of any default hereunder shall affect such party's rights thereafter to enforce such term or provision or to exercise any right or remedy in the event of any other default, whether or not similar.

B. THIS AGREEMENT SHALL BE GOVERNED BY AND CONSTRUED IN ACCORDANCE WITH THE LAWS OF THE STATE OF NORTH CAROLINA. ONLY AFTER EXHAUSTION OF ALL REMEDIES AND PROCEDURES IN THE DISPUTE RESOLUTION PROCEDURES OF THE NCEL, IF APPLICABLE LAW PERMITS ANY FURTHER APPEALS, ANY SUCH APPEAL MUST BE BROUGHT SOLELY IN THE SUPERIOR COURT OF WAKE COUNTY, NORTH CAROLINA. VENDOR HEREBY IRREVOCABLY WAIVES, TO THE FULLEST EXTENT PERMITTED BY LAW, ANY RIGHT WHICH IT MAY NOW OR HEREAFTER HAVE TO APPEAL ANY FINAL DECISIONS OF THE COMMISSION MADE PURSUANT TO THE DISPUTE RESOLUTION PROCEDURES, AND VENDOR IRREVOCABLY WAIVES ANY OBJECTION WHICH IT MAY NOW OR HEREAFTER HAVE TO THE VENUE OF ANY

APPEAL BEING SOLELY IN THE SUPERIOR COURT OF WAKE COUNTY, NORTH CAROLINA.

C. Neither party hereto shall assign this Agreement, in whole or in part, without the prior written consent of the other party hereto, and any attempted assignment not in accordance herewith shall be null and void and of no force or effect; provided, however, nothing herein shall prevent the NCEL from freely assigning this Agreement, without requiring VENDOR's prior written consent, to any entity which operates or will operate the Lottery. For purposes of this Section, any sale or transfer of a controlling equity interest in, or substantially all of the assets of, VENDOR will be deemed an assignment for which the NCEL's consent is required.

D. This Agreement shall be binding on VENDOR, and its Subcontractors, successors and permitted assigns.

E. The headings contained herein are for the convenience of the parties only and shall not be interpreted to limit or affect in any way the meaning of the language contained in this Agreement.

F. This Agreement may be executed in one or more counterparts, each of which shall be deemed to be an original, but all of which together shall constitute the same Agreement. Any signature page of any such counterpart, or any electronic facsimile thereof, may be attached or appended to any other counterpart to complete a fully executed counterpart of this Agreement, and any telecopy or other facsimile transmission of any signature shall be deemed an original and shall bind such party.

G. If any provision of this Agreement shall be held void, voidable, invalid or inoperative, no other provision of this Agreement shall be affected as a result thereof, and accordingly, the remaining provisions of this Agreement shall remain in full force and effect as though such void, voidable, invalid or inoperative provision had not been contained herein.

H. Upon the request of either party, the other party agrees to take, and VENDOR agrees to cause any Subcontractor to take, any and all actions, including, without limitation, the execution of certificates, documents or instruments, necessary or appropriate to give effect to the terms and conditions set forth in this Agreement.

23. ADDITIONAL SERVICES

In the event the NCEL desires to retain the services of VENDOR for activities in addition to those contemplated by this Agreement, and VENDOR agrees to perform such services, payment therefore shall not exceed the rates identified in this Agreement unless agreed to in writing by the NCEL. Any such services, the rates and the terms of payment shall be approved, in writing, prior to the commencement of any such additional work. In no event shall VENDOR or any Subcontractor be paid for work not authorized, or for work in excess of that authorized, in writing by the NCEL.

24. APPROVAL OF COMMISSION AND REQUIRED INVESTIGATIONS

The NCEL and VENDOR hereby agree that this Agreement, and all of the terms and conditions contained herein, is subject to the approval of the Commission and the successful completion of all criminal and other background investigations required by the Act, other Applicable Laws, Governing Laws and Regulations or NCEL. This Agreement will not be binding upon the NCEL until the completion of all such investigations and the Commission has expressly approved the awarding of the Agreement to VENDOR and executed this Agreement.

IN WITNESS WHEREOF, the parties hereto have caused their duly authorized representatives to execute this Agreement to be effective as of the Effective Date.

"NCEL"

NORTH CAROLINA EDUCATION LOTTERY

By: _____

M. Mark Michalko

Its: Executive Director

"VENDOR"

By: _____

[NAME]

Its: [TITLE]

EXHIBIT A
[PROPOSAL]

EXHIBIT B
[RFP]

EXHIBIT C
[QUESTIONS AND ANSWERS]

EXHIBIT C

RFP – LC000058 Professional Advertising and Related Services Q&A (Phase #1)

The NCEL is thrilled to have received a huge number of questions as well as requests for additional data as part of the Phase I Q&A for the Professional Advertising and Related Services RFP. Many of these questions will be beneficial to agencies as they move forward in the process, but are not critical for Phase I. To best assist with the immediate needs we are responding to those questions that we anticipate impacting Phase I responses. We are actively working to answer all questions received, and will update this document by or before Monday, June 14.

- 1) Will you consider agencies headquartered outside of North Carolina for this RFP?

Yes. The NCEL has previously worked with agencies both in and outside of North Carolina. Our current media partner is located outside of North Carolina.

- 2) If yes, do you require an office to be established in North Carolina

No. We do not require a NC office to be established.

- 3) Does the agency need to be a SAG-AFTRA agency?

No. We do not require that an agency be a signatory to SAG. We have worked with agencies who are and those who are not. We will assist agencies as needed in identifying the contract under which legacy spots were produced.

- 4) State of business: NCEL has grown a remarkable 31% in FY21 YTD compared to FY20. First, congrats. Second, what do you attribute this to?

The availability of lottery products during the pandemic, both online and at retail locations such as grocery stores, convenience stores, and gas stations, has allowed consumers to enjoy lottery entertainment at a time when other forms of entertainment were not available. As a result, many US lotteries have seen sales increases.

The NCEL has trended above the national average. We believe advertising continuity has contributed to this trend and has been highly effective in supporting strong scratch-off sales and growth. The success of the NCEL's Fast Play product launch in FY21 is also a contributing factor. Sales for Fast Play are up 218% YTD versus the projected budget. Over the last year,

online play provided the opportunity to enjoy some of the NCEL's games from the comfort of home and as a result, both sales and player registration are up over 200%.

- 5) Geography: How do sales break down across cities/towns/DMA's?

Sales information by region will be provided to Responding Contractors during Phase II.

- 6) Brand Tracker - can the NCEL marketing team provide in Phase 1?

Brand tracker information will be provided to Responding Contractors during Phase II.

- 7) Segmentation study - when will this be completed? Can we review?

Segmentation information will be provided to Responding Contractors during Phase II.

- 8) FY 2021/20 Media Plans - can NCEL provide a calendar of historical promotional activity in more detail (e.g., FY 2021 media plan) and a list of asset deliverables per campaign?

The NCEL will share advertising calendars for FY20, FY21, and FY22.

Campaign assets are typically as follows for monthly scratch-off launches: Video (:30) for TV/Cable/OTT, radio (:30) for terrestrial radio and streaming, point-of sale, and social content for Facebook and Instagram. In addition to the :30 video used for broadcast, the NCEL is interested in pursuing shorter video units (:15) for use on YouTube and in pre-roll in FY22.

In addition to the deliverables listed above, the NCEL typically adds both digital display and digital video to all other campaigns including: draw games, Fast Play games, Play Smart, and beneficiary messaging.

- 9) Media - Can the NCEL provide the FY 2022 work in progress plan?

The advertising calendars referenced in Question #7 will be shared.

- 10) New Games: Can you share a list of new games planned for FY 2022?

The advertising calendars referenced in Question #7 will be shared. Please note that the NCEL launches approximately 48 to 50 new scratch-off games each year with approximately four to five launching each month. Not all games receive advertising support. The advertising calendar includes the names of spotlight scratch-offs and families which will receive ad support.

- 11) Incumbent creative agency staffing plan - can the NCEL provide?

The NCEL is happy to provide a list of our day-to-day agency contacts. That said, we would ask that an agency make no assumptions regarding such a list as being the NCEL's recommendation or an ideal team structure. Rather we would ask the Responding Contractor to review the scope of work and propose the staffing plan in which they feel confident.

The following list represents the NCEL's day-to-day account contacts. Additional agency team members worked on the NCEL account as part of the creative development teams, but the Creative Director served as the NCEL's primary contact. Agency team members included: Managing Director, Business Director, Account Supervisor, Project Manager, Senior Producer, Producer, Print Producer, Planning Director, Creative Director, Talent Affairs Manager, Broadcast Manager, Analytics Manger, Communications Strategist, Social Content Strategist, and Budget Supervisor.

12) Production companies - who have you worked with in FY 20 and 21?

The following list is representative of the production companies the NCEL has worked with over that last two years: Gravy Films, Haven, Fivestone, Wondersmith, Tool, Cap Gun, Carbon, Chirp, Bullitt, Timber, London Alley, and Trailblazers.

13) Can you elaborate on how the media and creative agencies collaborate on strategy, creative/media ideation, delivering/trafficking assets, monitoring, and reporting on in-market campaigns?

The NCEL believes that its agencies should work in partnership with each other, including the sharing of NCEL information across both media and creative. The Successful Contractor will work directly with the Media Agency as needed. The creative services agency typically develops campaign briefs and both agencies attend creative kickoffs. We do anticipate that the creative services agency (Successful Contractor) will handle the development and distribution of broadcast trafficking instructions for TV and radio. The NCEL triple bids such services on an annual basis. The NCEL will provide guidance to the Successful Contractor with respect to this effort. The media agency also works with the NCEL to monitor and improve the ROI effectiveness of all media buys by providing specific and detailed media purchase information for analytical tools and modeling to further analyze the effectiveness of the advertising plans and to inform future media recommendations.

14) Ability to conduct business in the state of NC. Please explain.

The responding Contractor must be registered, with the North Carolina Secretary of State, to do business in North Carolina and, if awarded the contract, must maintain that registration throughout the term of the Agreement. For more information on registration, visit the NC Secretary of State's website at sosnc.gov. Registration is required prior to the Deadline for Submission of Phase II Proposals.

Audience

15) What gaps do you see in your understanding of current and potential players?

Recent segmentation work provides detailed information on players and potential players and this segmentation information will be provided to Responding Contractors during Phase II.

16) Do demographic groups (age, gender, race, HHI) play differently?

Player demographics are largely consistent with the general population demographics, with a few minor differences:

- 42% of lottery players are aged 35-54, whereas only 35% of the general population currently belong to that age bracket
- 52% of lottery players are male (vs. 49% of general population)
- 25% of lottery players hold a university degree (compared to 29% of the general population)
- One-in-five North Carolinians are African American (20%), whereas 23% of North Carolina Lottery players belong to this demographic

Player Motivation

17) Does awareness of the NCEL brand drive player participation? (Are those who are aware more likely to play/more likely to play more often?)

Yes, an estimated 70% to 75% of the player base reports being familiar with the NCEL brand and its games and plays a variety of games.

18) Does awareness of NCEL's impact increase player participation?

The NCEL believes greater awareness of the education programs supported by lottery dollars helps us to build a more positive image of our organization.

Knowing where the money goes may make players feel better when they don't have a winning experience, but perhaps more importantly it establishes the NCEL as an organization that is good for our state. Our most recent brand tracker shows that 20% of respondents indicated that "knowing the money goes to a good cause" is a motivation for them to play more. This is a relatively high number when compared to 33% for the highest motivator of "bigger jackpots." We also recently evaluated the impact of launching our new Play Smart responsible gaming program and discovered that 49% of players are somewhat or much more likely to play after knowing about the program, with that number going up to 62% for new players. These learnings highlight the importance of driving awareness around our CSR initiatives.

19) Does the promotion of Play Smart positively impact sales? Affinity for NCEL?

The NCEL is committed to responsible marketing of its games. Play Smart messaging is not specifically designed to positively impact sales, but rather provide tips that allow lottery players to make positive choices regarding their play. Awareness of both the program and gambling resources is high and our research indicates that these communication efforts have helped North Carolinians feel good about playing our games. We recently evaluated the impact of Play Smart on the likelihood to purchase and discovered that 49% of players are somewhat or much more likely to play after knowing about the program, with that number going up to 62% for new players.

20) Why the high volume/pace of new scratch-off games? Does data show a drop-off when the 'news' level recedes?

In FY14, the NCEL implemented a monthly launch strategy for scratch-offs releasing games on the first Tuesday of each month. This established cadence ensured that players knew when new games would be available and helped retailers to better manage inventory. Scratch-off sales quickly grew to over \$1 billion and then more than \$2 billion annually. With nearly 67% of the NCEL's sales coming from scratch-off games, multiple game launches are needed each month to meet demand. Although games are typically on sale for months, interest in new games has been identified as a key motivation for play, so it is important that the NCEL offer a variety of new scratch-offs each month.

21) Is there seasonality to player participation?

Participation does not vary greatly over the year, but there is typically some seasonality for play with sales being higher in February and March each year and dipping slightly in the summer months.

Business/Industry/Environment

- 22) What do you believe are the primary contributing factors to the growth you're experiencing? Have there been any significant changes to the organization that may have contributed?

Please see response to Question 4.

- 23) How do you anticipate online sports betting in NC impacting participation in existing games? What demographic groups do you anticipate moving into online sports betting? Will this change the way you promote existing games?

Online sports betting has not been approved at this time in NC. In anticipation of its legalization, we did conduct a thorough study of the potential of sports betting which indicates that there is already a significant amount of unregulated sports betting occurring in the state. This means that legalizing sports betting would most likely shift current sports betting to legal operators. In addition, while there may be some cross play between lottery and sports betting, they each deliver on a different gaming need, so minimal impact is expected overall. It is however cautionary as some of this will be determined by the model that is implemented in North Carolina and how many private operators will be licensed since private operators are known to invest heavily in advertising and promotions. Basically, this will be an unknown until it is legalized and the structure is better known.

RFP Logistics

- 24) Should we complete and submit the Vendor Registration paperwork listed on the website at this time?

The NCEL Vendor Registration paperwork [Business | NC Education Lottery \(nclottery.com\)](#) is not required until the contract is awarded. However, NC business registration with the NC Secretary of State at sosnc.gov is required prior to the Deadline for Submission of Phase II Proposals.

- 25) There is a physical address listed for the full Phase 1 submission. Should paper copies be sent? If so, how many copies would you like?

The Potential Contractor should submit one (1) signed original and four (4) paper copies of each completed Contractor's Capabilities Proposal and one (1) USB flash drive containing an unredacted PDF version (or other suitable format) of the Contractor's Capabilities Proposal and a redacted PDF version (or other suitable format) of its Contractor's Capabilities Proposal with redacted information that Contractor deemed as confidential or contained trade secrets or such other proprietary rights as dictated by law.

- 26) D. Creative Development and Production of Retail Point-of-Sale materials – Must the Agency provide estimates for printing/production costs for POC materials or does NCEL have a print vendor and separate budget for these costs outside of this scope?

The Successful Contractor will be responsible for creating POS for advertised campaigns and in such a case, the Successful Contractor will be responsible for providing estimates to produce the POS they have designed.

The NCEL also creates POS as needed for other initiatives. The costs for POS produced by the lottery as well as that produced by the agency (Successful Contractor) comes from the POS budget.

- 27) G. Does the NCEL have specific multi-cultural goals or KPIs?

Our multi-cultural marketing efforts have included TV, radio, point-of-sale translation and beneficiary focused newspapers ads. Any considerations would be reviewed to make sure that we are striving to be inclusive and not that we are targeting a group or economic class. We would endeavor to incorporate MCM into approximately two to four campaigns annually.

- 28) 5. Does this mean list of accounts terminated by either party (Agency or Client)?

Yes, terminated by either party.

- 29) 8. Will the Agency have access to the analytics and tracking that is collected and reported out by the media buying/placement vendor?

The Successful Contractor will have access to data/information from the media agency.

Consumer

- 30) Is there an audience you'd like to grow more? Why that audience, and what are the growth goals for them?

Recent segmentation work provides detailed information and this segmentation information will be provided to Responding Contractors during Phase II.

31) Is there a customer type who is more profitable than others?

Recent segmentation work provides detailed information and this segmentation information will be provided to Responding Contractors during Phase II.

Creative

32) If you were to critique the creative work over the last three years - what would you say about it? What did you like? What could be better? How has it performed vs your main KPIs?

In an effort not to influence the creative development during the creative assignment, we will decline to comment.

33) Is there any work from other state lotteries that you admire?

In an effort not to influence the creative development during the creative assignment, we will decline to comment.

34) What is the process for how you will approve the work and levels within the lottery for who has to sign off on the work?

During the RFP process the creative work will be reviewed by the Evaluation Committee. After a contract is awarded, the Successful Contractor will present to a team comprised of individuals from the NCEL's advertising and marketing departments. Final selection of creative is made by the Advertising Director and Deputy Executive Director of Brand Management. Final review and approval are provided by the NCEL's Executive Director.

Marketing

35) Are you open to changing the way you market any of the three components? Is there an opportunity to re-think some of the messages, and how they work together?

We are open to discussing new approaches and testing of new approaches.

36) What is the key marketing challenge you have right now?

The NCEL has achieved strong, consistent growth since its inception. With sales now more than \$3 billion, maintaining that growth becomes increasingly difficult. The largest challenges for the NCEL are as follows: (1) Increasing and maintaining relevance with consumers, (2) Breaking through the clutter to drive increased awareness, and (3) Establishing our brand as a more integral part of the state's culture, enabling it to grow in an organic way.

37) How much of the marketing calendar is pre-planned vs. more ad hoc requests?

The advertising and marketing calendar for the year is planned in advance and there are few ad hoc requests.

Diversity, Equity, and Inclusion

38) Can you share your commitment to Diversity, Equity, and Inclusion and the results to date?

The NCEL's minority business outreach plan can be viewed on the lottery's website or through the link: [PURPOSE \(ncclottery.com\)](https://www.ncclottery.com/PURPOSE). The FY21 vendor purchase order distribution shows 22.9% with HUB certified vendors, 5.7% with minority/non-HUB certified vendors, and 71.4% with non HUB certified.

39) How diverse is your current team?

Employee demographics as of 5/26/21

Hispanic/Latino Female	2.7%
Asian Female	2.32%
Black/African American Female	18.92%
Native Hawaiian or Pacific Islander Female	0.39%
Two or More Races Female	1.16%
White Female	28.19%
Hispanic/Latino Male	2.7%

Asian Male	1.93%
Black/African American Male	11.58%
Native Hawaiian or Pacific Islander Male	0.00%
Two or More Races Male	0.39%
<u>White Male</u>	<u>29.73%</u>
Total	100.00%

40) Do you see a connection between this lottery and equity in our state?

It is a little unclear what equity is referring to in this question, so we will attempt to answer based on our assumed intent of the question. In regards to lottery and its impact on the state, we know that the NCEL has provided over \$8 billion to education since inception. While the legislature determines the distribution of those dollars with the goal of equitable distribution across the state, significant additional dollars have specifically gone to school construction in rural, lower income counties that would otherwise not be able to afford new schools in the hopes of raising the educational equity of those areas. This is also the case with the funds provided for free pre-k and college scholarships/grants funded by the NCEL, which are need based only. In addition, we know that roughly 95 cents of every dollar goes back to the state in the form of prizes, taxes, commission to retailers, and outstanding debts (e.g. unpaid child support). Lastly, we have thoroughly studied the demographics of lottery players and have found that the demographics of lottery players are similar to the overall demographics of the state, eliminating perceptions that the lottery is played significantly more by any specific demographic group. This should indicate that the lottery has limited impact to the equity of any one group more than another.

The NCEL also prides itself on operating one of the most responsible lottery organizations in the world. We are one of eight U.S. lotteries, and the youngest lottery, with the World Lottery Association's Level 4 Responsible Gaming certification. This is the highest level any lottery can achieve. We are committed to the health of our players, which is also why we launched the first lottery specific responsible gaming prevention program in the U.S. with Play Smart and provide the sole funding of the North Carolina Problem Gambling program, which provides training and treatment across the state.

41) On page 33 of the RFI - Section 6.7 titled "Minority Business Participation"- a minority is used throughout, please define or specify what is meant by the term "minority".

From N.C. Gen. Stat §143-128(g):

- (1) The term "minority business" means a business:
 - a. In which at least fifty-one percent (51%) is owned by one or more minority persons or socially and economically disadvantaged individuals, or in the case of a corporation, in which at least fifty-one percent (51%) of the stock is owned by one or more minority persons or socially and economically disadvantaged individuals; and
 - b. Of which the management and daily business operations are controlled by one or more of the minority persons or socially and economically disadvantaged individuals who own it.
- (2) The term "minority person" means a person who is a citizen or lawful permanent resident of the United States and who is:
 - a. Black, that is, a person having origins in any of the black racial groups in Africa;
 - b. Hispanic, that is, a person of Spanish or Portuguese culture with origins in Mexico, South or Central America, or the Caribbean Islands, regardless of race;
 - c. Asian American, that is, a person having origins in any of the original peoples of the Far East, Southeast Asia and Asia, the Indian subcontinent, or the Pacific Islands;
 - d. American Indian, that is, a person having origins in any of the original Indian peoples of North America; or
 - e. Female.
- (3) The term "socially and economically disadvantaged individual" means the same as defined in 15 U.S.C. 637.

Measurement

- 42) Beyond sales, how are you measuring the effectiveness of the work? Do you have a tracking study in place that measures some of the other KPIs (awareness, purchase intent, etc) you reference in the RFI?

Overall ticket sales, sales growth versus prior year, and game sales indices are used to evaluate success of ad campaigns. An on-going brand tracker is used and reports on attributes such as awareness, difference, relevance, saliency and persuasiveness.

RFP Approval Process

- 43) Can you share the key members of the marketing team as well as the additional committee members that the Executive Director is compiling to be included in the pitch process and also responsible for the final recommendation to commission?

To maintain the integrity of the RFP process the NCEL does not release the identity of the evaluation committee. Phase II finalists will have the opportunity to meet the evaluation committee members during final presentations.

- 44) While agency capabilities and the assignment are critical components to hiring your next agency, you can't understate the importance of chemistry between a client and agency. Are you open to adding a work session (vs Q&A) with the agency finalists in order to get a better feel for client/agency chemistry?

Unfortunately, we are not able to amend the process to such an extent at this point in the RFP process. That said, we do appreciate the role that chemistry plays in the agency/client relationship. For agencies participating in Phase II, we hope that the presentations and subsequent discussion can provide some idea of what it would be like to partner together.

Team Structure

- 45) Understanding how your marketing team is structured will help us determine how to structure our team to best service your business. Can you share your marketing structure? What worked with your last agency? What didn't?

The Brand Management and Communications Division includes the Advertising, Marketing, and Communications departments. Each department is headed by a director with various managers, supervisors, coordinators and analysts supporting each department's day-to-day functions. Each department reports to the Deputy Executive Director of Brand Management and Communications. We believe agency partners both past and future must be knowledgeable with respect to our goals, passionate about our business and mission, and sincerely committed to helping the NCEL succeed. Lack of understanding of the lottery business as a result of agency turn-over can hamper growth. To keep pace, agencies must also possess the strong strategic planning abilities critical for developing insightful creative campaigns. An agency partner should also be able to determine and meet deadlines for deliverables.

- 46) What are the key attributes you are looking for in an agency partner, beyond functional capability?

Our agency partner is a critical source for the NCEL's marketing and advertising needs. We most appreciate an agency who values clear and open communication, trust, respect and accountability. Experts willing to understand the lottery business and use their experience and insights to provide solid ideas and solutions is crucial. We are looking for an agency partner with strong, strategic planning

capabilities that allow for the development of salient creative campaigns to help us grow and meet our sales and in turn education support goals.

47) Are there any new media or technologies that you are interested in exploring?

No, there are not specific channels that we haven't had an opportunity to explore. That said we look to include more digital in the upcoming year including increased digital video in pre-roll and on YouTube.

48) Are there any recent consumer trends you view as opportunities or hurdles?

The shift in TV viewing to streaming and other digital video seems to have been accelerated as a result of the pandemic. Although linear TV remains a top reach device, we recognize the need to adapt to this shift in order to reach players on social and digital channels with content optimized for the channels. In addition, the continued shift to digital gaming is a significant growth opportunity for us. We continue to look for the opportunities to grow our digital game portfolio.

49) Who do you see as your main competitors? Direct and other entertainment options?

The lottery sees itself as competing with entertainment options and other forms of gaming.

50) How has your business changed since COVID?

Please see response to Question #4.

51) What other marketers (in or out of the industry) do you admire?

In an effort not to influence the creative development during the creative assignment, we will decline to comment.

52) Are consumers aware of the NCEL master brand or are they mostly aware of the games themselves?

Consumers are aware of the overarching NCEL brand.

53) How do you currently reach consumers? Media budget Digital, TV, POS breakdown by % of spend?

The current FY21 ad budget of \$29,000,000 can be broken down as follows:

- Television - \$16,499,215
- Radio - \$3,957,025
- Out of Home - \$2,439,680

- Print - \$100,000
- Digital - \$1,404,080
- Production - \$4,600,000
- POS - \$900,000 (Includes agency-produced POS & NCEL-produced POS)

54) What do you consider the main contributors to your steady growth?

In addition to creating an exciting array of scratch-offs at a variety of price-points, the NCEL has supported these scratch-off games with 12 advertised launches each year. We've researched positioning and creative new games such as Fast Play to grow our portfolio. To better balance the game portfolio, we've sought to increase draw game sales by supporting promotions and multi-state jackpots during high jackpot times. We've sought to engage players through social media and with online play offerings. Finally, we recognize the value of communicating how lottery dollars benefit education through promotional opportunities and ad campaigns.

55) What is your biggest challenge as a brand?

Perhaps the most critical challenge the NCEL and its agency partner will face is to maintain and build on the lottery's previous success. Although new products will always be introduced, the NCEL must rely on effectively reaching new lottery players with breakthrough creative that motivates lottery play. As existing players age, we must strive to be relevant to younger players. As new products continue to be introduced, the NCEL must also find effective ways in which to strategically drive and maintain awareness across all games in our portfolio.

56) Do you intend to keep your brand's positioning as the desire to dream about a possible win?

Yes, our brand research and positioning has been successful particularly in that it helped the NCEL to better define the brand purpose. With the insights gained, the NCEL has made progress on building the image of NCEL, the perception of value in playing, and the emotional connection among lottery players. Although there has been some fluctuation in quarterly brand tracker scores, the overarching trend has been a positive one. Defining the persona for the brand has also helped with creative appeal.

57) Are you able to share audience data for Phase II of the RFP?

Yes, segmentation data will be shared in Phase II.

RFP Clarifications

58) Is this a creative and brand strategy-led RFP only, or is media a part of this as well?

The RFP is for creative, advertising and marketing communications services. Media services are not part of the RFP.

59) Concept testing is referenced on page 11. Does NCEL typically conduct quantitative or qualitative concept testing?

The NCEL conducts both qualitative and quantitative testing for new product launches. Typically, this type of testing is not done for monthly instant scratch-off introductions, but rather with the launch of a new product line or a product relaunch. Creative concept testing may also occur with the development of a campaign that will last for an extended period of time (multiple flights) rather than for a single three-week flight.

60) Can you confirm that your agency contractor does not have to be bound to SAG (allowing flexible use of non-union) for any talent? Are there any other talent or production nuances we should be aware of? i.e. all filming must be done in the state of North Carolina, directors are allowed to be from outside of the state but talent must be North Carolina residents.

We do not require that an agency be a signatory to SAG. We do film exclusively in North Carolina, but there are no additional requirements regarding directors, talent, or production companies. We look for in-state production opportunities when and where available. See Question #3.

61) Please confirm if the requested organization diagram (Page 19, question 2c) is specific to the entire responding office or just the suggested NCEL team.

In Phase I, the organization diagram noted is specific to the entire responding office. In Phase II, the NCEL will ask about the specific team suggested for the account.

62) Vendor XX has submitted the Vendor Registration Form. Are there any other steps needed to be fully authorized and registered to do business in North Carolina?

Prior to the Deadline for Submission of Phase II Proposals, the responding Contractor must be registered, with the North Carolina Secretary of State, to do business in North Carolina and, if awarded the contract, must maintain that

registration throughout the term of the Agreement. For more information on registration, visit the NC Secretary of State's website at North Carolina Secretary of State Business Registration (sosnc.gov)

63) On Page 21, please confirm the reference meant to refer back to "F" vs. item "E"?

That is correct. The reference is meant to refer back to Section 4.1(F)(1)(a) and 4.1(F)(1)(b). The RFP should read as follows:

A. Technical Proposal: Creative, Advertising and Marketing Communication Services

1. Samples of Work – Responding Contractor shall submit with its Proposal creative samples produced within the past two (2) years by Responding Contractor's office and identify the creative director that will be servicing the NCEL account. **Samples must be from at least two (2) different campaigns and must be different from the case studies submitted pursuant to Section 4.1(F)(1)(a) and 4.1(F)(1)(b) above.** For each of the samples submitted pursuant to this Section, Responding Contractor must provide a write-up of not more than two (2) pages indicating the account name, product name, marketing objective, creative strategy, and creative team(s) responsible for the work. Responding Contractor should include the following items as available in the samples submitted in connection with this Section:
 - a. TV ads on a zip drive;
 - b. Radio ads on a zip drive;
 - c. Digital ads on a zip drive;
 - d. Retail POS/POP layout samples on a zip drive;
 - e. Additional items (any medium) that illustrate Responding Contractor's unique creative strengths.

64) Please confirm Attachments A-E should only be submitted with Phase 2.

That is correct. These are part of the Phase II submission.

65) Is it expected that the agency contractor will handle the development and distribution of broadcast trafficking instructions for TV and Radio? Does NCEL currently work with a preferred vendor when shipping and trafficking broadcast creative?

We do anticipate that the creative services agency (Successful Contractor) will handle the development and distribution of broadcast trafficking instructions for TV and radio. The NCEL triple bids such services on an annual basis. The NCEL will provide guidance to the Successful Contractor with respect to this this effort.

66) Is the agency responsible for any language translation needs for creative assets?

If the creative services agency (Successful Contractor) is creating assets requested by the NCEL and these require translation, we would anticipate that the Successful Contractor would be responsible for acquiring a translation and the NCEL would pay for this production need. If the creative services agency (Successful Contractor) does not have a vendor for translation services, the NCEL will connect the Successful Contractor with the translation company the NCEL uses for internally managed projects.

Business Questions

67) What will be the single most important driver/determinant of success in FY22?

Maintaining and building on the success of the previous fiscal year will be a significant challenge in FY22. Both retaining new players and introducing them to additional products will be key. Advertising continuity will continue to be necessary to support scratch-off sales as these are often the first games explored by new players. It will also be important to continue to support newly launched products such as Fast Play so that awareness is maintained. With this in mind, effectively reaching new lottery players with breakthrough creative that motivates lottery play is a critical driver for success. Finally, although scratch-offs clearly drive the majority of our sales, it is important to note that they are less profitable than draw games. For this reason, on-going support of draw games is advantageous to the NCEL's growth. Powerball, Mega Millions, Cash 5, Lucky for Life, and Carolina Keno offer opportunity for future growth.

68) Where do you see the most growth coming from? (e.g. reaching new players or more sales from existing audiences)

Please see response to Question 67. In addition to retaining new players, as existing players age, we must strive to be relevant to younger players and grow this audience.

Asset Requests

69) Are you able to share the marketing plan from the two previous years? If so, can you please send?

Please see response for Question #8.

70) Are there any relevant audience segmentation documents you could provide that you use currently or reference as potential opportunities?

Segmentation work will be shared in Phase II

71) Are you able to provide a sample multicultural media plan? Are all products supported or just specific ones?

Only some products are supported and multi-cultural marketing efforts have included TV/Cable, radio, point-of-sale translation and beneficiary focused newspapers ads. We would endeavor to incorporate MCM into approximately two to four campaigns annually.

72) How has NCEL demonstrated corporate social responsibility as an organization and what are plans to do so in the future?

As the only U.S. lottery to increase sales every year since inception, we have seen unparalleled growth and success. The only way we – as a business – can achieve such success every year is because of sustainable and responsible business practices. Our commitment to providing fun and fair games is matched by our desire to make a positive difference in the community. We are operating responsibly to protect those who play our games. We are operating sustainably to maximize our return to education. Our commitment to doing good for North Carolinians is best reflected in our goal to be one of the most responsible lotteries in the world – a goal we are proud to say we achieved. The NCEL publishes an annual Report to the Public which details our CSR efforts each year. The most recent version can be found at https://nclottery.com/Content/Docs/Annual_Report_FY2019.pdf.

73) How are you ensuring CSR when targeting multicultural audiences?

The NCEL makes every effort to grow sales in a responsible manner. By statute, the NCEL does not target any specific demographic groups. Rather, the NCEL strives to be inclusive in its support by ensuring that less represented groups in the state are also part of the NCEL's audience and that media vehicles supported by those groups are also supported by the NCEL through marketing spend. As mentioned in previous responses, the NCEL has done a rigorous demographic study across the state that proves that our marketing efforts are not driving significantly more players to come from any one demographic group than would be represented in our general state population. This includes groups that would be classified as multicultural marketing audiences. The NCEL's annual Report to the Public which details our CSR efforts can be found at https://nclottery.com/Content/Docs/Annual_Report_FY2019.pdf.

74) You referenced a 70% minimum score for phase 1 - can you provide the scoring criteria with how each area is weighted?

In Phase I, the relevant experience and capabilities of an agency will be viewed as most significant. An agency must score 70% at a minimum for consideration for Phase II. Ability to meet minimum requirements, case histories, experience, and strategic processes are reviewed in detail during the Phase I evaluation process.

75) What is included in the estimated \$5.5M marketing budget?

The majority of the marketing budget is allocated to event and sports sponsorships, point-of-sale, and premium items.

76) What is the breakdown of the \$29M advertising budget? We were originally told that production would be approximately \$4.6M and agency fee, \$2.8M. Is that still accurate?

The NCEL's advertising budget is capped at 1% of its annual sales. The advertising budget was \$29 million for FY21, but could be different in FY22. The RFP shows the growth of the advertising budget over the last several years. The production costs and agency fee for FY22 are not yet determined. The exact production costs will be established when the NCEL and the Successful Contractor make that determination. Likewise, the agency fee will be determined when the RFP is awarded to the Successful Contractor. The production amount of approximately \$4.6 million and the agency fee of approximately \$2.8 million are correct for the existing FY21 budget.

77) If the budget does not include media, what is the estimated annual spend?

The advertising budget includes both media and production.

78) What will be the division of labor between NCEL's media agency and ourselves?

The RFP details the expectation for the creative services agency. The media agency is responsible for developing the media plan based on individual campaign goals utilizing the most effective media channels including television, radio, print, out-of-home and digital communications including social media. They negotiate and place all media and ensure that it was broadcast or published according to any contracts or placement instructions. The media agency also works with the NCEL to monitor and improve the ROI effectiveness

of all media buys by providing specific and detailed media purchase information for analytical tools and modeling to further analyze the effectiveness of the advertising plans and to inform future media recommendations.

79) For social media services, please confirm that community management is not included in the primary scope.

Community management of social media is not included in the primary scope of work.

80) Are production hard costs included in the scope of services?

Responding Contractor's cost quotations in Phase II should cover all services and other items required by the RFP as well as services deemed necessary by the Responding Contractor including charges incidental to the routine conduct of business. With respect to travel, the NCEL will reimburse for travel expenses for up to three employees at the NCEL's State Rate for production related expenses.

81) Are there any tangible sales goals or awareness metrics? If so, over what period of time? Overall, how will define success?

Overall ticket sales, sales growth versus prior year and game sales indices are tracked and evaluated to measure advertising campaign success. In addition, the NCEL tracks game and advertising awareness year round to ensure awareness of key games or brands is being maintained or growing.

82) Is there any existing audience research and customer segmentation available?

The NCEL's segmentation study will be made available in Phase II.

83) What is the general structure of NCEL's marketing team so that we can align our personnel accordingly?

The Brand Management and Communications Division includes the Advertising, Marketing, and Communications departments. Each department is headed by a director with various managers, supervisors, coordinators and analysts supporting each department's day-to-day functions. Each department reports to the Deputy Executive Director of Brand Management and Communications.

84) Will campaigns be built on existing brand strategy and look/feel?

Yes, please see response to Question 56. In regards to look and feel, the NCEL is always evolving its brand guidelines to ensure that it is relevant and feels contemporary.

85) What are your highest priority and highest performing channels?

Historically, network TV has performed the best and has been a focus; however, the ideal media mix truly depends on the specific product and the overall goals for the campaign and all creative elements are important in the campaign.

86) What type of audience and sales data will we have access to?

Please see response to Questions 5 and Question 7.

87) After the September selections, when are campaigns expected to be in market?

The first campaign is anticipated in January.

88) What would be considered sufficient evidence of the annual billings required as outlined in 4.1.D.2.a?

In Phase I, a Responding Contractor will self-certify this information with a statement to that effect. Financial information will be reviewed in Phase II.

89) If Contractors plan to subcontract any of the Optional Services as outlined in 2.5.2 and have identified partners who could handle the services (which would be less than 25% of the overall scope), how should those subcontractors be treated in the Phase 1 response, if at all?

It will not be necessary to identify in Phase I. Optional Services are addressed in Phase II.

90) Can the NCEL share any details about what falls out of the POS budget outlined in section 2.4? Is that budget specific to POS print production only?

Yes, the budget is specific to POS print only. The budget is literally for the cost of producing the various POS pieces. The creative services agency produces the POS associated with advertised campaigns and the NCEL produces other pieces as needed which are not associated with an advertised campaign. Both the production costs for the Successful Contractor and the NCEL will come from this budget.

91) In sections 4.1.3 and 4.1.4 where we are asked to provide total billings, are broad ranges acceptable?

It is challenging to address the question regarding broad ranges. That said, in Phase I, a Responding Contractor will self-certify total billings with a statement to that effect. Financial information will be reviewed in Phase II.

92) In section 4.2.A.5.c you reference that the NCEL is on-air for 12 scratch-off, four draw game, and two brand/beneficiary campaigns in a fiscal year. Of these 18 campaigns, approximately how many are typically net-new creative inclusive of broadcast production in that same year?

The NCEL estimates approximately 11 to 13 net-new campaigns per year. The NCEL will work with the Successful Contractor to create a more streamlined way to create scratch-off campaigns, as scratch-offs are supported on a monthly basis. The NCEL will also explore ways to reuse and update existing creative when possible. That said, the total number of campaigns varies by year and a Responding Contractor should be prepared for 18 campaigns.

93) Can you share your current media mix / spend?

Please see answer to Question #53.

94) Can you elaborate on your target audience(s)? Are there any audience nuances by brand?

Please see response to Question 7.

95) Has the NCEL seen any shift in player demographics in the last 5-10 years?

Please see response to Question 16.

96) Can you share the most recent Brand Guidelines document and any hi-res logos?

The Brand Guidelines are now posted.

97) How satisfied are you with the current brand look and feel?

Please see response to Question #84.

98) Can you confirm when you anticipate the first work from the selected winning agency launching?

Please see the answer to Question #87.

99) Can you describe the current Brand Persona? How happy is the lottery with the current persona?

Please see answer to Question # 84 and reference the NCEL's brand guidelines for additional information.

100) Can you share any historical data for Brand Awareness and Consideration? How does this compare to your targets?

Please see the response to Question 6.

101) Are there any lotteries the NCEL admires for their brand building efforts?

In an effort not to influence the creative development during the creative assignment, we will decline to comment.

102) What do you consider your biggest brand challenges and opportunities?

Please see response to Question 55.

103) What do you consider your biggest digital marketing challenges and opportunities?

The shift in TV viewing to streaming and other digital video has accelerated as a result of the pandemic. We recognize the need to adapt to this shift in order to reach players and hope to include additional digital units such as :15 units on YouTube and in pre-roll.

- 104) Can you confirm that the NCEL office will be open to visitors on 6/22 if we are hand-delivering responses on that day?

NCEL offices are still closed due to the COVID-19 emergency. However, if you plan to hand deliver your proposal, Anthony Downey, Purchasing Administrator, will be available at NCEL Headquarters (the delivery address listed in the RFP) to receive proposals. Please email him (bid.submission@lotterync.net) in advance to schedule a time to deliver your proposal. You will also need to call him (919-301-3433) when you arrive so he can meet you at the door.

Business & Performance

- 105) In your opinion, what has contributed most to the significant growth you've experienced over the past few years?

In addition to creating an exciting array of scratch-offs at a variety of price-points, the NCEL has supported these scratch-off games with 12 advertised launches each year. We've researched positioning and creative new games such as Fast Play to grow our portfolio. To better balance the game portfolio, we've sought to increase draw game sales by supporting promotions and multi-state jackpots during high jackpot times. We've sought to engage players through social media and with online play offerings. Finally, we recognize the value of communicating how lottery dollars benefit education through promotions and ad campaigns.

- 106) What is the overall favorability of the NC Education Lottery among NC residents? Any mis-perceptions you feel need to be addressed?

Overall advertising likeability among player remains relatively strong at 67%. Although not a misperception, there is an opportunity to strengthen the connection of the NCEL to its support of education programs. An estimated 73% of players and an estimated 64% of nonplayers associate the NCEL with education. We believe these numbers can continue to be improved.

- 107) How much is typically invested in Lottery proceeds campaigns, and what tactics have historically worked well?

Beneficiary initiatives are typically supported with two flights annually which are each three or four weeks in length. The creative and media investment is the same as an instant or draw game launch. Historically, network TV has performed the best and has been a focus; however, social and digital elements have also performed well based on the specific campaign goals.

In addition to the advertising campaigns, we have seen amazing success in the utilization of beneficiary focused promotions along with our advertising, like our N.C. School Heroes promotion that celebrated the unsung heroes who work at public schools in our state. This was a strong link to one of our beneficiaries, non-instructional public school personnel. This promotion was a way for us to engage North Carolinians by asking them to nominate their NC School Hero and have people across the state vote on the nominations. The overall goal was to drive increased understanding of our beneficiary programs and the impact to education in each person's county, while also obtaining a positive halo and connection to education. It was a resounding success with two million unique visitors to the website and a 569% increase in visits to our beneficiary web pages.

- 108) How does a successful agency engage and support the in-house creative team, aside from brand and campaign guidelines?

The creative deliverables for various campaigns often service as a starting point for internal teams to create additional elements for the website or social media.

- 109) Please describe your internal marketing and sales teams by positions/titles?

The Brand Management and Communications Division includes the Advertising, Marketing, and Communications departments. Each department is headed by a director with various managers, supervisors, coordinators and analysts supporting each department's day-to-day functions. Each department reports to the Deputy Executive Director of Brand Management and Communications. The NCEL has six regional offices. Each office includes sales representatives and a sales manager. These teams in turn report to a director and the Deputy Executive Director of Sales.

Strategy Planning

- 110) Do you currently utilize the ONE segmentation from Scientific Games Research, or do you have your own segmentation study?

The NCEL's segmentation study will be made available during Phase II.

Creative Production & Media

- 111) Are there any requirements or preferences for the production of creative to be handled in North Carolina, or will agencies be able to, at times, produce work in other states if there are cost efficiencies and/or creative benefits?

Please see the answer to Question #60.

- 112) While media is not included in this RFP what can you tell us about the media firm and their interaction with the agency regarding strategy and comms planning?

The media agency is responsible for developing the media plan based on individual campaign goals utilizing the most effective media channels including television, radio, print, out-of-home and digital communications including social media. The agencies work together during the brief development for channel and communication alignment.

- 113) What is the current structure for PR/social media asset creation and management between NCEL and the current vendor, and how would this ideally be managed going forward?

As part of the creative presentation for campaigns, the creative services agency presents social media concepts and manages creative development as needed. The goal of the social program is to build brand advocacy by increasing engagement with the NCEL brand among players, communicating product news, and reinforcing the NCEL's advertising and marketing initiatives in the social arena. The Successful Contractor should be a part of the performance analysis reviews and should use this information to optimize future creative. PR and community management is not part of the scope of work; please refer to Section 2.5.2.5 for PR.

Projects & Campaigns

- 114) Can you please provide a list of the projects the agency delivered as a part of their contract in the last full fiscal year?

The NCEL is happy to provide a list of agency projects. That said, we would ask that a Responding Contractor not interpret or make assumptions regarding such a list representing the volume of work planned for the future. Rather we would ask the Responding Contractor to review the scope of work currently detailed in the RFP.

For the last full fiscal year (FY20) the following were created:

Seven instant scratch-off campaigns including: Video for TV/Cable/OTT, radio for terrestrial radio and streaming, point-of sale, and social content for Facebook and Instagram.

Two spots for Carolina Keno including: Video for TV/Cable/OTT, radio for terrestrial radio and streaming, point-of sale, and social content for Facebook and Instagram, and digital ads.

One update to an existing scratch-off spot including: Video for TV/Cable/OTT, radio for terrestrial radio and streaming, point-of sale, and social content for Facebook and Instagram.

One update to an existing online play :30 video and creation of digital assets.

Pick 3 digital promotional assets and Powerball/Mega Millions digital assets.

NC School Heroes/Beneficiary radio spot.

Updates to Play Smart logo, updates to brand guidelines. Updates to Play Smart TV and radio.

Development of a Fast Play logo. Qualitative and quantitative testing for Fast Play creative development

Fast Play TV and POS creative development.

- 115) What role will the agency play in any Website updates and digital engagement ideas such as apps and promotions?

This work is not part of the planned scope of work for the creative services agency. However, the NCEL would like to have these types of services included as optional services if an agency has these abilities so that they could be utilized if needed in the future.

Phase 1 Response

- 116) What format would you like to receive examples of videos and/or TV creative? What format do you want the exhibits in?

MP4 would be preferable for video.

- 117) 2.5 Scope of Services: Proposals must include fees associated with such out-of-scope services if the Successful Contractor anticipates providing any or all of these out-of-scope services and 2.5.2 OPTIONAL PROFESSIONAL SERVICES. What if the proposer does not provide these services? Are they required capabilities? Or should a proposer have partnerships in place for out-of-scope services?

The Optional Professional Services listed are optional; they are not required. As explained in Section 2.5.2, Responding Contractors will not be penalized for services not offered. From time to time the NCEL may need the type of out-of-scope services identified in the RFP. When this happens the NCEL can opt to work with the Successful Contractor and compensate the Successful Contractor accordingly for this additional assistance.

118) What are three characteristics that you are looking for in an agency partner?

We believe our agency partner must be knowledgeable with respect to our goals, passionate about our business and mission, and sincerely committed to helping the NCEL succeed. The Successful Contractor will play a vital role in the future growth of the NCEL. As a result, we desire a partnership with an experienced agency partner who is committed to understanding the lottery business and our portfolio of products. To further aid the NCEL, the agency partner must possess the strong strategic planning abilities critical for the development of insightful creative campaigns that are relevant and breakthrough. An agency partner should be confident in bringing forward new, insight driven ideas that challenge the Lottery, but also be willing to address the questions and concerns that arise from new ideas and approaches. Our agency partner should ultimately feel ownership over the NCEL business and brand, by making protecting the brand and ensuring the continued success of the NCEL, its top priorities.

119) What have been your biggest challenges from a production perspective?

With a demanding launch schedule for new products, agency partners need strong project management and executional capabilities and the flexibility to manage changes when dealing with productions. Lack of strategic thinking and adequate planning can negatively impact productions and result in challenges with both quality and meeting production deadlines.

120) Do you conduct concept/message testing with new campaigns before going to market?

For new product launches, product relaunches, or long-term campaigns, we may conduct research. For monthly scratch-off launches we have not typically conducted research but with appropriate lead time can consider this.

121) Can you share general demographics of your key target audiences?

Please see the response for Question 16 for demographic information. The segmentation work which will be provided in Phase II will identify audiences.

122) How would you describe the 360-degree big idea platform that is referenced in the RFP?

360° big idea platforms include creative executions for TV (story-boards required), radio (scripts required), digital, POS/POP layouts, and social media. All of these elements should be presented during creative presentations by the Successful Contractor. See RFP Section 2.5.1 for more information.

123) Roughly, what percentage of the current advertising budget is spent in optional services channels - direct marketing, retail design, promotions, PR?

None. Optional Professional Services are paid for from other existing budgets if they are required.

124) When do the Vendor Registration and Vendor Electronic Payment forms need to be submitted?

Vendor Registration and Vendor Electronic Payment paperwork is not required until the contract is awarded. However, NC business registration with the NC Secretary of State at sosnc.gov is required prior to the Deadline for Submission of Phase II Proposals.

125) Section 2.4. – Budget – Can you clarify the budget table? It lists Total Advertising Budget, Total Marketing Budget and POS Budget – are all of these separate line items that are additive or are they subsets? Are the Marketing and POS budgets captured in the Advertising Budget? Is the Advertising budget media plus production?

The Advertising Budget is the total advertising budget for both Media and Production. The POS budget is a subset of the marketing budget. Marketing and Advertising budgets are two separate budgets.

- 126) Are there defined production budget ranges for the different types of campaigns, i.e. scratch-off games, draw games or branding/beneficiary/responsible gaming? Are they available broken out by media deliverables? And if so, will they be shared as part of Phase II assignment to serve as guidelines?

The budgets do not differ based specifically on the type of product. The NCEL may choose to invest more in campaigns that will air for a longer period of time; that is longer than the three-week flight typical for instant scratch-off launches. The only production budget information that will be shared for the Phase II assignment is the estimated \$350,000 budget for television. See RFP Attachment F.

- 127) Section 2.5.1 D - Can you better define or provide an estimated range of units for what you describe as an "extensive array" of POS materials?

Included in the RFP are both the design and bidding of Point-of-sale or point-of-purchase (POS/POP) materials. For example, an instant scratch-off launch might include a poster, yard sign, and window cling displayed at a lottery retail location. Different pieces are produced for various campaigns. A POS Spec Sheet has been posted which provided additional detail regarding the types and specifications of the POS.

- 128) Section 2.5.1 H 2 – Monthly Activity Report – it says the Monthly Activity Report is to include a Media Review with brief summary and recommendations ... is that in coordination with the Media agency? Will the Creative and Media agencies have permission for direct contact for planning and sharing work?

The NCEL believes that its agencies should work in partnership with each other, including the sharing of NCEL information across both media and creative. The Successful Contractor will work directly with the Media Agency as needed.

- 129) Section 2.5.2 Optional Professional Services - Can the Successful Contractor subcontract out any of these services to affiliated agency partners or freelancers under the guidance of the Agency throughout the 3-year term without identifying them during the RFP process?

Yes. You should state that you do not provide the service, but would be willing to subcontract, if requested to do so.

- 130) Section 4.1 D 2 - Experience and Personnel - For Phase I, how specific do you need us to be in outlining/defining the staff assigned to NCEL versus providing a broader view of our agency headcount by functional area and via an org chart?

Phase I requests an organization diagram which indicates reporting relationships and location of staff overall. Any positions that are new hires should also be noted. In Phase II Responding Contractors will outline the staff which will be assigned to the NCEL agency team. See RFP Section 4.1 (D) for more information.

131) Is the incumbent agency participating in this review?

The NCEL does not anticipate the participation of the incumbent agency. By law, the RFP is opened to all agencies that meet the requirements of the RFP and the NCEL does not know which or if any agencies will be submitting a proposal until the Phase I deadline.

132) What are the objectives you have set for your current advertising initiatives and how well are they being met?

Overall ticket sales, sales growth versus prior year, and game sales indices are tracked and evaluated to measure advertising campaign success.

133) How many FTEs are on your current agency team and do you believe that has been sufficient to meet your needs and expectations?

Understanding that each agency's model maybe different, please review the work identified in the RFP and propose the agency team you believe is best suited to accomplish the scope of work.

134) Can you provide more detail about the projected agency fee for the 3-year term of the contract?

Responding Contractors will share their proposed fee for each year of the 3-year term when Phase II proposals are submitted. This fee will be the Successful Contractors full compensation for the in-scope services outlined in the RFP. Please note however, the NCEL will reimburse the Successful Contractor at the State Rate for travel related expenses for up to three (3) employees, with prior NCEL approval, for production related travel expenses. Any additional mileage and meal related expenses will be the responsibility of the Successful Contractor. Please see section 4.2.B of the RFP. In FY 21, the total advertising budget, including media, was \$29 million. The production budget was approximately \$4.6 million and the approximate agency fee was \$2.8 million. The advertising budget could be different in FY22. The RFP shows the growth of

the advertising budget over the last several years and the advertising budget is capped at 1% of annual sales. Our goal is to continue to grow sales each year in an effort to return more to education. We hope that over time both our advertising budget and initiatives will grow. A Responding Contractor should anticipate some year over year growth.

135) 2.5.1 A – Were NCEL and contractor monthly marketing and strategy review meetings held in person prior to COVID? Are these separate from the state of the business and planning meetings referenced in 2.5.1 A.1.?

- a. Will the expectation be to have these meetings held primarily in-person in the future (as opposed to virtual and in-person, as outlined in the RFP)?

With the fast-paced nature of our business, it can be easy to fall into a pattern where meetings focus exclusively on the work that is due. We believe that committing time to planning of upcoming initiatives and discussion of higher-level marketing objectives and strategies on an ongoing basis is critical in keeping an agency well-informed, providing an opportunity to learn the lottery industry, and develop a strong partnership. For these reasons, the NCEL anticipates that at least twice a month there will be meetings to specifically discuss plans for upcoming initiatives. In addition, on a monthly basis, we want to review marketing objectives and strategies for the fiscal year. Meetings can be virtual and/or in-person. We are interested in establishing solid, on-going communications.

136) 2.5.1.B – Will the incoming contractor be able to develop the Annual Advertising Plan for the current fiscal year, or has this already been developed? If the latter, will the successful contractor be able to suggest revisions or enhancements to the existing plan?

The overarching plan for FY22 has been developed. Certainly, additional input and suggestions are welcomed.

137) 2.5.1.C – What market research has been conducted in the past that you have found most beneficial in developing advertising and marketing plans? Would you be willing to share any of this research?

Both the brand tracker and segmentation work are useful in our planning and will be shared in Phase II.

138) 2.5.1.D – Will the contractor be expected to manage the NCEL's social media accounts in addition to providing strategic and creative development of campaigns and monthly reports?

No, please see answer to Question #79.

- 139) 4.1.E.10 – For responding contractors who are not currently registered in North Carolina, will this registration/authorization need to be completed prior to submission of Phase I materials?

Prior to the Deadline for Submission of Phase II Proposals, the responding Contractor must be registered, with the North Carolina Secretary of State, to do business in North Carolina and, if awarded the contract, must maintain that registration throughout the term of the Agreement. For more information on registration, visit the NC Secretary of State’s website at sosnc.gov.

However, the NCEL Vendor Registration ([Business | NC Education Lottery \(nclottery.com\)](http://Business | NC Education Lottery (nclottery.com))) is not required until the contract is awarded.

- 140) 4.4 – Would you please confirm the following:
- a. Contractors submitting a joint proposal with a subcontractor who will provide less than 25% of the specifications will only need to submit one response to Part IV Proposal Requirements, but must include a detailed overview of partnership and division of responsibilities.
 - b. Contractors submitting a joint proposal with a subcontractor who will provide more than 25% of the specifications must fulfill the requirements mentioned above and must also have the subcontractor submit all sections of Part IV Proposal Requirements.

Yes, that is correct. For clarity, in Phase II, only one bond (RFP section 6.3) is required per proposal.

- 141) Should we assume the four paper copies of this proposal and flash drive need to be delivered to the NCEL address by 4:00PM EDT on June 22nd?

Yes. The proposals must be received by 4:00pm EDT.

- 142) Are there any size, formatting, or page count restrictions or preferences we should be aware of that are not mentioned in the proposal?

No, there are not.

- 143) What have been the greatest challenges with past agency partnerships that you are hoping to alleviate moving forward?

Please see responses to Questions 118 and 119.

144) What is one industry trend you are most excited about exploring in the future?

An e-Instant product line has been added to the portfolio of several US lotteries. The NCEL believes these games have an opportunity to reach new lottery players not currently playing lottery games and so this would be an exciting opportunity at a future date.

RFP – LC000058 Professional Advertising and Related Services Q&A (Phase II)

The NCEL thanks you for the many thoughtful questions received as part of Phase II Q&A for the Professional Advertising and Related Services RFP. As we reviewed these questions, we noticed that several questions received as part of Phase II were answered in Phase I and are posted on the NCEL website. For this reason, we are concerned that some Responding Contractors may have overlooked Phase I answers. We encourage all Responding Contractors to review all answers provided both in Phase I and Phase II. We also hope that Responding Contractors who still have questions will choose to join us for the live Q&A session on Monday, July 19 at 4pm (ET).

- 1) Is it possible for agencies to see their own Phase 1 Technical Scores?

We are not able to share scores during an ongoing RFP process. A score can be provided to an agency once the process is complete and an award has been made.

- 2) Is NCEL open to sharing out some recent/historical media plans for reference (understanding media is not part of the desired scope of work here)?

Please see Phase I Q&A question #8. The NCEL does not typically share the work of other agencies/vendor partners as part of our RFP process. We have shared advertising calendars for FY20, FY21, and FY22 and identified typical monthly campaign assets for scratch-off launches as follows: video (:30) for TV/Cable/OTT, radio (:30) for terrestrial radio and streaming, point-of sale, and social content for Facebook and Instagram. In addition to the :30 video used for broadcast, the NCEL is interested in pursuing shorter video units (:15) for use on YouTube and in pre-roll in FY22. In addition to the deliverables listed above, the NCEL typically adds both digital display and digital video to all other campaigns including: draw games, Fast Play games, Play Smart, and beneficiary messaging. If there are other specific details that would be helpful, please consider asking in the Q&A session scheduled for Monday, July 19.

- 3) What role will the agency play in driving overall comms strategy including owned, earned and paid media?

The Creative Services agency has not been tasked with managing the overall communication strategy for owned and earned media in the past. The NCEL did not identify this as a requirement in the scope. However, if the Successful Contractor would like to be a part of these larger dialogues, we are happy to include them. The communications strategy for advertised initiatives will be determined in

collaboration with the Successful Contractor for all advertised initiatives as part of annual planning and specific campaign briefs.

- 4) You've provided a breakdown of sales by game and DMA, can you also provide a breakdown of sales by channel (c-store, grocery, restaurant/bar, Gemini)?

The NCEL needs additional clarification to better understand this request. Please raise this question during the Phone Q&A session. Once we have identified the information which is desired we will share the requested data with all Responding Contractors. The NCEL identifies 20 trade styles and is unsure of the level of detail desired by the Responding Contractor. The term Gemini refers to a broad range of terminal types which are used in different retail locations.

- 5) Is the NCEL Lottery planning on continuing with Mr. First Tuesday, or are you considering moving away from that character?

For at least the immediate future, we are planning on continuing advertising with our Mr. First Tuesday character. We have been using the character in ads since 2014 and he remains popular with our lottery players and successfully communicates that new scratch-offs will be available on the First Tuesday of the month. Please know these ads air for a total of five days each month, Thursday through Monday before new games are available on Tuesday.

The First Tuesday character may need to be changed or evolved over time, but a new set of TV and radio ads were created early in 2021 and we plan to continue to use these in the upcoming year as well. We have typically shot/recorded two to three Mr. First Tuesday TV and radio ads at a time and then use this creative for a two to three-year period. No new creative for TV or radio is anticipated for the First Tuesday campaign in the upcoming year.

- 6) Will you consider agencies headquartered outside of North Carolina for this RFP?

As stated in Phase I Q&A responses #1 and #2 – The NCEL has previously worked with agencies both in and outside of North Carolina. Our current media partner is located outside of North Carolina. We do not require an NC office to be established.

Business Questions

- 7) What are the biggest growth opportunities for NCEL (e.g., expansion into big box retail)?

The NCEL sells in some big box chains now, such as Walmart. Certainly, we always look to expand our retail footprint. That said when we look at growth opportunities e-Instants, or digital instants, may very well provide the greatest opportunity for growth. The NCEL believes these games have an opportunity to reach new lottery players not currently playing lottery games and so this would be an exciting opportunity at a future date.

- 8) What poses the biggest threat to the business?

Perhaps threat would be a strong word, but we would define one of our the most critical challenges as maintaining and building on the lottery's previous success. New games and channels may help, but a key challenge will be effectively reaching new lottery players with breakthrough creative that motivates lottery play. We will also be challenged to grow our player base and strive to be relevant to younger players.

- 9) Has NCEL made or anticipates making any changes to the business (e.g., product pipeline) in the wake of the pandemic?

No, not at this time.

Marketing and Advertising Questions

- 10) Based on the media mix shared, how has it evolved over the last 2 years? Are there new media tactics that NCEL is eager to explore in the near future?

The current media mix has not changed drastically over the last couple of years. That said, the shift in TV viewing to streaming and other digital video has resulted in the NCEL investing more in OTT and other digital assets such as video units for YouTube and pre-roll as well as general display units. There are not specific tactics we would like to explore that we haven't. However, we anticipate that we will continue to adjust the media mix as viewing habits and media consumption continues to change.

- 11) What was lacking in either creative competencies or specific strategic initiatives with your last agency?

We believe agency partners both past and future must be knowledgeable with respect to our goals, passionate about our business and mission, and sincerely committed to helping the NCEL succeed. Lack of understanding of the lottery business as a result of agency turn-over can hamper growth. To keep pace, agencies must also possess the strong strategic planning abilities critical for developing insightful creative campaigns. An agency partner should also be able to determine and meet deadlines for deliverables.

- 12) What areas do you want your new agency to help on the most? Where do you want your agency to push the work and strategic thinking?

We want an agency to begin by learning our business and we want this knowledge to be shared with other agency members. This may feel too rudimentary, but it has proven to be critical to an agency's success in such a complex, fast-paced category. With new work on a monthly basis, any lack of understanding of the business is seemingly magnified. We believe communication and understanding that results in a "well oiled machine" will be critical to then moving to more unexpected work that pushes the NCEL.

- 13) How do you want your new agency to improve any aspect of the campaigns or making NCEL better?

Please see responses to questions #11 and #12.

Process Questions

- 14) Can you please advise if the Attachments and Exhibits should be submitted and sealed with the single, original Cost Proposal submission? Or should these be sealed in a separate envelope?

Attachments and Exhibits should be submitted in a separate envelope.

Please Note: The Costs Proposal **MUST** be submitted in its own separate sealed envelope.

- 15) Could we have employees that currently work with the NCEL as a subcontractor on an existing NCEL contract be in our proposed staffing plan and participate in the oral

presentations? We want to be respectful of your process but also mindful of the Evaluation Committee's desire to meet their day-to-day team.

Yes, this is acceptable.

16) Do you intend to maintain the current campaign with Mr. First Tuesday?

Please see the response provided for question 5.

17) Is the First Tuesday mascot a "brand treasure?" Will his inclusion be a mandatory in the evolved creative?

Please see the response provided for question 5. The character may need to change or evolve over time, but as the campaign is both well-known and popular in NC, we will endeavor to draw down on it when the time comes for new creative to be developed.

18) How flexible is the First Tuesday's launch date? Would you be open to an alternate day of the month for new game launches?

No, the launch date is not flexible. A great deal of time and expense has gone into establishing the first Tuesday of the month as the day that new scratch-offs become available and as this is now an established concept for players, we would not wish to change and lose all of the equity built into that date.

19) When will the ticket artwork assets and point of sale be provided?

Ticket art will be available on July 19 and the specifications for POS were posted on the NCEL website as part of the Phase I response.

20) Is there a set number of creative campaign options you require for the assignment in Attachment F? ...Knowing many state government agencies have a mandatory number of creative options.

No there is not a mandatory. In the past agencies have typically shared two to three creative options that fit within their overarching platform or big idea.

- 21) How much of an equity do you understand the “Education” aspect of NCEL to be? Have you found your players to place high emphasis on this benefit of play?

Lottery players do not play games of chance specifically to support education; they play lottery games to win. Although the NCEL measures its success based on the dollars we raise to support education, this is not the primary motivator for players. Rather, knowing that money goes to education gives players permission to play. That is to say, this knowledge allows them to feel better about their choice to play. Hopefully players enjoy a fun and entertaining gaming experience and know when they do not experience a win, beyond the money which goes to fund prizes, the bulk then goes to education. A typical player comment might be – *I wish I had won, but I'm glad the schools will get some of the money.* Question 18 from Q&A Phase I may also be of benefit in addressing this question.

- 22) With funding education called out as a perceived strength of NCEL in your brand tracker, should we explore this as a way into the campaign?

Please see the response to question 21. We do not wish to limit agency creativity, but would ask that Responding Contractors focus on the information provided in Attachment F. Please review Attachment F and its Background Section as player motivation is addressed. Attachment F is designed to be the client input document from which a Responding Contractor will develop a brief.

- 23) Can you define the estimated number of campaigns and deliverables the selected agency will produce on an annual basis?

Please see the response question #92 in Q&A Phase I.

The NCEL's needs for creative vary from year to year. The NCEL is on-air for 12 scratch-off campaigns, four draw game campaigns, and two brand/beneficiary campaigns in a fiscal year. The NCEL also airs First Tuesday ads prior to the first Tuesday of the month. As we are able to update and reuse some ads, this is typically resulted in 11 to 13 net-new campaigns each year. That said, we cannot be sure we will always have creative that can be repurposed. It is possible that we will encounter a year when all new creative is needed and for this reason we have asked that Responding Contractors be prepared for 18 campaigns.

- 24) Regarding the segmentation, is there a priority audience of the 3 highlighted in the assignment overview (Busy Fun Finders [which the Playbook highlights as biggest opp], Optimistic Star Gazers, Social Competitors)?

Please make a recommendation as to a priority audience for a channel(s), if you choose to identify one, and share why you selected this audience. We do not expect

Responding Contractors to be lottery experts and we do not anticipate agreeing with a Responding Contractor on all of the choices they make during the creative assignment phase. We are interested in seeing how the information we have been asked to share is used by Responding Contractors in the process.

- 25) In the segmentation playbook, Demand Space is also examined - are you aligned with Wishful Thoughts and Mood Lifters as the primary demand space priorities? Are either more relevant for scratch off games?

These are the largest demand spaces and please note that they are not mutually exclusive. Both are relevant for scratch play although the dollar spend of Mood Lifters is higher.

- 26) Based on the latest Brand Tracker shared with us, what are the key priorities you're aiming to move the needle on with the next round of creative? Persuasiveness, likeability, etc.?

It is challenging to say that one aspect is more critical than another and of course that is why we measure all of these factors. Certainly, ad awareness alone is not enough and it is conceivable that not all ads are relevant to all lottery players. As we look for our ads to always help the NCEL feel fresh and approachable, a likeable, salient ad which is persuasive is particularly important to us.

Request 1: Process

- 27) We noticed that there are no opportunities throughout the pitch process that allow for the NCEL and participating agencies to get to know each other on a deeper level. We have learned from many reviews that the best work and best relationships come from conversations and dialogue with prospective clients throughout the pitch process. And that dialogue usually starts with fundamental business questions that help us begin to shape our strategic and creative recommendations. We understand that this review is happening on top of your daily responsibilities and requires a time investment, however, we believe adding a "work session" for each agency is one of the strongest ways to determine cultural fit, and the value of this meeting would far exceed the time investment to have four additional meetings. This is something that we feel very strongly about incorporating into your process. Are you open to adding a session that allows for deeper interaction - and not just for us but for all the agencies?

We would like to offer a more collaborative process, but we face challenges that some clients may not. As a state agency our process for RFPs is more restrictive than what is typical for many organizations. Specifically, we are required to share the same information with all Responding Contractors.

To provide Responding Contractors with an opportunity to collaborate, we have decided to amend our current Creative Services RFP approach and offer optional individual sessions to each Responding Contractor. However, in order to maintain our RFP requirement of ensuring that all Responding Contractors receive exactly the same information, we must record each such meeting and share the recordings with all other Responding Contractors. We recognize that this may create an environment where agencies don't feel as comfortable asking questions, but we are happy to collaborate with each Responding Contractor that is open to this opportunity.

For Responding Contractors who are interested in such a virtual meeting we will schedule one-hour meetings beginning July 20. Such sessions are at the discretion of the Responding Contractor and the choice to participate will not affect the evaluation of the RFP process. A scheduled Q&A session will also be held on Monday, July 19 and Responding Contractors may attend and ask questions as desired. Attending the Q&A session is at the discretion of the Responding Contractor and the choice to participate will not affect the evaluation of the RFP process. We hope that one of these opportunities will provide a chance to collaborate and aid in evaluating chemistry.

Request 2: DE&I

- 28) We have made a strong commitment and focus on creating a more diverse, equitable & inclusive environment at our agency - for our people, our community, and our client partners. Given the importance we place on DE&I, it's very important for us (and hopefully the other agencies) to better understand NCEL's commitment to DE&I and the impact the lottery will have on our state. Since all the agencies have shared their stances, we would like to better understand the NCEL's point of view in this area.

At the North Carolina Education Lottery, we are proud of the diverse workforce we have been able to create and know that our employees drive the diversity of thought and innovation that is key to our continued success, while also allowing the NCEL to reflect the diversity of its player base and beneficiaries. As a 15-year-old public gaming agency, we celebrate that our 259 employees represent a diverse population, 42% minority and 54% female. A similar representation is also found in our senior management team. Out of the seven individuals with senior leadership roles, 43% are female or minorities. On-going training for all managers and supervisors with hiring responsibilities as well as training for all new hires has been valuable in helping the NCEL achieve this diverse team. To further ensure diversity in its workforce, the NCEL tracks both recruitment and selection efforts. Using statistics through our payroll system and information from North Carolina Labor Force Data, we review our four occupational classifications to identify underutilization compared

to the available workforce. No underutilization exists for minorities in any of the classifications.

In addition to establishing a dedicated Minority Business and Community Affairs Manager position, the NCEL's has created a Diversity Action Committee. The Diversity Action Committee is an internal network to allow NCEL employees to provide input on minority outreach efforts as well as on matters of diversity, equity, and inclusion with respect to the NCEL's culture. The DAC is currently exploring ways to advance the Lottery's HBCU Internship Program to attract diverse talent through relationships with Shaw, St. Augustine's and NCCU. The NCEL further advocates for a variety of perspectives and throughout the year acknowledges special recognitions that celebrate diverse populations such as women's history month, Veterans day, LGBTQ month as well as cultural holidays.

Along with creating an inclusive workplace community for NCEL employees, the NC Education Lottery is committed to doing business with minority contractors and suppliers. The Minority Business and Community Affairs Manager focuses on increasing business participation with diverse small businesses and minority contractors through an outreach program that develops relationships with diverse suppliers and promotes opportunities to provide goods and services to our agency. Through this program, the lottery furthers its support for minority businesses by investing resources for sponsorships. Sponsorships of business training programs helped increase the capacity of hundreds of minority entrepreneurs, including women, veteran and disability-owned companies. Over the last 12-18 months, more than 5,000 small business owners have benefitted from targeted programming, as well as one-on-one engagement with dedicated Lottery staff describing opportunities to do business with the NC Education Lottery. NCEL has sought to exceed the state's HUB goal of 10% participation for state agencies. Few state agencies have accomplished this over the past years. The Lottery was recently informed by the NC HUB office that after reporting, we have achieved "particular" success with HUB participation in our purchases of goods and services so far this year, achieving over 15% HUB participation, making NCEL one of the top state agencies for achieving this goal in 2020. In addition, the NCEL was recently recognized by the greater Raleigh chapter of the National Association of Women Business Owners as their 2020 Corporate Partner of the Year because of our commitment to women owned businesses and the value we provide the organization.

General Background Questions

- 29) On the FY2020 Ticket Sales pie chart provided on page 5, is that typical of the breakout between games in 2019 too, or did the pandemic cause any major shifts in purchase behavior?

The pie chart is typical and the pandemic did not cause a major preference change although some games may have been easier to purchase than others. For example, some games are available online. Social establishments were closed making Carolina Keno availability a little more limited. Still the overall chart still applies and Responding Contractors have been provided three years of sales data by product.

- 30) You noted the NCEL is the only US lottery to achieve YoY growth for every year since its inception. What do you attribute this to?

The NCEL is a younger US lottery at just 15 years and that has given us the opportunity to learn from the experiences of other lotteries. The growth in the lottery industry for over the last 20+ years has been in scratch-off products. We have focused on scratch-offs since inception and employed industry best practices to effectively grow these sales. We have also been fortunate to experience continued growth in our Pick 3 and Pick 4 games which are daily games. We have had the opportunity to slowly grow our advertising budget each year as well and this continuity in advertising has contributed to our success. We have benefitted from several record jackpots for Powerball and Mega Millions. And finally, we have worked to continue to expand our portfolio with games such as Fast Play and Keno.

- 31) What percentage of the budget has been allocated against the Play Smart program since its inception in January 2020?

The NCEL has spent an estimated total of \$1,907,600 on the Play Smart campaign to date. This number does not include other responsible gaming initiatives; this is specific to Play Smart.

- 32) How much is the focus of advertising allowed to speak towards the 'billions raised for education' portion of your brand purpose?

Please see the responses provided for questions #21 and #22. To elaborate further, the beneficiary message is a very important one to the NCEL and we speak to the dollars raised for education typically twice each year with fall and spring campaigns. If the question is how much do we discuss the impact to education during game/product focused ads, then we do not typically do that and questions #21 and #22 provide that rationale. We will make sure to further address this topic during the Q&A phone session.

- 33) On page 12 it is mentioned that the creative agency would need to provide analysis on monthly reporting for social. Who handles paid media as well as community management for social? Assuming the creative agency would be asked to provide analysis on what is/isn't working in terms of creative and that whoever handles paid/community management is reporting on those pieces and sharing data freely?

Yes, the creative agency will be included and receive data from the media agency regarding monthly paid social media performance. The creative agency will be expected to partner with the NCEL and our media agency to analyze and optimize creative. The NCEL will manage and report on community management.

- 34) What is the delineation of what the in-house creative agency handles versus external and how do the two partner together outside of sharing guidelines?

Please see the response to Phase I Q&A question #108. To further elaborate, the NCEL's internal teams focus on supporting community social media, website assets, terminal/gaming system displays, POS for game promotions, CRM, event and sports marketing, and televised lottery drawings.

- 35) What information (anecdotal or data-driven) do you have about who drove the tremendous growth (+31%) seen in FY21 year-to-date versus FY20? Was there a particular demographic segment or behavioral marker? What are your expectations for this level of growth being sustainable moving forward?

Please see the response provided for question 4 in the Phase I Q&A. As explained in this previous response the NCEL believes that the availability of lottery products during the pandemic, both online and at retail locations allowed consumers to enjoy lottery entertainment at a time when other forms of entertainment were not available. Although the NCEL has been successful prior to 2020 and will strive to continue to grow sales in FY22, we do not anticipate the same level of growth as was experienced during the past year and its highly unusual circumstances.

Creative Brief Questions

- 36) Can you share more information on the Engaged Explorers and Informed Connectors behavior as it relates to scratch-off games in FY2020 and FY2019? Any additional information on these segments from the segmentation study or other studies would be beneficial to have.

We appreciate the request, but have shared our newer segmentation work and updated Attachment F accordingly, so that Responding Contractors have the benefit

of the most current information we have available. We ask that Responding Contractors focus on this current information.

37) Budget is listed at \$340K for TV, what is the social/digital/audio/POS budget?

Assuming that this question is specific to the creative challenge assignment (Attachment F), we must clarify that the \$340k for TV was provided as a benchmark to give context around the average spend for scratch-off TV production. We look to our creative agency partner for their expertise in developing a strong, effective campaign. Therefore, we have purposely not included any additional budget requirements as we look to each Responding Contractor's recommendation on a budget for these items based on the work created for the assignment. Information regarding the total production budget, POS budget, and number of campaigns produced annually has been provided to assist Responding Contractors in making a recommendation.

38) Does the legal disclaimer need to be VO or can it be applied to the footer on TV spots? Any restrictions in terms of font size/how long it must be on screen for?

The legal disclaimer for TV can be a Super; VO is not required. This information is presented on the lower third typically during the product shot. It remains throughout the shot. There are not required sizes and screen time, however the NCEL does not "hide" this information but rather strives to make it accessible for viewers. The Successful Contractor would be given guidance and feedback during the production process.

39) What is the biggest lesson you've learned from previous scratch-off campaigns?

Each scratch-off campaign is unique and can provide a number of learnings depending on the type of scratch-off and its key characteristics. A few higher level learnings are as follows:

- Not all scratch-off campaigns need to rely on humor. Sometimes it is easier to breakthrough and bring the unique differentiator for a scratch-off to life in a different way.
- Don't let the story overtake the product. Must ensure that a character or storyline doesn't overshadow the scratch-off itself. Ads must entertain and breakthrough, but not at the expense of the product.
- The insight behind the campaign must bring to life the key motivator/benefit of the scratch-off.

40) Can you share past top-performing scratch-off campaigns, and what in particular made them so effective?

Please see response to question #42 below.

- 41) What campaigns do you admire from other states' scratch-off and/or other lottery work? What about this do you believe the NCEL could learn from or adopt in some way?

Please see response to question #42 below.

- 42) Are there any campaigns in categories outside of gaming that you admire and see as relevant or instructive for this scratch-off campaign?

Please see the responses for questions #31 and #32 in the Phase I Q&A.

To further elaborate, there are lots of fun and memorable ads both in the lottery industry and of course in industries outside of our own. We are very eager however to see the creative concepts that are developed by Responding Contractors.

We develop and launch new games and when we do, we are typically able to share the same level of detail that we did in Attachment F. An agency then must get from this basic information to a brief and ultimately creative concepts. That is the process we hope to see presented in the pitch. We may see an ad and think to ourselves, we would never opt for that specific execution, but that's okay. The insight however maybe great or the creative may bring the insight to life in a fresh and memorable way. We truly want to see the strategy and creative thinking of the Responding Contractor. We do appreciate that the request to provide sample ads is designed to learn our sensibilities and not to copy the creative work of another agency. However, Attachment F encompasses what we most want a Responding Contractor to know.

Scoping Questions

- 43) Can we get a copy of the FY2020 flowchart and/or marketing plan (or FY2021 if it exists) to understand the amount of overlap as you mentioned some of the campaigns run concurrently?

Please see the response to Phase II Q&A question #2. To further clarify, no more than two campaigns are on air at the same time.

- 44) Please clarify the number of campaigns. Page 7 states 12x scratch-offs, 4x unique draw, 3x branding/beneficiary/responsible gaming messaging. Page 22 lists 2x brand/beneficiary instead of the 3x on page 7. Which is correct?

The NCEL has attempted to estimate the creative work in an average year. We apologize for the discrepancy and meant to consistently communicate 3x for brand/beneficiary/responsible gaming messaging annually.

- 45) Understood that there is a desire to have dedicated account resources and a billing/budget management person. Creative Directors may work on other businesses as long as they are on all shoots and meetings, along with bringing in multiple creative teams as needed. There's no mention of any restrictions around Strategists - are there any we should be aware of from a staffing perspective?

While there are no specific restrictions stated for Strategists, continuity on our business is critical. Given the complexity and fast-paced nature of our category, we rely heavily on the Strategy team to be experts on our business that help guide insight and brief development, as well as provide a filter throughout the development process. Also, please consider the overall volume of work such that the Responding Contractor is best prepared.

- 46) Unclear on what the specific remit is for social media. Page 12 mentions assisting in strategic development but then also mentions creating content. Can we get clarity around who owns social media content creation and what the ask is of the agency outside of social strategy work (i.e. creating x posts a month across x channels)? Or if this is fluid, may we understand how much the past agency was creating content vs. what the internal creative team is doing as it pertains to social?

The Successful Contractor will assist in social strategy and the creation of content for advertised campaigns. The Successful Contractor is not tasked with creating the many daily posts managed by the internal team. Perhaps another way to explain is that social media is one of the channels for which the Successful Contractor will be asked to provide content for campaigns just as they will provide TV, radio and POS.

Creativity Questions

- 47) If you were to critique the creative work over the last three years - what would you say about it? What did you like? What could be better? How has it performed vs your main KPIs?

Please see the response to Q&A #42.

- 48) Is there any work from other state lotteries that you admire?

Please see the response to Q&A #42.

Process Questions

- 49) What is the process for how you will approve the work and levels within the lottery for who has to sign off on the work?

Please see the previous response provided as part of Phase I Q&A question #34.

NCEL Team Structure Questions

- 50) Understanding how your marketing team is structured will help us determine how to structure our team to best service your business. Can you share your marketing structure? What worked with your last agency? What didn't?

Please see the previous response provided as part of Phase I Q&A question #45.

- 51) Section 4.2 -A. -Questions two through four: Is it correct to interpret that questions two through four are interconnected? Our intent is to showcase how the requested creative assignment (question 2) fits within our overarching marketing and creative strategy.

Yes, you are correct.

- 52) For this bid, is there a minimum minority-owned business goal or percentage you are looking to achieve? We reviewed your business outreach plan, noting the 10% participation goal, but want to ask if it's for the business overall or specific to this bid.

Affidavits A and B will be used to review minority-owned business goals during the RFP process. The minimum 10% goal referenced is an ongoing goal for the NCEL.

- 53) Do you have an existing list of North Carolina minority-owned businesses that are in good standing with the NCEL?

The NCEL does have minority-owned businesses with whom we work. We are unsure if the question is meant to confirm this or to request the list. During the RFP process we would ask that Responding Contractors provide information that speaks to their agency's efforts. Following the RFP process, we are happy to share information.

- 54) Are you able to provide the ticket art files?

Yes, we will provide these.

- 55) Will the final presentations be in person at NCEL headquarters?

The final presentations will be virtual and we will schedule these beginning on Tuesday, July 20.

56) Do you have any awareness or brand equity metrics specific to the First Tuesday brand?

We do not have specific awareness metrics to share at this time. We only include First Tuesday creative in our brand tracker when new creative airs. With the spots created recently, we have now added First Tuesday to the tracker and will have feedback in approximately two months. We can share that in our media mix study, First Tuesday ads did have the highest ROI for scratch-off campaigns. If anecdotal information would be helpful, lottery players refer to the character by name and often sing the Mr. First Tuesday song at marketing events and during focus groups.

57) What is the typical length of your Live Reads, and can you provide examples of DJs who the NCEL uses and likes?

Live reads are typically an added-value element provided by radio stations. They are not pre-recorded by the NCEL, but read live or recorded by stations and aired as promotional weight is available. Reads are typically, :05, :10, and :15 in length. The NCEL doesn't have preferred DJ; we are however generally buying top performing stations in our markets which include Urban and Country stations.

58) Historically, it does not appear that you have ever combined the education benefit message with the game play excitement message in the same creative, i.e. "it's a win-win." Are there specific reasons why you've stayed away from this approach?

Please review the responses to questions #21 and #22.

59) Within your three audience segments, are all of equal prioritization?

Please see the response to question #24

60) Do you customize content by DMA?

We have not done this, but would consider it depending on the project itself and the perceived benefit of the customized content.

61) Can you contextualize sales in terms of urban vs rural?

The largest difference in urban vs. rural sales is primarily driven by population size. Where we truly see a meaningful difference in product preference is more geographic in nature. In North Carolina, player mindset shifts as you travel from the east to the western part of the state. In Eastern North Carolina there are higher sales for our Pick 3 and Pick 4 numbers games, while sales decline as you start to make your way further west towards the mountains. We believe demographics play

a role in that shift. However, we have not noted any meaningful differences in scratch-off play geographically.

- 62) Noting your aspirations to increase sales among millennials, have you seen this audience resonate with any particular content more?

We have continued to make meaningful strides and reaching the older millennial audience. While we haven't been able to determine a particular product that is more appealing than any other, we do know that millennials share many similar points of engagement with lottery. For example, when the Powerball and Mega Millions jackpots get closer to \$1 Billion, Millennials get engaged because of the buzz that surrounds such a high prize. We also have seen that games like Lucky for Life with "lifetime prizes" have conceptual appeal to this group, however their smaller wallets, distrust of odds, and array of alternative entertainment options continues to limit their lottery participation.

- 63) Can you confirm that all the Samples of Work can be included on a singular zip drive (vs. drives for each of the requested mediums) (items 4.2.A.1.a-e)?

A single zip drive for all mediums is acceptable.

- 64) Can you further explain the requirement that the Samples of Work come from at least (2) different campaigns? Is the requirement specific to each medium (e.g. TV ad 1 must be from a different campaign than TV ad 2), and is the requirement specific to a campaign or a brand (e.g. the 2 examples may be for the same brand but must be for distinct campaigns)?

The NCEL would like to see the noted write-up and deliverables for two different campaigns. The brand can be the same or different, but we would like to see two different campaigns so that we have the opportunity to clearly see each campaign's objective, strategy, and creative samples. The NCEL is making the assumption that different campaigns will have somewhat different goals and that we will gain greater insight into the Responding Contractors approach. We have further asked that these Phase II campaigns be different than the case studies provided in Phase I.

- 65) Regarding the bonds referenced in section 6.3 - can you confirm what all Phase Two Contractors must submit by 8/19? We see mention of the 5% of total Cost Proposal bond, and the Performance Bond and the Payment Bond that are both equal to \$500k (but realize these two are only specific to the successful Contractor). Can you confirm what we must submit as part of Phase Two, and what will be executed during contract negotiations?

A. The following (from Section 6.3 of the RFP) must be submitted with the Phase II Proposals by 8/19:

Contemporaneously with the delivery of a Phase II Finalist Proposal, Responding Contractor must post a bond or letter of credit from a bank or credit provider acceptable to the NCEL in the amount of not less than five percent (5%) of the Cost Proposal. The calculation of the amount of the bond or letter of credit (5%) must be substantiated and explained in the Contractor's Proposal.

Responding Contractor must also submit a check or other similar financial instrument of immediately available funds (the "Record Check Fee") to the NCEL to cover the cost of criminal record check conducted under N.C.G.S. §114-19-6 pursuant to §18C-151(a)(3) of the Act. The Record Check Fee that must be submitted by EACH Responding Contractor with their Proposal in the amount equal to the sum of:

i) One thousand dollars (\$1,000) (the "Corporate Search Fee") for Responding Contractor and any parent company of Responding Contractor; plus

ii) Two hundred fifty dollars (\$250) (the "Individual Search Fee") for each officer and director of Responding Contractor and for each shareholder of Responding Contractor who owns an interest of five percent (5%) or more in Responding Contractor.

B. In finalizing the engagement, the successful contractor will execute the Professional Advertising and Related Services Agreement which is Exhibit B of the RFP and provide the Performance Bond and Payment Bond referenced in Section 6.3 of the RFP.

66) Can you expand upon the expectation mentioned on pg. 53 that "Finalists may not modify their original proposal (including written assignments)?" Is it accurate that any piece of creative shared during the presentation should also be included in the written?

Yes, that is correct. All creative should be included in the written portion of the presentation.

67) In 2.5.1.B you mentioned the expectation that the "Account Team will be assigned exclusively to the NCEL business." If an agency has seen success in keeping staff engaged and reducing turnover by giving some key team members the opportunity to split time between pieces of business, would the NCEL be open to a staffing proposal that had some account partners at less than 100% allocation?

We have requested that Responding Contractors provide the staffing plan that they feel best fits the NCEL's needs, so we are open to those recommendations. To be fully transparent however, we have been told that our business is fast-paced and time consuming. Although perhaps not all agency team members will face these challenges to the same extent, we encourage Responding Contractors to consider the demanding workload particularly in the first few years of taking on the business and staff accordingly.

68) The scope mentions concept testing. What has been your historical approach to creative / concept testing?

Please review the response to Phase I question #59.

69) The scope mentions monthly performance analysis of social media. Is this specific to organic, paid or both?

The Responding Contractor and Media AOR would only be involved in paid media performance.

70) The scope mentions post-campaign reports. Is it the intention that all campaigns that wrap in a particular quarter will be reported on within one consolidated report?

This would be an acceptable way to address. If the Successful Contractor has a different approach to suggest, we are happy to discuss.

71) Can you confirm that Production costs should not be included as part of the Cost Proposal, and would be a separate expense coming out of the Advertising budget?

The Cost Proposal is only for the agency fee. There is a separate budget for production related expenses and these will be paid from the advertising budget. The creative services agency fee is not part of the production budget. If helpful to you, Phase I Q&A response #76 provides FY21 specific amounts.

72) Can the NCEL share the names and titles of the individuals who will make up the Evaluation Committee and be present for the final presentation?

As stated in Phase I Q&A response #43 – To maintain the integrity of the RFP process the NCEL does not release the identity of the evaluation committee. Phase II

finalists will have the opportunity to meet the evaluation committee members during final presentations.

To provide additional context, integrity is critical to all lotteries. Although we have the highest confidence in both our Evaluation Committee and our Responding Contractors, we strive to avoid even a possible perception of impropriety. We know that Responding Contractors commit significant resources when they choose to participate in an RFP process. We cannot promise to all Responding Contractors the contract award they are seeking, we are committed to a fair review process that avoids any potential for contact that might be perceived as unfair or inappropriate during the current process.

73) Can you confirm if the final presentation will be virtual or in-person at the agency's offices? Are we also able to begin scheduling this time?

The final presentations will be virtual and we will schedule these beginning on Tuesday, July 20.

74) July 19th phone session – can you provide a quick overview of how that time will be utilized?

The phone session will be an opportunity for Responding Contractors to ask questions and NCEL team members to respond. The NCEL will answer questions or address lottery topics as requested. If no questions are asked during the phone session, the NCEL will attempt to review those topics which have resulted in the largest number of questions in Phase I and Phase II.

Certificate Of Completion

Envelope Id: 518104F396AF4A23AAAD7911BA66FB3F	Status: Completed
Subject: Please DocuSign: NCEL - Cactus Professional Advertising and Related Services Contract	
Source Envelope:	
Document Pages: 152	Signatures: 2
Certificate Pages: 5	Initials: 0
AutoNav: Enabled	Envelope Originator:
Envelopeld Stamping: Enabled	William Traurig
Time Zone: (UTC-05:00) Eastern Time (US & Canada)	William.Traurig@Lotterync.net
	IP Address: 71.70.146.71


Record Tracking

Status: Original 10/4/2021 9:28:10 AM	Holder: William Traurig William.Traurig@Lotterync.net	Location: DocuSign
Security Appliance Status: Connected	Pool: StateLocal	
Storage Appliance Status: Connected	Pool: North Carolina Education Lottery	Location: DocuSign

Signer Events

Jeff Graham
 jg@cactusinc.com
 President / CMO
 Security Level: Email, Account Authentication (None)

Signature

DocuSigned by:

 8EAAB781FB6E4F9...
 Signature Adoption: Pre-selected Style
 Using IP Address: 50.220.165.155

Timestamp

Sent: 10/4/2021 9:55:39 AM
 Viewed: 10/4/2021 11:17:55 AM
 Signed: 10/4/2021 11:18:42 AM

Electronic Record and Signature Disclosure:

Accepted: 10/4/2021 11:17:55 AM
 ID: 55737e72-97e4-4262-b9ee-57e621b74ee9

M. Mark Michalko
 mark.michalko@lotterync.net
 Executive Director
 NC Education Lottery
 Security Level: Email, Account Authentication (None)

DocuSigned by:

 05031717875C431...
 Signature Adoption: Pre-selected Style
 Using IP Address: 76.182.0.201

Sent: 10/4/2021 11:18:49 AM
 Viewed: 10/4/2021 11:29:42 AM
 Signed: 10/4/2021 11:30:04 AM

Electronic Record and Signature Disclosure:

Not Offered via DocuSign

In Person Signer Events	Signature	Timestamp
Editor Delivery Events	Status	Timestamp
Agent Delivery Events	Status	Timestamp
Intermediary Delivery Events	Status	Timestamp
Certified Delivery Events	Status	Timestamp
Carbon Copy Events	Status	Timestamp

Kris Byers
 kristina@cactusinc.com
 VP, Business Operations
 Security Level: Email, Account Authentication (None)

COPIED

Sent: 10/4/2021 11:30:10 AM
 Viewed: 10/4/2021 12:19:20 PM

Electronic Record and Signature Disclosure:

Not Offered via DocuSign

Carbon Copy Events	Status	Timestamp
Latasha Beckwith Latasha.Beckwith@lotterync.net Paralegal NC Education Lottery Security Level: Email, Account Authentication (None) Electronic Record and Signature Disclosure: Not Offered via DocuSign	COPIED	Sent: 10/4/2021 11:30:10 AM
Susan Singley Susan.Singley@Lotterync.net Director of Advertising NC Education Lottery Security Level: Email, Account Authentication (None) Electronic Record and Signature Disclosure: Not Offered via DocuSign	COPIED	Sent: 10/4/2021 11:30:11 AM
Anthony Downey Anthony.Downey@Lotterync.net Purchasing Manager NCEL Security Level: Email, Account Authentication (None) Electronic Record and Signature Disclosure: Not Offered via DocuSign	COPIED	Sent: 10/4/2021 11:30:12 AM
Witness Events	Signature	Timestamp
Notary Events	Signature	Timestamp
Envelope Summary Events	Status	Timestamps
Envelope Sent	Hashed/Encrypted	10/4/2021 9:55:39 AM
Certified Delivered	Security Checked	10/4/2021 11:29:42 AM
Signing Complete	Security Checked	10/4/2021 11:30:04 AM
Completed	Security Checked	10/4/2021 11:30:12 AM
Payment Events	Status	Timestamps
Electronic Record and Signature Disclosure		

ELECTRONIC RECORD AND SIGNATURE DISCLOSURE

From time to time, Carahsoft OBO North Carolina Education Lottery (we, us or Company) may be required by law to provide to you certain written notices or disclosures. Described below are the terms and conditions for providing to you such notices and disclosures electronically through the DocuSign system. Please read the information below carefully and thoroughly, and if you can access this information electronically to your satisfaction and agree to this Electronic Record and Signature Disclosure (ERSD), please confirm your agreement by selecting the check-box next to 'I agree to use electronic records and signatures' before clicking 'CONTINUE' within the DocuSign system.

Getting paper copies

At any time, you may request from us a paper copy of any record provided or made available electronically to you by us. You will have the ability to download and print documents we send to you through the DocuSign system during and immediately after the signing session and, if you elect to create a DocuSign account, you may access the documents for a limited period of time (usually 30 days) after such documents are first sent to you. After such time, if you wish for us to send you paper copies of any such documents from our office to you, you will be charged a \$0.00 per-page fee. You may request delivery of such paper copies from us by following the procedure described below.

Withdrawing your consent

If you decide to receive notices and disclosures from us electronically, you may at any time change your mind and tell us that thereafter you want to receive required notices and disclosures only in paper format. How you must inform us of your decision to receive future notices and disclosure in paper format and withdraw your consent to receive notices and disclosures electronically is described below.

Consequences of changing your mind

If you elect to receive required notices and disclosures only in paper format, it will slow the speed at which we can complete certain steps in transactions with you and delivering services to you because we will need first to send the required notices or disclosures to you in paper format, and then wait until we receive back from you your acknowledgment of your receipt of such paper notices or disclosures. Further, you will no longer be able to use the DocuSign system to receive required notices and consents electronically from us or to sign electronically documents from us.

All notices and disclosures will be sent to you electronically

Unless you tell us otherwise in accordance with the procedures described herein, we will provide electronically to you through the DocuSign system all required notices, disclosures, authorizations, acknowledgements, and other documents that are required to be provided or made available to you during the course of our relationship with you. To reduce the chance of you inadvertently not receiving any notice or disclosure, we prefer to provide all of the required notices and disclosures to you by the same method and to the same address that you have given us. Thus, you can receive all the disclosures and notices electronically or in paper format through the paper mail delivery system. If you do not agree with this process, please let us know as described below. Please also see the paragraph immediately above that describes the consequences of your electing not to receive delivery of the notices and disclosures electronically from us.

How to contact Carahsoft OBO North Carolina Education Lottery:

You may contact us to let us know of your changes as to how we may contact you electronically, to request paper copies of certain information from us, and to withdraw your prior consent to receive notices and disclosures electronically as follows:

To contact us by email send messages to: george.walker@lotterync.net

To advise Carahsoft OBO North Carolina Education Lottery of your new email address

To let us know of a change in your email address where we should send notices and disclosures electronically to you, you must send an email message to us at george.walker@lotterync.net and in the body of such request you must state: your previous email address, your new email address. We do not require any other information from you to change your email address.

If you created a DocuSign account, you may update it with your new email address through your account preferences.

To request paper copies from Carahsoft OBO North Carolina Education Lottery

To request delivery from us of paper copies of the notices and disclosures previously provided by us to you electronically, you must send us an email to george.walker@lotterync.net and in the body of such request you must state your email address, full name, mailing address, and telephone number. We will bill you for any fees at that time, if any.

To withdraw your consent with Carahsoft OBO North Carolina Education Lottery

To inform us that you no longer wish to receive future notices and disclosures in electronic format you may:

- i. decline to sign a document from within your signing session, and on the subsequent page, select the check-box indicating you wish to withdraw your consent, or you may;
- ii. send us an email to george.walker@lottery.nc.net and in the body of such request you must state your email, full name, mailing address, and telephone number. We do not need any other information from you to withdraw consent.. The consequences of your withdrawing consent for online documents will be that transactions may take a longer time to process..

Required hardware and software

The minimum system requirements for using the DocuSign system may change over time. The current system requirements are found here: <https://support.docusign.com/guides/signer-guide-signing-system-requirements>.

Acknowledging your access and consent to receive and sign documents electronically

To confirm to us that you can access this information electronically, which will be similar to other electronic notices and disclosures that we will provide to you, please confirm that you have read this ERSD, and (i) that you are able to print on paper or electronically save this ERSD for your future reference and access; or (ii) that you are able to email this ERSD to an email address where you will be able to print on paper or save it for your future reference and access. Further, if you consent to receiving notices and disclosures exclusively in electronic format as described herein, then select the check-box next to ‘I agree to use electronic records and signatures’ before clicking ‘CONTINUE’ within the DocuSign system.

By selecting the check-box next to ‘I agree to use electronic records and signatures’, you confirm that:

- You can access and read this Electronic Record and Signature Disclosure; and
- You can print on paper this Electronic Record and Signature Disclosure, or save or send this Electronic Record and Disclosure to a location where you can print it, for future reference and access; and
- Until or unless you notify Carahsoft OBO North Carolina Education Lottery as described above, you consent to receive exclusively through electronic means all notices, disclosures, authorizations, acknowledgements, and other documents that are required to be provided or made available to you by Carahsoft OBO North Carolina Education Lottery during the course of your relationship with Carahsoft OBO North Carolina Education Lottery.