

IOWA LOTTERY AUTHORITY
BID #12-008
February 20, 2012
Lawn Care Services

SECTION 1 INTRODUCTION AND ADMINISTRATIVE INFORMATION

1.1 Purpose. The purpose of this Request for Bid is to solicit proposals from Bidders(s) interested in providing lawn care services to the Iowa Lottery Authority (Lottery).

The Lottery is seeking a qualified firm to provide lawn care services for our headquarters building located at 2323 Grand Avenue in Des Moines with the contract to begin in April 2012. The Lottery intends to award a two-year contract plus four (4) additional one-year options with the options being exercised at the sole discretion of the Lottery.

1.2 Bid Coordinator. The bid coordinator is the sole point of contact regarding the RFB from the date of issuance until selection of the successful Award. Following is the contact information for the bid coordinator:

Bid Coordinator:	Tammy Cooper
Mail or hand deliver to:	Iowa Lottery, 2323 Grand Ave., Des Moines, IA 50312
Telephone:	515-725-7877
Facsimile Telephone:	515-725-7882
E-mail address:	tcooper@ialottery.com
Website:	www.ialottery.com (Vendor link found at top right of screen)

1.3 Restriction on Communication. From the issue date of this RFB until announcement of an Award, Bidders may contact only the Bid Coordinator. Questions related to the interpretation of this RFB must be directed to the Bid Coordinator. Bidders may be disqualified if they contact any state employee other than the Bid Coordinator about the RFB.

1.4 Submission of Bid Proposals. The Lottery must receive the Bid Proposal at the address listed in Section 1.2 no later than 3:00 p.m. central Time, March 7, 2012. **This is a mandatory requirement and will not be waived by the Lottery. Any Bid Proposal received after this deadline will be rejected and not considered in the evaluation process.** Electronic mail and faxed Bid Proposals will be accepted.

Bidders must furnish all information necessary to evaluate the Bid Proposal. Bid Proposals that fail to meet the mandatory requirements of the RFB may be disqualified. Verbal information provided by the Bidder shall not be considered part of the Bidder's Bid Proposal unless it is reduced to writing.

Bidders must submit Attachment #2 and Attachment #3 as their bid response.

1.5 Bid Proposal Opening. The Lottery will open Bid Proposals after the deadline for submission of Bid Proposals has passed. The Bid Proposals will remain confidential until the Evaluation Committee has reviewed all the Bid Proposals submitted in response to this RFB and the Lottery has announced a notice of intent to award. See Iowa Code Section 72.3. However, the name of Bidder's who submitted timely Bid Proposals will be publicly available after the Bid Proposal opening. The announcement of Bidder's who timely submitted Bid Proposals does not mean that an individual Bid Proposal has been deemed technically compliant or accepted for evaluation.

1.6 Costs of Preparing the Bid Proposal. The costs of preparation and delivery of the Bid Proposal are solely the responsibility of the Bidder.

1.7 Rejection of Bid Proposal. The Lottery reserves the right to reject any or all Bid Proposals, in whole and in part, received in response to this RFB at any time prior to the execution of a written contract. Issuance of this RFB in no way constitutes a commitment by the Lottery to award a contract.

1.8 Disqualification. The Lottery will reject outright and will not evaluate Bids if:

- 1.8.1 The Bidder fails to deliver the Bid by the due date and time.
- 1.8.2 The Bidder fails to include a signed Proposal Compliance and Certification form signed by an authorized individual or agent of the company.
- 1.8.3 The Bidder acknowledges that a mandatory requirement of the RFB cannot be met.
- 1.8.4 The Bidders Bid Proposal materially changes a mandatory requirement of the RFB or the Bid Proposal is not compliant with the requirements of the RFB.
- 1.8.5 The Bidder's Bid Proposal limits the rights of the Lottery.
- 1.8.6 The Bidder fails to include information necessary to substantiate that it will be able to meet a mandatory requirement of the RFB.
- 1.8.7 The Bidder fails to timely respond to the Lottery's request for information, documents, or references.
- 1.8.8 The Bidder fails to include a bid bond, if required.
- 1.8.9 The Bidder presents the information requested by this RFB in a format inconsistent with the instructions of the RFB.
- 1.8.10 The Bidder initiates unauthorized contact regarding the RFB with state employees.
- 1.8.11 The Bidder provides misleading or inaccurate responses.
- 1.8.12 There is insufficient evidence to satisfy the Lottery that the Bidder is properly responsive and responsible to satisfy the requirements of the RFB.

1.9 Bid Proposal Clarification Process. The Lottery reserves the right to contact a Bidder after the submission of Bid Proposals for the purpose of clarifying a Bid Proposal to ensure mutual understanding. This contact may include written questions, interviews, site visits, a review of past performance if the Bidder has provided goods and/or services to the State or any other political subdivision, or requests for corrective pages in the Bidder's Bid Proposal. The Lottery will not consider information received if the information materially alters the content of the Bid Proposal or alters the type of goods and/or services the Bidder is offering. An individual authorized to legally bind the Bidder shall sign or submit the responses to any request for clarification. Responses shall be submitted to the Lottery within the time specified in the Lottery's request. Failure to comply with requests for additional information may result in rejection of the Bid Proposal as non-compliant.

1.10 Disposition of Bid Proposals. All Bid Proposals become the property of the Lottery and shall not be returned to the Bidder at the conclusion of the selection process; the contents of all Bid Proposals will be in the public domain and be open to inspection by interested parties subject to exceptions provided in *Iowa Code Chapter 22* or other applicable law.

1.11 Public Records and Requests for Confidential Treatment. The release of information by the Lottery to the public is subject to Iowa Code chapter 22 and 531 Iowa Administrative Code Section 1.5. Bidders are encouraged to familiarize themselves with these provisions prior to submitting a Proposal. A copy of the Iowa Code and Iowa Administrative Code can be found on the State of Iowa's web page, www.legis.state.ia.us and located under the topic Iowa Law. All information submitted by a Bidder may be treated as public information by the Lottery unless the Bidder properly requests that information be treated as confidential at the time of submitting the Proposal. The Lottery will copy public records as required to comply with the public records laws. Any requests for confidential treatment of information must be included in a letter with the Bidder's Proposal and must enumerate the specific grounds in Iowa Code chapter 22 which support treatment of the material as confidential and must indicate why disclosure is not in the best interests of the public. Once a contract has been executed, the contract and all supporting documents in the Successful Bidder's Proposal including pricing shall be considered public and subject to disclosure pursuant to Iowa Code chapter 22. The Bidder's failure to request confidential treatment of material will be deemed by the Lottery as a waiver of any right to confidentiality the Bidder may have had.

1.12 Photocopy rights. By submitting a proposal, the Bidder agrees that the Lottery may make copies of the proposal for purposes of facilitating the evaluation of the Bid Proposal or to respond to requests for public records. The Bidder consents to such copying by submitting a Bid Proposal and warrants that such copying will not violate the rights of any third party. The Lottery will have the right to use ideas or adaptations of ideas that may be presented in the Bid Proposals.

1.13 Bids Property of the Lottery. All bids become property of the Lottery and shall not be returned to the Bidder unless all bids are rejected and no award is made. At the conclusion of the selection process, the contents of all bids will be placed in the public domain and be opened to inspection by interested parties.

1.14 Release of Claims. By submitting a Bid Proposal, the Bidder agrees that it will not bring any claim or cause of action against the Lottery based on any misunderstanding concerning the information provided herein or concerning the Lottery's failure, negligent or otherwise, to provide the Bidder with pertinent information as intended by this RFB.

1.15 Evaluation of Bid Proposals Submitted. Bid Proposals that are timely submitted and are not subject to disqualification will be reviewed. The Lottery will not necessarily award any contract resulting from this RFB to the Bidder offering the lowest cost. Instead, the Lottery will award the contract(s) to the responsible Bidder who's Responsive Bid Proposal, as determined by the Lottery; will provide the best value to the Lottery.

1.16 Award Notice and Acceptance Period. Notice of Intent to award the contract(s) will be sent to all Bidders submitting a timely Bid Proposal and may be posted at the website shown in Section 1.2. Negotiation and execution of the contract(s) shall be completed no later than three (3) days from the date of the Notice of Intent to award. If the apparent successful Bidder fails to negotiate and deliver an executed contract by that date, the Lottery, in its sole discretion, may cancel the award and award the contract to the remaining Bidder the Lottery believes will provide the best value to the Lottery. Provided as Attachment #4 is the anticipated contract to be signed as a result of the bid process.

1.17 Choice of Law and Forum. This RFB is to be construed in light of pertinent legal requirements including Iowa Code 99G and 531 Iowa Administrative Code. The RFB and the resulting contract are to be governed by the laws of the State of Iowa. Changes in applicable laws and rules may affect the award process or the resulting contract. Bidders are responsible for ascertaining pertinent legal requirements and restrictions. Any and all litigation or actions commenced in connection with this RFB shall be brought in the appropriate Iowa forum.

1.18 Restrictions on Gifts and Activities. Iowa Code chapter 68B and 99G contains laws which restrict gifts which may be given or received by state employees and requires certain individuals to disclose information concerning their activities with state government. Bidders are responsible for determining the applicability of this Chapter to their activities and to comply with these requirements. In addition, pursuant to *Iowa Code Chapter 722.1*, it is a felony offense to bribe or attempt to bribe a public official.

1.19 Appeals. Appeals of the Notice of Intent to Award are governed by the Lottery's appeal process. Bidders may obtain information about the appeal process from the Bid Coordinator. See Iowa Administrative Rules 531 – 2.17(99G).

SECTION 2. FORM AND CONTENT OF BID PROPOSAL.

2.1 Instructions. These instructions prescribe the format and content of the Bid Proposal. They are designed to facilitate a uniform review process. Failure to adhere to the proposal format may result in the disqualification of the Bid Proposal. Bidders may include additional relevant information.

2.1.1 The Bid Proposal shall consist of Attachment #2 and Attachment #3 completed by Bidder.

2.1.2 The Bid Proposal shall be timely submitted to the Bid Coordinator.

2.2 Proposal.

2.2.1 Specifications and Technical Requirements. The Bidder shall review the requirements set forth in Attachment #1, Scope of Services.

2.2.2 Acceptance of Terms and Conditions. If the Bidder objects to any term or condition posted on the Lottery website at http://www.ialottery.com/Vendors/Vendors_main.asp, the Bidder must specifically take exception to the applicable term or condition and state the reason for the exception.

2.2.3 Proposal Compliance and Certification Statement. The Bidder shall sign and submit with the Bid Proposal the document included as Attachment #2 (Proposal Compliance and Certification Statement) in which the Bidder shall make the certifications.

2.2.4 Firm Bid Proposal Terms. The Bidder shall guarantee the availability of the goods and/or services offered and that all Bid Proposal terms, including price, will remain firm for a period of at least thirty (30) days following the deadline for submitting Bid Proposals.

2.2.5 Bid Proposal Security. There is no bid bond required for this RFB.

2.2.6 Cost Proposal. Bidders shall use the cost proposal format provided as Attachment #3.

Payment Terms: The Iowa Lottery is an enterprise agency of the State of Iowa and is exempt from sales tax and is required to make payment in arrears upon receipt of invoice. Per Iowa Code § 8A.514 the State of Iowa is allowed sixty (60) days to pay an invoice submitted by a Bidder. The Bidder awarded the contract shall provide an itemized invoice to the Lottery with payment to be made in arrears. The costs provided in this Bid Proposal shall remain firm for a period of one-year; all subsequent years shall be allowed an increase as agreed upon by both parties.

Bid #12-008
Attachment #1

SCOPE OF SERVICES

The Lottery is seeking a Contractor to provide lawn care services for all lawn areas on Lottery property which faces Grand Avenue on the south and Ingersoll Avenue on the North. The property has lawn areas on the south side of the building along Grand Avenue, grassy areas between parking areas on the north, grassy areas along Ingersoll Avenue and a strip of lawn along the NE corner behind a neighboring brick garage. Some of these areas require mowing/trimming and other areas require the weeds to be sprayed with weed killer and/or cut regularly. Vendor shall provide all labor, materials and equipment required to perform the lawn care services as follows:

- Lawn mowing and edge trimming services to be performed on an as-needed basis with service during peak growing times to be performed at least weekly.
- Service to include the pick-up of all trash and/or tree debris prior to mowing. All yard debris, trash and clippings, if applicable, must be removed from the premises by Vendor.
- Trim hedges and ornamental trees on an as needed basis keeping the drive and sidewalk free of obstruction.
- Apply weed control to Grand Avenue driveway entrance areas that currently have brick chips surrounding tree base. Areas must be kept free of weeds.
- Apply lawn chemicals to prevent weeds and fertilizer a minimum of four times per growing season. Applications of all lawn care products shall be done in compliance with Federal and State regulations or manufacturer directions. Applications shall be made in a manner that will not cause harm to humans or landscaping.
- Special requests made by the Lottery for extra service shall be completed within one week of the date of the request. Special requests include a spring and/or fall clean-up, adding mulch to plant beddings and other landscaping needs as determined.
- Vendor shall maintain an insurance policy. The insurance coverage shall insure against any loss, damage or injury resulting from the vendor's performance of the resulting contract. The insurance policies shall remain in full force and effect for the entire life of the resulting contract with insurance companies of recognized responsibility.
- Vendor and employees must possess a valid Iowa driver's license.
- Vendor must be capable of performing additional landscape services such as removal/installation of bushes and plantings.
- Services must be coordinated with Lottery contact, Tammy Cooper, phone (515) 725-7877.

**Bid #12-008
Attachment #2**

Proposal Compliance and Certification Statement

I certify that the contents of the Bid Proposal are true and accurate. I also certify that no false statements have knowingly been made in this Bid Proposal.

Certification of Independence

By submitting a Bid Proposal in response to this RFB, I certify the following:

1. The Bid Proposal has been developed independently, without consultation, communication or agreement with any employee or consultant to the Lottery who has worked on the development of this RFB, or with any person serving as a member of the evaluation committee.
2. The Bid Proposal has been developed independently, without consultation, communication or agreement with any other Bidder or parties for the purpose of restricting competition.
3. Unless otherwise required by law, the information found in the Bid Proposal has not been knowingly disclosed and will not be knowingly disclosed prior to the award of the contract, directly or indirectly, to any other Bidder.
4. No attempt has been made or will be made to induce any other Bidder to submit or not to submit a Bid for the purpose of restricting competition.
5. No relationship exists or will exist during the contract period between the Bidder and the Lottery that interferes with fair competition or as a conflict of interest.

Certification Regarding Debarment

6. I certify that, to the best of my knowledge, the Bidder/Company (shown in the signature box) and all of its principals: **(a)** are not presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from covered transactions by a Federal Agency or State Agency; **(b)** have not within a three year period preceding this Bid been convicted of, or had a civil judgment rendered against them for commission of fraud, or a criminal offense in connection with obtaining, attempting to obtain, or performing a public (federal, state, or local) transaction or contract under a public transaction, violation of antitrust statutes or commission of embezzlement, theft, forgery, falsification or destruction of records, making false statements, or receiving stolen property; **(c)** are not presently indicted for or other criminally or civilly charged by a government entity (federal, state, or local) with the commission of any of the offenses enumerated in (b) of this certification; and **(d)** have not within a three-year period preceding this Bid had one or more public transactions (federal, state, or local) terminated for cause.

This certification is a material representation of fact upon which the Iowa Lottery Authority has relied upon when this transaction was entered into. If it is later determined that the undersigned knowingly rendered an erroneous certification, in addition to other remedies available, the Lottery may pursue available remedies including suspension, debarment, or termination of the contract.

Certification Regarding Registration, Collection, and Remission of Sales and Use Tax

7. Pursuant to Iowa Code sections 423.2(10) & 423.5(8) (2011) a retailer in Iowa or a retailer maintaining a business in Iowa that enters into a contract with a state agency must register, collect, and remit Iowa sales tax and Iowa use tax levied under Iowa Code chapter 423 on all sales of tangible personal property and enumerated services. The Act also requires Bidders to certify their compliance with sales tax registration, collection, and remission requirements and provides potential consequences if the certification is false or fraudulent.

By submitting a Bid Proposal the undersigned certifies the following: (check the applicable box)

- _____ is registered with the Iowa Department of Revenue, collects, and remits Iowa sales and use taxes as required by Iowa Code chapter 432; or

- _____ is not a “retailer” or a “retailer maintaining a place of business in this state” as those terms are defined in Iowa Code subsections 423.1(42) & (43).

By submitting a Bid Proposal and signing this statement, Bidder indicates understanding and acknowledges that the Lottery may declare the bid or resulting contract void if the above certification is false. The Bidder also understands that fraudulent certification may result in the Lottery or its representative filing for damages for breach of contract.

I have the authority to bind the Bidder indicated below to the specific terms and conditions and technical specifications required in this RFB and offered in the Bid Proposal.

Business Name:	
Authorized Signature:	
Printed Name:	
Title:	
Date:	

**BID #12-008
Attachment #3**

COST PROPOSAL

MANDATORY - Bidders are required to submit the following:

References. Business references for which the Bidder has performed services similar to those requested in this bid during the past two (2) years. Bidder shall provide no less than three (3) references to include business name, contact person and a telephone number or e-mail address for the contact.

Business name	Contact	Telephone	E-mail address

Available staff and equipment. Bidder shall provide the number of staff available to perform the task and indicate the available equipment to complete the tasks requested. .

Pricing. The Bidder shall indicate the cost for services to be performed as described in Attachment #1, Scope of Services. Vendor shall provide hourly rates for the following services. For any additional services provided by Vendor, Vendor shall state the services to be provided and associated fees.

- Cost per service time to mow/trim the Lottery property. \$ _____
- Cost per service time for lawn fertilizer/weed control application. \$ _____
- Cost per service time for trimming of hedges and ornamental trees along front walkway. \$ _____

All pricing shall remain firm for the initial two year Agreement period. For each additional option period, the bidder shall be allowed an increase in costs. Indicate your proposed increase percentage, if any:

- _____ % year 3
- _____ % year 4
- _____ % year 5
- _____ % year 6

Business Name

Authorized Signature

E-mail address (if available)

Phone number

**BID #12-008
Attachment #4**

SAMPLE - AGREEMENT FOR LAWN CARE SERVICES

The purpose of this agreement is to provide the Iowa Lottery Authority with lawn care services for the Lottery Headquarters office located at 2323 Grand Avenue. Vendor... and the Lottery agree that the following terms and conditions shall govern the provision of these services.

1. IDENTIFICATION OF PARTIES. The Iowa Lottery Authority (Lottery) is an instrumentality of the State of Iowa whose address is 2323 Grand Avenue, Des Moines, Iowa 50312. XXXX (Vendor) is a corporation whose address is XXX.

2. DURATION. The term of this Agreement shall be April 1, 2012 through March 31, 2014, unless terminated earlier in accordance with the termination section of this Agreement. The Lottery shall have the option to renew this Agreement for up to four additional one-year option periods by giving the Vendor written notice of the extension decision prior to the expiration of the initial term.

3. SCOPE OF SERVICES. As provided in the Vendor's response to Bid #12-008, the Vendor agrees to provide lawn care services as described below. Upon mutual agreement, the described services may be revised.

- Lawn mowing and edge trimming services to be performed on an as-needed basis with service during peak growing times to be performed at least weekly.
- Service to include the pick-up of all trash and/or tree debris prior to mowing. All yard debris, trash and clippings, if applicable, must be removed from the premises by Vendor.
- Trim hedges and ornamental trees on an as needed basis keeping the drive and sidewalk free of obstruction.
- Apply weed control to Grand Avenue driveway entrance areas that currently have brick chips surrounding tree base. Areas must be kept free of weeds.
- Apply lawn chemicals to prevent weeds and fertilizer a minimum of four times per growing season. Applications of all lawn care products shall be done in compliance with Federal and State regulations or manufacturer directions. Applications shall be made in a manner that will not cause harm to humans or landscaping.
- Special requests made by the Lottery for extra service shall be completed within one week of the date of the request. Special requests include a spring and/or fall clean-up, adding mulch to plant beddings and other landscaping needs as determined.
- Vendor shall maintain an insurance policy. The insurance coverage shall insure against any loss, damage or injury resulting from the vendor's performance of the resulting contract. The insurance policies shall remain in full force and effect for the entire life of the resulting contract with insurance companies of recognized responsibility.
- Vendor and employees must possess a valid Iowa driver's license.
- Vendor must be capable of performing additional landscape services such as removal/installation of bushes and plantings.
- Services must be coordinated with Lottery contact, Tammy Cooper, phone (515) 725-7877.

4. COMPENSATION. The total compensation to the Vendor for performance and delivery of the services and products above shall be

The Vendor shall submit an itemized invoice for services rendered in accordance with this Agreement monthly. The invoice shall comply with all applicable rules concerning payment of such claims. The Lottery shall pay all approved invoices in arrears and in conformance with Iowa Code Section 8A.514 and 11 IAC § 41.1(2). The Lottery may pay in less than sixty (60) days, as provided in Iowa Code section 8A.514. However, an election to pay in less than 60 days shall not act as an implied waiver of Iowa Code Section 8A.514.

In the event that the Vendor owes the Lottery or the State of Iowa any sum under the terms of this Agreement, or any other Agreement, pursuant to any judgment, or pursuant to any law the Lottery or the State may set off the sum owed to the Lottery or the State against any sum owed by the Lottery or the State to the Vendor in the sole discretion of the Lottery or the State, unless otherwise required by law. The Vendor agrees that this provision constitutes proper and timely notice under the law of setoff.

The funds of the state of Iowa, as opposed to the funds of the Iowa Lottery, are not available to meet the Lottery's obligations under the Agreement.

5. DEFAULT AND TERMINATION.

5.1 Default by vendor. The reasons for termination will include failure to observe or perform any covenant, condition, or obligation created by the contract, failure to make substantial and timely progress toward performance of the contract or failure of the work product and services to conform with any specifications noted in the RFP, failure to comply with the laws governing the Lottery, including provisions regarding criminal activities during the course of the contract. The contract will contain provisions regarding a cure period of ten (10) days where a cure is possible and feasible. If the breach or noncompliance is not remedied in that time period then the Lottery may suspend performance under the contract, cancel the contract or seek any remedy or combination of legal or equitable remedies authorized by the contract or by applicable law.

5.2 Mutual agreement. Both parties may terminate this contract for convenience by giving the other party thirty (30) days written notice of termination. In the event of termination, the Lottery will not be obligated to pay for services performed or expenses incurred after the termination date nor will it be required to pay any penalty.

The Lottery shall have the right to terminate this agreement without penalty and without any advance notice as a result of any statutory change withdrawing the Lottery's legal authority to conduct its business or effecting a material alteration in the programs the Lottery administers or substantially modifying the Lottery's duties. In such event, Lottery will remain liable for materials/services furnished in connection with this Agreement prior to the effective date of such legislation.

6. TIME IS OF THE ESSENCE. Time is of the essence with respect to the successful performance of this Agreement. The Contractor shall ensure that all personnel providing services to the Lottery are responsive to Lottery requirements in all respects including Lottery directives with respect to the goods and services delivered in accordance with this Agreement.

7. INDEMNIFICATION. The Vendor agrees to indemnify and hold harmless the Lottery, the State of Iowa, and their employees, board members, officers and agents from and against any and all claims, demands, liabilities, losses, damages, judgments or settlements, including all reasonable costs and expenses related thereto, including reasonable attorneys' fees of the office of the Attorney General or other counsel, which the Lottery or the State incurs directly or indirectly resulting from the following:

- a) The failure of the Vendor to fully comply with the terms of this Agreement; or
- b) The actions of the Vendor or persons working on behalf of the Vendor while performing under this Agreement.

8. INSURANCE. The Vendor shall maintain in full force and effect, with insurance companies licensed by the State of Iowa, at the Vendor's expense, insurance covering its work during the entire term of this Agreement and any extensions or renewals. The Vendor's insurance shall, among other things, be occurrence-based and shall insure against any loss or damage resulting from or related to the Vendor's performance of this Agreement regardless of the date the claim is filed or expiration of the policy. The State of Iowa and the Lottery shall be named as additional insureds or loss payees, or the Vendor shall obtain an endorsement to the same effect, as applicable.

9. VENDOR WARRANTIES.

9.1 The warranties expressed in the agreement will be intended to modify the warranties implied by law only to the extent that they expand the warranties applicable to the goods and services provided by the Vendor.

9.2 The Vendor shall warrant that the equipment and services provided to the Lottery will be suitable for the particular purpose of use in a state lottery and are merchantable. The Vendor also acknowledges that the Lottery is relying on the vendor's skill and judgment to provide services fit in all aspects for this project.

9.3 The Vendor shall warrant that any product and related services will be new and unused and free of defects in material, design and workmanship.

9.4 The Vendor shall warrant that all services provided shall be performed in a prompt, competent and workmanlike manner by properly trained individuals in accordance with the highest standards in the vendor's profession, that goods and services will be free and clear of any lien or claim by any party at the time of delivery, and that no misrepresentations have been made including material omissions.

10. INDEPENDENT CONTRACTOR. The status of the Vendor shall be that of an independent contractor. The Vendor, its employees, agents and any subcontractors performing under this Agreement are not employees or agents of the State of Iowa or any agency, division or department of the state. Neither the Vendor nor its employees shall be considered employees of the Lottery or the State of Iowa for federal or state tax purposes. The Lottery will not withhold taxes on behalf of the Vendor.

11. COMPLIANCE WITH THE LAW. The Vendor, its employees, agents, and subcontractors shall comply with all applicable federal, state, and local laws, rules, ordinances, regulations and orders when performing the services under this Agreement, including without limitation, all laws applicable to the prevention of discrimination in employment and the use of targeted small businesses as subcontractors or suppliers. The Vendor, its employees, agents and subcontractors shall also comply with all federal, state, and local laws regarding business permits and licenses that may be required to carry out the work performed under this Agreement.

12. AMENDMENTS. This Agreement may be amended in writing from time to time by mutual consent of the parties. All amendments to this Agreement must be in writing and fully executed by the parties.

13. CHOICE OF LAW AND FORUM. The laws of the State of Iowa shall govern and determine all matters arising out of or in connection with this Agreement without regard to the choice of law provisions of Iowa law. Any proceeding or action initiated to determine the parties' obligations under this agreement must be brought in Polk County, Iowa. This provision shall not be construed as waiving any immunity to suit or liability that may be available to the Lottery or the State of Iowa.

14. INTEGRATION. This contract represents the entire Agreement between the parties. The parties shall not rely on any representation that may have been made which is not included in this Agreement.

15. ASSIGNMENT. This Agreement may not be assigned, transferred or conveyed in whole or in part without the prior written consent of the other party. For the purpose of construing this clause, a transfer of a controlling interest in the Vendor shall be considered an assignment.

16. NOTICE: Any and all notices, designations, consents, offers, acceptances or any other communication provided for herein shall be given in writing by registered or certified mail, return receipt requested, by receipted hand delivery, by Federal Express, courier or other similar and reliable carrier which shall be addressed to each party as set forth as follows:

If to the **Lottery:** Iowa Lottery
Attn: Larry Loss
2323 Grand Avenue
Des Moines IA 50312

If to the **Vendor:**

Each such notice shall be deemed to have been provided at the earliest of:

- a) The time it is actually received; or
- b) Within one day in the case of overnight hand delivery, courier or services such as Federal Express with guaranteed next day of delivery; or,
- c) Within five days after deposited in the U.S. Mail in the case of registered U.S. Mail.

17. RECORD RETENTION AND ACCESS. The Vendor shall maintain books, records, and documents which sufficiently and properly document and calculate all charges billed to the Lottery throughout the term of this Agreement for a period of at least three years following the date of final payment or completion of any required audit, whichever is later.

18. OBLIGATIONS BEYOND CONTRACT TERM. This Agreement shall remain in full force and effect to the end of the specified term or until terminated or canceled pursuant to this Agreement. All obligations of the Lottery and the Vendor incurred or existing under this Agreement as of the date of expiration, termination or cancellation (specifically those outlined in Section 6) will survive the termination, expiration or conclusion of this Agreement.

IN WITNESS WHEREOF, in consideration of the mutual covenants set forth above and for other good and valuable consideration, the receipt, adequacy and legal sufficiency of which are hereby acknowledged, the parties have entered into the above Agreement and have caused their duly authorized representatives to execute this Agreement.

IOWA LOTTERY AUTHORITY

VENDOR

Larry Loss
Executive Vice President

Date: _____

Name
Title

Date: _____

Fed ID # _____