

Commonwealth of Virginia



VIRGINIA LOTTERY

Invitation for Unsealed Bids

Title: Flutter Flag Kits and Flags

Due Date: September 12, 2023

Contact Information:

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Invitation for Bids (IFB) #: PR9295PM

IFB Issue Date: August 29, 2023

Bid Due Date and Time: September 12, 2023; 3:00 PM ET

The Virginia Lottery does not discriminate against faith-based organizations or against a Bidder because of race, religion, color, sex, national origin, age, disability or any other basis prohibited by state law relating to discrimination in employment. The Virginia Lottery encourages firms to provide for the participation of small businesses and businesses owned by minorities and women through partnerships, joint ventures and subcontracting opportunities.

Complete Legal Name of Bidder's Firm: _____

I.	PURPOSE:.....	4
II.	PRODUCT AND/OR SERVICE REQUIREMENTS:.....	4
III.	SPECIAL TERMS AND CONDITIONS:.....	10
	A. ADVERTISING:.....	10
	B. AUDIT:.....	10
	C. AWARD:.....	10
	D. BID ACCEPTANCE PERIOD:.....	10
	E. BID PRICES:.....	10
	F. CANCELLATION OF CONTRACT:.....	10
	G. DELIVERY AND STORAGE:.....	11
	H. DELIVERY TERMS:.....	11
	I. DISCOUNTS, PROMPT PAYMENT:.....	11
	J. EXTRA CHARGES NOT ALLOWED:.....	12
	K. FINAL INSPECTION:.....	12
	L. IDENTIFICATION AND DELIVERY OF BID:.....	12
	IF BID IS SUBMITTED ELECTRONICALLY:.....	12
	M. INDEMNIFICATION:.....	13
	N. NEW EQUIPMENT:.....	14
	O. NOTICE OF MATERIAL LEGAL DISPUTE:.....	15
	P. OPERATIONAL COMPONENTS:.....	15
	Q. PERFORMANCE, CONTRACTOR:.....	15
	R. PRIME CONTRACTOR RESPONSIBILITIES:.....	16
	S. PRINTING DEFINITIONS:.....	16
	T. PRODUCT AVAILABILITY/SUBSTITUTION:.....	16
	U. PRODUCT INFORMATION:.....	17
	V. QUANTITIES:.....	17
	W. RENEGOTIATION OF CONTRACT:.....	17
	X. RENEWAL OF CONTRACT:.....	17
	Y. SMALL BUSINESS, WOMAN-OWNED, AND MINORITY-OWNED (SWAM) BUSINESS SUBCONTRACTING AND EVIDENCE OF COMPLIANCE:.....	18
	Z. SUBCONTRACTS:.....	18
	AA. WARRANTY:.....	18
IV.	GENERAL TERMS AND CONDITIONS:.....	19
	A. ANTI-DISCRIMINATION:.....	19
	B. ADDENDA:.....	19
	C. ANNOUNCEMENT OF AWARD:.....	20

D.	ANTITRUST:	20
E.	APPLICABLE LAWS AND COURTS:	20
F.	ASSIGNMENT OF CONTRACT:	20
G.	AVAILABILITY OF FUNDS:	20
H.	BID PRICE CURRENCY:	20
I.	CHANGES TO THE CONTRACT:	20
J.	CLARIFICATION OF TERMS:	21
K.	DEBARMENT STATUS:	21
L.	DEFAULT:	22
M.	DRUG-FREE WORKPLACE:	22
N.	ETHICS IN PUBLIC CONTRACTING:	22
O.	IMMIGRATION REFORM AND CONTROL ACT OF 1986:	22
P.	INSURANCE:	23
Q.	MANDATORY USE OF LOTTERY DOCUMENT:	23
R.	NONDISCRIMINATION OF CONTRACTOR:	23
S.	PAYMENT:	24
T.	PERSONNEL SECURITY CLEARANCES:	25
U.	PRECEDENCE OF TERMS:	26
V.	QUALIFICATION OF BIDDER:	26
W.	TAXES:	26
X.	TESTING AND INSPECTION:	26
Y.	TRANSPORTATION AND PACKAGING:	27
V.	METHOD OF PAYMENT AND INVOICING:	27
VI.	DISCOUNT FOR PROMPT PAYMENT:	27
VII.	PRICING:	27
VIII.	ADDENDA:	28
IX.	SIGNATURE AND BIDDER PROFILE SHEET:	29
X.	BIDDERS CHECKLIST:	30

I. **PURPOSE:**

The purpose of this Invitation for Unsealed Bids (“IFB”) is to solicit bids from qualified firms to produce and ship Flutter Flag Kits and Flags to be used by the Virginia Lottery (“Lottery”), an independent agency of the Commonwealth of Virginia.

II. **PRODUCT AND/OR SERVICE REQUIREMENTS:**

The Contractor shall produce and ship flutter flag kits and flags in accordance with the following minimum requirements. Attachment A for current design can be found at the end of the solicitation.

- A. **QUANTITIES:** The Lottery will place an initial order of 300 flutter flag kits and 100 flutter flags upon notification by the Lottery. **The kits and flags shall be warehoused by the Contractor in the United States until the Lottery requests shipment.** The Lottery will pay for the kits and flags once they are delivered to the Contractor’s warehouse in the United States. Current inventories do not warrant an immediate order. Contractor shall be notified of order via receipt of the Lottery’s Term Contract Release form (“TCR”, see page 8, letter F.). During the 12-month initial Contract term, orders will be placed in lots of 25 kits and/or flags.

Beyond the initial order, quantities of kits and flags to be produced and delivered over the term of the Contract (12 months) are unknown. If the Contractor pre-produces kits and/or flags beyond the instruction of the Lottery, the Lottery will not be required to purchase any kits or flags remaining in the Contractor’s inventory at the end of the Contract term.

The Lottery will have the option of adding other flutter flags of the same size, but different artwork, during the Contract term. Attachment B showing an example of different artwork on the same size flag can be found at the end of the solicitation. A pre-production sample will be required for approval. Pricing will be re-examined at that time due to increases in quantity.

B. **ITEM DESCRIPTION:**

1. Flutter Flag (see Attachments A & B at end of solicitation)
 - 10’ digitally printed single reversed knitted polyester (approx. 130 grams) portable teardrop/heart-shaped banner with black canvas-like pole sleeve
 - Approximate height – 105”
Approximate width – 27”
 - Print – digitally printed with UV ink/dye on one side from file supplied by the Lottery
 - Tether line from flag to metal hook, loop, etc. on pole. See additional specifications included with letter C., #2.
 - Flag material shall be durable and UV-proof

A sample flag can be viewed at Lottery Headquarters location at 600 East Main Street, 22nd Floor, Richmond, VA 23219.

Contact the Contract Officer on the front of this solicitation to schedule an appointment.

2. Flutter Flag Kit

A flutter flag kit shall consist of the following:

- Cardboard box clearly labeled per packaging instructions
- Detailed assembly instructions
- Ground spike. See additional specifications included with letter C., #2.
- Sectional pole kit composed of aluminum and fiberglass components that do not easily bend
- Flutter flag

3. Packaging

- Each kit shall be shipped in a cardboard box with the exterior clearly labeled "Virginia Lottery Flutter Flag Kit". **The Lottery does not want a carry/ship bag to be included with any kit shipment.**
- Flags ordered separately shall be individually poly bagged and shipped in a cardboard box with the exterior clearly labeled "Virginia Lottery Flutter Flag Only".
- Assembly of kits shall be accomplished manually without the use of tools. Contractor shall provide detailed assembly instructions with each kit.

C. FLUTTER FLAG SAMPLE:

1. The Lottery requests **a sample flutter flag kit be submitted with the bid.** The artwork doesn't matter; it can be a previously produced flag kit.

If bid is submitted electronically, the sample flutter flag kit needs to be shipped and received by the Contract Officer by the due date and time stipulated on the cover page of this solicitation. If the flutter flag kit is not received by the Contract Officer by the due date and time stipulated, the bid may not continue to be considered for award.

2. **The sample may be used as a basis for award.** The following evaluation criteria will be used to evaluate samples:

- **Was sample provided?**
Note: By not submitting a sample, the Bidder may be excluded from consideration of award.
- **Is the cardboard box labeled per packaging instructions?**
- **Are the assembly instructions included and are they easy to**

understand?

- **Pole construction and material used for the pole**

Note: The Lottery will be looking for poles of sufficient material strength to not easily bend. Previous poles have bent in strong winds and/or snapped in two. If a pole can be bent over a knee, it is not strong enough.



- **Ground spike**

Note: The Lottery will be looking for a spike of sufficient material strength to retain its structure while and after being inserted into the ground. The pole also needs to be secure on the spike to prevent poles from becoming airborne. Current spike in use is pictured below.



- **Tether line from flag to metal hook, loop, etc. on pole**
Note: The Lottery will be looking for a secure method of fastening the flag to the pole or spike. The flag needs to stay on the pole to prevent flag from becoming airborne. Current tether loop in use is pictured below.



- **Ink coverage and material stock used for the flag**
3. Sample flag kits submitted with the bid can be returned at Contractor's expense. Include a return shipping label for those flag kits to be returned.

D. ARTWORK:

1. Artwork will be provided by the Lottery upon determination of low Bidder. File format will be available in several industry standards to include layered AI, EPS or print quality pdf.
2. Contractor shall be responsible for the pickup and delivery of any artwork or proofs not delivered electronically.
3. Artwork may change during the 12-month term of the Contract. In the event the Lottery changes the artwork, a pre-production sample shall be required for approval. The Contractor shall produce and deliver the kits and flags in accordance with the Lottery's revised artwork for all subsequent orders. Contractor shall provide pricing for art changes in the pricing schedule.

- E. PRE-PRODUCTION SAMPLE:** A pre-production sample kit using Lottery provided artwork will be required for approval by the Lottery prior to award. **This sample is not the same as the sample to be sent with the quote.** The sample kit shall meet the minimum specifications as detailed in this solicitation and be **an exact and true representative sample of the actual finished product.** The sample kit shall be provided upon

request by the Contract Officer and shall be at no cost to the Lottery. Send sample kit to:

Virginia Lottery,
Attn: Pam Mackey, 22nd Fl., Procurement
600 East Main Street
Richmond, VA 23219

F. TERM CONTRACT RELEASE (TCR): The Lottery will communicate to the Contractor when kits or flags need to be produced and delivered by using the Lottery's Term Contract Release (TCR) form. The form will indicate the Contract number, whether kits, flags or both are desired, exact quantity to be produced and delivery locations. The prices, terms, and conditions of the TCR shall be the same as the Contract, which will result from this solicitation.

G. WARRANTY:

1. Contractor shall warrant that all flags shall resist fading and are free from defects in material and workmanship for a period of one (1) year from the date of receipt by the Lottery.
2. During the warranty period, the Contractor shall replace any defective or damaged kits or flags at no additional cost to the Lottery upon receipt from the Lottery of the defective or damaged kit or flag.

H. DELIVERY/SHIPPING:

1. Once notified to produce the initial order, Contractor shall warehouse the flag kits and flags in the United States until delivery to various Lottery Customer Service Center ("CSC") locations throughout the State. See page 11, letter G. Delivery and Storage, to indicate earliest date of delivery. All shipping charges shall be included in the unit price and deliveries are F.O.B. Destination.

2. Delivery Addresses:

Virginia Lottery NOVA Customer Service Center
14550 Potomac Mills Road
Woodbridge, VA 22192
Attn: Ron Rose
703-494-1501

Virginia Lottery Shenandoah Valley Customer Service Center
1790-26 East Market Street
Harrisonburg, VA 22801
Attn: Lissa Keagy
540-433-7979

Virginia Lottery Hampton Roads Customer Service Center
2306 W. Mercury Boulevard
Hampton, VA 23666
Attn: Denise Chiera
757-825-7800

Virginia Lottery Central Virginia Customer Service Center
1524 S. Main Street
Farmville, VA 23901
Attn: Jerry Thompson
434-392-7294
Note: deliveries require a lift gate truck

Virginia Lottery Roanoke Valley Customer Service Center
1287 Towne Square Boulevard
Roanoke, VA 24012
Attn: John Beisley
540-561-7011

Virginia Lottery Southwestern Virginia Customer Service Center
408 E. Main Street
Abingdon, VA 24210
Attn: Robert Cole
276-676-5540

Virginia Lottery Prize Zone West
1620 E. Parham Rd.
Richmond, VA 23228
Attn: Chris Collins
804-692-7950

Virginia Lottery Headquarters
600 East Main Street
Richmond, VA 23219
Attn: John Miutz, 18th Floor
804-692-7502

3. Subsequent orders shall be shipped in accordance with the Lottery's TCRs.
4. All shipments shall be F.O.B. Destination.
5. All shipping charges shall be borne by the Contractor and be included in the "each" price of the kits and flags.
6. During the Contract term, kits and flags shall be shipped in lots of 25 to Lottery CSC locations.

III. **SPECIAL TERMS AND CONDITIONS:**

A. **ADVERTISING:**

In the event a Contract is awarded for supplies, equipment, or services resulting from this solicitation, no indication of such sales or services to the Lottery shall be used in product literature or advertising without the Lottery Executive Director's prior written approval. The Contractor shall not state in any of its advertising or product literature that the Lottery has purchased or uses its products or services.

B. **AUDIT:**

The Contractor shall retain all books, records, and other documents relative to this Contract for five (5) years after final payment, or until audited by the Commonwealth of Virginia, whichever is sooner. The Lottery, its authorized agents, and/or state auditors shall have full access to and the right to examine any of said materials during said period.

C. **AWARD:**

The Lottery will make the award based on the lowest responsive and responsible Bidder's grand total. **The sample submitted with the bid may be used as a basis for award in addition to any/all of the dates supplied below in the Delivery and Storage term and condition.** The Purchasing Office reserves the right to conduct any test it may deem advisable and to make all evaluations. The Lottery also reserves the right to reject any or all bids, in whole or in part, to waive informalities and to delete items prior to making the award, whenever it is deemed, in the sole opinion of the Lottery, to be in its best interest.

D. **BID ACCEPTANCE PERIOD:**

Any bid in response to this solicitation shall be valid for 180 days. At the end of the 180 days the bid may be withdrawn at the written request of the Bidder. If the bid is not withdrawn at that time it remains in effect until an award is made or the program is canceled.

E. **BID PRICES:**

Bid shall be in the form of a firm unit price for each item during the Contract period.

F. **CANCELLATION OF CONTRACT:**

The Lottery reserves the right to cancel and terminate any resulting Contract, in part or in whole, without penalty, upon 60 days written notice to the Contractor. In the event of a material breach with no options to cure, the Lottery reserves the right to cancel this Contract within ten (10) days written notice. If the initial Contract period is for more than 12 months, the resulting Contract may be terminated by either party, without penalty, after the initial 12 months of the Contract period upon 60 days written notice to the other party. Any Contract cancellation notice shall not relieve the Contractor of the obligation to deliver and/or perform on all outstanding orders issued prior to the effective date of cancellation.

G. **DELIVERY AND STORAGE:**

Bidder shall state the earliest **firm** date in calendar days that a pre-production sample can be provided after request by the Contract Officer. This date may be a factor in making the award.

Firm delivery date of sample after request by Contract Officer:	_____ calendar days after request
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Bidder shall state the earliest **firm** date in calendar days after award that the initial quantity (300 flag kits and 100 flags) shall be in storage in the United States warehouse. This date may be a factor in making the award.

Firm date of arrival of initial warehouse stock:	_____ calendar days after award
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Bidder shall state the earliest **firm** delivery date in calendar days after receipt of an order for flag kits or flags from warehoused stock. This date may be a factor in making the award.

Firm delivery date after receipt of order ("ARO") from warehoused stock:	_____ calendar days ARO
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Bidder shall state the earliest **firm** delivery date in calendar days after receipt of an order for flag kits or flags to be manufactured. This date may be a factor in making the award.

Firm delivery date after receipt of order ("ARO") to be manufactured:	_____ calendar days ARO
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H. **DELIVERY TERMS:**

Delivery shall be FOB Destination with shipping costs included in the unit price.

I. **DISCOUNTS, PROMPT PAYMENT:**

Discounts for prompt payment will not be calculated in determining net low bid. Discounts for prompt payment will be shown on the purchase order/Contract and taken if invoices are processed and payment made within the stipulated time frame. If discounts are not offered, payment shall be made 30 days after receipt of an accurate invoice by the Lottery's Accounts Payable Department. Bidder shall indicate discount (if applicable) within the "Discount for Prompt Payment" on page 27 of this solicitation.

J. **EXTRA CHARGES NOT ALLOWED:**

The bid price shall be for kits and flags ready for the Lottery's use and shall include all applicable freight charges; extra charges will not be allowed.

K. **FINAL INSPECTION:**

Prior to beginning production, the kits and flags shall be in compliance with Contract specifications. Any deficiencies shall be promptly and permanently corrected by the Contractor at the Contractor's sole expense prior to final acceptance.

L. **IDENTIFICATION AND DELIVERY OF BID:**

The cover page of this solicitation indicates bids will be accepted as unsealed. Bids will be received for this procurement preferably via electronic submission through the eVA vendor portal. Submissions will also be accepted through email to the Contract Officer indicated on the cover page, mail or hand delivery to the Contract Officer indicated on the cover page. Bids received for this procurement should be identified as follows:

Name of Bidder
Due Date and Time
Bidder's complete address
IFB No.
IFB Title

IF BID IS SUBMITTED ELECTRONICALLY:

Electronic bid submission through eVA is preferred. Bidder must be registered in eVA to submit an electronic bid. Additionally, Bidders must be registered in eVA to be awarded a bid. Bidders must submit one (1) complete copy of the bid and attachments as well as one copy with proprietary information redacted.

The following are instructions for submitting an electronic bid:

1. Go to www.eva.virginia.gov;
2. Click on "I Sell To Virginia";
3. Click on "eVA Supplier Training"; and
4. Click on "Viewing and Responding to Solicitations Video".

If a Bidder needs assistance submitting an electronic response, the Bidder must contact eVA Customer Care at 866-289-7367 or email eVACustomerCare@dgs.virginia.gov.

Bids may also be emailed to the appropriate Contract Officer.

IF BID IS MAILED: Bidder must mail bid to the Virginia Lottery, Attention: Pam Mackey, 22nd Floor Purchasing Office, 600 East Main Street, Richmond, Virginia 23219.

If a bid is not identified as outlined above the Bidder takes the risk that the bid may be inadvertently opened and the information compromised, which may cause the bid to be disqualified. No other correspondence or other bids should be placed in the envelope.

IF BID IS HAND DELIVERED (INCLUDING COURIER): Bid must be delivered to 600 East Main Street, Richmond, Virginia 23219. Due to increased building security, **bid will not be accepted unless delivered to the Security Guard Station located on the Main Street entrance of Lottery Headquarters, Main Street Centre (address above). However, the Security Guard is not responsible for identifying the date and time a bid is received; only a Lottery employee can make that determination.** The Security Guard will contact an appropriate Lottery employee for bid receipt; this process could take 30 minutes or more – Bidders should not wait to submit bids at the last minute.

Late bids will not be accepted.

Note: the Lottery does not conduct public openings.

M. **INDEMNIFICATION:**

Contractor agrees to indemnify and hold harmless the Commonwealth, the Lottery, their officers, directors, agents and employees (collectively, "Commonwealth's Indemnified Parties") from and against any and all losses, damages, claims, demands, proceedings, suits and actions, including any related liabilities, obligations, losses, damages, assessments, fines, penalties (whether criminal or civil), judgments, settlements, expenses (including attorneys' and accountants' fees and disbursements) and costs (each, a "Claim" and collectively, "Claims"), incurred by, borne by or asserted against any of Commonwealth's Indemnified Parties to the extent such Claims in any way relate to, arise out of or result from: (i) any intentional or willful conduct or negligence of any employee, agent, or subcontractor of the Contractor, (ii) any act or omission of any employee, agent, or subcontractor of the Contractor, (iii) breach of any representation, warranty or covenant of the Contractor contained herein, (iv) any defect in the Contractor-provided products or services, or (v) any actual or alleged infringement or misappropriation of any third party's intellectual property rights by any of the Contractor-provided products or services. Selection and approval of counsel and approval of any settlement shall be accomplished in accordance with all applicable laws, rules and regulations. For state agencies, the applicable laws include §§ 2.2-510 and 2.2-514 of the Code of Virginia. In all cases involving the Commonwealth or state agencies, the selection and approval of counsel and approval of any settlement shall be satisfactory to the Commonwealth.

In the event that a Claim is commenced against any of Commonwealth's Indemnified Parties alleging that use of the Contractor-provided products or services, including any components thereof, or that the Contractor's

performance or delivery of any product or service under this Contract infringes any third party's intellectual property rights and the Contractor is of the opinion that the allegations in such Claim in whole or in part are not covered by this indemnification provision, Contractor shall immediately notify the Lottery in writing, via certified mail, specifying to what extent the Contractor believes it is obligated to defend and indemnify under the terms and conditions of this Contract. The Contractor shall in such event protect the interests of the Commonwealth's Indemnified Parties and secure a continuance to permit the Lottery to appear and defend their interests in cooperation with the Contractor as is appropriate, including any jurisdictional defenses the Lottery may have.

In the event of a Claim pursuant to any actual or alleged infringement or misappropriation of any third party's intellectual property rights by any of the Contractor-provided Deliverables, Products, Software, Services, Solution, including Solution Components, Application and Licensed Services, as applicable, or Contractor's performance, and in addition to all other obligations of the Contractor in this Section, the Contractor shall at its expense, either (a) procure for all Authorized Users the right to continue use of such infringing Deliverables, Products, Software, Services, Solution, including Solution Components, Application and Licensed Services, as applicable, or any component thereof; or (b) replace or modify such infringing Deliverables, Products, Software, Services, Solution, including Solution Components, Application and Licensed Services, as applicable, or any component thereof, with non-infringing Deliverables, Products, Software, Services, Solution or Solution Component(s), Application and Licensed Services, as applicable, satisfactory to the Lottery. And in addition, the Contractor shall provide any the Lottery with a comparable temporary replacement products and/or services or reimburse the Lottery for the reasonable costs incurred by the Lottery in obtaining an alternative product or service, in the event the Lottery cannot use the affected Deliverable, Product, Software, Services, Solution or Solution Component(s), Application and Licensed Services, as applicable, or any component thereof. If the Contractor cannot accomplish any of the foregoing within a reasonable time and at commercially reasonable rates, then the Contractor shall accept the return of the infringing Deliverables, Products, Software, Services, Solution, Solution Component, Application and Licensed Services, as applicable, or any component thereof, along with any other components rendered unusable by the Lottery as a result of the infringing component, and refund the price paid to the Contractor for such components.

N. **NEW EQUIPMENT:**

Unless otherwise expressly stated in this solicitation, any equipment furnished under the Contract shall be new, unused equipment.

- O. **NOTICE OF MATERIAL LEGAL DISPUTE:**
Contractor shall notify the Lottery of its involvement in any legal dispute that is or may become material to this Contract. Contractor shall provide the Lottery with pertinent, non-privileged details upon request.
- P. **OPERATIONAL COMPONENTS:**
Unless otherwise requested in the solicitation, stated kit prices shall include all assembly hardware and documentation for all components, and any other items necessary for full function.
- Q. **PERFORMANCE, CONTRACTOR:**
Contractors providing goods and services to the Lottery are required to perform in accordance with the terms and conditions of their Contract. When contractual requirements are not met, the following actions may be taken (at the Lottery's option):
1. **Contractor Complaint Form:**
If a Contractor fails to perform in accordance with the terms and conditions of the Contract, the Lottery will prepare a Contractor Complaint Form and forward to the Purchasing Office. This form will be sent to the Contractor for a corrective action plan.
 2. **Default:**
If the Contractor is non-responsive to the complaint form or does not satisfy the corrective action plan submitted in the complaint form or provides an unsatisfactory corrective plan, as determined by the Lottery, the Contractor may, at the Lottery's discretion, be placed in default and notified via Contractor Complaint Form.
 3. **Ineligible for Award:**
Once placed in default, the Contractor will be ineligible to do business with the Lottery for purchases exceeding \$10,000 for a period of **three (3) years**.
 4. **Re-procurement of Goods and Services:**
In addition to a Contractor's ineligibility for award of programs over \$10,000, the Lottery may procure the goods and/or services from other sources and hold the Contractor responsible for the price difference of the original Contract amount and the amount of the new Contract. The Lottery will follow competitive principles as outlined herein for the re-procurement.

The vendor will remain in default until the re-procurement costs have been paid to the Lottery. The vendor is still subject to the three (3) year ineligibility based on the default regardless as to when the re-procurement cost is paid.
 5. **Number of Complaints:**
 - a) For Term Contracts: if the Contractor has received three (3)

or more complaints within the initial Contract period as documented by Contractor Complaint Forms, the Contractor may, at the Lottery's discretion, be ineligible to submit a bid/proposal if the goods/services are re-solicited at expiration of Contract. Ineligibility shall apply even though a satisfactory resolution to all complaints occurred.

- b) For a Renewal Period: if the Contractor has received three (3) or more complaints within a renewal period as documented by Contractor Complaint Forms, the Contractor may, at the Lottery's discretion, be ineligible to submit a bid/proposal if the goods/services are re-solicited at expiration of Contract. Ineligibility shall apply even though a satisfactory resolution to all complaints occurred.
- c) For Spot Purchases: if the Contractor has received three (3) or more complaints within a period of one (1) year as documented by Contractor Complaint Forms, the Contractor may, at the Lottery's discretion, be ineligible to do business with the Lottery for purchases exceeding \$10,000 for a period of one (1) year after the issuance of the third Contractor Complaint Form. Ineligibility shall apply even though a satisfactory resolution to all complaints occurred.

R. **PRIME CONTRACTOR RESPONSIBILITIES:**

The Contractor shall be responsible for completely supervising and directing the work under this Contract and all subcontractors that he may utilize, using his best skill and attention. Subcontractors who perform work under this Contract shall be responsible to the prime Contractor. The Contractor agrees that he is as fully responsible for the acts and omissions of his subcontractors and of persons employed by them as he is for the acts and omissions of his own employees.

S. **PRINTING DEFINITIONS:**

CLASS 1 - CRITICAL QUALITY PRINTING: This class shall be used for four-color process printing where critical color matches are necessary or where engraved and/or embossed invitations are required. Typical examples: matching artist's original paintings or sculptures, or product colors so that they represent true colors or materials used in creating the original are accurately represented, and reproduction of medical slides where true color may be critical. This is a step above "pleasing colors." Finishing and bindery operations shall be of this same critical quality.

T. **PRODUCT AVAILABILITY/SUBSTITUTION:**

Substitution of a product, brand or manufacturer after the award of Contract is expressly prohibited unless approved in writing by the Contract Specialist. The Lottery may, at its discretion, require the Contractor to provide a substitute item of equivalent or better quality subject to the approval of the Contract Specialist, for a price no greater than the Contract price, if the product for which the Contract was awarded becomes

unavailable to the Contractor.

U. **PRODUCT INFORMATION:**

The Bidder shall clearly and specifically identify the product being offered and enclose complete and detailed descriptive literature, catalog cuts and specifications with the bid to enable the Lottery to determine if the product offered meets the requirements of the solicitation. Failure to do so may cause the bid to be considered nonresponsive.

V. **QUANTITIES:**

Quantities set forth in this solicitation are estimates only, and the Contractor shall supply at bid prices actual quantities as ordered, regardless of whether such total quantities are more or less than those shown.

W. **RENEGOTIATION OF CONTRACT:**

The Lottery reserves the right, at any time during the Contract term or any renewals of the term, to renegotiate with the Contractor a reduction in the compensation paid to the Contractor that is less than the compensation initially agreed to by the Contractor and the Lottery at the time of Contract execution. The Lottery may initiate such negotiations whenever the Lottery determines that it is in the Lottery's best fiscal interests to do so. Notwithstanding any other provision of this Contract to the contrary, the Lottery may terminate this Contract immediately and without penalty if the Lottery is unable to renegotiate the compensation with the Contractor to an amount which the Lottery determines to be appropriate.

X. **RENEWAL OF CONTRACT:**

This Contract may be renewed by the Lottery for two (2) successive one-year periods under the terms and conditions of the original Contract except as stated in 1. and 2. below. Price increases/decreases may be negotiated only at the time of renewal. Written notice of the Lottery's intention to renew shall be given approximately 90 days prior of each Contract period.

1. If the Lottery elects to exercise the option to renew the Contract for an additional one-year period, the Contract price(s) for the additional one year shall not exceed the Contract price(s) of the original Contract increased/decreased by more than the percentage increase/decrease of the Series ID WPU03830351, Group: Textile Products and Apparel, Item: All other fabricated textile products, excluding trimming and findings category of the PPI-W section of the Producer Price Index of the United States Bureau of Labor Statistics for the latest 12 months for which statistics are available.
2. If during any subsequent renewal periods, the Lottery elects to exercise the option to renew the Contract, the Contract price(s) for the subsequent renewal period shall not exceed the Contract

price(s) of the previous renewal period increased/decreased by more than the percentage increase/decrease of the Series ID WPU03830351, Group: Textile Products and Apparel, Item: All other fabricated textile products, excluding trimming and findings category of the PPI-W section of the Producer Price Index of the United States Bureau of Labor Statistics for the latest 12 months for which statistics are available.

Y. **SMALL BUSINESS, WOMAN-OWNED, AND MINORITY-OWNED (SWAM) BUSINESS SUBCONTRACTING AND EVIDENCE OF COMPLIANCE:**

It is the goal of the Lottery that 50% of purchases are made from SWAM businesses. This includes discretionary spending in prime Contracts and subcontracts. Unless the Bidder is registered as a SBSB-certified SWAM business and where it is practicable for any portion of the awarded Contract to be subcontracted to other suppliers, the Contractor is encouraged to offer such subcontracting opportunities to SBSB-certified SWAM businesses. No Bidder or subcontractor shall be considered a SWAM Business unless certified as such by the Virginia Department of Small Business and Supplier Diversity (SBSB) by the due date for receipt of bids. If SWAM business subcontractors are used, the prime Contractor agrees to report the use of SWAM business subcontractors by providing the purchasing office at a minimum the following information: name of SWAM business with the SBSB certification number, phone number, total dollar amount subcontracted, category type (small, women-owned, or minority-owned), and type of product/service provided.

Will there be any subcontracting to SWAM business for the performance of this Contract?	<input type="checkbox"/> Yes <input type="checkbox"/> No
If so, please provide the SWAM business name and SBSB certification number:	Name: SBSB Certification #:

Z. **SUBCONTRACTS:**

No portion of the work shall be subcontracted without prior written consent of the Lottery. In the event that the Contractor desires to subcontract some part of the work specified herein, the Contractor shall furnish the Lottery the names, qualifications and experience of their proposed subcontractors. The Contractor shall, however, remain fully liable and responsible for the work to be done by its subcontractor(s) and shall assure compliance with all requirements of the Contract.

AA. **WARRANTY:**

Contractor shall repair or replace kits and/or flag components due to failures resulting from materials and/or workmanship for a minimum period of one (1) year following receipt by the Lottery.

IV. **GENERAL TERMS AND CONDITIONS:**

A. **ANTI-DISCRIMINATION:**

By submitting their bid, Bidders certify to the Commonwealth that they will conform to the provisions of the Federal Civil Rights Act of 1964, as amended, as well as the Virginia Fair Employment Contracting Act of 1975, as amended, where applicable, the Virginians with Disabilities Act, the Americans with Disabilities Act. If the award is made to a faith-based organization, the organization shall not discriminate against any recipient of goods, services, or disbursements made pursuant to the Contract on the basis of the recipient's religion, religious belief, refusal to participate in a religious practice, or on the basis of race, age, color, gender or national origin and shall be subject to the same rules as other organizations that contract with public bodies to account for the use of the funds provided; however, if the faith-based organization segregates public funds into separate accounts, only the accounts and programs funded with public funds shall be subject to audit by the Virginia Lottery.

In every Contract over \$10,000 the provisions in 1. and 2. below apply:

During the performance of this Contract, the Contractor agrees as follows:

1. The Contractor will not discriminate against any employee or applicant for employment because of race, religion, color, sex, national origin, age, disability, or any other basis prohibited by state law relating to discrimination in employment, except where there is a bona fide occupational qualification reasonably necessary to the normal operation of the Contractor. The Contractor agrees to post in conspicuous places, available to employees and applicants for employment, notices setting forth the provisions of this nondiscrimination clause.
2. The Contractor, in all solicitations or advertisements for employees placed by or on behalf of the Contractor, will state that such Contractor is an equal opportunity employer.
3. Notices, advertisements and solicitations placed in accordance with federal law, rule or regulation shall be deemed sufficient for the purpose of meeting these requirements.

The Contractor will include the provisions of 1. above in every subcontract or purchase order over \$10,000, so that the provisions will be binding upon each subcontractor or vendor.

B. **ADDENDA:**

Any changes or supplemental instructions to this Invitation for Bid shall be in the form of written addenda. Each Bidder is responsible for determining that all addenda issued have been received and shall acknowledge receipt of all addenda in the space provided within the

Pricing Schedule or by returning a copy of each signed addendum. Failure to do so may result in rejection of the bid. All addenda so issued shall become part of the IFB and any resulting Contract documents.

C. **ANNOUNCEMENT OF AWARD:**

Upon the award or the announcement of the decision to award a Contract over \$50,000, as a result of this solicitation, Lottery will publicly post such notice on the DGS/DPS eVA web site (www.eva.virginia.gov).

D. **ANTITRUST:**

By entering into a Contract, the Contractor conveys, sells, assigns, and transfers to the Commonwealth of Virginia all rights, 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 and the Commonwealth of Virginia, relating to the particular goods or services purchased or acquired by the Commonwealth of Virginia under said Contract.

E. **APPLICABLE LAWS AND COURTS:**

This solicitation and any resulting Contract shall be governed in all respects by the laws of the Commonwealth of Virginia, and any litigation with respect thereto shall be brought in the courts of the Commonwealth. The Contractor shall comply with all applicable federal, state and local laws, rules and regulations including Virginia Lottery Law § 58.1-4000 et seq. and the Virginia Lottery Purchasing Manual.

F. **ASSIGNMENT OF CONTRACT:**

A Contract shall not be assignable by the Contractor in whole or in part without the written consent of the Lottery.

G. **AVAILABILITY OF FUNDS:**

It is understood and agreed between the parties herein that the Lottery shall be bound hereunder only to the extent of the funds available, or which may hereafter become available for the purpose of this agreement.

H. **BID PRICE CURRENCY:**

Unless stated otherwise in the solicitation, Bidders shall state bid/offer prices in US dollars.

I. **CHANGES TO THE CONTRACT:**

Changes can be made to the Contract in any of the following ways:

1. The parties may agree in writing to modify the scope of the Contract. An increase or decrease in the price of the Contract resulting from such modification shall be agreed to by the parties as a part of their written agreement to modify the scope of the Contract.
2. The Lottery may order changes within the general scope of the Contract at any time by written notice to the Contractor. Changes

within the scope of the Contract include, but are not limited to, things such as services to be performed, the method of packing or shipment, and the place of delivery or installation. The Contractor shall comply with the notice upon receipt. The Contractor shall be compensated for any additional costs incurred as the result of such order and shall give the Lottery a credit for any savings. Said compensation shall be determined by one of the following methods:

By mutual agreement between the parties in writing; or

By agreeing upon a unit price or using a unit price set forth in the Contract, if the work to be done can be expressed in units, and the Contractor accounts for the number of units of work performed, subject to the Lottery's right to audit the Contractor's records and/or to determine the correct number of units independently; or

By ordering the Contractor to proceed with the work and keep a record of all costs incurred and savings realized. A markup for overhead and profit may be allowed if provided by the Contract. The same markup shall be used for determining a decrease in price as the result of savings realized. The Contractor shall present the Lottery with all vouchers and records of expenses incurred and savings realized. The Lottery shall have the right to audit the records of the Contractor as it deems necessary to determine costs or savings. Any claim for an adjustment in price under this provision must be asserted by written notice to the Lottery within 30 days from the date of receipt of the written order from the Lottery. If the parties fail to agree on an amount of adjustment, the question of an increase or decrease in the Contract price or time for performance shall be resolved in accordance with the procedures for resolving disputes provided by the Disputes Clause of this Contract or, if there is none, in accordance with the disputes provisions of the Lottery's Purchasing Manual. Neither the existence of a claim nor a dispute resolution process, litigation or any other provision of this Contract shall excuse the Contractor from promptly complying with the changes ordered by the Lottery or with the performance of the Contract generally.

J. **CLARIFICATION OF TERMS:**

If any prospective Bidder has questions about the specifications or other solicitation documents, the prospective Bidder should contact the buyer whose name appears on the face of the solicitation no later than five (5) working days before the due date. Any revisions to the solicitation will be made only by addendum issued by the buyer.

K. **DEBARMENT STATUS:**

By submitting their bid, Bidders certify that they are not currently debarred by the Commonwealth of Virginia from submitting bids on Contracts for the type of goods and/or services covered by this solicitation, nor are they an agent of any person or entity that is currently

so debarred.

L. **DEFAULT:**

In case of failure to deliver goods or services in accordance with the Contract terms and conditions, the Lottery, after due oral or written notice, may procure them from other sources and hold the Contractor responsible for any resulting additional purchase and administrative costs. This remedy shall be in addition to any other remedies which the Lottery may have.

M. **DRUG-FREE WORKPLACE:**

During the performance of this Contract, the Contractor agrees to (i) provide a drug-free workplace for the Contractor's employees; (ii) post in conspicuous places, available to employees and applicants for employment, a statement notifying employees that the unlawful manufacture, sale, distribution, dispensation, possession, or use of a controlled substance or marijuana is prohibited in the Contractor's workplace and specifying the actions that will be taken against employees for violations of such prohibition; (iii) state in all solicitations or advertisements for employees placed by or on behalf of the Contractor that the Contractor maintains a drug-free workplace; and (iv) include the provisions of the foregoing clauses in every subcontract or purchase order of over \$10,000, so that the provisions will be binding upon each subcontractor or vendor.

For the purposes of this section, "*drug-free workplace*" means a site for the performance of work done in connection with a specific Contract awarded to a Contractor, the employees of whom are prohibited from engaging in the unlawful manufacture, sale, distribution, dispensation, possession or use of any controlled substance or marijuana during the performance of the Contract.

N. **ETHICS IN PUBLIC CONTRACTING:**

By submitting their bid, Bidders certify that their bid are made without collusion or fraud and that they have not offered or received any kickbacks or inducements from any other Bidder, supplier, manufacturer or subcontractor in connection with their bid, and that they have not conferred on any public employee having official responsibility for this procurement transaction any payment, loan, subscription, advance, deposit of money, services or anything of more than nominal value, present or promised, unless consideration of substantially equal or greater value was exchanged.

O. **IMMIGRATION REFORM AND CONTROL ACT OF 1986:**

By entering into a written Contract with the Lottery, the Contractor certifies that they so not, and shall not during the performance of the Contract for goods and services in the Commonwealth, knowingly employ an unauthorized alien as defined in the federal Immigration Reform and Control Act of 1986.

P. **INSURANCE:**

By signing and submitting a bid under this solicitation, the Bidder certifies that if awarded the Contract, it will have the following insurance coverage at the time the Contract is awarded. For construction contracts, if any subcontractors are involved, the subcontractor will have workers' compensation insurance in accordance with §§ 2.2-4332 and 65.2-800 et seq. of the *Code of Virginia*. The Bidder further certifies that the Contractor and any subcontractors will maintain this insurance coverage during the entire term of the Contract and that all insurance coverage will be provided by insurance companies authorized to sell insurance in Virginia by the Virginia State Corporation Commission.

Minimum Insurance Coverages and Limits Required for Most Contracts:

1. Workers' Compensation - Statutory requirements and benefits. Coverage is compulsory for employers of three (3) or more employees, to include the employer. Contractors who fail to notify the Commonwealth of increases in the number of employees that change their workers' compensation requirements under the *Code of Virginia* during the course of the Contract shall be in noncompliance with the Contract.
2. Employer's Liability - \$100,000.
3. Commercial General Liability - \$1,000,000 per occurrence. Commercial General Liability is to include bodily injury and property damage, personal injury and advertising injury, products and completed operations coverage. The Commonwealth of Virginia must be named as an additional insured and so endorsed on the policy.
4. Automobile Liability - \$1,000,000 per occurrence. (Only used if motor vehicle is to be used in the Contract.)

Q. **MANDATORY USE OF LOTTERY DOCUMENT:**

Failure to submit a bid on this official Invitation for Bids document shall be a cause for rejection of the bid. Modification of or additions to any portion of the Invitation for Bids may be cause for rejection of the bid; however, the Lottery reserves the right to decide on a case by case basis, in its sole discretion, whether to reject such a bid as nonresponsive. As a precondition to its acceptance, the Lottery may, in its sole discretion, request that the Bidder withdraw or modify nonresponsive portions of a bid which do not affect quality, quantity, price, or delivery. No modification of or addition to the provisions of the Contract shall be effective unless reduced to writing and signed by the parties.

R. **NONDISCRIMINATION OF CONTRACTOR:**

A Bidder or Contractor shall not be discriminated against in the solicitation or award of this Contract because of race, religion, color, sex,

national origin, age, disability, faith-based organizational status, any other basis prohibited by state law relating to discrimination in employment or because the Bidder employs ex-offenders unless the Lottery, department or institution has made a written determination that employing ex-offenders on the specific Contract is not in its best interest. If the award of this Contract is made to a faith-based organization and an individual, who applies for or receives goods, services, or disbursements provided pursuant to this Contract objects to the religious character of the faith-based organization from which the individual receives or would receive the goods, services, or disbursements, the public body shall offer the individual, within a reasonable period of time after the date of his objection, access to equivalent goods, services, or disbursements from an alternative provider.

S. **PAYMENT:**

1. To Prime Contractor:
 - a) Invoices for items ordered, delivered and accepted shall be submitted by the Contractor directly to the payment address shown on the purchase order/Contract. All invoices shall show the Lottery Contract number and/or purchase order number; social security number (for individual contractors) or the federal employer identification number (for proprietorships, partnerships, and corporations).
 - b) Any payment terms requiring payment in less than 30 days will be regarded as requiring payment 30 days after invoice or delivery, whichever occurs last. This shall not affect offers of discounts for payment in less than 30 days, however.
 - c) All goods or services provided under this Contract or purchase order, that are to be paid for with public funds, shall be billed by the Contractor at the Contract price, regardless of which public agency is being billed.
 - d) The following shall be deemed to be the date of payment: the date of postmark in all cases where payment is made by mail, or the date of offset when offset proceedings have been instituted as authorized under the Virginia Debt Collection Act.
 - e) Unreasonable Charges. Under certain emergency procurements and for most time and material purchases, final job costs cannot be accurately determined at the time orders are placed. In such cases, contractors should be put on notice that final payment in full is contingent on a determination of reasonableness with respect to all invoiced charges. Charges which appear to be unreasonable will be researched and challenged, and that portion of the invoice held in abeyance until a settlement

can be reached. Upon determining that invoiced charges are not reasonable, the Lottery shall promptly notify the Contractor, in writing, as to those charges which it considers unreasonable and the basis for the determination. A Contractor may not institute legal action unless a settlement cannot be reached within 30 days of notification. The provisions of this section do not relieve the Lottery of its prompt payment obligations with respect to those charges which are not in dispute.

2. To Subcontractors:

a) A Contractor awarded a Contract under this solicitation is hereby obligated:

i. To pay the subcontractor(s) within seven (7) days of the Contractor's receipt of payment from the Lottery for the proportionate share of the payment received for work performed by the subcontractor(s) under the Contract; or

ii. To notify the Lottery and the subcontractor(s), in writing, of the Contractor's intention to withhold payment and the reason.

b) The Contractor is obligated to pay the subcontractor(s) interest at the rate of one percent per month (unless otherwise provided under the terms of the Contract) on all amounts owed by the Contractor that remain unpaid seven (7) days following receipt of payment from the Lottery, except for amounts withheld as stated in (2) above. The date of mailing of any payment by U. S. Mail is deemed to be payment to the addressee. These provisions apply to each sub-tier Contractor performing under the primary Contract. A Contractor's obligation to pay an interest charge to a subcontractor may not be construed to be an obligation of the Lottery.

3. The Lottery encourages contractors and subcontractors to accept electronic and credit card payments.

T. **PERSONNEL SECURITY CLEARANCES:**

Section 58.1-4008 of the *Code of Virginia* (Virginia Lottery Law) requires that all Board members, officers and employees of any vendor of lottery online or instant ticket goods or services working directly on a Contract with the Lottery for such goods or services shall be subject to a criminal background search to be conducted by the chief security officer of the Lottery. Additionally, Lottery Regulation 5-20-410 extends this to include

any parent or Subsidiary Corporation of the vendor, and any shareholder of 5% or more of the vendor, its parent, or Subsidiary Corporation.

No person who has been convicted of a felony, bookmaking, or other form of illegal gambling, or of a crime involving moral turpitude, shall be employed on Contracts with vendors described in this section.

No Board member, officer, or employee of a vendor to the Lottery of online or instant ticket goods or services working directly on a Contract for such goods or services, or any person residing in the same household of such Board member, officer, or employee, shall purchase a lottery ticket or share, or receive a prize paid on a ticket purchased by or transferred to such person.

U. **PRECEDENCE OF TERMS:**

The following General Terms and Conditions, APPLICABLE LAWS AND COURTS, ANTI-DISCRIMINATION, ETHICS IN PUBLIC CONTRACTING, IMMIGRATION REFORM AND CONTROL ACT OF 1986, DEBARMENT STATUS, ANTITRUST, MANDATORY USE OF STATE FORM AND TERMS AND CONDITIONS, CLARIFICATION OF TERMS, PAYMENT shall apply in all instances. In the event there is a conflict between any of the other General Terms and Conditions and any Special Terms and Conditions in this solicitation, the Special Terms and Conditions shall apply.

V. **QUALIFICATION OF BIDDER:**

The Lottery may make such reasonable investigations as deemed proper and necessary to determine the ability of the Bidder to perform the services/furnish the goods and the Bidder shall furnish to the Lottery all such information and data for this purpose as may be requested. The Lottery reserves the right to inspect Bidder's physical facilities prior to award to satisfy questions regarding the Bidder's capabilities. The Lottery further reserves the right to reject any bid if the evidence submitted by, or investigations of, such Bidder fails to satisfy the Lottery that such Bidder is properly qualified to carry out the obligations of the Contract and to provide the services and/or furnish the goods contemplated therein.

W. **TAXES:**

Sales to the Commonwealth of Virginia are normally exempt from State sales tax. State sales and use tax certificates of exemption, Form ST-12, will be issued upon request. Deliveries against this Contract shall usually be free of Federal excise and transportation taxes. The Commonwealth's excise tax exemption registration number is 54-73-0076K.

X. **TESTING AND INSPECTION:**

The Lottery reserves the right to conduct any test/inspection it may deem advisable to assure goods and services conform to the specifications.

Y. **TRANSPORTATION AND PACKAGING:**

By submitting their bid, all Bidders certify and warrant that the price offered for FOB destination includes only the actual freight rate costs at the lowest and best rate and is based upon the actual weight of the goods to be shipped. Except as otherwise specified herein, standard commercial packaging, packing and shipping containers shall be used. All shipping containers shall be legibly marked or labeled on the outside with purchase order number, commodity description, and quantity.

V. **METHOD OF PAYMENT AND INVOICING:**

Invoices for payment shall be submitted upon fulfillment of the initial order of kits and flags AND upon fulfillment of each submitted TCR.

Invoices shall be rendered directly to:

Virginia Lottery

Attention: Accounts Payable

VLAP@valottery.com (*preferable*)

600 East Main Street

Richmond, VA 23219

Invoice must contain the following information:

- Virginia Lottery's Contract number;
- description of the goods and services;
- date goods and services were provided;
- invoice total;
- Contractor's Federal Identification Number or Federal Employer's Number.

If this information is not contained in the invoice, the invoice may be returned to the Contractor.

VI. **DISCOUNT FOR PROMPT PAYMENT:**

Discount for prompt payment at: _____%/Net ____ days (see Discount for Prompt Payment requirement I. page 11). This Discount will not be calculated in determining low bid amount(s).

VII. **PRICING:**

The Bidder agrees to furnish the kits and flags as specified herein, and in compliance with the terms and conditions of this Invitation for Bids at the following firm, fixed price during the term of the agreement. In case of errors in the extension of prices, the unit price shall prevail. All shipping costs shall be borne by the Contractor and included in the "each" price.

For competitive bids from \$10,000 up to and including \$100,000, an award shall be made to the lowest priced SBSD-certified SWaM bidder that is responsive and responsible if such small business bid or offer is available, and the price is fair and reasonable. For unsealed bidding, the bid price shall not exceed 5% of the lowest responsive and responsible noncertified bidder. If there are no reasonably priced

bids/offers meeting the above criteria received from certified SWaM businesses, an award may be made to the lowest priced bidder that is responsive and responsible. Note: For the purposes of Lottery Procurement rules, no vendor shall be considered a SWaM business enterprise unless certified as such by the SBSB.

DESCRIPTION	QTY	UNIT	UNIT PRICE	EXTENDED PRICE
Flutter Flag Kits	300	Each	\$ _____	\$ _____
Flutter Flags Only	100	Each	\$ _____	\$ _____
Additional set-up charge for new artwork (one-time fee per artwork change; not a rate per hour and not to be considered in the grand total)				\$ _____
GRAND TOTAL				\$ _____

VIII. **ADDENDA:**

Bidder hereby acknowledges receipt of and incorporation of all requirements of any addenda issued for this Invitation for Bid:

Addendum No. _____ Dated _____
 Addendum No. _____ Dated _____
 Addendum No. _____ Dated _____

IX. **SIGNATURE AND BIDDER PROFILE SHEET:**

All bids must be signed below in order to be considered.

All prices shall be F.O.B. to the delivery address(s) as specified herein. Freight, delivery costs, and incidental charges shall be included in the bid price(s).

In compliance with this Invitation for Bid #PR9295PM and subject to all conditions thereof, the undersigned offers and agrees to furnish any or all items and/or services upon which prices are quoted, at the price quoted as specified.

Complete Legal Name of Firm	
Address	
Remit To Address	
Authorized Signature	Date
Print Name	
Title	FIN #
Email	Telephone
Bidder Profile: Bidder shall indicate whether they are <i>certified</i> with the Virginia Department of Small Business and Supplier Diversity as a (check all that apply)	
<input type="checkbox"/> Small Business <input type="checkbox"/> Minority-Owned Business <input type="checkbox"/> Woman-Owned Business	
Certification Number:	Expiration Date:
Definitions and information on how to become certified may be obtained at www.sbsd.virginia.gov	
Contact person regarding this Bid	
Check here to use above contact <input type="checkbox"/> or provide name below:	
Name:	
Email	Phone

X. **BIDDERS CHECKLIST:**

The intent of the checklist is to assist the Bidder in providing a responsive bid. It may not include all the requirements necessary to submit a responsive bid. It is the responsibility of the Bidder to read the entire solicitation.

<input type="checkbox"/>	Bidder has clear understanding of goods/services requested
<input type="checkbox"/>	Bidder understands and agrees to all Special and General Terms & Conditions
<input type="checkbox"/>	Any tables/boxes within the Special Terms and Conditions must be completed by the Bidder (Bidder must write in these tables/boxes).
<input type="checkbox"/>	Bidder understands when Bid is due
<input type="checkbox"/>	Bidder understands where to mail or deliver bid
<input type="checkbox"/>	Bidder understands that once a bid is opened it is a binding document
<input type="checkbox"/>	Bidder signed and provided all information requested on IFB Signature Page
<input type="checkbox"/>	Bidder understands that contact with the Contract Specialist is encouraged if any questions arise prior to submitting a bid
<input type="checkbox"/>	
<input type="checkbox"/>	
<input type="checkbox"/>	
<input type="checkbox"/>	
<input type="checkbox"/>	

Attachment A (current artwork)



