

ORIGINAL



NPGAP 2024.1

NEBRASKA COMMISSION ON PROBLEM GAMBLING

marketing rfp response

April 18, 2024

VI: 1B

financial statements

Lawrence & Schiller is a full-service agency specializing in comprehensive advertising and branding efforts for clients across the region. While we work across several different industries, we specialize in state awareness and prevention marketing, working with clients like the South Dakota Lottery, the South Dakota Department of Public Safety (Office of Highway Safety), the South Dakota Department of Health, the South Dakota Department of Education, the South Dakota Department of Revenue and the South Dakota Department of Social Services (Division of Behavioral Health).

CLIENT BASE & BILLINGS

Key Clients

SD Department of Social Services	4,000,000
Pizza Ranch	4,000,000
Dakota State University	2,000,000
SD Office of Highway Safety	1,500,000
South Dakota Lottery	1,250,000
City of Duluth	800,000
South Dakota Tourism	600,000
SD Department of Human Services	600,000
SD Department of Health	500,000
First PREMIER Bank	500,000
Montana Department of Commerce	500,000
Sanford Health Foundation	500,000
Theodore Roosevelt Medora	500,000
Parker Freeze Dry	500,000
Verde Technologies	500,000
Horizon Health	400,000
Southeast Technical College	350,000
Bluepeak	300,000
Build Dakota	250,000
C&B Operations	215,000
SD Department of Education	200,000
SD Board of Regents	200,000
Rapid City Regional Airport	150,000
Black Hills Special Services	150,000
Benefis Health System	150,000
Our Dakota Dreams	100,000
Freedom Scholarship	100,000
Fiegen Construction	100,000
Viaflex	100,000
Southeast Minnesota State University	75,000
Adee Honey Farms	50,000
Other	3,860,000
Total Agency Annual Billings	\$25,000,000

BANKING REFERENCE

Barry Hoogland
Vice President – Business Banking
First PREMIER Bank
605.978.9796
barry.hoogland@firstpremier.com

WHAT WE DO



GET TO KNOW YOUR AUDIENCES & OPPORTUNITIES

Insights & Strategic Planning



GET NOTICED WITH STANDOUT CREATIVE WORK

Branding, Design & Video



GET LEADS, CLICKS & CONVERSIONS

Digital Marketing & Web Design



GET SEEN BY THE RIGHT AUDIENCE AT THE RIGHT TIME

Media Strategy & Paid Placement



GET RESULTS & SATISFY YOUR STAKEHOLDERS

Business & Marketing Analytics



GET HEADLINES & TELL YOUR STORY

Public Relations & Disruptive

VI: 1H

corporate experience

As the largest agency in South Dakota with the most state awareness and prevention experience, L&S is very familiar with the scope of this project and the work that needs to be done to inform and educate the public about addiction to gambling and how to get help.

Below and on the following three pages is an overview of three (3) clients L&S has worked with to change behavior in a manner similar to what this RFP calls for.



DRIVESAFESD.COM

SD DEPARTMENT OF HIGHWAY SAFETY

- Created DriveSafeSD public-facing brand
- Ongoing awareness and prevention marketing
- Goal to decrease crashes and fatalities
- Focus on several driving behaviors including speeding, seatbelt, impaired, distracted and motorcycles



SD DEPARTMENT OF SOCIAL SERVICES (DSS) SD DEPARTMENT OF HEALTH (DOH)

- Collaboration between two departments
- DSS Behavioral Health brand
- DOH AvoidOpioid brand
- Goals to eliminate stigmas, prevent mental health and substance use disorders and educate around available resources



SD LOTTERY

- Responsible gambling messaging
- Ongoing + dedicated annual campaign
- 'Play responsibly' messaging and education around help and resources available

VI: 1H

corporate experience

SOUTH DAKOTA DIVISION OF BEHAVIORAL HEALTH

In 2023, L&S helped DSS launch a new “Notes to Self” campaign using positive affirmations to remind people that they are seen, that they matter and that help and support are always here. The campaign was meant to build awareness and eliminate stigma while emphasizing prevention and early intervention across the state.

With half of the campaign complete, 988 contacts are pacing **42% ahead** of last year, and we’ve seen a **228% increase in calls** for listening support, information and prevention.

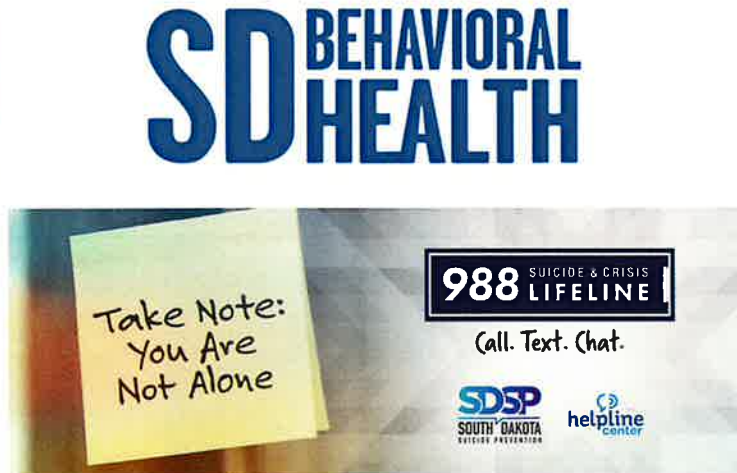
Beyond that, we’ve seen over **81 million media impressions**, over **4 million campaign interactions** (clicks, likes, shares and comments) and over 25,000 actions taken on the website, including **7,400 quiz completions** from those that need support and **6,495 clicks to resources**.

Throughout this process, L&S was the primary contractor and provided the following services:

- Research and creative testing (tested three concepts with the target audience)
- Media planning and placement (strategy focused on awareness, engagement and action)
- Creative production for multiple channels including TV, radio, outdoor, social, display and disruptive
- Website enhancements to align with campaign look and feel (added quiz and access to resources)
- Reporting and performance analysis (A/B testing different creative versions)

Project Time Period: July 2023-Current

Client Reference: Jennifer Humphrey | 605.773.3123 | jennifer.humphrey@state.sd.us



VI: 11

proposed personnel

ACCOUNT LEADERSHIP

Jamie and Sara have over 20 years of combined experience in marketing, working together on clients like South Dakota Lottery, Taco John's, Pizza Ranch, HuHot, Profile and C & B Operations. While Jamie has led brand strategy and marketing integrations for over 15 years, Sara has worked in event planning and promotion activations to bring new ideas to life. Together, they will ensure that overall expectations are met while managing projects, timelines and budgets.



JAMIE HEGGE // VP of CLIENT SERVICE

UNIVERSITY OF SOUTH DAKOTA – MASS COMMUNICATION, SPEECH COMMUNICATION & SPANISH
Length of Service: 15 Years **Specialty:** Large-scale organizations, prevention & retail marketing

"I am excited to put my 16 years of awareness and prevention marketing experience to work for the NPGAP. Having worked directly with some of the largest state accounts in the region, I understand how to get the public to take notice and take action through compelling advertising campaigns."

References:

Scott Lawrence – CEO, L&S (605-370-3780)
Jon Moss – CMO, Pizza Ranch (712-395-3130)
Norm Lingle – SD Lottery, Executive Director (605-280-4607)



SARA WALDNER // ACCOUNT SUPERVISOR

AUGUSTANA UNIVERSITY – COMMUNICATIONS/BUSINESS & MEDIA STUDIES
Length of Service: 5 Years **Specialty:** Statewide awareness campaigns, agriculture, event activations

"While state lotteries provide many benefits to the tax basis, its vitally important to ensure that players keep the fun good. It would be an honor to work alongside the NPGAP team to promote this effort!"

References:

Jesse Fonkert – Deputy Commissioner, SD Governor's Office of Economic Development (605-848-9828)
Sarah Hauge – Director of Marketing, Adeo Honey Farms (605-695-3250)
Tawni Buhler – VP of Marketing, Sullivans (605-999-4711)

MEDIA STRATEGY

Working as a team, Dara and Kyrie dream up innovative tactics to drive results. Dara is the lead strategist for South Dakota Lottery, and Kyrie is the lead strategist for our travel & tourism clients. Together they've created plans across 30 states for Sanford Health, Pizza Ranch and others. With certifications in Google Ads Search Certification, Display & Video 360, their primary role on this account will be to strategize an effective media mix to reach our target audiences, with a team of coordinators and analysts assisting with buying and optimizing.



DARA KLATT // DIRECTOR of MEDIA

UNIVERSITY OF SOUTH DAKOTA, MANKATO STATE UNIVERSITY – BACHELOR OF ARTS IN CONTEMPORARY MEDIA & JOURNALISM, MASTER'S IN SPORTS MANAGEMENT
Length of Service: 8 Years **Specialty:** Data-driven, efficient media strategies

"I'm most excited about this opportunity because it allows us to merge great strategy with great impact. Finding an efficient and effective way to engage Nebraska residents with responsible gaming messaging will not only drive results but also have a positive impact on the state and its residents."

References:

Jack Gregg – Marketing Strategist, KELO (605-357-5624)
Grace Dominique – Sr. Director of Sales, Simpli.fi (913-980-6677)
Stuart Prentice – Sr. Account Exec, Nexxen (708-285-0574)

VI: 11

proposed personnel



CHRIS MATHESON // DIRECTOR of VIDEO, CREATIVE DIRECTOR

UNIVERSITY OF SOUTH DAKOTA – MASS COMMUNICATIONS/MEDIA STUDIES

Length of Service: 35 Years **Specialty:** Conceptual video campaigns and film production

"Using video to inspire and educate is a passion of mine, and when we get the opportunity to do so for clients with an important cause like NPGAP makes it even more rewarding. Let's tell stories together to reduce problem gambling to ensure the good that the Lottery provides can continue on."

References:

Melody Westra – Sr. Marketing Officer, First PREMIER Bank (605-371-2876)

Steve Thiesfeld – Director, Great Plains Motion Picture Co. (402-690-4008)

Adam Sherman – Video Editor/Motion Designer, Sherman Post (605-321 7764)



MASON HORACEK // SENIOR CINEMATOGRAPHER

UNIVERSITY OF SOUTH DAKOTA – MEDIA & JOURNALISM

Length of Service: 8 Years **Specialty:** Long-form video storytelling

"Finding unique ways to tell a story through the camera lens is my passion, and I'd be thrilled to put those skills to work to reduce problem gambling in Nebraska."

References:

Byron Banasiak – Chief Photographer & Videographer, SD Tourism (605-360-9883)

Carrie Biondi – VP, Marketing, Sanford Health Foundation (605-312-6700)

Tricia Hobbs – Marketing Director, City of Duluth (218-390-2119)



WADE THURMAN // ASSOCIATE CREATIVE DIRECTOR - ANIMATION

SOUTH DAKOTA STATE UNIVERSITY – VISUAL ARTS/DESIGN AND ADVERTISING

Length of Service: 25 Years **Specialty:** Graphic arts, logo development and motion video graphics

"With seven years of experience working with the South Dakota Lottery, I've enjoyed the creative freedom the account has given me to increase sales while promoting responsible play. From the rich history of your past campaigns, I'm intrigued to see what new creative directions we could take the account to."

References:

Nikki Gronli – State Director, USDA Rural Development (605-376-3337)

Kristy Laue – VP, Creative, L&S (605-338-8000)

Roxanne Lucchesi – Professor, SDSU (605-366-1444)



KEVIN PHIPPS // AUDIO PRODUCER & ENGINEER

GEORGIA STATE UNIVERSITY – AUDIO ENGINEERING

Length of Service: 25 Years **Specialty:** Music, voice and sound design

"The work that NPGAP does has a direct impact on the lives of many Nebraskans and visitors from surrounding states like ours, and I'd be honored to help produce audio content to assist with this important work."

References:

Kristy Laue – VP, Creative, L&S (605-338-8000)

Melody Westra – Sr. Marketing Officer, First PREMIER Bank (605-371-2876)

Susan O'Keefe – Marketing & Communications Manager, Horizon Health (605-772-4525)

VI: 1J

subcontractors



Given Lawrence & Schiller's full-service capabilities, we do not intend to use subcontractors for the work outlined in this RFP. If a special project calls for it once more details are shared, L&S will provide full information on any and all subcontractors, including name, address, telephone number, tasks, qualifications and compensation structure.

VI: 2A

marketing planning

L&S buys and tracks media as if we were spending our own money. We are expert negotiators but also have a keen sense of creativity, finding unique ways to maximize our media value. While there are primary factors we lean on to increase our leverage, each client and campaign can present other opportunities for negotiations.

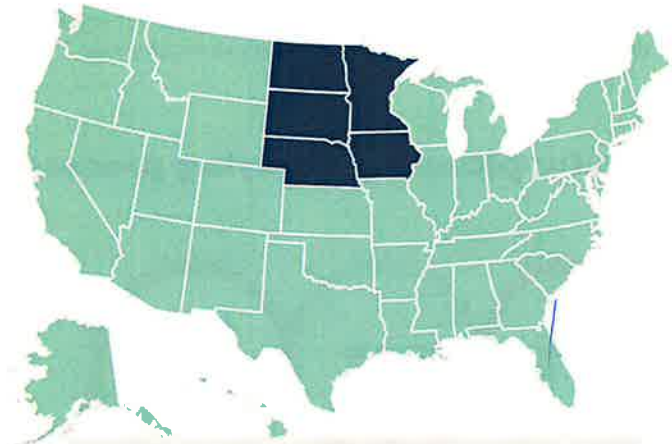
buying and negotiating

INTERNAL BUYING POWER

- L&S spends over \$25 million a year in media across the United States. With over 48 years of experience, we've built longevity and consistency in our relationships that allows us to lean into our collective buying power with partners.

EXTERNAL BUYING POWER

- L&S works with premier partners in the industry to access their buying power. We leverage those relationships for reduced rates and access to premium inventory or measurement features with a much lower barrier of entry.



The majority of our \$25 million in media spend per year is placed across the United States with a primary focus in the upper Midwest.

MEDIA NEGOTIATIONS

- Our team is trained on vendor negotiations. We continually work on vendor communication and impactful ways of negotiating to find common ground. We understand average and fair value rates across media placements and ensure that is reflected in all our buys.
- L&S maintains relationships with high-profile partners, but we also understand the value of competition. A vendor RFP process creates the ability to compare bids and generate leverage for competitive negotiations.
- L&S is experienced in media trade negotiations. Where applicable, we can further explore placement opportunities by leveraging owned property or other assets to trade. We not only craft the trade agreements but utilize a vetting process to ensure value is received.

CREATIVE NEGOTIATIONS

- We understand and respect limitations when it comes to negotiations. But a little creativity goes a long way. We look beyond rate reductions for unique ways to impact our value.
 - Added value impressions
 - Free creative services
 - Additional reporting or measurement tools like foot traffic or brand lift studies
 - Waved partner or ad serving fees

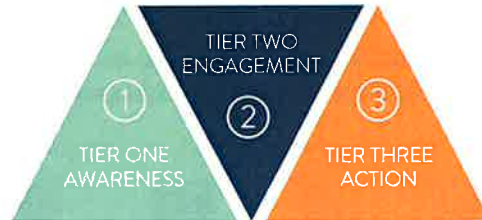
VI: 2A

marketing planning

As we balance the need for reach and efficiency, we recommend a three-tier structure to help us prioritize the various messaging needs. The tier system creates a framework that drives awareness, engagement and action all while leveraging the successes across tiers. Over the course of the campaign, we'll be present across each of the tiers. However, the level of impact and the type of messaging in each tier will adjust based on the priorities.

tiered marketing strategy

These three components will maximize efficiency and impact for holistic brand messaging, while balancing relevant reach and action for key services.



Each of these tiers will have distinct goals, media mixes and KPIs. This will provide guidelines but offer fluidity to adapt and grow to meet market and audience demands. L&S will work hand-in-hand with NPGAP to identify messaging priorities and adapt as needed.

	Tier 1: Awareness	Tier 2: Engagement	Tier 3: Action
Goals/ Audience	Enhance public education & awareness about resources	Engage and provide users with information	Drive action with those actively searching for help
Media Mix	Video Audio Out of Home Digital	Print/Native Rich Media Video Social	Search Retargeting
KPIs	Low CPMs High reach & frequency	Media engagements (clicks, comments, rich media engagements, video completions, etc.)	Website conversions Phone calls Counselor contacts Resource downloads

BUILDING BUZZ

In addition to a sound paid placement plan, we will also help determine an earned media and activation strategy to complement the plan. At L&S, we have experience taking marketing strategies and giving them a true omnichannel approach, extending into public relations. Our team has a strong journalistic background, and as seasoned storytellers, we create compelling pitches that use a variety of connections and PR partners to gain earned media coverage. Our full roster of PR capabilities are outlined below.

- Story Strategies & Pitching
- Disruptive Partnerships & Invented Media
- Crisis Communication Planning
- Event Orchestration & Promotion
- Influencer Marketing



VI: 2A

marketing planning

EXECUTION & OPTIMIZATION

Campaign optimization is key to keeping performance on track, spotting issues that need improvement, but also identifying unique areas of opportunity. We work in real-time to evaluate campaign performance, leveraging weekly trackers to see pacing, performance to goal and trends week-over-week. We dive into channel specific-details while also stepping back to see the full picture. You'd get full, transparent communication regarding performance and any optimizations for both ongoing and historical reference.



campaign pacing

Tracking channel and campaign spend to measure impact



media performance

Monitoring channel specific key performance indicators (KPIs)



media trends

Spot dips in performance or areas of opportunity based on trends

CAMPAIGN REPORTING

Our approach is business-first, making industry key performance indicators the #1 priority throughout the campaign development, execution and measurement process. We strive to maintain clear, consistent communication with clients on campaign performance to demonstrate success. Our team will help translate performance into actionable insights that can fuel campaign optimizations or drive future campaign recommendations. Through our standard reporting cadence, you'll get access to ongoing reporting insights, with the option to explore additional reporting deliverables as needed. We'll even help translate this data into bite-size, digestible formats that you can share with stakeholders, legislators or community leaders less familiar with the media landscape.

ONGOING – Timely updates or campaign optimizations + 24-7 dashboard

MONTHLY – Monthly performance highlights and data analysis

MID-CAMPAIGN – Performance recap + business data outcome first-look

END OF CAMPAIGN – Summary report, full data insights and future recommendations

CUSTOM – As needed reporting for presentations, reporting for stakeholders, etc.

Making data accessible and digestible is key. We integrate data sources into a centralized storage solution and use categorization keys to map campaign efforts. Data visualization through Tableau provides endless opportunities for visuals, graphs, comparisons and maps, building a custom overview of campaign efforts.

Business data would be accessible as well, providing a summary of the metrics you care about most. Interactive functionality of filters allows your team the ability to adjust reporting for review of seasonality and trends across varying efforts.

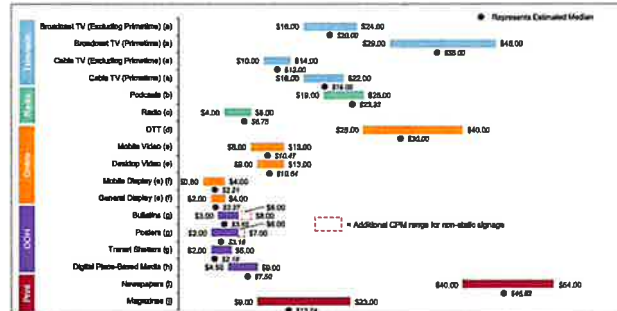


VI: 2B

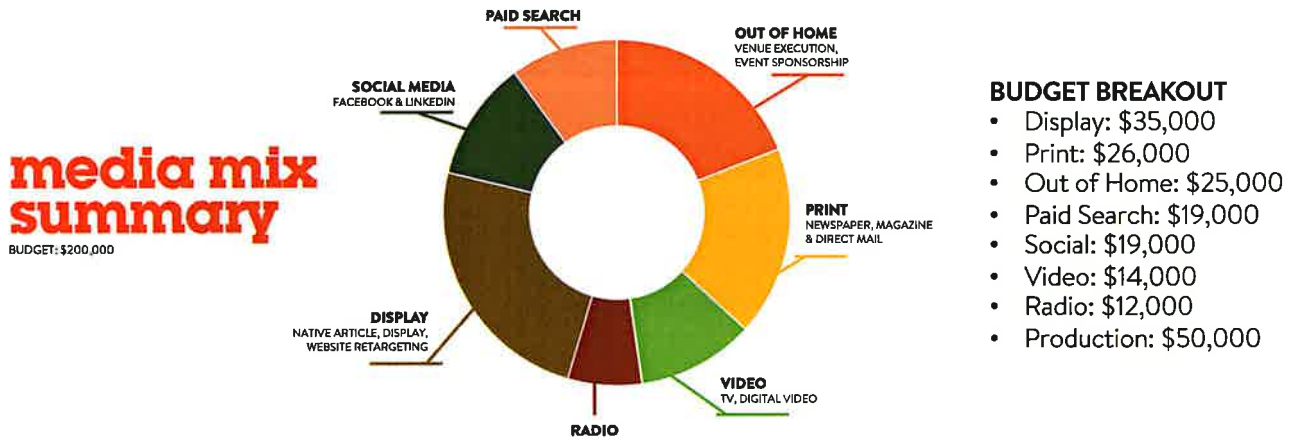
marketing budgeting

BUDGET ALLOCATIONS

As described on the previous pages, L&S takes a methodical approach to allocating dollars to channels that are likely to produce the greatest return. In order to determine those numbers, L&S considers the cost, or CPM, of all channels and then develops the budget recommendation and channel mix based on both impact and cost. An example of a cost-per-thousand impressions chart is illustrated to the right.



Once the right channel mix is developed, L&S creates a detailed budget breakdown including both media and production costs. Once the targeting methods have been determined, we are able to estimate what new creative assets are needed based on what assets already exist, what channels are brand new for the client and what messages may need to change to best align with the placement itself. Below is a sample of a recent budget breakout summary for another client.



L&S also understands we may be asked to provide services on a per-project basis. In addition to annual planning and primary campaign initiatives, we're built in a way that allows for a quick turn around should a need arise in the areas of media buying, creative development or digital/social implementations. Below is an example of our estimate-to-invoice process for our clients to ensure account and fiscal management.

STEP 1: JOB ESTIMATE

The client shares high level goals, campaign priorities and budget parameters with L&S, and L&S develops detailed job estimates including paid media and creative production that is reviewed and approved by the client.

STEP 2: PRODUCTION

After the client approves the budget, L&S begins media contracting and production work to develop all assets needed to fulfill the plan. These assets include, but are not limited to, video, audio, social, print, collateral, direct mail, display and out of home.

STEP 3: INVOICES SHOWING MEDIA & PRODUCTION

Once the campaign materials are completed and the media plan is approved and contracted, L&S will bill the client using the job estimate agreed upon during early stages of the project. Invoices are sent between the 1st and the 12th of every month, along with an overall fiscal year budget tracker to show tracking on the total annual contract amount.

VI: 2C

creative proposal

In working with L&S, you'll have access to a multi-disciplinary team completely dedicated to your business and providing comprehensive marketing solutions. Using this model, we're able to provide more robust plans, stay up-to-date on the industry and work more nimbly when creative projects arise throughout the year.

From photography and video to logo development, long-form content, website design and campaign asset development, below is a list of core L&S creative services.



ART DIRECTION



COPYWRITING



BRAND IDENTITY



VIDEO PRODUCTION



PHOTOGRAPHY



MOTION GRAPHICS



DIGITAL & PRINT



STUDIO SERVICES



LOGO DESIGN



SOCIAL MEDIA CONTENT



CONFERENCE THEMES & MATERIALS



EVENTS & ACTIVATIONS



COLLATERAL & DIRECT MAIL



PRODUCT PACKAGING & DESIGN



OUT OF HOME & DISRUPTIVE MEDIA

VI: 2C

creative proposal

At L&S, our work is driven by the desire to get results. We want our clients to love the work we do for them. And, more importantly, we want them to love how it performs. That's why our creative philosophy is all about collaboration and connection. We produce concepts that build brands and drive results by inspiring emotional responses from audiences. We do this by starting with a defined set of goals and a problem to solve, then applying our process:



Leveraging a **human truth** to connect with audiences



Crafting a **unique concept** to make a memorable impact



Optimizing to **drive business results** and compel action

OUR CREATIVE ISN'T DEVELOPED WITH EGOS. IT'S DEVELOPED WITH INSIGHTS.

STEP 1: The best work starts with a solid foundation. During discovery, we'll have an in-depth strategy session to make sure we're all on same page before we immerse ourselves in your industry. From current audiences and opportunities to past successes and future goals, we want to know everything that makes the NPGAP unique.

STEP 2: Before we begin to concept or even write a brief, our consumer insights team defines your audience and their perceptions of your message, and then delivers insights on how to reach them.

STEP 3: We develop a focused brief, then dream up creative concepts. We like to brainstorm across teams, as disciplines and with the client. We also share best practices across agency with "Ring the Bell" all-creative brainstorms.

STEP 4: We share concepts with the client, including messaging and a visual direction. Usually, we present creative in tandem with media or digital so you get the best idea of how everything works together. Creatively, that might include storyboards, shooting boards, scripts and mock-ups across media channels.

STEP 5: When it's time for production, L&S creates most of our work in-house—and the rest of it with nationally recognized partners. In addition to a team of on-staff writers, designers and creative directors, L&S has full in-house photo, video, audio and editing capabilities. For NPGAP, we could pair our photo/video team with local Nebraska content creators to capture a variety of perspectives and assets. With L&S, clients own all final assets, working files and raw files. We share these assets via our digital asset management platform, Bynder.

STEP 6: Our team will seamlessly launch the campaign after approval. We then meet internally to review performance across all disciplines, making creative tweaks and modifications based on results. L&S is experienced in iterative creative—always testing, versioning and optimizing to maximize your return.

THREE WAYS OUR CREATIVE EXCEEDS EXPECTATIONS:

We know integrated campaigns.

No one's better at seeing the big picture and building messages that extend across paid, earned and owned media.

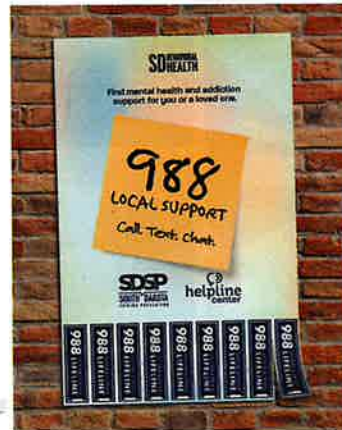
We work smarter. We make work that's backed by data so you know it will make an impact.

You get nationally awarded work, right here in the upper Midwest.

creative proposal

CREATIVE SAMPLE 2: BEHAVIORAL HEALTH

1 in 6 South Dakotans live with a mental illness. But in South Dakota, stigmas remain, preventing people from getting help. That's why the South Dakota Department of Social Services (DSS) Division of Behavioral Health enlisted L&S to launch a statewide behavioral health campaign. We surveyed more than 500 South Dakotans and led focus groups with Native Americans, law enforcement and individuals with lived experience. In addition to uncovering stigmas, these groups pointed to an insight - that small acts like a note, text or phone call aren't much to ask. But for someone who needs to feel seen, they mean everything. Based on this, the "Notes to Self" campaign was born, using a series of notes and positive affirmations to remind people that they are seen, they matter and that help is always here. Below is a small sample of our work, and to the right is a link to several videos we've produced for the Division.



Images

body copy (185)

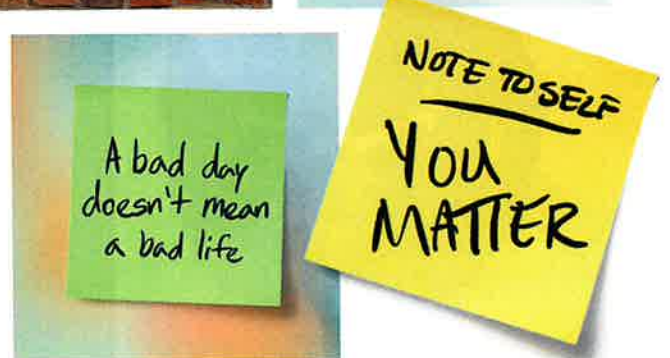
headline (40)

IMAGE

HEADLINE

BODY COPY

YOUR ANSWER TO BE HAPPIER



VI: 2D

reporting & collaboration

At L&S, our goal is to become an extension of your team, working with you to make life easier. On top of delivering new ideas, our team is eager, communicative and responsive so your voice is heard and your needs are met.

THE L&S CRITICAL PATH

Besides knowing your industry and knowing your needs, we also know how to get things done with a proven process that ensures that all team members are working cohesively. Our critical path also includes key client checkpoints to make sure we have your input, and you have a pulse on where we are with each piece of strategic development.



COMMUNICATION & COLLABORATION

We're marketers. Communication is what we do. That goes beyond campaigns, extending to how we communicate with you, multiple internal stakeholders and working collaboratively with other agency partners.

We work in multi-agency relationships with several other clients, sharing assets and working together during status calls to align campaigns. There's no limit to the number of meetings or calls we need - L&S will put in the time to ensure open communication and prioritize in-person communication.

Working together, we'll become an extension of your team, and through top-notch project management, we'll ensure that no deadline is missed and no detail is overlooked. We've used several project management tools, including Mavenlink, Monday.com, Wrike, Basecamp, Asana, Aprimo and Trello, and we're ready to dive into Basecamp to manage our NPGAP projects.

THREE WAYS WE OUTTHINK AND OUTDO:

We're gritty. And unafraid to do what it takes to get the job done.

We're organized communicators. Attention to detail, staying on task and raising flags for the best result.

We put clients first. We're your advocate and will work tirelessly to ensure your work is the best it can be.


VI: 2D

reporting & collaboration

SAMPLE REPORT 1:

This is an example of a quarterly report incorporating paid, owned and shared media data.

QUARTERLY REPORT Q3 2023



2023 TOURISM MARKETING GOALS

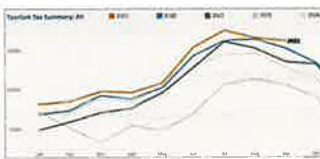
The Duluth tourism marketing campaign encourages visitors to "Love it Like We Do," with these four goals at the forefront of all initiatives:

- 1 Drive Visitation to Duluth
- 2 Spread Visitors Throughout the City
- 3 Show a Variety of Things to Do Throughout the City
- 4 Show Duluth as a Community Welcoming to All

TOURISM TAX REVENUE

July 1 - Sept. 30: \$5,038,507

- Up 5.0% over 2022
- Up 20.5% over 2019



SMITH TRAVEL RESEARCH (STR) HOTEL INDICATORS

July 1 - Sept. 30

Occupancy - 78.7%

- Down 1.5% from 78.2% in 2022, down 2.0% from 78.7% in 2019
- Stronger than MN Occupancy - 68.8% for Q3
- July, August & September occupancy for Duluth was higher than MN

Demand (rooms sold) - 250,631

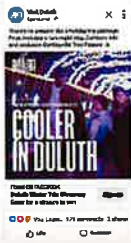
- Down 1.5% over 2022, up 0.4% over 2019
- Revenue - \$50,137,526
- Up 3.6% over 2022, up 24.3% over 2019

WINTER/HOLIDAY GIVEAWAY CAMPAIGN

September 11th - October 31st

Leads Captured: 3,874

- Total Impressions - 292,380
- Total Interactions - 11,810
- Interaction Rate - 4.50%



EARNED MEDIA RESULTS

July 1 - Sept. 30

Q3 RESULTS

Coordinated Placements: 33


Potential Audience: 138,111,688

YTD RESULTS


Coordinated Placements: 154

Potential Audience: 281,820,515


Q3 NOTABLE PLACEMENTS



FiveFour on WCCO Mid-Morning
July 25, 2023



INSIDER
July 2023




Forbes - September 2023


ORGANIC SOCIAL & WEBSITE RESULTS

July 1 - Sept. 30


TOURISM TUESDAY




INFLUENCER PARTNERSHIPS




INSTAGRAM TAKEOVERS



FACES OF DULUTH



BLOGS



AVERAGE IMPRESSIONS PER CHANNEL

- Facebook: 11,812.5
- Instagram: 5,571.5
- Twitter/X: 723.3
- TikTok: 1,880

AVERAGE ENGAGEMENT PER CHANNEL

- Facebook: 235.7
- Instagram: 298.5
- Twitter/X: 4.3
- TikTok: 12

PAID MEDIA RESULTS

Aug. 1 - Sept. 30

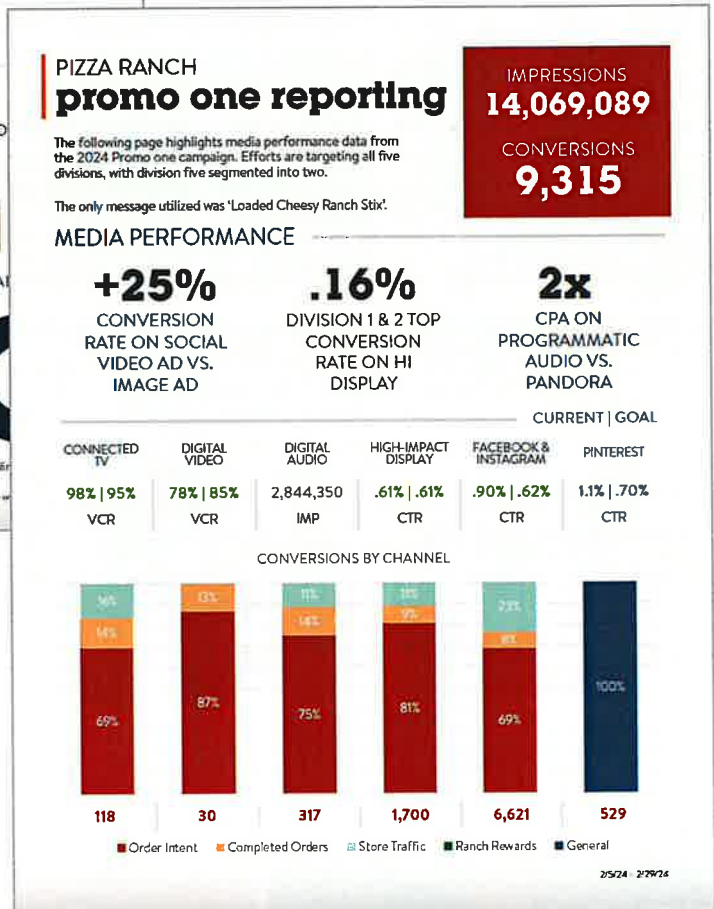
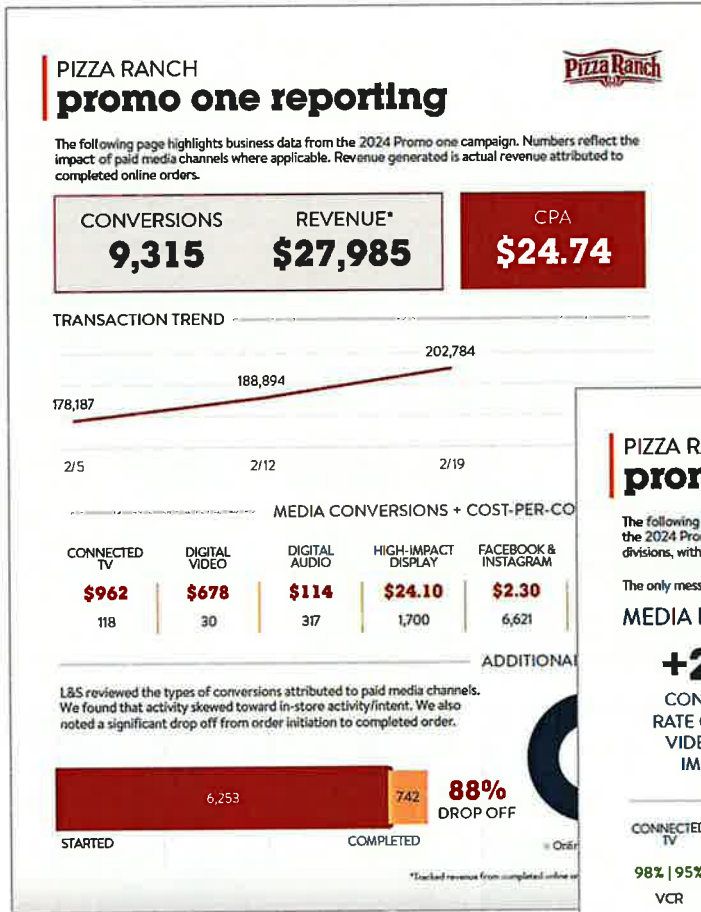
<p>Overall campaign results:</p> <ul style="list-style-type: none"> 18,167,728 impressions 10.97% interaction rate 0.17% conversion rate 	<p>Travel intent display drove:</p> <ul style="list-style-type: none"> 138 hotel bookings 6:1 return on spend 	<p>Expedia efforts drove:</p> <ul style="list-style-type: none"> 3,238 hotel bookings 54:1 return on spend 	<p>Priceline efforts drove:</p> <ul style="list-style-type: none"> 233 hotel bookings 22:1 return on spend
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VI: 2D

reporting & collaboration

SAMPLE REPORT 3:

This is an example of a high-level return-on-investment executive report for a three-month promotion.



**ATTACHMENT A: COST PROPOSAL
Request for Proposal NPGAP2024.1**

Bidder Name: Lawrence & Schiller

Instructions to bidders:

The Commission on Problem Gambling requires all contracts awarded for services to include a projected total cost for each year of the contract. This will be expressed in the agreed contract with the awarded bidder as an amount that the annual total cost is "not to exceed" for the term of the contract.

Bidder must complete the following cost proposal table. Costs provided must be fixed for the duration of the initial term of the contract, except as otherwise provided in the following cost proposal tables. As provided in Section II F., cost increases for contract renewals after the initial term of the contract, if any, shall be based on consideration of written request by the successful bidder. Bidder must provide the unit cost of each item; however actual quantities will be determined based upon the recommendations contained in the Strategic Marketing Plan. The total price shall reflect all fees necessary to perform the services in their entirety, such as but not limited to, labor, taxes, equipment, computer software, travel, and copies unless approved in advance in writing by GAP Marketing Director (Staff). Invoices should be submitted monthly during the term of the contract.

MEDIA PLANNING			
	Total Fixed Cost		
	Initial Term	Optional Renewal One	Optional Renewal Two
1. Strategic Planning & Market Research – Development of Strategic Marketing Plan	\$ 15,000	\$ 15,000	\$ 15,000
2. Design of Public Awareness Campaign and Branding	\$ 15,000	\$ 15,000	\$ 15,000
3. Account Services and Management	\$ 12,000	\$ 12,000	\$ 12,000
4. Website	\$ 5,000	\$ 5,000	\$ 5,000
5. Other (Please Specify)	\$ —	\$ —	\$ —
MEDIA PRODUCTION			
	Unit Cost		
	Initial Term	Optional Renewal One	Optional Renewal Two
1. Media Production of Public Awareness Campaign (Provide individual cost for each item)			
a. Video/Television Production (15-30 seconds of video content)	\$ 100,000	\$ 50,000	\$ 100,000
b. Audio Media Production (15-30 seconds of audio content)	\$ 15,000	\$ 15,000	\$ 15,000
c. Print Media Production – Print Advertisement	\$ 25,000	\$ 25,000	\$ 25,000
d. Digital Media and Social Media Production	\$ 25,000	\$ 25,000	\$ 25,000
e. Website	\$ 20,000	\$ 10,000	\$ 10,000
f. Other (Please Specify)	\$ —	\$ —	\$ —
2. Branding Toolkit (See RFP Section V.C. 1. H.)	\$ 5,000	\$ 5,000	\$ 5,000

Form A
Bidder Proposal Point of Contact
Request for Proposal Number NPGAP2024.1

Form A should be completed and submitted with each response to this Request for Proposal. This is intended to provide the State with information on the bidder's name and address, and the specific person(s) who are responsible for preparation of the bidder's response.

Preparation of Response Contact Information	
Bidder Name:	Lawrence & Schiller
Bidder Address:	3932 S Willow Avenue Sioux Falls, SD 57105
Contact Person & Title:	Jamie Hegge, VP Client Service
E-mail Address:	jamie.hegge@l-s.com
Telephone Number (Office):	605-338-8000
Telephone Number (Cellular):	605-660-9450
Fax Number:	NA

Each bidder should also designate a specific contact person who will be responsible for responding to the State if any clarifications of the bidder's response should become necessary. This will also be the person who the State contacts to set up a presentation/demonstration, if required.

Communication with the State Contact Information	
Bidder Name:	Lawrence & Schiller
Bidder Address:	3932 S Willow Avenue Sioux Falls, SD 57105
Contact Person & Title:	Jamie Hegge, VP Client Service
E-mail Address:	jamie.hegge@l-s.com
Telephone Number (Office):	605-338-8000
Telephone Number (Cellular):	605-660-9450
Fax Number:	NA

II. TERMS AND CONDITIONS

Bidders should complete Sections II thru VI as part of their proposal. Bidder is expected to read the Terms and Conditions and should initial either accept, reject, or reject and provide alternative language for each clause. The bidder should also provide an explanation of why the bidder rejected the clause or rejected the clause and provided alternate language. By signing the Request for Proposal, bidder is agreeing to be legally bound by all the accepted terms and conditions, and any proposed alternative terms and conditions submitted with the proposal. The State reserves the right to negotiate rejected or proposed alternative language. If the State and bidder fail to agree on the final Terms and Conditions, the State reserves the right to reject the proposal. The State of Nebraska is soliciting proposals in response to this Request for Proposal. The State of Nebraska reserves the right to reject proposals that attempt to substitute the bidder's commercial contracts and/or documents for this Request for Proposal.

The bidders should submit with their proposal any license, user agreement, service level agreement, or similar documents that the bidder wants incorporated in the Contract. The State will not consider incorporation of any document not submitted with the bidder's proposal as the document will not have been included in the evaluation process. These documents shall be subject to negotiation and will be incorporated as addendums if agreed to by the Parties.

If a conflict or ambiguity arises after the Addendum to Contract Award have been negotiated and agreed to, the Addendum to Contract Award shall be interpreted as follows:

1. If only one Party has a particular clause then that clause shall control,
2. If both Parties have a similar clause, but the clauses do not conflict, the clauses shall be read together,
3. If both Parties have a similar clause, but the clauses conflict, the State's clause shall control.

A. GENERAL

Accept (Initial)	Reject (Initial)	Reject & Provide Alternative within RFP Response (Initial)	NOTES/COMMENTS:
AH			

1. The contract resulting from this Request for Proposal shall incorporate the following documents:
 - a. Request for Proposal, including any attachments and addenda;
 - b. Amendments to the Request for Proposal;
 - c. Questions and Answers;
 - d. Bidder's properly submitted proposal, including any terms and conditions or agreements submitted by the bidder; and
 - e. Amendments and Addendums to the Contract.

These documents constitute the entirety of the contract.

Unless otherwise specifically stated in a future contract amendment, in case of any conflict between the incorporated documents, the documents shall govern in the following order of preference with number one (1) receiving preference over all other documents and with each lower numbered document having preference over any higher numbered document: 1) Amendment or Addendum to the executed Contract with the most recent dated amendment or addendum having the highest priority, 2) Amendments to the Request for Proposal, 3) Questions and Answers, 4) the original Request for Proposal document and any Addenda or attachments, and 5) the Contractor's submitted Proposal, including any terms and conditions or agreements that are accepted by the State.

Unless otherwise explicitly and specifically agreed to in writing by the State, the State's standard terms and conditions, as executed by the State, shall always control over any terms and conditions or agreements submitted or included by the Contractor.

Any ambiguity or conflict in the contract discovered after its execution, not otherwise addressed herein, shall be resolved in accordance with the rules of contract interpretation as established in the State of Nebraska.

B. NOTIFICATION

Accept (Initial)	Reject (Initial)	Reject & Provide Alternative within RFP Response (Initial)	NOTES/COMMENTS:
PH			

Bidder and State shall identify the contract manager who shall serve as the point of contact for the executed contract.

Communications regarding the executed contract shall be in writing and shall be deemed to have been given if delivered personally; electronically, return receipt requested; or mailed, return receipt requested. All notices, requests, or communications shall be deemed effective upon receipt.

Either party may change its address for notification purposes by giving notice of the change and setting forth the new address and an effective date.

C. BUYER'S REPRESENTATIVE

The State reserves the right to appoint a Buyer's Representative to manage or assist the Buyer in managing the contract on behalf of the State. The Buyer's Representative will be appointed in writing, and the appointment document will specify the extent of the Buyer's Representative authority and responsibilities. If a Buyer's Representative is appointed, the bidder will be provided a copy of the appointment document and is expected to cooperate accordingly with the Buyer's Representative. The Buyer's Representative has no authority to bind the State to a contract, amendment, addendum, or other change or addition to the contract.

D. GOVERNING LAW (Nonnegotiable)

Notwithstanding any other provision of this contract, or any amendment or addendum(s) entered into contemporaneously or at a later time, the parties understand and agree that, (1) the State of Nebraska is a sovereign state and its authority to contract is therefore subject to limitation by the State's Constitution, statutes, common law, and regulation; (2) this contract will be interpreted and enforced under the laws of the State of Nebraska; (3) any action to enforce the provisions of this agreement must be brought in the State of Nebraska per state law; (4) the person signing this contract on behalf of the State of Nebraska does not have the authority to waive the State's sovereign immunity, statutes, common law, or regulations; (5) the indemnity, limitation of liability, remedy, and other similar provisions of the final contract, if any, are entered into subject to the State's Constitution, statutes, common law, regulations, and sovereign immunity; and, (6) all terms and conditions of the final contract, including but not limited to the clauses concerning third party use, licenses, warranties, limitations of liability, governing law and venue, usage verification, indemnity, liability, remedy or other similar provisions of the final contract are entered into specifically subject to the State's Constitution, statutes, common law, regulations, and sovereign immunity.

The Parties must comply with all applicable local, state, and federal laws, ordinances, rules, orders, and regulations.

E. DISCOUNTS

Accept (Initial)	Reject (Initial)	Reject & Provide Alternative within RFP Response (Initial)	NOTES/COMMENTS:
PH			

Prices quoted shall be inclusive of ALL trade discounts. Cash discount terms of less than thirty (30) days will not be considered as part of the proposal. Cash discount periods will be computed from the date of receipt of a properly executed claim voucher or the date of completion of delivery of all items in a satisfactory condition, whichever is later.

F. PRICES

Accept (Initial)	Reject (Initial)	Reject & Provide Alternative within RFP Response (Initial)	NOTES/COMMENTS:
OH			

Prices quoted shall be net, including transportation and delivery charges fully prepaid by the bidder, F.O.B. destination named in the Request for Proposal. No additional charges will be allowed for packing, packages, or partial delivery costs. When an arithmetic error has been made in the extended total, the unit price will govern.

Prices submitted on the cost proposal form shall remain fixed for the initial term of the contract. Requests for an increase must be submitted in writing to the Problem Gamblers Assistance Program a minimum of 120 days prior to the end of the current contract period. Documentation may be required by the State to support the price increase.

The State reserves the right to deny any requested price increase. No price increases are to be billed to any State Agencies prior to written amendment of the contract by the parties.

The State will be given full proportionate benefit of any decreases for the term of the contract.

G. BEGINNING OF WORK & SUSPENSION OF SERVICES

Accept (Initial)	Reject (Initial)	Reject & Provide Alternative within RFP Response (Initial)	NOTES/COMMENTS:
OH			

The bidder shall not commence any billable work until a valid contract has been fully executed by the State and the successful Contractor. The Contractor will be notified in writing when work may begin.

The State may, at any time and without advance notice, require the Contractor to suspend any or all performance or deliverables provided under this Contract. In the event of such suspension, the Contract Manager or POC, or their designee, will issue a written order to stop work. The written order will specify which activities are to be immediately suspended and the reason(s) for the suspension. Upon receipt of such order, the Contractor shall immediately comply with its terms and take all necessary steps to mitigate and eliminate the incurrence of costs allocable to the work affected by the order during the period of suspension. The suspended performance or deliverables may only resume when the State provides the Contractor with written notice that such performance or deliverables may resume, in whole or in part.

H. AMENDMENT

This Contract may be amended in writing, within scope, upon the agreement of both parties.

I. CHANGE ORDERS OR SUBSTITUTIONS

Accept (Initial)	Reject (Initial)	Reject & Provide Alternative within RFP Response (Initial)	NOTES/COMMENTS:
OH			

The State and the Contractor, upon the written agreement, may make changes to the contract within the general scope of the Request for Proposal. Changes may involve specifications, the quantity of work, or such other items as the State may find necessary or desirable. Corrections of any deliverable, service, or work required pursuant to the


contract shall not be deemed a change. The Contractor may not claim forfeiture of the contract by reasons of such changes.

The Contractor shall prepare a written description of the work required due to the change and an itemized cost sheet for the change. Changes in work and the amount of compensation to be paid to the Contractor shall be determined in accordance with applicable unit prices if any, a pro-rated value, or through negotiations. The State shall not incur a price increase for changes that should have been included in the Contractor's proposal, were foreseeable, or result from difficulties with or failure of the Contractor's proposal or performance.

No change shall be implemented by the Contractor until approved by the State, and the Contract is amended to reflect the change and associated costs, if any. If there is a dispute regarding the cost, but both parties agree that immediate implementation is necessary, the change may be implemented, and cost negotiations may continue with both Parties retaining all remedies under the contract and law.

Contractor will not substitute any item that has been awarded without prior written approval of NPGAP

J. RECORD OF VENDOR PERFORMANCE

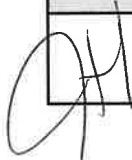
Accept (Initial)	Reject (Initial)	Reject & Provide Alternative within RFP Response (Initial)	NOTES/COMMENTS:
			

The State may document the vendor's performance, which may include, but is not limited to, the customer service provided by the vendor, the ability of the vendor, the skill of the vendor, and any instance(s) of products or services delivered or performed which fail to meet the terms of the purchase order, contract, and/or Request for Proposal specifications. In addition to other remedies and options available to the State, the State may issue one or more notices to the vendor outlining any issues the State has regarding the vendor's performance for a specific contract ("Vendor Performance Notice"). The State may also document the Vendor's performance in a report, which may or may not be provided to the vendor ("Vendor Improvement Request"). The Vendor shall respond to any Vendor Performance Notice or Vendor Improvement Request in accordance with such notice or request. At the sole discretion of the State, such Vendor Performance Notices and Vendor Improvement Requests may be placed in the State's records regarding the vendor and may be considered by the State and held against the vendor in any future contract or award opportunity.

K. CORRECTIVE ACTION PLAN

If Contractor is failing to meet the Scope of Work, in whole or in part, the State may require the Contractor to complete a corrective action plan ("CAP"). The State will identify issues with the Contractor's performance and will set a deadline for the CAP to be provided. The Contractor must provide a written response to each identified issue and what steps the Contractor will take to resolve each issue, including the timeline(s) for resolution. If the Contractor fails to adequately provide the CAP in accordance with this section, fails to adequately resolve the issues described in the CAP, or fails to resolve the issues described in the CAP by the relevant deadline, the State may withhold payments and exercise any legal remedy available.

L. NOTICE OF POTENTIAL CONTRACTOR BREACH

Accept (Initial)	Reject (Initial)	Reject & Provide Alternative within RFP Response (Initial)	NOTES/COMMENTS:
			

If Contractor breaches the contract or anticipates breaching the contract, the Contractor shall immediately give written notice to the State. The notice shall explain the breach or potential breach, a proposed cure, and may include a request for a waiver of the breach if so desired. The State may, in its discretion, temporarily or permanently waive the breach. By granting a waiver, the State does not forfeit any rights or remedies to which the

State is entitled by law or equity, or pursuant to the provisions of the contract. Failure to give immediate notice, however, may be grounds for denial of any request for a waiver of a breach.

M. BREACH

Accept (Initial)	Reject (Initial)	Reject & Provide Alternative within RFP Response (Initial)	NOTES/COMMENTS:
OH			

Either Party may terminate the contract, in whole or in part, if the other Party breaches its duty to perform its obligations under the contract in a timely and proper manner. Termination requires written notice of default and a thirty (30) calendar day (or longer at the non-breaching Party's discretion considering the gravity and nature of the default) cure period. Said notice shall be delivered by email to the contractor's point of contact with acknowledgement from the contractor, Certified Mail - Return Receipt Requested, or in person with proof of delivery. Allowing time to cure a failure or breach of contract does not waive the right to immediately terminate the contract for the same or different contract breach which may occur at a different time. In case of default of the Contractor, the State may contract the service from other sources and hold the Contractor responsible for any excess cost occasioned thereby.

The State's failure to make payment shall not be a breach, and the Contractor shall retain all available statutory remedies and protections.

N. NON-WAIVER OF BREACH

Accept (Initial)	Reject (Initial)	Reject & Provide Alternative within RFP Response (Initial)	NOTES/COMMENTS:
OH			

The acceptance of late performance with or without objection or reservation by a Party shall not waive any rights of the Party nor constitute a waiver of the requirement of timely performance of any obligations remaining to be performed.

O. SEVERABILITY

Accept (Initial)	Reject (Initial)	Reject & Provide Alternative within RFP Response (Initial)	NOTES/COMMENTS:
OH			

If any term or condition of the contract is declared by a court of competent jurisdiction to be illegal or in conflict with any law, the validity of the remaining terms and conditions shall not be affected, and the rights and obligations of the parties shall be construed and enforced as if the contract did not contain the provision held to be invalid or illegal.

P. INDEMNIFICATION

Accept (Initial)	Reject (Initial)	Reject & Provide Alternative within RFP Response (Initial)	NOTES/COMMENTS:
AKH			

1. GENERAL

The Contractor agrees to defend, indemnify, and hold harmless the State and its employees, volunteers, agents, and its elected and appointed officials ("the indemnified parties") from and against any and all third party claims, liens, demands, damages, liability, actions, causes of action, losses, judgments, costs, and expenses of every nature, including investigation costs and expenses, settlement costs, and attorney fees and expenses ("the claims"), sustained or asserted against the State for personal injury, death, or property loss or damage, arising out of, resulting from, or attributable to the willful misconduct, negligence, error, or omission of the Contractor, its employees, Subcontractors, consultants, representatives, and agents, resulting from this contract, except to the extent such Contractor liability is attenuated by any action of the State which directly and proximately contributed to the claims.

2. INTELLECTUAL PROPERTY

The Contractor agrees it will, at its sole cost and expense, defend, indemnify, and hold harmless the indemnified parties from and against any and all claims, to the extent such claims arise out of, result from, or are attributable to, the actual or alleged infringement or misappropriation of any patent, copyright, trade secret, trademark, or confidential information of any third party by the Contractor or its employees, Subcontractors, consultants, representatives, and agents; provided, however, the State gives the Contractor prompt notice in writing of the claim. The Contractor may not settle any infringement claim that will affect the State's use of the Licensed Software without the State's prior written consent, which consent may be withheld for any reason.

If a judgment or settlement is obtained or reasonably anticipated against the State's use of any intellectual property for which the Contractor has indemnified the State, the Contractor shall, at the Contractor's sole cost and expense, promptly modify the item or items which were determined to be infringing, acquire a license or licenses on the State's behalf to provide the necessary rights to the State to eliminate the infringement, or provide the State with a non-infringing substitute that provides the State the same functionality. At the State's election, the actual or anticipated judgment may be treated as a breach of warranty by the Contractor, and the State may receive the remedies provided under this Request for Proposal.

3. PERSONNEL

The Contractor shall, at its expense, indemnify and hold harmless the indemnified parties from and against any claim with respect to withholding taxes, worker's compensation, employee benefits, or any other claim, demand, liability, damage, or loss of any nature relating to any of the personnel, including subcontractor's and their employees, provided by the Contractor.

4. SELF-INSURANCE

The State of Nebraska is self-insured for any loss and purchases excess insurance coverage pursuant to Neb. Rev. Stat. § 81-8,239.01. If there is a presumed loss under the provisions of this agreement, Contractor may file a claim with the Office of Risk Management pursuant to Neb. Rev. Stat. §§ 81-8,239.01 to 81-8,306 for review by the State Claims Board. The State retains all rights and immunities under the State Miscellaneous (Neb. Rev. Stat. § 81-8,294), Tort (Neb. Rev. Stat. § 81-8,209), and Contract Claim Acts (Neb. Rev. Stat. § 81-8,302), as outlined in state law and accepts liability under this agreement only to the extent provided by law.

5. The Parties acknowledge that Attorney General for the State of Nebraska is required by statute to represent the legal interests of the State, and that any provision of this indemnity clause is subject to the statutory authority of the Attorney General.

Q. ASSIGNMENT, SALE, OR MERGER

Accept (Initial)	Reject (Initial)	Reject & Provide Alternative within RFP Response (Initial)	NOTES/COMMENTS:
OH			

Either Party may assign the contract upon mutual written agreement of the other Party. Such agreement shall not be unreasonably withheld.

The Contractor retains the right to enter into a sale, merger, acquisition, internal reorganization, or similar transaction involving Contractor's business. Contractor agrees to cooperate with the State in executing amendments to the contract to allow for the transaction. If a third party or entity is involved in the transaction, the Contractor will remain responsible for performance of the contract until such time as the person or entity involved in the transaction agrees in writing to be contractually bound by this contract and perform all obligations of the contract.

R. FORCE MAJEURE

Accept (Initial)	Reject (Initial)	Reject & Provide Alternative within RFP Response (Initial)	NOTES/COMMENTS:
OH			

Neither Party shall be liable for any costs or damages, or for default resulting from its inability to perform any of its obligations under the contract due to a natural or manmade event outside the control and not the fault of the affected Party ("Force Majeure Event") that was not foreseeable at the time the Contract was executed. The Party so affected shall immediately make a written request for relief to the other Party and shall have the burden of proof to justify the request. The other Party may grant the relief requested; relief may not be unreasonably withheld. Labor disputes with the impacted Party's own employees will not be considered a Force Majeure Event.

S. CONFIDENTIALITY

Accept (Initial)	Reject (Initial)	Reject & Provide Alternative within RFP Response (Initial)	NOTES/COMMENTS:
OH			

All materials and information provided by the Parties or acquired by a Party on behalf of the other Party shall be regarded as confidential information. All materials and information provided or acquired shall be handled in accordance with federal and state law, and ethical standards. Should said confidentiality be breached by a Party, the Party shall notify the other Party immediately of said breach and take immediate corrective action.

It is incumbent upon the Parties to inform their officers and employees of the penalties for improper disclosure imposed by the Privacy Act of 1974, 5 U.S.C. 552a. Specifically, 5 U.S.C. 552a (i)(1), which is made applicable by 5 U.S.C. 552a (m)(1), provides that any officer or employee, who by virtue of his/her employment or official position has possession of or access to agency records which contain individually identifiable information, the disclosure of which is prohibited by the Privacy Act or regulations established thereunder, and who knowing that disclosure of the specific material is prohibited, willfully discloses the material in any manner to any person or agency not entitled to receive it, shall be guilty of a misdemeanor and fined not more than \$5,000.

T. EARLY TERMINATION

Accept (Initial)	Reject (Initial)	Reject & Provide Alternative within RFP Response (Initial)	NOTES/COMMENTS:
OH			

The contract may be terminated as follows:

1. The State and the Contractor, by mutual written agreement, may terminate the contract, in whole or in part, at any time.
2. The State, in its sole discretion, may terminate the contract, in whole or in part, for any reason upon thirty (30) calendar day's written notice to the Contractor. Such termination shall not relieve the Contractor of warranty or other service obligations incurred under the terms of the contract. In the event of termination, the Contractor shall be entitled to payment, determined on a pro rata basis, for products or services satisfactorily performed or provided.
3. The State may terminate the contract, in whole or in part, immediately for the following reasons:
 - a. if directed to do so by statute,
 - b. Contractor has made an assignment for the benefit of creditors, has admitted in writing its inability to pay debts as they mature, or has ceased operating in the normal course of business,
 - c. a trustee or receiver of the Contractor or of any substantial part of the Contractor's assets has been appointed by a court,
 - d. fraud, misappropriation, embezzlement, malfeasance, misfeasance, or illegal conduct pertaining to performance under the contract by its Contractor, its employees, officers, directors, or shareholders,
 - e. an involuntary proceeding has been commenced by any Party against the Contractor under any one of the chapters of Title 11 of the United States Code and (i) the proceeding has been pending for at least sixty (60) calendar days; or (ii) the Contractor has consented, either expressly or by operation of law, to the entry of an order for relief; or (iii) the Contractor has been decreed or adjudged a debtor,
 - f. a voluntary petition has been filed by the Contractor under any of the chapters of Title 11 of the United States Code,
 - g. Contractor intentionally discloses confidential information,
 - h. Contractor has or announces it will discontinue support of the deliverable; and,
 - i. In the event funding is no longer available.

U. CONTRACT CLOSEOUT

Accept (Initial)	Reject (Initial)	Reject & Provide Alternative within RFP Response (Initial)	NOTES/COMMENTS:
OH			

Upon contract closeout for any reason the Contractor shall within 30 days, unless stated otherwise herein:

1. Transfer all completed or partially completed deliverables to the State,
2. Transfer ownership and title to all completed or partially completed deliverables to the State,
3. Return to the State all information and data, unless the Contractor is permitted to keep the information or data by contract or rule of law. Contractor may retain one copy of any information or data as required to comply with applicable work product documentation standards or as are automatically retained in the course of Contractor's routine back up procedures,
4. Cooperate with any successor Contractor, person or entity in the assumption of any or all of the obligations of this contract,

5. Cooperate with any successor Contactor, person or entity with the transfer of information or data related to this contract,
6. Return or vacate any state owned real or personal property; and,
7. Return all data in a mutually acceptable format and manner.

Nothing in this Section should be construed to require the Contractor to surrender intellectual property, real or personal property, or information or data owned by the Contractor for which the State has no legal claim.

III. CONTRACTOR DUTIES

A. INDEPENDENT CONTRACTOR / OBLIGATIONS

Accept (Initial)	Reject (Initial)	Reject & Provide Alternative within RFP Response (Initial)	NOTES/COMMENTS:
AK			

It is agreed that the Contractor is an independent contractor and that nothing contained herein is intended or should be construed as creating or establishing a relationship of employment, agency, or a partnership.

The Contractor is solely responsible for fulfilling the contract. The Contractor or the Contractor's representative shall be the sole point of contact regarding all contractual matters.

The Contractor shall secure, at its own expense, all personnel required to perform the services under the contract. The personnel the Contractor uses to fulfill the contract shall have no contractual or other legal relationship with the State; they shall not be considered employees of the State and shall not be entitled to any compensation, rights or benefits from the State, including but not limited to, tenure rights, medical and hospital care, sick and vacation leave, severance pay, or retirement benefits.

By-name personnel commitments made in the bidder's proposal shall not be changed without the prior written approval of the State. Replacement of these personnel, if approved by the State, shall be with personnel of equal or greater ability and qualifications.

All personnel assigned by the Contractor to the contract shall be employees of the Contractor or a subcontractor and shall be fully qualified to perform the work required herein. Personnel employed by the Contractor or a subcontractor to fulfill the terms of the contract shall remain under the sole direction and control of the Contractor or the subcontractor respectively.

With respect to its employees, the Contractor agrees to be solely responsible for the following:

1. Any and all pay, benefits, and employment taxes and/or other payroll withholding,
2. Any and all vehicles used by the Contractor's employees, including all insurance required by state law,
3. Damages incurred by Contractor's employees within the scope of their duties under the contract,
4. Maintaining Workers' Compensation and health insurance that complies with state and federal law and submitting any reports on such insurance to the extent required by governing law,
5. Determining the hours to be worked and the duties to be performed by the Contractor's employees; and,
6. All claims on behalf of any person arising out of employment or alleged employment (including without limit claims of discrimination alleged against the Contractor, its officers, agents, or subcontractors or subcontractor's employees).

If the Contractor intends to utilize any subcontractor at any time during the term of the contract, the subcontractor's level of effort, tasks, terms of compensation including any discounts, fees or commissions, and time allocation shall be clearly defined and itemized in the bidder's proposal or in any later proposal for authorization to utilize a subcontractor. The Contractor shall agree that it will not utilize any subcontractors without the prior written authorization of the State.

The State reserves the right to require the Contractor to reassign or remove from the project any Contractor, subcontractor or employee of Contractor or a subcontractor.

Contractor shall insure that the terms and conditions contained in any contract with a subcontractor does not conflict with the terms and conditions of this contract.

The Contractor shall include a similar provision, for the protection of the State, in the contract with any Subcontractor engaged to perform work on this contract.

B. EMPLOYEE WORK ELIGIBILITY STATUS

Accept (Initial)	Reject (Initial)	Reject & Provide Alternative within RFP Response (Initial)	NOTES/COMMENTS:
AK			

The Contractor is required and hereby agrees to use a federal immigration verification system to determine the work eligibility status of employees physically performing services within the State of Nebraska. A federal immigration verification system means the electronic verification of the work authorization program authorized by the Illegal Immigration Reform and Immigrant Responsibility Act of 1996, 8 U.S.C. 1324a, known as the E-Verify Program, or an equivalent federal program designated by the United States Department of Homeland Security or other federal agency authorized to verify the work eligibility status of an employee.

If the Contractor is an individual or sole proprietorship, the following applies:

1. The Contractor must complete the United States Citizenship Attestation Form, available on the Department of Administrative Services website at <https://das.nebraska.gov/materiel/docs/pdf/Individual%20or%20Sole%20Proprietor%20United%20States%20Attestation%20Form%20English%20and%20Spanish.pdf>
2. The completed United States Attestation Form should be submitted with the Request for Proposal response.
3. If the Contractor indicates on such attestation form that he or she is a qualified alien, the Contractor agrees to provide the US Citizenship and Immigration Services documentation required to verify the Contractor's lawful presence in the United States using the Systematic Alien Verification for Entitlements (SAVE) Program.
4. The Contractor understands and agrees that lawful presence in the United States is required, and the Contractor may be disqualified or the contract terminated if such lawful presence cannot be verified as required by Neb. Rev. Stat. § 4-108.

C. COMPLIANCE WITH CIVIL RIGHTS LAWS AND EQUAL OPPORTUNITY EMPLOYMENT / NONDISCRIMINATION (Nonnegotiable)

The Contractor shall comply with all applicable local, state, and federal statutes and regulations regarding civil rights laws and equal opportunity employment. The Nebraska Fair Employment Practice Act prohibits Contractors of the State of Nebraska, and their Subcontractors, from discriminating against any employee or applicant for employment, with respect to hire, tenure, terms, conditions, compensation, or privileges of employment because of race, color, religion, sex, disability, marital status, or national origin (Neb. Rev. Stat. §§ 48-1101 to 48-1125). The Contractor guarantees compliance with the Nebraska Fair Employment Practice Act, and breach of this provision shall be regarded as a material breach of contract. The Contractor shall insert a similar provision in all Subcontracts for goods and services to be covered by any contract resulting from this Request for Proposal.

D. COOPERATION WITH OTHER CONTRACTORS

Accept (Initial)	Reject (Initial)	Reject & Provide Alternative within RFP Response (Initial)	NOTES/COMMENTS:
AK			

Contractor may be required to work with or in close proximity to other contractors or individuals that may be working on same or different projects. The Contractor shall agree to cooperate with such other contractors or individuals and shall not commit or permit any act which may interfere with the performance of work by any other contractor or individual. Contractor is not required to compromise Contractor's intellectual property or proprietary information unless expressly required to do so by this contract.

E. PERMITS, REGULATIONS, LAWS

Accept (Initial)	Reject (Initial)	Reject & Provide Alternative within RFP Response (Initial)	NOTES/COMMENTS:
OH			

The contract price shall include the cost of all royalties, licenses, permits, and approvals, whether arising from patents, trademarks, copyrights or otherwise, that are in any way involved in the contract. The Contractor shall obtain and pay for all royalties, licenses, and permits, and approvals necessary for the execution of the contract. The Contractor must guarantee that it has the full legal right to the materials, supplies, equipment, software, and other items used to execute this contract.

F. OWNERSHIP OF INFORMATION AND DATA / DELIVERABLES

Accept (Initial)	Reject (Initial)	Reject & Provide Alternative within RFP Response (Initial)	NOTES/COMMENTS:
OH			

The State shall have the unlimited right to publish, duplicate, use, and disclose all information and data developed or obtained by the Contractor on behalf of the State pursuant to this contract.

The State shall own and hold exclusive title to any deliverable developed as a result of this contract. Contractor shall have no ownership interest or title, and shall not patent, license, or copyright, duplicate, transfer, sell, or exchange, the design, specifications, concept, or deliverable.

G. INSURANCE REQUIREMENTS

Accept (Initial)	Reject (Initial)	Reject & Provide Alternative within RFP Response (Initial)	NOTES/COMMENTS:
OH			

The Contractor shall throughout the term of the contract maintain insurance as specified herein and provide the State a current Certificate of Insurance/Acord Form (COI) verifying the coverage. The Contractor shall not commence work on the contract until the insurance is in place. If Contractor subcontracts any portion of the Contract the Contractor must, throughout the term of the contract, either:

1. Provide equivalent insurance for each subcontractor and provide a COI verifying the coverage for the subcontractor,
2. Require each subcontractor to have equivalent insurance and provide written notice to the State that the Contractor has verified that each subcontractor has the required coverage; or,
3. Provide the State with copies of each subcontractor's Certificate of Insurance evidencing the required coverage.

The Contractor shall not allow any Subcontractor to commence work until the Subcontractor has equivalent insurance. The failure of the State to require a COI, or the failure of the Contractor to provide a COI or require subcontractor insurance shall not limit, relieve, or decrease the liability of the Contractor hereunder.

In the event that any policy written on a claims-made basis terminates or is canceled during the term of the contract or within one (1) year of termination or expiration of the contract, the contractor shall obtain an extended discovery

or reporting period, or a new insurance policy, providing coverage required by this contract for the term of the contract and two (2) years following termination or expiration of the contract.

If by the terms of any insurance a mandatory deductible is required, or if the Contractor elects to increase the mandatory deductible amount, the Contractor shall be responsible for payment of the amount of the deductible in the event of a paid claim.

Notwithstanding any other clause in this Contract, the State may recover up to the liability limits of the insurance policies required herein.

1. WORKERS' COMPENSATION INSURANCE

The Contractor shall take out and maintain during the life of this contract the statutory Workers' Compensation and Employer's Liability Insurance for all of the contractor's employees to be engaged in work on the project under this contract and, in case any such work is sublet, the Contractor shall require the Subcontractor similarly to provide Worker's Compensation and Employer's Liability Insurance for all of the Subcontractor's employees to be engaged in such work. This policy shall be written to meet the statutory requirements for the state in which the work is to be performed, including Occupational Disease. **The policy shall include a waiver of subrogation in favor of the State. The COI shall contain the mandatory COI subrogation waiver language found hereinafter.** The amounts of such insurance shall not be less than the limits stated hereinafter. For employees working in the State of Nebraska, the policy must be written by an entity authorized by the State of Nebraska Department of Insurance to write Workers' Compensation and Employer's Liability Insurance for Nebraska employees.

2. COMMERCIAL GENERAL LIABILITY INSURANCE AND COMMERCIAL AUTOMOBILE LIABILITY INSURANCE

The Contractor shall take out and maintain during the life of this contract such Commercial General Liability Insurance and Commercial Automobile Liability Insurance as shall protect Contractor and any Subcontractor performing work covered by this contract from claims for damages for bodily injury, including death, as well as from claims for property damage, which may arise from operations under this contract, whether such operation be by the Contractor or by any Subcontractor or by anyone directly or indirectly employed by either of them, and the amounts of such insurance shall not be less than limits stated hereinafter.

The Commercial General Liability Insurance shall be written on an **occurrence basis**, and provide Premises/Operations, Products/Completed Operations, Independent Contractors, Personal Injury, and Contractual Liability coverage. **The policy shall include the State, subcontractors, and others as required by the contract documents, as Additional Insured(s). This policy shall be primary, and any insurance or self-insurance carried by the State shall be considered secondary and non-contributory. The COI shall contain the mandatory COI liability waiver language found hereinafter.** The Commercial Automobile Liability Insurance shall be written to cover all Owned, Non-owned, and Hired vehicles.

REQUIRED INSURANCE COVERAGE	
COMMERCIAL GENERAL LIABILITY	
General Aggregate	\$2,000,000
Products/Completed Operations Aggregate	\$2,000,000
Personal/Advertising Injury	\$1,000,000 per occurrence
Bodily Injury/Property Damage	\$1,000,000 per occurrence
Medical Payments	\$10,000 any one person
Damage to Rented Premises (Fire)	\$300,000 each occurrence
Contractual	Included
XCU Liability (Explosion, Collapse, and Underground Damage)	Included
Independent Contractors	Included
Abuse & Molestation	Included
<i>If higher limits are required, the Umbrella/Excess Liability limits are allowed to satisfy the higher limit.</i>	
WORKER'S COMPENSATION	
Employers Liability Limits	\$500K/\$500K/\$500K
Statutory Limits- All States	Statutory - State of Nebraska
Voluntary Compensation	Statutory
COMMERCIAL AUTOMOBILE LIABILITY	
Bodily Injury/Property Damage	\$1,000,000 combined single limit
Include All Owned, Hired & Non-Owned Automobile liability	Included
Motor Carrier Act Endorsement	Where Applicable
UMBRELLA/EXCESS LIABILITY	
Over Primary Insurance	\$5,000,000 per occurrence
PROFESSIONAL LIABILITY	
All Other Professional Liability (Errors & Omissions)	\$1,000,000 Per Claim / Aggregate
CYBER LIABILITY	
Breach of Privacy, Security Breach, Denial of Service, Remediation, Fines and Penalties	\$5,000,000
MANDATORY COI SUBROGATION WAIVER LANGUAGE	
"Workers' Compensation policy shall include a waiver of subrogation in favor of the State of Nebraska."	
MANDATORY COI LIABILITY WAIVER LANGUAGE	
"Commercial General Liability & Commercial Automobile Liability policies shall name the State of Nebraska as an Additional Insured and the policies shall be primary and any insurance or self-insurance carried by the State shall be considered secondary and non-contributory as additionally insured."	

3. EVIDENCE OF COVERAGE

The Contractor shall furnish the Contract Manager, via email, with a certificate of insurance coverage complying with the above requirements prior to beginning work at:

Nebraska Gamblers Assistance Program
RFP # NPGAP2024.1
Email: david.geier@nebraska.gov
Attention: David Geier

Nebraska Gamblers Assistance Program
700 South 16
Lincoln NE 68508

These certificates or the cover sheet shall reference the RFP number, and the certificates shall include the name of the company, policy numbers, effective dates, dates of expiration, and amounts and types of coverage afforded. If the State is damaged by the failure of the Contractor to maintain such insurance, then the Contractor shall be responsible for all reasonable costs properly attributable thereto.

Reasonable notice of cancellation of any required insurance policy must be submitted to the contract manager as listed above when issued and a new coverage binder shall be submitted immediately to ensure no break in coverage.

4. DEVIATIONS

The insurance requirements are subject to limited negotiation. Negotiation typically includes, but is not necessarily limited to, the correct type of coverage, necessity for Workers' Compensation, and the type of automobile coverage carried by the Contractor.

H. ANTITRUST

Accept (Initial)	Reject (Initial)	Reject & Provide Alternative within RFP Response (Initial)	NOTES/COMMENTS:
CH			

The Contractor hereby assigns to the State any and all claims for overcharges as to goods and/or services provided in connection with this contract resulting from antitrust violations which arise under antitrust laws of the United States and the antitrust laws of the State.

I. CONFLICT OF INTEREST

Accept (Initial)	Reject (Initial)	Reject & Provide Alternative within RFP Response (Initial)	NOTES/COMMENTS:
CH			

By submitting a proposal, bidder certifies that no relationship exists between the bidder and any person or entity which either is, or gives the appearance of, a conflict of interest related to this Request for Proposal or project.

Bidder further certifies that bidder will not employ any individual known by bidder to have a conflict of interest nor shall bidder take any action or acquire any interest, either directly or indirectly, which will conflict in any manner or degree with the performance of its contractual obligations hereunder or which creates an actual or appearance of conflict of interest.

If there is an actual or perceived conflict of interest, bidder shall provide with its proposal a full disclosure of the facts describing such actual or perceived conflict of interest and a proposed mitigation plan for consideration. The State will then consider such disclosure and proposed mitigation plan and either approve or reject as part of the overall bid evaluation.

J. ADVERTISING

Accept (Initial)	Reject (Initial)	Reject & Provide Alternative within RFP Response (Initial)	NOTES/COMMENTS:
CH			

The Contractor agrees not to refer to the contract award in advertising in such a manner as to state or imply that the company or its goods or services are endorsed or preferred by the State. Any publicity releases pertaining to the project shall not be issued without prior written approval from the State.

K. NEBRASKA TECHNOLOGY ACCESS STANDARDS (Nonnegotiable)

1. The State of Nebraska is committed to ensuring that all information and communication technology (ICT), developed, leased, or owned by the State of Nebraska, affords equivalent access to employees, program participants and members of the public with disabilities, as it affords to employees, program participants and members of the public who are not persons with disabilities.

2. By entering into this Contract, Contractor understands and agrees that if the Contractor is providing a product or service that contains ICT, as defined in subsection III.L.3 (below) and such ICT is intended to be directly interacted with by the user or is public facing, such ICT must provide equivalent access, or be modified during implementation to afford equivalent access, to employees, program participants, and members of the public who have and who do not have disabilities. The Contractor may comply with this section by complying with Section 508 of the Rehabilitation Act of 1973, as amended, and its implementing standards adopted and promulgated by the U.S. Access Board.
3. ICT means information technology and other equipment, systems, technologies, or processes, for which the principal function is the creation, manipulation, storage, display, receipt, or transmission of electronic data and information, as well as any associated content. Contractor hereby agrees ICT includes computers and peripheral equipment, information kiosks and transaction machines, telecommunications equipment, customer premises equipment, multifunction office machines, software, applications, web sites, videos, and electronic documents. For the purposes of these assurances, ICT does not include ICT that is used exclusively by a contractor.

L. DISASTER RECOVERY/BACK UP PLAN

Accept (Initial)	Reject (Initial)	Reject & Provide Alternative within RFP Response (Initial)	NOTES/COMMENTS:
AH			

The Contractor shall have a disaster recovery and back-up plan, of which a copy should be provided upon request to the State, which includes, but is not limited to equipment, personnel, facilities, and transportation, in order to continue delivery of goods and services as specified under the specifications in the contract in the event of a disaster.

M. DRUG POLICY

Accept (Initial)	Reject (Initial)	Reject & Provide Alternative within RFP Response (Initial)	NOTES/COMMENTS:
AH			

Contractor certifies it maintains a drug free workplace environment to ensure worker safety and workplace integrity. Contractor agrees to provide a copy of its drug free workplace policy at any time upon request by the State.

N. WARRANTY

Accept (Initial)	Reject (Initial)	Reject & Provide Alternative within RFP Response (Initial)	NOTES/COMMENTS:
AH			

Despite any clause to the contrary, the Contractor represents and warrants that its services hereunder shall be performed by competent personnel and shall be of professional quality consistent with generally accepted industry standards for the performance of such services and shall comply in all respects with the requirements of this Agreement. For any breach of this warranty, the Contractor shall, for a period of ninety (90) days from performance of the service, perform the services again, at no cost to the State, or if Contractor is unable to perform the services as warranted, Contractor shall reimburse the State all fees paid to Contractor for the unsatisfactory services. The rights and remedies of the parties under this warranty are in addition to any other rights and remedies of the parties provided by law or equity, including, without limitation actual damages, and, as applicable and awarded under the law, to a prevailing party, reasonable attorneys' fees and costs.

O. TIME IS OF THE ESSENCE

Time is of the essence with respect to Contractor's performance and deliverables pursuant to this Contract.

IV. PAYMENT

A. PROHIBITION AGAINST ADVANCE PAYMENT (Nonnegotiable)

Pursuant to Neb. Rev. Stat. § 81-2403, "[n]o goods or services shall be deemed to be received by an agency until all such goods or services are completely delivered and finally accepted by the agency."

B. TAXES (Nonnegotiable)

The State is not required to pay taxes and assumes no such liability as a result of this Request for Proposal. The Contractor may request a copy of the Nebraska Department of Revenue, Nebraska Resale or Exempt Sale Certificate for Sales Tax Exemption, Form 13 for their records. Any property tax payable on the Contractor's equipment which may be installed in a state-owned facility is the responsibility of the Contractor.

C. INVOICES

Accept (Initial)	Reject (Initial)	Reject & Provide Alternative within RFP Response (Initial)	NOTES/COMMENTS:
AM			

Invoices for payments must be submitted by the Contractor to the agency requesting the services with sufficient detail to support payment. Invoices should be submitted monthly and shall include an itemized list of the service describing the type of service, date of the service, names or job titles of the individuals providing the service, amount of time spent on the service, billing rate for the service, itemized list of any expense for which reimbursement is requested. If reimbursement for any subcontracted service is requested, the invoice shall include the same itemization for the subcontracted service. The terms and conditions included in the Contractor's invoice shall be deemed to be solely for the convenience of the parties. No terms or conditions of any such invoice shall be binding upon the State, and no action by the State, including without limitation the payment of any such invoice in whole or in part, shall be construed as binding or estopping the State with respect to any such term or condition, unless the invoice term or condition has been previously agreed to by the State as an amendment to the contract. The State shall have forty-five (45) calendar days to pay after a valid and accurate invoice is received by the State.

D. INSPECTION AND APPROVAL

Accept (Initial)	Reject (Initial)	Reject & Provide Alternative within RFP Response (Initial)	NOTES/COMMENTS:
AK			

Final inspection and approval of all work required under the contract shall be performed by the designated State officials.

E. PAYMENT (Nonnegotiable)

Payment will be made by the responsible agency in compliance with the State of Nebraska Prompt Payment Act (See Neb. Rev. Stat. § 81-2403). The State may require the Contractor to accept payment by electronic means such as ACH deposit. In no event shall the State be responsible or liable to pay for any goods and services provided by the Contractor prior to the Effective Date of the contract, and the Contractor hereby waives any claim or cause of action for any such services.

F. LATE PAYMENT (Nonnegotiable)

The Contractor may charge the responsible agency interest for late payment in compliance with the State of Nebraska Prompt Payment Act (See Neb. Rev. Stat. §§ 81-2401 through 81-2408).

G. SUBJECT TO FUNDING / FUNDING OUT CLAUSE FOR LOSS OF APPROPRIATIONS (Nonnegotiable)

The State's obligation to pay amounts due on the Contract for fiscal years following the current fiscal year is contingent upon legislative appropriation of funds. Should said funds not be appropriated, the State may terminate the contract with respect to those payments for the fiscal year(s) for which such funds are not appropriated. The State will give the Contractor written notice thirty (30) calendar days prior to the effective date of termination. All obligations of the State to make payments after the termination date will cease. The Contractor shall be entitled to receive just and equitable compensation for any authorized work which has been satisfactorily completed as of the termination date. In no event shall the Contractor be paid for a loss of anticipated profit.

H. RIGHT TO AUDIT (First Paragraph is Nonnegotiable)

The State shall have the right to audit the Contractor's performance of this contract upon a thirty (30) days' written notice. Contractor shall utilize generally accepted accounting principles, and shall maintain the accounting records, and other records and information relevant to the contract (Information) to enable the State to audit the contract. (Neb. Rev. Stat. § 84-304 et seq.) The State may audit, and the Contractor shall maintain, the Information during the term of the contract and for a period of five (5) years after the completion of this contract or until all issues or litigation are resolved, whichever is later. The Contractor shall make the Information available to the State at Contractor's place of business or a location acceptable to both Parties during normal business hours. If this is not practical or the Contractor so elects, the Contractor may provide electronic or paper copies of the Information. The State reserves the right to examine, make copies of, and take notes on any Information relevant to this contract, regardless of the form or the Information, how it is stored, or who possesses the Information. Under no circumstance will the Contractor be required to create or maintain documents not kept in the ordinary course of contractor's business operations, nor will contractor be required to disclose any information, including but not limited to product cost data, which is confidential or proprietary to contractor.

Accept (Initial)	Reject (Initial)	Reject & Provide Alternative within RFP Response (Initial)	NOTES/COMMENTS:
AH			

The Parties shall pay their own costs of the audit unless the audit finds a previously undisclosed overpayment by the State. If a previously undisclosed overpayment exceeds 3% (three percent) of the total contract billings, or if fraud, material misrepresentations, or non-performance is discovered on the part of the Contractor, the Contractor shall reimburse the State for the total costs of the audit. Overpayments and audit costs owed to the State shall be paid within ninety (90) days of written notice of the claim. The Contractor agrees to correct any material weaknesses or condition found as a result of the audit.