

AGENDA
LOTTERY GAMING FACILITY REVIEW BOARD
10:00 a.m., Wednesday, January 7, 2015

Topeka & Shawnee County Public Library
James C. Marvin Auditorium
1515 SW 10th Avenue, Room 101C
Topeka, KS 66604

- A. CALL TO ORDER

- B. APPROVAL OF AGENDA

- C. BOARD ITEMS – NEW BUSINESS
 - 1. Board Member Introductions

 - 2. Election of Officers
 - a. Staff Memo

 - 3. Overview of Process and Timeline
 - a. Staff Memo

 - 4. Code of Conduct
 - a. Staff Memo
 - b. Code of Ethics Policy

 - 5. Request for Proposal – Consultants
 - a. Staff Memo
 - b. Statement of Work

- D. PUBLIC COMMENTS

- E. ADJOURNMENT



Kansas Racing and Gaming Commission
700 SW Harrison, Suite 500, Topeka, Kansas 66603
(785) 296-5800, Fax (785) 296-0900

STAFF AGENDA MEMORANDUM

DATE OF MEETING: January 7, 2015

AGENDA ITEM: Election of Officers

PRESENTER: Richard Petersen-Klein, Executive Director, KRGC

ISSUE SUMMARY: Kansas statute 74-8735 establishes the Lottery Gaming Facility Review Board (Board). The Board consists of three members appointed by the Governor; two members appointed by the President of the Senate; and two members appointed by the Speaker of the House of Representatives. The Governor designates one Board member as chairperson. The composition of the current Board is:

Jack Bower, Chairman - appointed by Governor Sam Brownback

Georgianna Mullin - appointed by Governor Sam Brownback

Lisa Pleasure - appointed by Governor Sam Brownback

Don Alexander - appointed by Senate President Susan Wagle

Jeff Oakes - appointed by Senate President Susan Wagle

Kevin Cook - appointed by Speaker of the House of Representatives Ray Merrick

Gail Radke – appointed by Speaker of the House of Representatives Ray Merrick

The Board may elect from its members a vice-chair to conduct business in the absence of the chair, and a secretary to attest to Board action and such other duties as necessary.

BOARD ACTION REQUIRED/REQUESTED: Discussion and election of officers.

STAFF RECOMMENDATIONS: Election of officers.



Kansas Racing and Gaming Commission
700 SW Harrison, Suite 500, Topeka, Kansas 66603
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STAFF AGENDA MEMORANDUM

DATE OF MEETING: January 7, 2015

AGENDA ITEM: Process Overview and Timeline

PRESENTER: Richard Petersen-Klein, Executive Director, KRGC

ISSUE SUMMARY: Kansas statute 74-8736 establishes the approval and selection process for a lottery gaming facility management contract(s) by the Kansas Lottery (Lottery), the Lottery Gaming Facility Review Board (Board), and the Kansas Racing and Gaming Commission (KRGC). The process is time sensitive with each of the three (3) steps in the process following the Lottery's application deadline required to be completed within a specified number of days. However, the Governor may grant up to a sixty (60) day extension for each of the three (3) steps in the process, provided that the Governor determines that the respective commission or board acted in good faith to comply with the initial time limit.

The first step in the process is for the Lottery to approve one or more contracts. The Lottery is given ninety (90) days from the deadline for receipt of applications to approve one or more contracts. The Lottery's current deadline for receipt of applications is January 30, 2015. Based on this deadline, the Lottery would be expected to approve one or more contracts by April 30, 2015. If a sixty (60) day extension is granted by the Governor for the Lottery to approve one or more contracts, the deadline for the Lottery's approval would be June 29, 2015.

The second step in the process is for the Board to determine which contract best maximizes revenue, encourages tourism and otherwise serves the interests of the citizens of Kansas. The Board is authorized to conduct public hearings, take testimony, solicit the advice of experts and investigate the merits of each contract submitted to the Board. The Board is given sixty (60) days from the receipt of the contracts from the Lottery to determine which contract, if any, is the best possible contract, unless an extension is granted by the Governor. The Lottery is expected to submit all contracts to the Board at the same time. If the Lottery completes the first step in the process by April 30, 2015, the Board would be expected to determine the best possible contract by June 29, 2015, or by August 28, 2015 if a sixty (60) day extension is granted to the Board. If the Lottery completes the first step in the process by June 29, 2015, the Board would be expected to determine the best possible contract by August 28, 2015, or by October 27, 2015 if a sixty (60) day extension is granted to the Board.

The third step in the process is for the KRGC to approve the license for the prospective lottery gaming facility manager selected by the Board. The KRGC is authorized to conduct background investigations of all prospective lottery gaming facility managers, their directors and officers and any other persons having an interest in a prospective gaming facility manager pursuant to the KRGC's rules and regulations. The KRGC is given ten (10) days to approve the license of the prospective lottery gaming facility manager selected by the Board, unless a sixty-day extension is granted by the Governor. Depending on the date the Board selects a contract, KRGC would be expected to approve the license for the Board's selected prospective lottery gaming facility manager as early as July 9, 2015 or as late as January 5, 2016. (See attached Deadlines table for details.)

All costs of the Board and the KRGC related to the process must be paid by the prospective lottery gaming facility managers. The costs related to the Board have been budgeted at a total cost of approximately \$900,000.00 based upon the previous lottery gaming facility review board's annual expenditures. The total budgeted cost would be divided equally among the prospective lottery gaming facility managers. Each prospective lottery gaming facility manager would be required to pay a deposit in the amount of its share of the total cost at the time the Lottery submits the contracts to the Board. For example, if three (3) prospective lottery gaming facility managers executed contracts, each prospective facility manager would be required to remit a \$300,000.00 deposit at the time its' contract was submitted to the Board. The Board's expenses would be deducted from the total amount deposited. If the Board's expenses do not exceed the total deposited amount, any remainder will be refunded equally among the prospective lottery gaming facility managers participating in the Board process. Conversely, if the Board's expenses are expected to exceed the total deposited amount the prospective lottery gaming facility managers would be required to remit an additional deposit.

The cost related to the KRGC's background investigation would require that each prospective lottery gaming facility manager remit a deposit at the time the Lottery submits the contracts to the Board and complete the necessary background applications. The KRGC would need to begin a background investigation on each prospective lottery gaming facility manager at that time to be able to comply with the deadlines required by law. If the KRGC's background investigation expenses do not exceed the deposited amount, the remainder of the deposit would be refunded to the prospective lottery gaming facility managers. Conversely, if the KRGC's background investigation costs are expected to exceed the deposited amount, the prospective lottery gaming facility managers would be required to remit an additional deposit.

BOARD ACTION REQUIRED/REQUESTED: Review and discussion.

STAFF RECOMMENDATIONS: Review and discussion.

**Deadlines for Selection and Approval of a
Lottery Gaming Facility Management Contract in the
Kansas Southeast Gaming Zone**

| | | |
|-------------------------------|------------------------------------|--|
| With Application Deadline of: | Lottery will approve contracts by: | If Lottery receives a 60-day extension, contracts will be approved by: |
| January 30, 2015 | April 30, 2015 | June 29, 2015 |
| | | |

| | | |
|---------------------------------|----------------------------------|--|
| If Board receives contracts by: | Board must select a contract by: | If Board receives a 60-day extension, Board will select a contract by: |
| April 30, 2015 | June 29, 2015 | August 28, 2015 |
| June 29, 2015 | August 28, 2015 | October 27, 2015 |
| | | |

| | | |
|-----------------------------------|-----------------------------------|---|
| If KRGC receives the contract by: | KRGC must approve the license by: | If KRGC receives a 60-day extension, license will be approved by: |
| June 29, 2015 | July 9, 2015 | September 8, 2015 * |
| August 28, 2015 | September 8, 2015 * | November 9, 2015 ** |
| October 27, 2015 | November 6, 2015 | January 5, 2016 |
| | | |

* The actual deadline of September 7th is a State holiday. By statute, the deadline will fall on the next business day, Tuesday, September 8th.

** The actual deadline of November 7th is a Saturday. By statute, the deadline will fall on the next business day, Monday, November 9th.



Kansas Racing and Gaming Commission
700 SW Harrison, Suite 500, Topeka, Kansas 66603
(785) 296-5800, Fax (785) 296-0900

STAFF AGENDA MEMORANDUM

DATE OF MEETING: January 7, 2015

AGENDA ITEM: Code of Conduct

PRESENTER: Judith Taylor, General Counsel, KRGC

ISSUE SUMMARY: A Code of Conduct was created in 2007 by the first Lottery Gaming Facility Review Board out of a desire to be as transparent and above-board as possible in the conduct of its members and its operations. The purpose of the Code of Conduct is to create an ethical standard for the board to follow.

The Code is similar to the Code of Conduct followed by employees of the KRGC. The Code incorporates statutory restrictions imposed on the Board and has been further enhanced to avoid any questions as to the motivations, intent or propriety of the Board's conduct in light of the intense competition that is expected to ensue during the application process and the significant capital investment that will ultimately be made by the successful applicant for the southeast gaming zone management contract.

The Code of Conduct should be reviewed by, discussed, and agreed upon unanimously by all Board members. Once adopted, all Board members should make every effort to adhere to its provisions.

BOARD ACTION REQUIRED/REQUESTED: Discuss and adopt a Code of Conduct.

STAFF RECOMMENDATIONS: Adopt the Code of Conduct.

KANSAS LOTTERY GAMING FACILITY REVIEW BOARD
CODE OF CONDUCT

INTRODUCTION

In the discharge of its powers, duties and responsibilities, the Kansas Lottery Gaming Facility Review Board (Board) must conduct itself according to high ethical standards. The Board's members and agents are expected to discharge their duties with loyalty and in such a manner to as to promote and preserve public trust and confidence in the Board and the discharge of the Board's duties under the Kansas Expanded Lottery Act.

It is therefore essential that the Board's members must avoid situations where private interest in outside business activities and opportunity for financial or personal gain could influence the members' decision in giving favored treatment to any organization or person. Board members must avoid circumstances and conduct in outside activities that appear questionable to the general public.

1. Policy and Application

- a) The purpose of this Code is to assure that the Board's members and agents avoid situations, relationships or associations that may lead to or represent a conflict of interest for the Board or its members and agents. The provisions in this Code are intended to augment statutory provisions. All Board members and agents should remain aware of their responsibilities under the Kansas Expanded Lottery Act and other statutes governing gaming law and ethical conduct of public officials and agents. If a Board member or Board agent has a question or concern as to the applicability of this Code to a current or prospective situation, relationship or association, that question or concern should be presented to the Executive Director of the Racing and Gaming Commission (Commission) for clarification or guidance.
- b) Each Board member and agent is directed to read and comply with this Code of Conduct. Upon adoption of this Code by the Board, each member shall sign a statement acknowledging that he or she has read the Code of Conduct, understands its terms and agrees to abide by its terms as adopted or as may be amended from time to time. Should a Board member become unable or unwilling to comply with the Code of Conduct as adopted herein or as may be amended, such member shall immediately inform the members of the Board and the Commission's Executive Director.
- c) No Board member or agent shall use or attempt to use his or her official position to secure any privilege, advantage, favor or influence for himself, herself or others.

- d) Board members and agents shall bear responsibility for adherence to this policy and to the specific prohibitions and restrictions set forth in this Code.
- e) Certain of the prohibitions in this Subpart (1) affect or extend to the spouses, parents and children of Board members or agents. For purposes of this Code, these represent the lineal relations of Board members and agents and, in the case of children, legally adopted and step-children. It is recognized that in some cases, a Board member or agent may have limited influence over the decisions of lineal relatives, and that limited influence will be taken into consideration in evaluating the circumstances of an alleged violation.

2. Duty to avoid conflict of interest

Board members and agents, and their spouses, parents and children have a duty to avoid relationships that may cause or have the appearance of causing a conflict of interest. A conflict of interest means a situation in which a Board member's or agent's private interest, whether personal, financial or otherwise, influences or creates the appearance that it may influence the Board member's or agent's judgment in the performance of his or her duties and responsibilities in a fair and impartial manner. Such conflicts include, but are not limited to, the purchase of land and to restrictions imposed under K.S.A. 74-8762, the violation of which could result in criminal charges.

3. Gambling and Other Restrictions

Board members or agents shall not engage in gambling in any establishment, entity, facility or affiliate of a prospective lottery gaming facility manager; any establishment identified by Board action that, in the judgment of the Board, could represent a potential for a conflict of interest; or any entity subject to licensure or approval by the Commission.

Board members or agents shall not engage in excessive or inappropriate fraternization with employees, representatives or agents of prospective lottery gaming facility managers and shall adhere to any policies and directives regarding personal conduct while on the premises of any entity subject to licensure or approval by the Commission.

Board members and agents are prohibited from accepting any complimentary gifts, items or services from any entity, affiliate, employee, representative or agent of a prospective lottery gaming facility manager or any entity subject to licensure or approval by the Commission.

No Board member or agent shall stay overnight in a guest room at any establishment, entity, facility or affiliate of a prospective lottery gaming facility manager or any entity licensed or certified by the Commission except in the normal course of the member's duties.

4. Other employment

- a) Board members and agents must not hold or pursue employment, office, position, business or occupation that may conflict with the Board member or agent's official duties. Board members and agents may engage in other employment so long as it does not interfere or conflict with their duties, provided that such employment is disclosed to the Board and the Executive Director of the Commission and approved by the Board.
- b) Disclosure of other employment by Board members must be made at the time of adoption of this Code of Conduct or before accepting the other employment. Any Board member who discloses outside employment to the Board shall recuse himself or herself from any discussion and decision made by the Board relative to his/her outside employment.
- c) Board members and agents may not solicit, suggest, request or recommend the appointment of any person to an office, place or position or the hiring of any person for direct or indirect employment to any prospective lottery gaming facility manager or applicant for or holder of a license issued by the Commission or to any representative or agent of such prospective lottery gaming facility manager applicant for or holder of a license issued by the Commission.

5. Restrictions on receiving gifts

Board members and agents and their spouses, children and parents may not, directly or indirectly, accept any hospitality, gift, gratuity, service, compensation, travel, lodging or anything of value, with the exception of unsolicited items of an incidental nature, from a prospective lottery gaming facility manager; or Commission licensee or applicant; or affiliates, key personnel and representatives of a prospective lottery gaming facility manager or licensee or applicant of the Commission. This prohibition may be extended by Board action to any entity or individual that, in the judgment of the Board, could represent a potential for a conflict of interest.

6. Prohibition on holding or acquiring ownership

- a) Board members or agents and their spouses, children and parents may not, directly or indirectly, hold or acquire or cause or encourage any other person to acquire any actual or contingent form of ownership interest or other financial interest in a prospective lottery gaming facility manager,

affiliate or parent corporation, or Commission licensee, applicant, or its affiliates, key persons and representatives. This prohibition may extend to the holding or acquisition of an interest in any entity identified by Board action that, in the judgment of the Board, could represent the potential for or the appearance of a conflict of interest. The holding or acquisition of an interest in such entities through an indirect means – such as through a mutual fund or publicly traded investment companies and partnerships whose principal business is not gaming – shall not be prohibited, except that the Board may identify specific investments or funds that, in its judgment, are so influenced by gaming holdings as to represent the potential for or the appearance of a conflict of interest.¹

- b) After a member's Board service terminates, that Board member is precluded for five (5) years from acquiring any actual or contingent form of ownership interest, or other financial interest in, a prospective lottery gaming facility manager, or the prospective lottery gaming facility's affiliate or parent corporation, or Commission licensee, applicant, or their affiliates, key personnel and representatives. This prohibition may be extended by Board action to any entity that, in the judgment of the Board, could represent a potential for or the appearance of a conflict of interest. The holding or acquisition of an interest in such entities through an indirect means – such as through a mutual fund or publicly traded investment companies and partnerships whose principal business is not gaming – shall not be prohibited, except that the Board may identify specific investments or funds that, in its judgment, are so influenced by gaming holdings as to represent the potential for or the appearance of a conflict of interest.

7. Prohibition on economic associations

Board members and their agents, spouses, children and parents shall not be employed by or solicit employment from, nor directly or indirectly enter into contracts with, nor have any economic association with:

- a) prospective lottery gaming facility managers or their affiliates or parent corporations,
- b) licensees of the Commission,
- c) applicants of the Commission,
- d) licensee or applicant affiliates of the Commission,
- e) licensee or applicant key personnel of the Commission and
- f) representatives of any race track, racing association or any person, organization or entity engaged in the conducting of greyhound or horse racing in the State of Kansas.

¹ These provisions are in addition to those in the Kansas Expanded Lottery Act making it a criminal offense for state and local officials and affiliated persons to enter into any business dealing, venture or contract with an owner or lessee of a Kansas lottery gaming facility or racetrack gaming facility.

8. Disclosure of economic associations

Each Board member who owns or is employed by a firm or business entity shall, to the best of the member's ability, identify any current economic relationship, whether direct or indirect, which could create the appearance of a conflict of interest that may exist between the Board member's firm or business entity and any prospective lottery gaming facility manager or Commission licensee, applicant, their affiliates, key personnel and representatives. The Board member shall declare his or her intention to refrain from deliberations and voting on questions related to the gaming entity in such relationship. This requirement may be extended by Board action to any entity or individual that, in the judgment of the Board, could represent the potential for or the appearance of a conflict of interest.

9. Restrictions on professional service agents

For purposes of this provision, agents of the Board may include any experts, consultants or other professionals.

Agents of the Board may be subject to terms and conditions relating to restrictions or prohibitions in representation, employment and contracting with prospective lottery gaming facility managers, their affiliates and parent corporations and Commission licensees, applicants, their affiliates, key personnel or representatives. Such restrictions and prohibitions shall be contained in the professional service contracts of the Board.

10. Disclosure statements

Board members are required to submit a Statement of Substantial Interest and shall complete and timely file such statements and provide a copy to the Board for its review in addition to filing with the Office of the Secretary of State. The financial disclosure statements shall be filed with the Executive Director of the Commission.

11. Restrictive Covenant

Board members or agents shall not for a period of five (5) years after termination of their Board appointment or employment engage in any employment or contractual relations with, or have any financial interest in, any licensee, applicant, their affiliates, key personnel or representatives of the Commission.

12. Violations

Violation of this Code by a member of the Board may result in written notification to the Office of the Attorney General for consideration of a possible

ouster action, per K.S.A. 74-714. Violation of this Code by a Board agent may result in discipline up to and including termination.

13. Ex Parte Communications

No Board member shall knowingly have *ex parte* communications relating to a matter pending before the executive director of the Lottery Commission, the Lottery Commission, the executive director of the Racing and Gaming Commission, the Racing and Gaming Commission or the Board that may require a public vote of the Board with any party or any representative or agent of a party to the matter pending before these respective entities or individuals or any person with a material interest in the outcome of the matter pending before these respective entities or individuals. As *ex parte* communications, either oral, written, electronic or otherwise communicated, may occur inadvertently, any Board member participating in such communication shall report the details about the communication to the Executive Director of the Commission.

14. Kansas Open Meetings Act (KOMA)

The Board is subject to the Kansas Open Meetings Act (KOMA) which requires any meeting, as defined by KOMA, attended by a majority of the Board for the purpose of discussing the business or affairs of the Board to be conducted in a forum open to the public. All Board members shall familiarize themselves with the provisions of KOMA and the exceptions to KOMA and shall adhere to those provisions.

15. Effective date

The provisions of this Code shall be effective and binding as of January 7, 2015, upon the Kansas Lottery Gaming Facility Review Board's members and agents. Amendments to the Code shall be effective and binding on the date of adoption.

CODE OF CONDUCT RECEIPT

I, _____, hereby acknowledge that I have received
(PLEASE PRINT)
the Kansas Lottery Gaming Facility Review Board Code of Conduct adopted
_____, 2015.

I, _____, hereby acknowledge that I have read and
(PLEASE PRINT)
understand the Kansas Lottery Gaming Facility Review Board Code of Conduct.

Signed: _____ Date: _____

NOTE: This receipt must be signed, dated and returned to the Executive Director.



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700 SW Harrison, Suite 500, Topeka, Kansas 66603
(785) 296-5800, Fax (785) 296-0900

STAFF AGENDA MEMORANDUM

DATE OF MEETING: January 7, 2015

AGENDA ITEM: Request for Proposal - Consultants

PRESENTER: Richard Petersen-Klein, Executive Director, KRGC

ISSUE SUMMARY: K.S.A. 74-8736(b) authorizes the Lottery Gaming Facility Review Board (Board) to obtain the advice of experts and investigate the merits of each contract submitted to the Board. K.S.A. 75-3738, *et seq.*, requires that all purchases of and contracts for consulting services by state agencies be based on competitive bids with limited exceptions, which are not applicable. The competitive bid process centers on the use of a request for proposal (RFP). The RFP process requires a time commitment for completion, which negatively impacts an already strict timeline for the Board. Therefore, it is important to begin the RFP process as soon as possible.

The availability of gaming consultants during the time period April 30, 2015 through October 27, 2015 may be limited because the number of gaming consultants is limited and a number of jurisdictions and gaming operators are pursuing expansion opportunities. A review of various consulting contracts from the prior review board process was conducted to develop a listing of consultants and consulting services used. After discussions with several gaming consultants, some of whom were used by the previous review board, it appears that the availability of gaming consultants should not be an issue. The attached draft RFP was prepared based on a review of the previous consulting services provided.

The RFP process requires establishment of a procurement negotiating committee (PNC), which consists of three (3) individuals. In this case, the PNC would consist of the Secretary of Administration's designee, the Director of Procurement and Contracts' designee, and the Board's designee. The Secretary of Administration's designee could be a Board member or another individual. In order to expedite the RFP process, it may be beneficial for the Board to select its designee for the PNC at this time, as well as a second designee in the event the Secretary should choose a Board member to be his designee. It is important to know that once the RFP process begins, no member of the Board may have any direct communication with any bidder, and all communication with potential bidders must be conducted through the Director of Procurement and Contracts' designee.

BOARD ACTION REQUIRED/REQUESTED: Discuss, review and approve RFP and designees.

STAFF RECOMMENDATIONS: Discuss, review and approve RFP and designees.

STATEMENT OF WORK

Background:

The Kansas Racing and Gaming Commission (KRGC) administers operations for the Lottery Gaming Facility Review Board (LGFRB). The Kansas Lottery will accept applications for the southeast gaming zone through January 30, 2015. The Kansas Lottery will negotiate a lottery gaming facility management contract with each applicant, if possible. The LGFRB will select a lottery gaming facility manager from the contracts negotiated by the Kansas Lottery, if acceptable. The LGFRB anticipates selecting multiple consultants, if qualified, to provide the consulting services pursuant to this requested for proposal (RFP) because of the limited time frame within which the LGFRB must complete its' duties.

The KRGC is soliciting proposals on behalf of the LGFRB from qualified consultants to provide the following consulting services including:

- 1) Review of the southeast gaming zone market potential, including without limitation, estimated potential gross gaming revenues in counties within the southeast gaming zone and likely employment impacts.
- 2) Assessment of the potential customer in the market segment.
- 3) A quantitative assessment of the customer base in the market.
- 4) Evaluation of each proposal's ability to attract local and regional visitation.
- 5) Estimate of the local and state revenue to be generated by each proposal.
- 6) Estimate of the cost to local and state governments to provide services to the facilities, including without limitation, traffic issues.
- 7) Review of social impacts.
- 8) Development of independent revenue projections for each prospective lottery gaming facility manager proposal.
- 9) Assistance in specifying and designing criteria for the evaluation of lottery gaming facility manager proposals submitted, including:
 - a. Specification of minimum standards required for consideration.
 - b. Decision-making processes by appropriate bodies.
 - c. Designation of criteria on which final selections will be made.
 - d. Clarification of areas of weakness or vulnerability in the competitive bid process.
 - e. Implications of experiences of other jurisdictions in the competitive bidding processes, including without limitation, important lessons for decision-makers in Kansas.
- 10) Review of the financial suitability and stability of each lottery gaming facility manager's proposal. This would include background research and financial evaluation of the companies or consortiums submitting each lottery gaming facility management contract, including without limitation, an evaluation of the risks associated with the corporate ownership structure for the lottery gaming facility manager entity from both the facility manager's and State's perspectives.
- 11) Analysis of various economic factors impacting gaming revenue for each proposal, including without limitation, a sensitivity analysis.

- 12) Evaluation of the specific proposals in terms of key characteristics such as:
 - a. The feasibility of the over-all proposal;
 - b. The reasonableness of the economic forecasts;
 - c. The reasonableness of operational projections, such as departmental revenues, expenses, and contributions to income;
 - d. The reasonableness of a proposal's estimates of economic and fiscal impacts at the local, regional, and state level.
- 13) Conduct a feasibility study for each lottery gaming facility and design option.
- 14) Analysis of the financial liquidity and financial solvency for each proposal.
- 15) Analysis of ancillary and nongaming facility designs and developments, including the impact on the generation of gaming revenue.
- 16) Description of the potential products and services generated by each lottery gaming enterprise ancillary and nongaming facilities deemed to be appropriate to the southeast gaming markets and an analysis of their potential to attract the target market.
- 17) Evaluation of each lottery gaming enterprise ancillary and nongaming facilities' financial stability and solvency in terms of ownership structure, and ability to successfully provide proposed products and services.
- 18) A thorough assessment of the possible amenities for the southeast gaming zone markets.
- 19) Economic impact and nongaming amenity analyses for each market proposal and location.
- 20) Analysis of each lottery gaming enterprise ancillary and nongaming products' and services' ability to compete with the existing products and services in the southeast gaming zone market, including a comparison to the current products and services in the relevant southeast gaming zone market.
- 21) Analysis of the impact of each lottery gaming enterprise ancillary and nongaming proposed products and services on the existing economic ecosystem in the relevant surrounding market region.
- 22) Conduct a revenue leakage study related to the existing lodging, dining, drinking and other existing local establishments in various NAICS classifications, including without limitation, an estimate of the spending by area local residents that might otherwise have taken place in existing local establishments.
- 23) Evaluation of each lottery gaming enterprise ancillary and nongaming facility's proposed development in terms of maximizing revenue, encouraging tourism and otherwise serving the interests of the people of Kansas.
- 24) Comparison of lottery gaming enterprise proposals in terms of maximizing revenue, encouraging tourism and otherwise serving the interests of the people of Kansas.
- 25) Review of economic impact statement provided with each lottery gaming facility manager's proposal to identify and isolate, to the extent possible, the inputs and outputs associated with the respective ancillary and nongaming development, including without limitation, an analysis of the connection between and among economic inputs and outputs.
- 26) Assess the ability to market the proposed products and services successfully, both individually and within the context of a master brand position, if any, for each lottery gaming facility manager's proposal.
- 27) Description of the existing competing products and services currently available in the southeast gaming zone market, and an assessment of the competitive environment in

which each lottery gaming facility manager's proposed property will operate, including without limitation, the advantages and disadvantages of such property.

- 28) Survey of comparable products and services provided by gaming facilities in comparable markets within the United States, including available revenue contribution data from industry sources.
- 29) Review each lottery gaming facility manager proposal's data to insure that all relevant data have been included to accurately model each proposed project, including without limitation, financial and market data.
- 30) Other items as directed by the LGFRB.

Relevant Work Experience

The contractor(s) shall demonstrate to the LGFRB that it has sufficient experience and expertise to provide the consulting services requested, including without limitation, analyzing the casino gaming industry and related economic development impacts, working with local and state governments, a working knowledge of the Kansas Expanded Lottery Act, and the ability to provide quality services within a sixty (60) day time frame estimated to begin on or about April 30, 2015.

General Terms and Contractor Requirements

- A. The contractor(s) will not have any conflict of interest with the Kansas Lottery, the KRGC, or the LGFRB, as well as any conflict of interest involving existing lottery gaming facility managers in the state of Kansas, any of the applicants for the southeast gaming zone, or any casino, racino or tribal gaming establishment in states adjacent to the southeast gaming zone.
- B. The contractor(s) will disclose any working relationships it or its employees, subcontractors or agents have, or are reasonably likely to have in the next five years, with casinos, racinos, tribal gaming establishments and gaming companies.
- C. The contractor(s) will provide details on the nature of work it or its employees, subcontractors or agents have performed, or are negotiating or contracted to perform, for casinos, racinos, tribal gaming establishments and gaming companies.
- D. The contractor(s) shall provide the LGFRB via the KRGC with the names and qualifications of all personnel and/or third party contractors or vendors performing work under this contract. Prior written approval from the LGFRB shall be obtained if the contractor desires to change personnel or third party contractors during the contract period. Each contractor shall provide the qualifications of new personnel or third party contractors to the LGFRB via the KRGC for prior approval.
- E. The contractor(s) will provide consulting services to the LGFRB beginning January 30, 2015, or such other date as the LGFRB may establish, until a lottery gaming facility manager is selected and authorized by LGFRB for the southeast gaming zone.

- F. The contractor(s) agrees to protect information provided by the Kansas Lottery, KRGC, LGFRB and applicants as confidential unless otherwise directed. This includes but is not limited to “trade secrets” and commercial, financial, or other information as provided in lottery gaming facility proposals before the LGFRB.
- G. The contractor(s) will obtain a performance bond upon execution of a contract under this RFP. Failure to perform in accordance with the specifications and tasks outlined in the contract may result in the forfeiture of any performance bond of the contractor and/or in the termination of this contract at the option of the State.
- H. The contractor(s) will submit three (3) references from the last three (3) similar consulting engagements with other states involved in the selection of casino or racino applicants for state gaming.
- I. Any change in the contractor’s scope of the services performed, or any additional hours to be billed beyond the figures stated in the original proposal must be approved in writing by the State in advance.
- J. The contractor(s) warrants that all work under this contract shall be performed by the contractor, its’ employees or subcontractors or agents previously approved by the LGFRB. Failure of the contractor(s) to perform consulting work under this contract personally through contractor, its’ employees or LGFRB-approved subcontractors or agents may result in the termination of this contract.
- K. Beginning with the date of this contract and extending five (5) years from the expiration of the contract, the contractor, its’ employees, or any LGFRB-approved subcontractors or agents used by the contractor shall not engage in work for the lottery gaming facility manager selected by the LGFRB.
- L. The parties agree that any contract executed under this RFP shall be executed in the State of Kansas. In the event the parties are not able to resolve through negotiation or mediation any disputes that arise out of or relate to this contract, the parties agree that the Kansas courts are the appropriate forum for litigation and Kansas law shall apply.
- M. Payment terms are Net 30 days. Payment date shall be based upon K.S.A. 75-6403(b). This statute requires state agencies to pay the full amount due for goods or services or the bill for such goods or services, whichever is later.
- N. The contractor(s) agrees to notify the LGFRB via the KRGC’s executive director of any disputes that arise out of or related to this contract.
- O. The contractor(s) shall agree that proprietary software, tools, methodologies and any other information obtained by the contractor under the contract from prospective lottery gaming facility managers, the LGFRB, and the KRGC are confidential. Prospective lottery gaming facility manager(s), LGFRB and KRGC confidential information are

collectively referred to as “Confidential Information” and are not mutually exclusive. Each party shall use the Confidential Information of the other party which is disclosed to it only for the purposes of this project and shall not disclose such Confidential Information to any third party without the other party’s written consent. Each party agrees to take measures to protect the confidentiality of the other Party’s Confidential Information that, in the aggregate, are not less protective than those measures it uses to protect the confidentiality of its own Confidential Information, but, at a minimum, each party shall take reasonable steps to advise their employees and its subcontractors, if any, of the confidential nature of the Confidential Information and of the prohibitions on copying or revealing such Confidential Information contained herein. The contractor, LGFRB, and KRGC will agree to require that the other party’s Confidential Information be kept in a reasonably secure location.

Scope of Service

The contractor(s) will be required to use professional judgment in completing work. The contractor may also be required to explain the results verbally or in writing to the LGFRB, KRGC management, or other groups. A contractor may provide consulting services related to a specific aspect(s) of the contracts under advisement but must provide consulting services for that aspect(s) for all contracts under advisement.

All work will be conducted at the direction of the Chair of the LGFRB or his designee.

Reporting Requirements

- A. The contractor(s) shall provide a copy of the final report for each member of the LGFRB. The report should include a description of the analysis conducted and objective perspectives for each prospective lottery gaming facility manager’s proposal analyzed.
- B. The contractor(s) may be required to work together to present a complete analysis of all prospective lottery gaming facility managers’ proposals.

Deliverables

Deliverables will be determined on a contract by contract basis and may include but are not limited to the following:

- A) Attend meetings to hear prospective lottery gaming facility managers’ presentations, present reports, respond to any prospective lottery gaming facility managers’ rebuttal, and answer questions.
- B) Prepare relevant data in an objective and informative manner.
- C) Prepare and deliver draft and final editions of the contractor’s work products on a schedule to be set by mutual agreement.

- D) Prepare one or more PowerPoint presentations for presentation to the LGFRB for each prospective lottery gaming facility managers' proposal.
- E) Present a final report and PowerPoint presentation at the appointed times and places in Kansas.

Contractor's Responsibilities

- A) The contractor(s) shall designate a Project Manager who shall be the contact with the LGFRB or its designee. The Project Manager will oversee all activities for the contract.
- B) The contractor(s) shall be responsible for becoming familiar with appropriate State, Federal and local laws and regulations relevant to the specific assignment.
- C) The contractor(s) shall be responsible for personnel, supplies, and equipment.
- D) The contractor(s) shall assume responsibility for all services and work product offered in its bid proposal whether or not contractor produced them.

Bid

The bid should outline a firm fixed fee for each of the following:

- (a) Analysis, review or evaluation being completed;
- (b) Consulting meetings;
- (c) Presentations; and
- (d) Other professional fees.

Travel shall be reimbursed at the State of Kansas rates and should not be considered when setting the fees for the above events.