

AGENDA
ARKANSAS LOTTERY COMMISSION
AUDIT and LEGAL COMMITTEE
Friday, August 5, 2011
Time: 10:00 a.m.
3rd Floor Commission Room
124 West Capitol Avenue
Little Rock, Arkansas

- I. Call to Order
- II. Status of Fiscal Year 2012 Audit Plan
- III. Status Report – Findings and Recommendations from the Division of Legislative Audit's June 30, 2010 Audit Report and Management Letter
- IV. Discussion of Department of Finance and Administration Office of Personnel Management's Letter on Retroactive Pay Awarded by the Arkansas Lottery Commission
- V. Discussion of Retailer Licensing Application
- VI. Discussion of Chief Fiscal Officer Position
- VII. Outside Legal Counsel RFQ
- VIII. Update on Arkansas Lottery Commission Litigation
- IX. Other Business

M E M O R A N D U M

DATE: August 4, 2011
TO: Arkansas Lottery Commission
FROM: Michael F. Hyde, Internal Auditor *mch*
SUBJECT: Education Trust and Scholarship Shortfall Reserve Trust
Accounts Review – June 2011

Attached is the report for the Education Trust and Scholarship Shortfall Reserve Trust Accounts Review for June 2011. There are no findings and recommendations included in the Audit Report.

Should you have any questions regarding this report, please contact me at 501-683-2010.

c: Ernie Passailaigue, Arkansas Scholarship Lottery Executive Director



Arkansas Lottery Commission
Education Trust & Scholarship Shortfall Reserve Trust Accounts Review
June 30, 2011
Report Date: August 4, 2011

Michael F. Hyde, CPA, CIA, CISA, CFE *mfh*

Internal Auditor

Background

Educational Trust Account

The purpose of the Arkansas Scholarship Lottery (Lottery) is to fund and provide for scholarships and grants to citizens of the State of Arkansas enrolled in public and private nonprofit two-year and four-year colleges and universities located within the state. The Arkansas Scholarship Lottery Act (Act) requires that on or before the fifteenth day of each month, the Arkansas Lottery Commission deposits the net proceeds from the lottery into the Educational Trust Account. The Act states that the Arkansas Lottery Commission shall use the services of the Department of Higher Education to administer scholarships funded with net proceeds from the lottery.

The balance of the Educational Trust Account is \$74,562,358.35 and earns interest at a rate of .55% as of August 5, 2011. The following schedules are included as part of this report: the Education Trust Account activity for June 2011, activity for Fiscal Year 2011 and net lottery proceeds by fiscal year.

Scholarship Shortfall Reserve Trust Account

Effective July 1, 2010, the Arkansas Scholarship Lottery Act requires the Arkansas Lottery Commission to maintain a Scholarship Shortfall Reserve Trust Account in case net proceeds in any year are not sufficient to meet the amount allocated for higher education scholarships. The Act states that an amount equal to four percent (4%) of the total amount of net proceeds disbursed during the preceding fiscal year in the form of scholarships for higher education shall be deposited from lottery proceeds each year until the amount in the account equals \$20,000,000.00. Thereafter, only an amount necessary to maintain the \$20,000,000.00 balance is required to be deposited into the account.



Arkansas Lottery Commission
Education Trust & Scholarship Shortfall Reserve Trust Accounts Review
June 30, 2011
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Internal Auditor

Act 286 of the 2010 Fiscal Session

Act 286 of the 2010 Fiscal Session appropriated to the Department of Higher Education the sum of \$20,000,000.00 to be payable from the Higher Education Grants Fund Account to the Arkansas Lottery Commission's Scholarship Shortfall Reserve Trust Account. The Scholarship Shortfall Reserve Trust Account was fully funded on August 31, 2010. Interest earned from the Scholarship Shortfall Reserve Trust Account will be transferred to the Lottery's operating account and included as part of the net lottery proceeds. A schedule of the Scholarship Shortfall Reserve Trust Account activity for June 2011 is included as part of this report.

Scope and Methodology

The procedures performed entailed reviewing bank statements, custody pledge statements, and related transaction records for the period of June 2011.

Objectives

- Review transactions to ensure funds are deposited and disbursed in accordance with the Arkansas Scholarship Lottery Act.
- Confirm the balances of the Education Trust Account and the Scholarship Shortfall Reserve Trust Account as of June 30, 2011.
- Ensure the Education Trust and the Scholarship Shortfall Reserve Trust Accounts are properly collateralized as of June 30, 2011.

Conclusion

There are no findings or recommendations to report.

Arkansas Scholarship Lottery
Education Trust and Scholarship Shortfall Reserve Trust Accounts Review
Account Activity - Scholarship Shortfall Reserve Trust Account
June 30, 2011

Balance as of May 31, 2011 \$ 20,009,344.92

Deposits:

Interest Payment - 06/30/2011 9,041.10

Withdrawals:

Transfer to Operating Account - 06/01/2011
(Interest Payment received on 05/31/2011) (9,344.92)

Balance as of June 30, 2011 \$ 20,009,041.10

Arkansas Lottery Commission
 2011 - 2012 Internal Audit Plan
 Status Report
 August 5, 2011

Audit	Description	Status	Comments
Facilitate Lottery Risk Assessment required by DFA	Biennial request by DFA to identify risk to Lottery operations, likelihood of occurrence, impact on operations, and controls implemented by Lottery management to mitigate identified risk.	Planned	
Gaming System SSAE 16 Review (Annually)	Review Gaming System SSAE 16 Report prepared by independent auditors.	In Progress	Internal Audit and Legislative Audit participated in planning discussions with an independent accounting firm conducting the review. Expected report date September 2011.
Financial Statements & Comprehensive Annual Financial Report (CAFR) Review (Annually)	Review of Fiscal Year 2011 Financial Reports.	In Progress	Internal Audit has completed a review of the Education Trust Account Transfer Process. See report and accompanying schedule. Finance Division is in the process of finalizing FY 2011 financial statements and notes.

**Arkansas Lottery Commission
2011 - 2012 Internal Audit Plan
Status Report
August 5, 2011**

Audit		Description	Status	Comments
Periodic Review	Instant Ticket Quality Reports (Annually)	Review independent quality control reports of ASL instant tickets.	Planned	
	Revenue/Prize Payments - Instant Ticket Games (Annually)	Review to ensure instant ticket game sales, prize expenses, prizes payable, and unclaimed prizes are properly accounted for.	Fieldwork in Progress	10% Complete
	Retailer Sweeps (Annually)	To assess the existence and effectiveness of the controls and processes established by management of the Arkansas Scholarship Lottery to ensure the proceeds from on-line and instant ticket lottery game sales are collected in full and in a timely manner.	Fieldwork in Progress	20% Complete
	Revenue/Prize Payments/Reserves - Online Games (Annually)	Review to ensure online game sales, prize expenses, prizes payable, reserve accounts, and unclaimed prizes are properly accounted for.	Fieldwork in Progress	80% Complete
	High-Tier Prize Payments Documentation (Biannual)	Review the processing and supporting documentation of high tier prize payouts.	Planned	
	Education Trust Funds	Review transactions, confirm balance, and ensure sufficient collateralization. Provide Arkansas Lottery Commission with a schedule of Educational Trust Account transactions.	Monthly	June 2011 Report completed August 4, 2011.
	Employee Travel Reimbursement	Review employee travel reimbursements. Ensure sufficient documentation is obtained and confirm reimbursement amount. Provide Arkansas Lottery Commission with a schedule of employee travel.	Monthly	June 2011 schedule completed. In process of preparing a schedule by individual for Fiscal Year 2011.
	MSR Personal Vehicle Mileage Reimbursement	Review MSR personal vehicle mileage reimbursements. Ensure sufficient documentation is obtained and confirm reimbursement amount. Provide Arkansas Lottery Commission with a schedule of MSR personal vehicle mileage.	Monthly	June 2011 schedule completed.

**Arkansas Lottery Commission
2011 - 2012 Internal Audit Plan
Status Report
August 5, 2011**

Audit	Description	Status	Comments
Licensing - Applications	Review the internal controls surrounding the retailer licensing process (applications).	Planned	Audit fieldwork will begin in August 2011.
Licensing - Renewals	Review the internal controls surrounding the retailer licensing process (renewals).	Planned	Audit fieldwork will begin in August 2011.
Prize Validation & Payments	Review of the internal controls surrounding high-tier prize validations and payments.	Planned	
Instant Ticket Lottery Game Services Contract Compliance	Contract compliance audit of the Instant Ticket Lottery Game Services Contract (Scientific Games).	Planned	
Back Office System (BOS) Administration	Internal control review of the Lottery's Back Office System's (BOS) Administration functions.	Planned	
(See Note 1) Instant Ticket Game Loads	Review of the internal controls surrounding the Instant Game Management System (IGMS), including access controls and instant ticket game load, testing, and processing.	Planned	
(See Note 1)			

Note 1: The inclusion of this project as part of the Internal Auditor is dependent on the availability of a qualified part-time auditor to assist Internal Audit.

**ALC Internal Audit
Special Projects – Financial Statements Review
Education Trust Account Transfer
Fiscal Year 2011**

- The objective of this project was to review the Lottery's process of calculating the amount of lottery proceeds that are transferred to the Education Trust Account.
- Based on our review, an additional \$60,972.09 should be transferred to the Education Trust Account as of June 30, 2011. Lottery management concurs. This amount consist of FY 2010 adjustments totaling \$93,812.31, FY 2011 adjustments totaling (\$28,252.76), and (\$4,587.46) of FY 2011 expenses (accounts payable) in which the invoice was received after the June 2011 Education Trust Account transfer date of July 15, 2011.
- Internal Audit met with the Arkansas Lottery's Director, Vice President of Administration, Chief Fiscal Officer, and Controller on August 1, 2011 to discuss Internal Audit's recommendations concerning the Education Trust Account transfer calculation. Internal Audit recommends the following:
 1. Lottery management should develop written policies and procedures to document the calculation, review, and transfer procedures of Lottery net proceeds transferred monthly to the Education Trust Account.
 2. Lottery management should ensure that the calculation and transfer documents are reviewed and approved prior to the transfer.
 3. Reconciliations should be performed each month to ensure that the amount transferred to the Education Trust Account is accurate.

In addition to the matters noted above, Internal Audit noted the following during this review which are unrelated to the Education Trust Account transfer:

1. Promotional and marketing items purchased through the instant ticket game vendor should be posted to the marketing, advertising, and promotions account rather than gaming contract costs.

Lottery management has indicated that the issues noted above will be addressed by the Finance Division.

**ALC Internal Audit
Special Projects - Financial Statements
Education Trust Account Transfer
Fiscal Year 2011**

	6/30/2010	6/30/2011
Reconciliation: Income Before Transfers per Financial Statements to Amount due Education Trust Fund		
Income before Transfers per June 30 Financial Statement	82,173,801.00	94,159,720.06
Adjustments to Calculate Transfer:		
Convert Instant Ticket Game Sales to Cash Basis - FY 2010	(10,889,100.00)	10,889,100.00
Convert Instant Ticket Game Sales to Cash Basis - FY 2011		(10,252,040.00)
Convert Instant Ticket Game Prizes to Cash Basis - FY 2010	12,555,811.56	(12,555,811.56)
Convert Instant Ticket Game Prizes to Cash Basis - FY 2011		14,140,142.72
Depreciation	122,643.00	179,750.21
Net Post Employment Benefits Payable (Arkansas Code 23-115-103 (17)(D))		230,021.67
Transfer to Arkansas Department of Health - Gambling Education Funding	(200,000.00)	(200,000.00)
Capital Assets Purchased - FY 2010	(990,250.00)	990,250.00
Capital Assets Purchased - FY 2011		(1,025,081.56)
Multi-State Lottery Association (MUSL) Reserves - FY 2010	(457,268.00)	457,268.00
Multi-State Lottery Association (MUSL) Reserves - FY 2011		(1,138,132.70)
Retailer Fidelity Funds Collected - FY 2010	(18,831.00)	18,831.00
Retailer Fidelity Funds Collected - FY 2011		(42,205.28)
FY 2009 Expenses Included in FY 2010 Transfer Calculation	(16,468.00)	
FY 2010 Excess Transfer		(519,471.67)
Restricted for Future Prizes or Special Prize Promotion (Act 1180 - Unclaimed Prizes)		(1,000,000.00)
Miscellaneous Adjustment - Rounding	(1.62)	(2.27)
Total Adjustments	106,535.94	172,618.56
Amount Due Education Trust Fund per Internal Audit	82,280,336.94	94,332,338.62
Previously FY Transfers and Education Trust Account Interest Earned	76,707,683.23	90,556,089.54
June Education Trust Account Interest	32,900.15	24,714.99
Total Funds in Education Trust Account as of June 30	76,740,583.38	90,580,804.53
June Transfer Amount per Internal Audit	5,539,753.56	3,751,534.09
Reconciliation: Cash Balance		
Cash and Cash Equivalents June 30	6,758,242.00	8,942,891.06
Less: June Transfer Amount per Internal Audit	(5,539,753.56)	(3,751,534.09)
Cash to Reconcile	1,218,488.44	5,191,356.97
Cash Needed as of June 30 per Balance Sheet Accounts		
Accounts Receivable	(14,289,726.00)	(11,230,161.32)
Instant Ticket Sales Cash Basis (Remove Activated not Settled)	10,889,100.00	10,252,040.00
Prepaid Items	(5,119.00)	(77,256.47)
Accounts Payable	746,237.00	1,267,778.06
Prizes Payable	14,150,176.00	15,981,897.64
Instant Ticket Game Prizes Cash Basis (Remove Unclaimed Prizes)	(12,555,811.56)	(14,140,142.72)
Other Accrued Liabilities	924,717.00	1,159,967.44
Due to other Funds	371,659.00	1,330,400.14
Deferred Revenue	274,307.00	355,236.50
Compensated Absences	482,927.00	291,597.70
Net Post Employment Benefits Payable	230,022.00	
Total Cash Needed as of June 30 per Balance Sheet Accounts	1,218,488.44	5,191,356.97
Difference	0.00	0.00
Amount Due Education Trust Fund per Internal Audit	82,280,336.94	94,332,338.62
Amount Transferred	(82,799,808.61)	(94,271,366.53)
Difference	(519,471.67)	60,972.09
Reconciling Items - Amount Due to Education Trust Account as of June 30, 2011		
FY 2010 Unclaimed Prizes not reflected in Prize Expense		137,252.00
Instant Ticket Adjustments made to transfer amount in error FY 2010		(43,439.69)
FY 2010 Audit Adjustments		93,812.31
Instant Ticket Adjustments made to transfer amount in error FY 2011		(3,537.77)
Excess Transfer - June 2011 Education Trust Account Interest		(24,714.99)
FY 2011 Audit Adjustments		(28,252.76)
FY 2011 Expenses Received After June 2011 Transfer Date (July 15, 2011)		(4,587.46)
Total Amount Due Education Trust Account - June 30, 2011		60,972.09
Transfer Amount per Internal Audit - June 2011		3,751,534.09
Actual Transfer Amount - June 2011		3,690,562.00
Total Amount Due Education Trust Account - June 30, 2011		60,972.09

**Arkansas Scholarship Lottery
June 2011 Travel Disbursements**

Employee Name Last First	Payment Date	Travel Period		Purpose	Location	Transportation		Hotel	Food	Incidentals	Total
		Beginning	Ending			Type	Cost				
Baldrige Julie	6/8/2011	5/3/2011	5/31/2011	Presentations and delivery of supplies.	Booneville, AR; Russellville, AR; Bentonville, AR; Sheridan, AR; and Little Rock, AR	Personal Vehicle	383.12	-	-	-	383.12
Hudson Ivan	6/28/2011	6/20/2011	6/22/2011	Traveled to Memphis, TN to attend the 2011 Economic Development Fair The MIMBC Continuum (a diversity and economic development conference).	Memphis, TN	Personal Vehicle	113.40	222.62	25.13	37.15	398.30
Meredith-Parker Angela	6/3/2011	5/31/2011	5/31/2011	Traveled to Hector, AR; Atkins, AR; and Dover, AR to assist with investigations.	Hector, AR; Atkins, AR; and Dover, AR	Personal Vehicle	85.68	-	-	-	85.68
							\$ 199.08	\$ 222.62	\$ 25.13	\$ 37.15	\$ 867.10

Note: Reimbursements for Marketing Sales Representatives are shown on a separate schedule.

Arkansas Scholarship Lottery
Personal Vehicle Mileage Reimbursement - Marketing Sales Representatives
June 2011

Employee Name	Dates of Travel	Payment Date	Mileage	Reimbursement	Total Reimbursement
Biernat, Andy	05/13/11 - 05/19/11	6/3/2011	171.3	\$ 71.95	
	05/23/11 - 05/27/11	6/13/11	228.2	95.84	
	05/31/11 - 06/02/11	6/20/11	90.66	38.08	
	06/06/11 - 06/10/11	6/22/11	232.42	97.62	
	06/13/11 - 06/17/11	6/24/11	160.41	<u>67.37</u>	
					\$ 370.86
Carlock, Cindy	05/16/11 - 05/20/11	6/3/11	434.9	\$ 182.66	
	05/23/11 - 05/27/11	6/13/11	678.3	284.89	
	05/31/11 - 06/03/11	6/20/11	242	101.64	
	06/06/11 - 06/10/11	6/22/11	475.8	<u>199.84</u>	
					\$ 769.02
Cassil, Don	05/16/11 - 05/20/11	6/3/11	331	\$ 139.02	
	05/23/11 - 05/27/11	6/13/11	317	133.14	
	05/31/11 - 06/03/11	6/20/11	258	108.36	
	06/06/11 - 06/10/11	6/22/11	354	148.68	
	06/13/11 - 06/17/11	6/24/11	172	<u>72.24</u>	
					\$ 601.44
Chambers, Linda	05/16/11 - 05/19/11	6/3/11	753	\$ 316.26	
	05/24/11 - 05/27/11	6/13/11	884	371.28	
	05/31/11 - 06/03/11	6/20/11	570	239.40	
	06/06/11 - 06/10/11	6/22/11	849	356.58	
	06/13/11 - 06/17/11	6/24/11	832	<u>349.44</u>	
					\$ 1,632.96
Conrad, Rick	05/16/11 - 05/20/11	6/3/11	733.3	\$ 307.99	
	05/31/11 - 06/03/11	6/20/11	612.6	257.29	
	06/06/11 - 06/10/11	6/22/11	744.9	312.86	
	06/13/11 - 06/17/11	6/24/11	622.9	<u>261.62</u>	
					\$ 1,139.75
Cotton, William	05/16/11 - 05/20/11	6/3/11	681.8	\$ 286.36	
	05/23/11 - 05/27/11	6/13/11	698.6	293.41	
	05/31/11 - 06/03/11	6/20/11	371.6	156.07	
	06/06/11 - 06/10/11	6/22/11	723.7	303.95	
	06/13/11 - 06/17/11	6/24/11	645.1	<u>270.94</u>	
					\$ 1,310.74
Devecki, Susan	05/16/11 - 05/20/11	6/3/11	491.1	\$ 206.26	
	05/23/11 - 05/27/11	6/13/11	526.3	221.05	
	05/31/11 - 06/03/11	6/20/11	302.9	127.22	
	06/06/11 - 06/10/11	6/22/11	601.3	252.55	
	06/13/11 - 06/14/11	6/24/11	409	<u>171.78</u>	
					\$ 978.85
Dunavant, Fred	05/16/11 - 05/20/11	6/3/11	298.4	\$ 125.33	
	05/23/11 - 05/27/11	6/13/11	260.8	109.54	
	05/31/11 - 06/03/11	6/20/11	277.2	116.42	
	06/06/11 - 06/10/11	6/22/11	458.2	192.44	
	06/13/11 - 06/17/11	6/24/11	507.9	<u>213.32</u>	
					\$ 757.05

Note: Mileage reimbursement is \$0.42 a mile.

* Tested Mileage Log and Reimbursement Form based on Travel Expense Reimbursement Policy revised March 3, 2011.

Arkansas Scholarship Lottery
Personal Vehicle Mileage Reimbursement - Marketing Sales Representatives
June 2011

Employee Name	Dates of Travel	Payment Date	Mileage	Reimbursement	Total Reimbursement
Fitch, Jeff	5/20/2011	6/3/11	82.4	\$ 34.61	
	05/23/11 - 05/26/11	6/13/11	259.8	109.12	
	05/31/11 - 06/03/11	6/20/11	321.2	134.90	
	06/06/11 - 06/10/11	6/22/11	371.5	<u>156.03</u>	
Forte, Merrill	05/16/11 - 05/20/11	6/3/11	319.9	\$ 134.36	
	05/23/11 - 05/27/11	6/13/11	434	182.28	
	05/31/11 - 06/03/11	6/20/11	265.7	111.59	
	06/06/11 - 06/08/11	6/22/11	116.4	48.89	
	06/14/11 - 06/17/11	6/24/11	512	<u>215.04</u>	
Freeman, Charles	05/16/11 - 05/20/11	6/3/11	574.3	\$ 241.21	
	05/23/11 - 05/27/11	6/13/11	214.2	89.96	
	05/31/11 - 06/03/11	6/20/11	395.9	166.28	
	06/06/11 - 06/10/11	6/22/11	420.5	176.61	
	06/13/11 - 06/17/11	6/24/11	536	<u>225.12</u>	
Harris, Molly	05/16/11 - 05/20/11	6/3/11	345	\$ 144.90	
	05/23/11 - 05/27/11	6/13/11	359.9	151.16	
	05/31/11 - 06/03/11	6/20/11	316.6	132.97	
	06/06/11 - 06/10/11	6/22/11	414.7	174.17	
	06/13/11 - 06/16/11	6/24/11	290.3	<u>121.93</u>	
Harris, Rhonda	05/16/11 - 05/20/11	6/3/11	402.75	\$ 169.16	
	05/03/11 - 06/03/11	6/20/11	122.3	51.37	
	05/23/11 - 05/27/11	6/22/11	250.8	105.34	
	06/06/11 - 06/10/11	6/22/11	378.5	158.97	
	06/13/11 - 06/17/11	6/24/11	616.4	<u>258.89</u>	
Heard, Dean	05/16/11 - 05/20/11	6/3/11	547.4	\$ 229.91	
	05/23/11 - 05/27/11	6/13/11	532	223.44	
	05/30/11 - 06/03/11	6/20/11	502.3	210.97	
	06/06/11 - 06/10/11	6/22/11	552.5	232.05	
	06/13/11 - 06/17/11	6/24/11	573.6	<u>240.91</u>	
Hearn, Mark	04/26/11 - 05/19/11	6/3/11	2133.2	\$ 895.94	
	05/25/11 - 06/16/11	6/24/11	1641.2	<u>689.30</u>	
Mustafa, Ali	05/16/11 - 05/20/11	6/3/11	279.2	\$ 117.26	
	05/23/11 - 05/27/11	6/13/11	127.6	53.59	
	05/30/11 - 06/03/11	6/20/11	230.4	96.77	
	06/06/11 - 06/10/11	6/22/11	254.6	106.93	
	06/13/11 - 06/17/11	6/24/11	297.1	<u>124.78</u>	

Note: Mileage reimbursement is \$0.42 a mile.

* Tested Mileage Log and Reimbursement Form based on Travel Expense Reimbursement Policy revised March 3, 2011.

Arkansas Scholarship Lottery
Personal Vehicle Mileage Reimbursement - Marketing Sales Representatives
June 2011

Employee Name	Dates of Travel	Payment Date	Mileage	Reimbursement	Total Reimbursement
Smith, Don	05/16/11 - 05/20/11	6/3/11	200.7	\$ 84.29	
	05/23/11 - 05/27/11	6/13/11	196.19	82.40	
	06/01/11 - 06/03/11	6/20/11	130.8	54.94	
	06/06/11 - 06/10/11	6/22/11	194.1	81.52	
	06/13/11 - 06/17/11	6/24/11	183.5	<u>77.07</u>	
					\$ 380.22
Smith, Robert	05/23/11 - 05/27/11	6/13/11	823.4	\$ 345.83	
	06/01/11 - 06/03/11	6/20/11	628.4	263.93	
	06/06/11 - 06/10/11	6/22/11	956.3	401.65	
	06/13/11 - 06/17/11	6/24/11	646.3	<u>271.44</u>	
					\$ 1,282.84
Stobaugh, Debbie	05/16/11 - 05/20/11	6/3/11	326	\$ 137.09	
	05/23/11 - 05/25/11	6/13/11	209.6	88.03	
	05/31/11 - 06/02/11	6/20/11	249.2	104.66	
	6/3/2011	6/20/11	88.1	37.00	
	06/06/11 - 06/10/11	6/22/11	220.80	92.73	
	06/13/11 - 06/17/11	6/24/11	439.9	<u>187.76</u>	
					\$ 647.28
Tater, Lisa	05/18/11 - 05/19/11	6/3/11	342.1	\$ 143.68	
	05/25/11 - 05/27/11	6/13/11	336.88	141.49	
	06/01/11 - 06/02/11	6/20/11	596.93	250.71	
	06/14/11 - 06/17/11	6/24/11	529.95	<u>222.58</u>	
					\$ 758.46
Tatom, Jr., Sam	05/16/11 - 05/20/11	6/3/11	531.4	\$ 223.19	
	05/23/11 - 05/27/11	6/13/11	761.3	319.75	
	05/31/11 - 06/03/11	6/20/11	338.4	142.13	
	06/06/11 - 06/10/11	6/22/11	762.1	320.09	
	06/13/11 - 06/17/11	6/24/11	519.6	<u>218.23</u>	
					\$ 1,223.38
White, La'Tonyalyn	05/16/11 - 05/20/11	6/3/11	290	\$ 121.80	
	05/23/11 - 05/27/11	6/13/11	264	110.88	
	05/30/11 - 06/03/11	6/20/11	174	73.08	
	06/06/11 - 06/10/11	6/22/11	268	112.56	
	06/13/11 - 06/17/11	6/24/11	307.2	<u>129.02</u>	
					\$ 547.34
					<u>\$ 19,116.90</u>

Note: Mileage reimbursement is \$0.42 a mile.

* Tested Mileage Log and Reimbursement Form based on Travel Expense Reimbursement Policy revised March 3, 2011.

Arkansas Lottery Commission – Internal Audit

Review of Findings and Recommendations from the Division of Legislative Audit's June 30, 2010 Audit Report and Management Letter

Status Report – August 5, 2011

Audit Report Finding 2010-1:

Ark. Code Ann. § 23-115-206 (a) (6) requires the Agency to “prepare the financial statements, including the related notes to the financial statements, of the commission in accordance with generally accepted accounting principles (GAAP) and in accordance with guidelines and timelines established by the Chief Fiscal Officer of the State to permit incorporation into the state's financial statements and to permit the audit of the state's financial statements and the commission's financial statements in a timely manner;”. The Agency did not prepare the June 30, 2010 financial statements and related notes in accordance with GAAP. The failure to prepare the financial statements and related notes in accordance with GAAP resulted in errors and omissions that could adversely affect the inclusion of the Arkansas Lottery Commission Financial Statements and related notes in the State's Comprehensive Annual Financial Report.

Recommendation for Finding 2010-1:

We recommend the Agency strengthen internal control over financial reporting by ensuring appropriate employees are qualified and knowledgeable of all applicable Governmental Accounting Standards and prepare the financial statements and related notes in accordance with GAAP.

Audit Objective #1

Review the Arkansas Lottery Commission's June 30, 2011 financial statements and related notes prior to submission to the Division of Legislative Audit.

Status as of August 5, 2011

Audit fieldwork planned

- The finding relates to the Lottery's annual financial statements and related notes.
- Therefore, this finding cannot be addressed until the June 30, 2011 financial statements and notes are prepared.
- Internal Audit anticipates performing fieldwork associated with this objective in July 2011 and August 2011.

Arkansas Lottery Commission – Internal Audit

Review of Findings and Recommendations from the Division of Legislative Audit's June 30, 2010 Audit Report and Management Letter

Status Report – August 5, 2011

Audit Report Finding 2010-2:

Ark. Code Ann. § 23-115-205 (a) (20) states that the Commission may enter into contracts with the terms and conditions as necessary. In addition, Ark. Code Ann. § 23-115-701 (e) (1) states that each major procurement contract shall be filed with the Arkansas Lottery Commission Legislative Oversight Committee (LOC) for review before the execution date of the contract. The Commission approved and LOC reviewed the instant ticket lottery game service contract with a stated cost of 1.75% of net sales. Subsequent to this review, Management entered into a *Recital of Selected Options* with a cost of 1.92% of net sales plus an additional cost of 1.5% of the prize pool. The estimated cost of the *Recital of Selected Options* compared to the original reviewed price proposal is an additional \$3.9 million per year. In addition to the *Recital of Selected Options*, Management entered into three licensing agreements with the vendor with a total estimated cost of \$671,861. The subsequent *Recital of Selected Options* and three licensing agreements were not approved by the Commission or reviewed by LOC. Lack of appropriate review of contracts and modifications of contracts could lead to a lack of transparency to the LOC and public.

Recommendation for Finding 2010-2:

We recommend the Agency ensure compliance with State law by submitting appropriate documents for review by the Arkansas Lottery Commission Legislative Oversight Committee.

NOTE – This finding was cleared by Internal Audit on March 8, 2011.

Audit Objective #2

Determine that the Arkansas Lottery Commission Legislative Oversight Committee and Arkansas Lottery Commission have reached an agreement concerning the submission of appropriate contract documents for review by the Arkansas Lottery Commission Legislative Oversight Committee.

No Findings or Recommendations. Lottery management has agreed to provide immediate notice to the Arkansas Lottery Commission Legislative Oversight Committee of all agreements described in a letter from the Co-chairs of the Committee dated December 14, 2010.

Arkansas Lottery Commission – Internal Audit

**Review of Findings and Recommendations from the Division of Legislative Audit's
June 30, 2010 Audit Report and Management Letter**

Status Report – August 5, 2011

Audit Objective #3

Determine that Lottery management is submitting appropriate contractual documents for review by the Arkansas Lottery Commission Legislative Oversight Committee.

No Findings or Recommendations. Lottery management has submitted to the Arkansas Lottery Commission Legislative Oversight Committee all licensed instant ticket game agreements (2) entered into from July 1, 2010 through February 28, 2011. The Arkansas Lottery Commission's legal counsel has indicated that the Lottery is in compliance with the contents of the letter from the Co-chairs of the Committee dated December 14, 2010.

Arkansas Lottery Commission – Internal Audit

Review of Findings and Recommendations from the Division of Legislative Audit's June 30, 2010 Audit Report and Management Letter

Status Report – August 5, 2011

Management Letter Finding #1:

Ark. Code Ann. § 23-115-403 (f) (1) prohibits the payment of lottery prizes to certain individuals who are members of the Commission, employees of the Commission, or member of the immediate family of a Commissioner or employee of the Commission. Currently, the Agency conducts prize payment reviews for Powerball and Mega Millions prize payments of \$10,000 or more and second chance drawings for instant games. The Agency does not review prize payments for instant ticket games nor prize payments below \$10,000 for on-line games. In a review of the database used to perform the prize payment review, it was noted that current information within the database required to comply with State law is incomplete. Management utilizes social security numbers to aid in compliance with State law, but 75% of the employees and relatives did not have a social security number listed including the Executive Director, Vice President of Gaming, and 12 other employees. An additional requirement for the database was the address of the prohibited player. In the review of the database, 15% of the employees and relatives had incomplete information including six employees. In addition, four employees were not included in the database. Failure to comply with State law could allow inappropriate lottery prize payments and loss of integrity for the Arkansas Lottery Commission.

Recommendation for Management Letter Finding #1:

We recommend the Agency obtain information from commission members, employees and others deemed necessary to complete the comprehensive database and conduct the prize payment reviews required by State law.

NOTE – This finding was cleared by Internal Audit on June 6, 2011.

Audit Objective #4

Determine that Lottery management has established procedures in which a winner claiming a prize in excess of \$500 affirms, by signature, that they are not an ineligible player as defined by State law.

No Findings or Recommendations. The Arkansas Scholarship Lottery Winner Claim Form has been updated to state the following:

I further attest that I am not an ASL Commissioner or an ASL employee, nor am I a member of the immediate family of an ASL Commissioner or ASL employee.

Arkansas Lottery Commission – Internal Audit

Review of Findings and Recommendations from the Division of Legislative Audit's June 30, 2010 Audit Report and Management Letter

Status Report – August 5, 2011

Audit Objective #5

Determine that Lottery management has established, to the extent possible, a database of ineligible players to ensure prize payments in excess of \$500 are not paid to an individual deemed ineligible to win a Lottery prize as defined by State law.

No Findings or Recommendations.

- Act 207 of 2011 changed the requirements regarding prohibited players to the following:

The commission shall not pay a lottery prize that exceeds the amount of five hundred dollars (\$500) to any: (A) Member of the commission; (B) Employee of the commission; or (C) Member of the immediate family of a member of the commission or an employee of the commission living in the same household as the member of the commission or the employee.

- Lottery management has developed a database of all ineligible players based on the criteria included in Act 207 of 2011.
- Internal Audit tested the ineligible player database for completeness as of May 5, 2011. No exceptions were noted.
- A module in the gaming system to automate the procedure of verifying the eligibility of a player in the validation process of high-tier prize payments was implemented on April 25, 2011.
- Internal Audit tested the Lottery's gaming system's ineligible player verification module to ensure that any player included in the ineligible player database that attempts to redeem a lottery prize in excess of \$500 is flagged by the system and payment of the prize is disallowed. No exceptions were noted.
- Lottery management has developed policies and procedures to establish rules and guidelines for maintaining an accurate and up-to-date database of ineligible players as outlined in Act 207 of 2011.

Arkansas Lottery Commission – Internal Audit

**Review of Findings and Recommendations from the Division of Legislative Audit's
June 30, 2010 Audit Report and Management Letter**

Status Report – August 5, 2011

Legislative Audit Management Letter Finding #2:

Ark. Code Ann. § 23-115-303 (e) and (f) requires each person considered for employment by the Commission submit to a state and federal background check. Arkansas Code further states that the Commission cannot employ anyone who has been convicted or entered a plea agreement for certain criminal offenses. Nineteen individuals employed by the Commission were selected for review; of which, all background checks were completed subsequent to the first day of employment. The failure to complete the background checks prior to employment resulted in the employment and subsequent termination of two individuals with previous criminal offenses.

Legislative Audit Recommendation for Management Letter Finding #2:

We recommend the Agency develop policies and procedures to ensure criminal background checks are received prior to employment.

NOTE – This finding was cleared by Internal Audit on January 7, 2011.

Audit Objective #6

Determine that Lottery management has established written policies and procedures concerning employee background checks.

No Findings or Recommendations. Written policies and procedures have been developed for employee background checks.

Audit Objective #7

Determine that background checks are received and reviewed prior to the first day of employment.

No Findings or Recommendations. Audit fieldwork revealed that for all employees hired between the dates of April 19, 2010 through January 7, 2011, a background check was received and reviewed prior to the first day of employment.

Arkansas Lottery Commission – Internal Audit

Review of Findings and Recommendations from the Division of Legislative Audit's June 30, 2010 Audit Report and Management Letter

Status Report – August 5, 2011

Legislative Audit Management Letter Finding #3:

Ark. Code Ann. § 23-115-206 (a) (1) requires the Commission to establish effective internal controls. To effectively establish internal controls, management should communicate policy and procedures to all staff. Management did not communicate the policy and procedures for the accrual and use of compensatory time to exempt staff until August 3, 2010 for time purportedly earned between July 1 and November 30, 2009. Subsequent to the issuance of the formal policy, numerous changes were made by management including a suspension of compensatory time usage. In addition, management was unable to properly account for the potential compensatory time resulting in ten different versions of compensatory time being submitted for audit. Due to the numerous changes made to the compensatory time policy, at the end of audit fieldwork, it remains unclear what the Agency had established as policy. The failure to establish and communicate policy has led to confusion with the 23 affected employees and has created a potential liability for some staff, who may be required to reimburse the Agency for compensatory time already taken.

Legislative Audit Recommendation for Management Letter Finding #3:

We recommend the Agency strengthen internal controls by communicating applicable policies and procedures to staff in a timely manner. We further recommend the Agency obtain guidance from the Chief Fiscal Officer of the State regarding reimbursement of any overpayments that may be determined.

NOTE – This finding was cleared by Internal Audit on August 5, 2011.

Audit Objective #8

Determine if any additional compensatory time has been granted to exempt employees since the audit report date of June 30, 2010.

No Findings or Recommendations. Internal Audit reviewed leave records and inquired of applicable employees and determined that no additional compensatory time has been awarded to exempt employees.

Arkansas Lottery Commission – Internal Audit

**Review of Findings and Recommendations from the Division of Legislative Audit's
June 30, 2010 Audit Report and Management Letter**

Status Report – August 5, 2011

Audit Objective #9

Determine if Lottery management has established written policies and procedures for the use of the 80 hours of compensatory time approved by the Arkansas Lottery Commission.

No Findings or Recommendations. Lottery management has established a *Compensatory Time Policy*. In addition, an email written by the Lottery's Human Resources Director provided guidance to effected employees regarding usage of the compensatory time awarded.

Audit Objective #10

Determine that compensatory time usage is accounted for in accordance with policies and procedures, approved, and adequately supported.

No Findings or Recommendations. Internal Audit performed a test of compensatory time usage records and determined that time is accounted for in accordance with policies and procedures, approved, and adequately supported.

Arkansas Lottery Commission – Internal Audit

Review of Findings and Recommendations from the Division of Legislative Audit's June 30, 2010 Audit Report and Management Letter

Status Report – August 5, 2011

Audit Objective #11

Determine that the Executive Director and Vice Presidents are repaying compensatory time in accordance with the methodology submitted and reviewed by the Arkansas Lottery Commission.

No Findings or Recommendations.

Executive Director

The Executive Director has repaid all 16 hours compensatory time used by reducing his annual leave balance.

Vice President of Gaming

The Vice President of Gaming has repaid all 134.5 hours compensatory time used by reducing his annual leave balance (52.5 hours) and compensation (82 hours).

Vice President of Administration

The Vice President of Gaming has repaid all 178.5 hours compensatory time used in the following manner:

- A reduction in compensation of eight hours per check for eleven (11) pay periods (88 hours)
- A reduction in compensation of approximately seven and a half hours for one (1) pay period (7.5 hours)
- A payroll deduction overpayment of \$57.69 (.53 hours) not returned to the Vice President of Administration
- Forfeiture of her fiscal year 2011 cost-of-living adjustment (COLA) lump sum payment of \$3,845.00 and merit pay increase of \$5,077.24 (82.48 hours)

Arkansas Lottery Commission – Internal Audit

Review of Findings and Recommendations from the Division of Legislative Audit's June 30, 2010 Audit Report and Management Letter

Status Report – August 5, 2011

Legislative Audit Management Letter Finding #4:

Act 605 and 606 of 2009, as amended, known as the Arkansas Scholarship Lottery Act, set the executive director's salary at \$141,603 with multipliers of up to 2.5 times resulting in a maximum salary of \$354,007. Ark. Code Ann. § 23-115-304 (b) states, "A commission employee's salary for retirement purposes shall be the amount determined by the commission as authorized by the General Assembly and shall not include any multipliers used to increase a person's salary as authorized by the General Assembly." The Commission paid retirement contributions based on the Executive Director's salary including multipliers. Ark. Code Ann. § 23-115-304 (b) may be in conflict with general legislation applicable to the Arkansas Public Employees Retirement System (APERS) as related to the definition of compensation for retirement purposes, Ark. Code Ann. § 24-4-101, and calculations of benefits, Ark. Code Ann. § 24-4-601. Based on the advice of APERS, the Commission remitted an additional \$29,184 for retirement contributions based on the total amount of the Executive Director's salary of \$324,000.

Legislative Audit Recommendation for Management Letter Finding #4:

We recommend the Agency seek legal guidance as to the applicability of Ark. Code Ann. §§ 23-115-304(b), 24-4-101, and 24-4-601. In addition, the Agency should seek reimbursement for any overpayments that may be determined.

NOTE – This finding was cleared by Internal Audit on April 8, 2011.

Audit Objective #12

Determine that an Attorney General's opinion has been requested concerning the Arkansas Lottery Commission's Executive Director's retirement contributions (Ark. Code Ann. §§ 23-115-304(b), 24-4-101, and 24-4-601).

No Findings or Recommendations. The Legislative Joint Audit Committee requested an Attorney General's opinion regarding the Arkansas Lottery Commission's Executive Director's retirement contributions. Attorney General Opinion Number 2010-150 was issued on February 7, 2011. The opinion states that the specific language in the Arkansas Lottery Act holds precedent over the general statutes contained in Ark. Code Ann. 524-4-101 and 24-4-601. Therefore, contributions for retirement should be based on the Executive Director's salary without multipliers.

Arkansas Lottery Commission – Internal Audit

**Review of Findings and Recommendations from the Division of Legislative Audit's
June 30, 2010 Audit Report and Management Letter**

Status Report – August 5, 2011

Audit Objective #13

Determine that the Arkansas Lottery Commission has been reimbursed from the Arkansas Public Employees Retirement System (APERS) any excess retirement contributions.

No Findings or Recommendations. The Arkansas Lottery Commission received a warrant in the amount of \$34,204.30 from the Arkansas Public Employees Retirement System on March 25, 2011. This payment represented the return of excess retirement contributions paid by the Lottery (employer matching) in regards to the Executive Director's salary.

Arkansas Lottery Commission – Internal Audit

Review of Findings and Recommendations from the Division of Legislative Audit's June 30, 2010 Audit Report and Management Letter

Status Report – August 5, 2011

Legislative Audit Management Letter Finding #5:

Review of travel reimbursements, Visa statements, and supporting documentation revealed the following:

- The Executive Director submitted ten requests for travel reimbursement totaling \$4,534 during the fiscal year; five of which, totaling \$3,470, lacked proper approval by a designated travel supervisor.
- Travel payments/reimbursements totaling \$16,189 were made that are in conflict with State laws and travel regulations.
 1. Hotel expenses were paid above the Federal per diem rate without prior authorization by the Agency's Executive Director. We noted 22 instances totaling \$9,616 that are in violation of R1-19-4-903 of the Financial Management Guide, which states "lodging costs exceeding the rates listed in the Federal Travel Directory may not be paid without a letter of authorization by the administrative head of the agency and must include a justification as to why it was in the best interest of the State to exceed the standard reimbursement rate".
 2. Five (5) charges totaling \$1,872 made to the Visa travel credit card were either not supported by adequate documentation, the documentation did not match the amount charged, or the documentation did not appear to be an original. This appears to be in violation of Ark. Code Ann. § 19-4-902(b) which states "the responsibility of the administrative head of any agency to keep on file in the place of business of the agency, subject to audit, copies of all supporting documents and required receipts for expenses incurred in connection with the travel authorizations and allowances for persons traveling on behalf of the agency".
 3. Documentation used to support Visa statements/TR-1 reimbursements for airline ticket purchases were screen prints from an airline/travel booking website that were printed prior to an actual flight confirmation. We noted seven (7) instances totaling \$2,814 that are in violation of Ark. Code Ann. § 19-4-902(b).
 4. The business purpose was not adequately documented for payments made on behalf of, or reimbursements to, the Vice-President of Gaming for travel expenses totaling \$1,423. Exceeding the conference room rate by \$103 per night, additional hotel charges totaling \$309 were incurred during a conference in New York. In addition, hotel costs and meals totaling \$1,114 were incurred beyond the dates of the conference.
 5. We also noted \$464 in other reimbursements that are in conflict with various State laws and travel regulations including: receipts not matching the dates listed on the travel reimbursement form, excess mileage reimbursement, exceeding the Federal per diem daily rate for meals incurred during overnight travel, reimbursement for meals without having overnight travel, and reimbursement for tips above the 15% allowance.

Arkansas Lottery Commission – Internal Audit

Review of Findings and Recommendations from the Division of Legislative Audit's June 30, 2010 Audit Report and Management Letter

Status Report – August 5, 2011

Legislative Audit Recommendation for Management Letter Finding #5:

We recommend the Agency strengthen internal controls related to travel expenditures by requiring all travel expenditures be adequately documented. Agency personnel that travel as part of their job duties should be trained on the various State travel regulations and management should establish procedures to ensure compliance with State law and regulations. Furthermore, we suggest that the Executive Director remit his requests for travel reimbursement to an appropriate travel supervisor for review and approval.

NOTE – This finding was cleared by Internal Audit on March 8, 2011.

Audit Objective #14

Determine that the Lottery has adequate written policies and procedures for employee travel expenditures.

No Findings or Recommendations. The Lottery has established adequate written policies and procedures to govern employee travel expenditures (*Travel Expense Reimbursement Policy*).

Audit Objective #15

Determine that all travel expenditures are reimbursed in accordance with the Lottery's policies and procedures, adequately supported, and approved by the appropriate personnel. Prepare a monthly schedule of travel expenditures.

No Findings or Recommendations. Internal Audit reviewed the Arkansas Scholarship Lottery travel expenditures for the months of December 2010, January 2011, February 2011, March 2011, April 2011, and May 2011 for compliance with the Lottery's policies and procedures, adequate supporting documentation, and proper authorization. Internal Audit will continue to regularly review Lottery travel expenses and prepare monthly schedules of employee travel reimbursements as requested by the Arkansas Lottery Commission.

Arkansas Lottery Commission – Internal Audit

Review of Findings and Recommendations from the Division of Legislative Audit's June 30, 2010 Audit Report and Management Letter

Status Report – August 5, 2011

Legislative Audit Management Letter Finding #6:

Review of payroll and related records revealed the Agency made improper retroactive payments to two employees for periods 12/13/09 through 3/28/10 and 5/01/10 totaling \$6,296. Ark. Code Ann. § 19-4-1610 states "no increase in the rate of pay, either by paying the full amount of the maximum salary or by placing an employee in a position calling for a greater salary, shall be construed as authorizing the payment of any retroactive salary to the employee" except for "salary payments made to correct an administrative error". However, the retroactive pay was for time before the effective dates of the position reclassifications.

Legislative Audit Recommendation for Management Letter Finding #6:

We recommend that the Agency ensure that retroactive payments be supported by appropriate documentation and seek recovery of the amounts overpaid.

Audit Objective #16

Determine that the Lottery did not make any improper retroactive payroll payments to employees from July 1, 2010 through December 31, 2010.

Status as of August 5, 2011

Audit fieldwork complete – No findings or recommendations

Internal Audit reviewed payroll records for retroactive payments to employees involving position reclassifications. In addition, Internal Audit inquired of appropriate Lottery personnel regarding retroactive payments to Lottery employees. No instances of improper retroactive payments were noted.

Arkansas Lottery Commission – Internal Audit

Review of Findings and Recommendations from the Division of Legislative Audit's June 30, 2010 Audit Report and Management Letter

Status Report – August 5, 2011

Audit Objective #17

Determine if the Lottery management's amendment of the personnel action forms (administrative error correction) resolves Legislative Audit's finding and recommendation.

Status as of August 5, 2011

Audit fieldwork in progress

- Per Legislative Audit's recommendation, Lottery management submitted a memorandum to the Department of Finance and Administration – Office of Personnel Management dated February 15, 2011 requesting a review of the actions taken by the Lottery's Human Resources Division in regards to the granting retroactive pay to two employees.
- The Department of Finance and Administration – Office of Personnel Management responded in a letter dated February 17, 2011 indicating that there was not enough information provided to address the issue.
- Lottery management provided the Department of Finance and Administration – Office of Personnel Management additional information regarding the retroactive payments on June 3, 2011.
- A letter dated July 19, 2011 from the State Personnel Administrator indicated that the Department of Finance and Administration – Office of Personnel Management would not have approved either of the retroactive payments noted in management letter finding #6.

Arkansas Lottery Commission – Internal Audit

**Review of Findings and Recommendations from the Division of Legislative Audit's
June 30, 2010 Audit Report and Management Letter**

Status Report – August 5, 2011

Audit Objective #18

If applicable, determine if improper retroactive payments have been recovered.

Status as of August 5, 2011

Audit fieldwork planned (if necessary)

Internal Audit will perform the audit fieldwork associated with this objective when a final resolution has been reached regarding the Lottery seeking recovery of the retroactive payments noted in the finding.

Arkansas Lottery Commission – Internal Audit

Review of Findings and Recommendations from the Division of Legislative Audit's June 30, 2010 Audit Report and Management Letter

Status Report – August 5, 2011

Legislative Audit Management Letter Finding #7:

The Control Objectives for Information and related Technology (COBIT) Delivery and Support Domain 11 outlines the best practices for ensuring financial data is complete, accurate and valid. Controls should be in place to ensure proper management review and/or approval of all financial transactions. Additionally, financial accounting software processing ability should be adequate to meet the control environment needs of the entity. The Agency's financial accounting software and related procedures contain the following deficiencies:

- The software allows a valid financial transaction to be deleted in a manner that completely erases the transaction from the original financial records. The only information about the deleted transaction is kept in an audit log file. There is no documentation to indicate that management is reviewing the audit log file to determine that transaction deletion was properly approved and appropriate for the circumstances.
- The software only has the capability to identify 7 payroll deductions on an employee's remuneration statement, however many employees have more than 7 deductions. Additionally, Agency staff must account for some payroll deductions outside the accounting software and adjust federal reporting forms accordingly.
- The software does not have adequate controls to prevent or detect a salary overpayment for a position's pay grade maximum in accordance with Ark. Code Ann. § 21-5-101. In addition, the software lacks the ability to limit the maximum number of employees authorized by §§ 23-115-305 and 307.

These situations could allow errors or fraud to occur and not be detected in a timely basis.

Legislative Audit Recommendation for Management Letter Finding #7:

We recommend that the Agency work with the application vendor to implement additional controls that will strengthen the control environment.

NOTE – This finding was cleared by Internal Audit on August 5, 2011.

Arkansas Lottery Commission – Internal Audit

Review of Findings and Recommendations from the Division of Legislative Audit's June 30, 2010 Audit Report and Management Letter

Status Report – August 5, 2011

Audit Objective #19

Determine if the feature that allows the deletion of transactions in the current accounting period has been deactivated.

No Findings or Recommendations. The administrator rights associated with the financial accounting software were assigned to an individual outside the Lottery's Finance Department. Therefore, the Lottery's Chief Financial Officer no longer has the capability to delete transactions entered into the accounting system or the ability to activate or deactivate the "delete" function for any user, including himself.

Audit Objective #20

Determine if Lottery management has upgraded current payroll software or implemented new payroll software to ensure that the capability exists to present all applicable deductions on an employee's remuneration statement.

Audit Objective #21

Determine if Lottery management has upgraded current payroll software or implemented new payroll software to prevent or detect a salary overpayment for a position's grade and to ensure that the maximum number of employees authorized is not exceeded.

No Findings or Recommendations. Lottery management presented numerous options regarding accounting software to the Arkansas Lottery Commission's Audit and Legal Committee on June 30, 2011. The options included utilizing the Arkansas Administrative Statewide Information System (AASIS) for accounting and/or payroll functions. The Audit and Legal Committee reviewed the options and voted to recommend that the Lottery utilize an updated version of the current accounting software and implement additional internal controls that will resolve the issues noted in the finding. The Arkansas Lottery Commission adopted the Audit and Legal Committee recommendation on July 13, 2011.

Arkansas Lottery Commission – Internal Audit

Review of Findings and Recommendations from the Division of Legislative Audit's June 30, 2010 Audit Report and Management Letter

Status Report – August 5, 2011

Internal Audit noted the following:

- The number of the deduction fields in the system is being increased in the 2012 version from the 30 to 40 fields. According to the Chief Fiscal Officer this will allow enough data fields to itemize all applicable deductions on a Lottery employee's paystub. This will resolve Objective #20.
- A customized report has been developed within the current accounting system to facilitate the monitoring of the maximum salary allowable for a pay grade and the maximum number of employees authorized. The report is reviewed and verified for compliance by the Human Resources Director for each payroll. Implementation of these compensating controls will resolve Objective #21.

Arkansas Lottery Commission – Internal Audit

Review of Findings and Recommendations from the Division of Legislative Audit's June 30, 2010 Audit Report and Management Letter

Status Report – August 5, 2011

Legislative Audit Management Letter Finding #8:

Review of internal controls over cash receipts for the collection of retailer fidelity fees totaling \$18,775 and retailer application fees totaling \$161,381, identified controls that were not operating as designed. All incoming mail is to be processed by the Security Division which includes entering all checks received into the mail check log which is maintained on SharePoint and approved by the Treasurer. The mail and checks are subsequently to be distributed to the appropriate departments for processing. During our test, we noted that checks were being deposited that had not been processed through the security division; all checks were not deposited timely; and, although the check log was being approved by the Treasurer, the Treasurer does not receive copies of the checks or other documents to ensure that the check log is complete.

Legislative Audit Recommendation for Management Letter Finding #8:

We recommend the Agency strengthen internal controls over cash receipts.

NOTE – This finding was cleared by Internal Audit on March 8, 2011.

Audit Objective #22

Determine that the Lottery has adequate written policies and procedures for the cash receipting process.

No Findings or Recommendations. The Lottery has established adequate written policies and procedures to govern cash receipts (*Check and Monetary Receipt Policy*).

Audit Objective #23

Determine that cash receipts are processed in accordance with policies and procedures, deposited in a timely manner, and properly recorded in the Lottery's general ledger.

No Findings or Recommendations. Based on a test of transactions conducted by Internal Audit, cash receipts are processed in accordance with the *Check and Monetary Receipt Policy*, deposited in a timely manner, and properly recorded in the Lottery's general ledger.

Arkansas Lottery Commission – Internal Audit

Review of Findings and Recommendations from the Division of Legislative Audit's June 30, 2010 Audit Report and Management Letter

Status Report – August 5, 2011

Legislative Audit Management Letter Finding #9:

Review of internal controls over disbursements revealed that controls over procurement are inadequate. The Agency's policy requires a Vice-President's approval for non-procurement card purchases over \$500. However, the Agency's policy also states that approval is considered to have occurred with the Vice-President's manual signature on the check. This control is ineffective since the check would not be signed until after the purchase had occurred and the item had been received. The Agency's controls appear to be minimal compared to best practices and have the potential to allow unauthorized or unallowable purchases and/or liabilities to be incurred by the Agency.

Legislative Audit Recommendation for Management Letter Finding #9:

We recommend the Agency ensure that proper controls are in place and operating effectively by adequately reviewing all supporting documentation for purchases prior to the disbursement of funds.

NOTE – This finding was cleared by Internal Audit on February 8, 2011.

Audit Objective #24

Determine that the Lottery has adequate written policies and procedures for disbursements.

No Findings or Recommendations. Lottery management has established adequate written policies and procedures to govern disbursements (*Purchasing and Invoice Payment Policy*).

Audit Objective #25

Determine that cash disbursements are processed in accordance with policies and procedures, adequately supported, reviewed and approved prior to the disbursement of funds, and properly recorded in the Lottery's general ledger.

No Findings or Recommendations. Based on a test of transactions conducted by Internal Audit, cash disbursements are processed in accordance with the *Purchasing and Invoice Payment Policy*, adequately supported, reviewed and approved prior to the disbursement of funds, and properly recorded in the Lottery's general ledger.

Arkansas Lottery Commission – Internal Audit

Review of Findings and Recommendations from the Division of Legislative Audit's June 30, 2010 Audit Report and Management Letter

Status Report – August 5, 2011

Legislative Audit Management Letter Finding #10:

The instant ticket lottery game service contract requires a fee paid to the vendor of 1.5% of the prize fund for the costs associated with the Points for Prizes™ program. The Agency paid the vendor \$3.3 million to operate the program during the year ended June 30, 2010. Agency personnel were unable to provide an adequate explanation as to calculation of the fee and specifically, how to determine the value of the prize fund. Agency personnel appeared to lack knowledge required to calculate the fee independent of the vendor. The Agency's inability to understand and recalculate the fee could cause vendor overpayments to occur thus reducing funds available for scholarships.

Legislative Audit Recommendation for Management Letter Finding #10:

We recommend the Agency strengthen internal controls surrounding the Points for Prizes™ program by ensuring Agency employees adequately review and understand the methodology for calculating payments to the instant ticket lottery game service vendor.

NOTE – This finding was cleared by Internal Audit on April 8, 2011.

Audit Objective #26

Determine that the Lottery and the instant ticket game vendor have clarified the calculation for the "Points for Prizes" fee.

No Findings or Recommendations. Scientific Games provided a formula for the calculation of the Points for Prizes in a document dated February 1, 2011. Lottery management concurs with the formula.

Audit Objective #27

Determine that the Lottery is remitting to the instant ticket game vendor the correct amount for the "Points for Prizes" fee.

No Findings or Recommendations. Based on a test of transactions conducted by Internal Audit, the billing amount for the Points for Prizes is being calculated in accordance with the formula agreed upon by Lottery management and Scientific Games.

Arkansas Lottery Commission – Internal Audit

Review of Findings and Recommendations from the Division of Legislative Audit's June 30, 2010 Audit Report and Management Letter

Status Report – August 5, 2011

Legislative Audit Management Letter Finding #11:

Travel regulation R1-19-4-903 states mileage shall be reimbursed and computed using map mileage. The auditor was unable to adequately test marketing sales representatives' travel due to insufficient documentation. Information provided on the employees' travel reimbursement forms was vague and/or incomplete limiting the Agency's ability to properly review the supporting documentation prior to payment. In addition, the auditor was unable to verify miles traveled in order to recalculate mileage reimbursement for accuracy. Travel reimbursements for marketing sales representatives totaled \$198,983, including one employee who was reimbursed \$18,858 for 44,900 miles driven during a 10 month period of time. Insufficient supporting documentation could allow errors or misappropriation of assets to occur and go undetected by the Agency, leading to overpayments made to Agency employees.

Legislative Audit Recommendation for Management Letter Finding #11:

We recommend the Agency implement procedures requiring adequate documentation of travel made by the Agency's marketing sales representatives to allow for a proper review of travel reimbursements.

NOTE – This finding was cleared by Internal Audit on May 9, 2011.

Audit Objective #28

Determine that the Lottery has adequate written policies and procedures concerning personal vehicle mileage reimbursements for Marketing Sales Representatives.

No Findings or Recommendations. The Reimbursement for Use of Privately Owned Vehicle section of the Lottery's *Travel Expense Reimbursement Policy* provides guidance for Marketing Sales Representatives in regards to personal vehicle mileage reimbursements.

Arkansas Lottery Commission – Internal Audit

Review of Findings and Recommendations from the Division of Legislative Audit's June 30, 2010 Audit Report and Management Letter

Status Report – August 5, 2011

Audit Objective #29

Determine that all Marketing Sales Representatives mileage reimbursements are in accordance with the Lottery's policies and procedures, adequately supported, and approved by the appropriate personnel. Prepare a monthly schedule of Marketing Sales Representatives mileage reimbursements.

No Findings or Recommendations.

- Lottery management held a training session on March 2, 2011 concerning the preparation of the Mileage Log and Reimbursement Form utilized by the Lottery's Marketing Sales Representatives to claim reimbursement for the use of privately owned vehicles.
- Monthly schedules detailing Lottery Marketing Sales Representatives privately owned vehicle reimbursements are prepared by Internal Audit and provided to the Arkansas Lottery Commission.
- Internal Audit conducted a review of Lottery Marketing Sales Representatives privately owned vehicle reimbursements paid during April 2011. Based on our review, the finding is being cleared as of May 9, 2011. Considerable improvements were noted. Internal Audit will continue to periodically review the Lottery Marketing Sales Representatives privately owned vehicle reimbursements.

Arkansas Lottery Commission – Internal Audit

**Review of Findings and Recommendations from the Division of Legislative Audit's
June 30, 2010 Audit Report and Management Letter**

Status Report – August 5, 2011

Audit Objective #30

Determine that the Lottery is not reimbursing Marketing Sales Representatives for commuting from their personal residence to their assigned territory.

No Findings or Recommendations.

- Per consultation with the Department of Finance and Administration, Lottery Management has established a policy stating that all Marketing Sales Representatives whom reside outside their territory will be assigned an official station at the point they cross the county line entering their territory. Therefore, commuting mileage will not be reimbursed to Marketing Sales Representatives for travel to and from their personal residence outside of their assigned territories.
- Based on Internal Audit review of Lottery Marketing Sales Representatives privately owned vehicle reimbursements and consultation with appropriate Lottery staff, all Marketing Sales Representatives whom reside outside their territory have been assigned an official station at the point they cross the county line entering their territory.



STATE OF ARKANSAS
**Department of Finance
and Administration**

OFFICE OF PERSONNEL MANAGEMENT
Administrator's Office
1509 West Seventh Street, Suite 201
Post Office Box 3278
Little Rock, Arkansas 72203-3278
Phone: (501) 682-1823
Fax: (501) 682-5104
<http://www.state.ar.us/dfa>

July 19, 2011

Earnestine Middleton
VP Administration
Arkansas Scholarship Lottery Commission
P. O. Box 3238
Little Rock, AR 72203-3238

Dear Ms. Middleton:

This is in response to your request for OPM to review retroactive pay awarded by the Arkansas Scholarship Lottery Commission. I have reviewed the February 15, 2011 memo submitted to me as well as the supporting payroll documents that were provided by Arkansas Legislative Audit.

Arkansas Code 19-4-1610 prohibits retroactive pay with the following exception:

*(c) (1) Salary payments made to correct an administrative error shall not be considered **retroactive pay**, nor shall such payment be construed as exceeding the employee's maximum authorized **pay**.*

OPM approves additional salary payments for career service payment awards or merit increases that the agency has failed to process in a timely manner. These types of payments have established dates associated with their award.

Promotions are at the discretion of the agency and can be delayed for many reasons such as a lack of funds, advertising requirements, etc. Therefore, OPM rarely approves retroactive promotions. In the case of Iris Bohannon, it is more difficult to make an accurate determination as she never was promoted, but simply awarded a \$17,000 salary increase within her original classification of Licensing Specialist, grade C115.

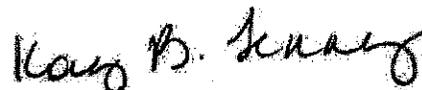
OPM does not recognize equity adjustments. There are many factors that influence an employee's compensation. This could include an employee's length of state service, previous merit increase adjustments, previous promotions, etc. In the case of Angela Parker-Meredith, it was stated that she was performing the same duties as a male who was in a totally different classification. Therefore, an inequity cannot exist. Again, Ms. Parker-Meredith never changed classifications until June of 2011, yet she was awarded the entry level pay of a grade C120 for over one year before she was promoted and she also received retroactive pay for six months prior to that year. Unless there has been a

court order or an approved settlement through a grievance process, these payments would not be approved by the Office of Personnel Management.

I have attached detailed analysis of the information that OPM received on both employees. Unfortunately, in neither case would retroactive pay be approved by OPM.

If I can provide additional information, please feel free to contact me.

Sincerely,



Kay Barnhill Terry
State Personnel Administrator

KBT/cbc:1-2

Retroactive Pay for Iris Bohannon

- Iris Bohannon was hired as a Leasing Specialist (grade C115) by the Lottery Commission on 8/6/2009.
- The Commission is claiming that she accepted the Manager position (still classified as a Leasing Specialist, grade C115) December of 2009.
- An April 9, 2010 letter from Personnel Director, Robin Ussery indicates that her position was being reclassified although her classification remained the same.
- Retroactive pay in the amount of \$4,896 was granted to Ms. Bohannon for the period of 12/13/2009 until 3/21/2010.

OPM Analysis

- There is no documentation to tie any promotional actions to December 13, 2009.
- Documentation does support that the employee was to be reclassified effective in April of 2009.
- There was no promotion as the employee remained in the same classification as they had been hired into.
- \$17,000 is a huge increase for any promotion when the state norm is 10%. At that time, Ms. Bohannon's salary was around \$31,000 which would have resulted in a promotional increase of approximately \$3,100.
- As there is no indication of what grade the Licensing Manager should be, it is unclear to OPM as to why such a large increase was awarded and why back pay to December 13, 2009 was approved.

CONCLUSION

OPM would not have approved a retroactive request for Ms Bohannon based on the information that was provided by the Lottery Commission as well as more detailed information from Legislative Audit. Retroactive pay is usually approved by the Office of Personnel Management for actions such as missed merit increases, missed COLAs or missed Career Service Payments, which are tied to very specific dates. In this case and the case of Ms. Meredith, everything appears after the fact and is promotion related, when in both cases no promotions occurred. Retroactive promotions are very difficult to document and OPM did not have any information that this had occurred.

Retroactive Pay for Angela Meredith

- Hired as Administrative Analyst (Security Analyst) on 8-11-2009 as a grade C115.
- In January of 2010, she worked a full caseload as a Security Specialist (grade C120)
- Supervisor informed her she would be reclassified, but did not know when action would take place.
- May 3, 2010 Angela signs a position reclassification letter although her grade did not change to the same grade as the Security Specialist. The letter stated her salary would be taken to a higher salary of \$39,631 which is base level of a grade C120.
- No payroll action was taken until 11/19/2010 at which point a document was worked to change her hourly rate from \$17.31 to \$19.05
- June, 2010 - Lottery Commission sent her an official letter awarding back pay of \$1,400 for becoming a Security Specialist on 12/13/2009.
- OPM now has a freeze request to take Angela Meredith to a C120 Security Specialist vacated by Bobby Walker on 4/20/2011. It appears promotion was effective 6/8/2011.

OPM ANALYSIS

There is a signed letter informing the employee of a position reclassification on May 5, 2010 and a payroll transaction worked on November 19, 2010. The retroactive pay was awarded for the period of 12/13/2009 – 5/1/2010. This appears to be inconsistent with all documentation submitted by the Lottery Commission. Several other factors should be considered:

- Meredith Parker never changed jobs and continued to work in the Administrative Analyst position. If she was doing comparable work to the Security Specialist, why she was not placed in a Security Specialist which could be established by the Lottery Commission at any time.
- OPM position reclassifications do not result in any salary increases unless the employee does not meet the minimum of their new grade. In this case, there was no new grade and a salary equity issue cannot be raised among different classifications.

- The question lingers as to why Ms Meredith was just promoted to the appropriate classification on 6/8/2011 although she has been compensated at this level since 5/5/2010 and if retroactive pay is included, the compensation began on 12/13/2009. Did Ms. Meredith receive an additional 10% on June 8, 2011 when she was already receiving comparable pay to a grade C120 entry salary.
- Did Ms. Parker receive additional retroactive pay for the period from 12/13/2009 to 5/5/2010 as the payroll document is dated 11/19/2010, which would have awarded an retroactive pay again after the \$1400 payout. It would appear that she also received retroactive pay for the period of 5/5/2010 – 11/19/2010 as well.
- OPM does not reward retroactive pay to correct equity pay issues unless a grievance hearing or a court case has dictated such. OPM generally does not honor retroactive promotions unless there is clear and convincing evidence that the missed promotion was an administrative oversight.
- No evidence has been provided by the Lottery Commission that the effective date of the reclassification should have been 12/13/2009. OPM would not approve retroactive pay in this instance.

**State of Arkansas
ARKANSAS LOTTERY COMMISSION**

REQUEST FOR QUALIFICATIONS

RFQ Number: ALC-RFQ-110002	Buyer:
Service: Outside Legal Counsel	Submission Opening Date:
Date: _____, 2011	Submission Opening Time:

SUBMISSIONS WILL BE ACCEPTED UNTIL THE TIME AND DATE SPECIFIED ABOVE. THE SUBMISSION ENVELOPE MUST BE SEALED AND SHOULD BE PROPERLY MARKED WITH THE SUBMISSION NUMBER, DATE AND HOUR OF SUBMISSIONS OPENING AND VENDOR'S RETURN ADDRESS. IT IS NOT NECESSARY TO RETURN "NO BIDS" TO THE ARKANSAS LOTTERY COMMISSION.

Vendors are responsible for delivery of their submission to the Arkansas Lottery Commission prior to the scheduled time for opening of the particular submission. When appropriate, Vendors should consult with delivery providers to determine whether the submission will be delivered to the Arkansas Lottery Commission office street address prior to the scheduled time for submission opening. Delivery providers, USPS, UPS, FedEx, and DHL deliver mail to our street address, 124 W. Capitol Avenue, Little Rock, AR 72201, on a schedule determined by each individual provider. These providers will deliver to our offices based solely on our street address.

MAILING ADDRESS: P.O. Box 3238 Little Rock, AR 72203	SUBMISSION OPENING LOCATION: Arkansas Lottery Commission Offices
TELEPHONE NUMBER: (501) 683-2000	

Company Name: _____

Name (type or print): _____

Title: _____

Address: _____

Telephone Number: _____

Fax Number: _____

E-Mail Address: _____

Signature: _____

USE INK ONLY; UNSIGNED SUBMISSIONS WILL NOT BE CONSIDERED

Identification:

*

*

Federal Employer ID Number

Social Security Number

FAILURE TO PROVIDE TAXPAYER IDENTIFICATION NUMBER MAY RESULT IN SUBMISSION REJECTION

Business Designation (check one):	Individual *	Sole Proprietorship *	Public Service Corp *
	Partnership *	Corporation *	Government/ Nonprofit *

GENERAL DESCRIPTION:	Outside legal counsel services on certain transactions where the need for legal advice is required.
TYPE OF CONTRACT:	Term
BUYER:	
AGENCY P.R. NUMBER	

INVOICE TO:

F.O.B:

MINORITY-OWNED AND FEMALE-OWNED BUSINESS POLICY

Participation by minority-owned and female-owned businesses is encouraged in this and all other procurements by state agencies. "Member of a minority" is defined at Arkansas Code Annotated § 23-115-103(15) as "a lawful permanent resident of this state who is: (A) African American; (B) Hispanic American; (C) American Indian; (D) Asian American; or (E) Pacific Islander American". "Minority-owned business" is defined at Arkansas Code Annotated § 23-115-103(16) as "a business that is owned by: (A) An individual who is a member of a minority who reports as his or her personal income for Arkansas income tax purposes the income of the business; (B) A partnership in which a majority of the ownership interest is owned by one (1) or more members of a minority who report as their personal income for Arkansas income tax purposes more than fifty percent (50%) of the income of the partnership; or (C) A corporation organized under the laws of this state in which a majority of the common stock is owned by one (1) or more members of a minority who report as their personal income for Arkansas income tax purposes more than fifty percent (50%) of the distributed earnings of the corporation". The Arkansas Economic Development Commission conducts a certification process for minority businesses. Vendors unable to include minority-owned business as subcontractors "may explain the circumstances preventing minority inclusion".

"Female-owned business" is defined at Arkansas Code Annotated § 23-115-103(5) as "a business: (A) Whose management and daily business operations are under the control of one (1) or more females; and (B) Either: (i) Individually owned by a female who reports as her personal income for Arkansas income tax purposes the income of the business; (ii) Which is a partnership in which a majority of the ownership interest is owned by one (1) or more females who report as their personal income for Arkansas income tax purposes more than fifty percent (50%) of the income of the partnership; or (iii) Which is a corporation organized under the laws of this state in which a majority of the common stock is owned by one (1) or more females who report as their personal income for Arkansas income tax purposes more than fifty percent (50%) of the distributed earnings of the corporation".

EQUAL EMPLOYMENT OPPORTUNITY POLICY

In compliance with Section 5 of the Arkansas Lottery Commission Major Procurement Rules, the Office of State Procurement of the Department of Finance and Administration is required to have a copy of the Vendor's Equal Opportunity Policy prior to issuing a contract award. EO Policies may be submitted in electronic format to the following email address: eeopolicy.osp@dfa.state.ar.us, or as a hard copy accompanying the solicitation response. The Office of State Procurement and the Arkansas Lottery Commission will maintain a file of all Vendor EO policies submitted in response to solicitations issued by this office. The submission is a one-time requirement but Vendors are responsible for providing updates or changes to their respective policies and of supplying EO policies upon request to other state agencies that must also comply with this statute.

TECHNOLOGY ACCESS FOR THE BLIND

Please reference Section 508 of the Federal Rehabilitation Act, 29 U.S.C. 794d and Arkansas Code Annotated § 25-26-201 et seq. The Vendor expressly acknowledges that State funds may not be expended in connection with the purchase of information technology unless that system meets certain statutory requirements, in accordance with the State of Arkansas technology policy standards, relating to accessibility by persons with visual impairments.

Accordingly, the Vendor represents and warrants to the Arkansas Lottery Commission that the technology provided to the Arkansas Lottery Commission for purchase is capable either by virtue of features included within the technology or because it is readily adaptable by use with other technology of:

- Providing equivalent access for effective use by both visual and non-visual means;
- Presenting information, including prompts used for interactive communications, in formats intended for non-visual use; and
- After being made accessible, it can be integrated into networks for obtaining, retrieving, and disseminating information used by individuals who are not blind or visually impaired.

For purposes of this paragraph, the phrase "equivalent access" means a substantially similar ability to communicate with or make use of the technology, either directly by features incorporated within technology or by other reasonable means such as assistive devices or services which would constitute reasonable accommodations under the Americans with Disabilities Act or similar state or federal laws. Examples of methods by which equivalent access may be provided include, but are not limited to, keyboard alternatives to mouse commands and other means of navigating graphical displays, and customizable display appearance.

ACT 157 of 2007 EMPLOYMENT OF ILLEGAL IMMIGRANTS

Pursuant to Act 157 of 2007 (Ark. Code Ann. § 19-11-105), all Vendors must certify prior to award of the contract that they do not employ or contract with any illegal immigrants in its contract with the State. Vendors shall certify online at: <http://www.dfa.arkansas.gov/Pages/businessServices.aspx>.

Any subcontractors used by the Vendor at the time of the Vendor's certification shall also certify that they do not employ or contract with any illegal immigrant. Certification by the subcontractors shall be submitted within thirty (30) days after contract execution.

ARKANSAS LOTTERY COMMISSION MAJOR PROCUREMENT RULES

Vendors are subject to all requirements of the Arkansas Lottery Commission Major Procurement Rules (Attachment A), whether such requirements are specifically set forth in this RFQ or not.

ALTERATION OF ORIGINAL RFQ DOCUMENTS

The original written or electronic language of the RFQ shall not be changed or altered except by approved written addendum issued by the Arkansas Lottery Commission. This does not eliminate a Vendor from taking exception(s) to these documents, but does clarify that the Vendor cannot change the original document's written or electronic language. If the Vendor wishes to make exception(s) to any of the original language, it must be submitted by the Vendor in separate written or electronic language in a manner that clearly explains the exception(s). If Vendor's/Contractor's submittal is discovered to contain alterations/changes to the original written or electronic documents, the Vendor's response may be declared as "non-responsive" and the response shall not be considered.

REQUIREMENT OF AMENDMENT

THIS RFQ MAY BE MODIFIED ONLY BY AMENDMENTS WRITTEN AND AUTHORIZED BY THE ARKANSAS LOTTERY COMMISSION. Vendors are cautioned to ensure that they have received or obtained and responded to any and all amendments to the RFQ prior to submission.

DELIVERY OF RESPONSE DOCUMENTS

In accordance with the Arkansas Lottery Commission Major Procurement Rules, it is the responsibility of vendors to deliver submissions at the place and on or before the date and time set in the RFQ solicitation documents.

Submissions received at the Arkansas Lottery Commission Offices after the date and time designated for the RFQ opening are considered late submissions and shall not be considered. Documents that are to be returned may be opened to verify which RFQ the submission is for.

INTENT TO AWARD

After complete evaluation of the submission, the intent to award will be posted on the Arkansas Lottery Commission's website (www.myarkansaslottery.com) and/or the legal section of a newspaper of statewide circulation. The purpose of the posting is to establish a specific time in which vendors and agencies are aware of the intent to award. The RFQ results will be posted for a period of at least fourteen (14) days prior to the issuance of any award. Vendors and agencies are cautioned that these are preliminary results only, and no official award will be issued prior to the end of the posting period. Accordingly, any reliance on these preliminary results is at the agency's/vendor's own risk.

The Arkansas Lottery Commission reserves the right to waive this policy when it is in the best interest of the State. Vendors are responsible for viewing the *Intent to Award* section of the Arkansas Lottery Commission's web site at: www.myarkansaslottery.com.

PAST PERFORMANCE

In accordance with provisions of the Arkansas Lottery Commission Major Procurement Rules Section (7)(C)(x)(g), a vendor's past performance with the State may be used in the evaluation of any offer made in response to this solicitation. The past performance should not be greater than three (3) years old and must be supported by written documentation on file in the Arkansas Lottery Commission at the time of the submission opening. Documentation may be in the form of a written or electronic report, VPR, memo, file or any other appropriate authenticated notation of performance to the vendor files.

EO-98-04 GOVERNOR'S EXECUTIVE ORDER

Completion of Disclosure Forms is required by Governor's Executive Order EO-98-04 as a condition of obtaining, extending, amending, or renewing a contract, lease, purchase agreement, or grant award with any Arkansas state agency. (<http://www.dfa.arkansas.gov/offices/accounting/internalaudit/Pages/ExecutiveOrder98-04.aspx>)

SECTION I. INSTRUCTIONS TO PROPOSERS/GENERAL INFORMATION

A. PURPOSE. The Arkansas Lottery Commission ("ALC") requests submittal of qualifications from law firms (Proposers) to provide Outside Counsel services on certain transactions where the need for legal advice is required. From a list of respondents to this Request for Qualifications (RFQ), ALC expects to select a firm to serve for a period of approximately two (2) years beginning _____, with five (5) optional extension periods of one (1) year each, subject to successful negotiation of fees with the concerned firm. The ALC reserves the right to select more than one firm to provide these legal services.

ALC makes no representation or warranty of any nature that any firm selected pursuant to this RFQ will participate in any minimum or maximum number of transactions. Any counsel selected pursuant to this RFQ shall serve at the pleasure of ALC, and the professional services of any firm selected may be terminated, at the sole discretion of ALC, upon delivery of written notice of such termination to the selected firm.

B. SUBMISSION OF PROPOSALS. Written proposals responding to the questions and requests for information in the manner specified in this Request for Qualifications (RFQ) should be submitted to the following:

**Bishop Woosley
Chief Legal Counsel
Arkansas Lottery Commission
P.O. Box 3238
Little Rock, AR 72203-3238**

To be considered, four (4) copies of the proposal should be delivered to ALC not later than _____ by 4:00 p.m. CST. All proposals shall be time and date stamped upon receipt. Late proposals will not be accepted. ALC reserves the right to reject any or all proposals.

C. ADDITIONAL INFORMATION. It is the responsibility of the proposer to inquire about and clarify any aspect of the RFQ. Questions should be in writing and directed to Mr. Bishop Woosley (bishop.woosley@arkansas.gov) at (501) 683-1890. Substantive questions and answers will be documented and will be posted on the Arkansas Lottery Commission website at the following address: <http://myarkansaslottery.com/about/procurement>

D. PROPERTY OF ALC. Any information or materials submitted as a response to this RFQ shall become the property of the ALC and will not be returned. All submitted materials will be available for public review.

E. RESPONSE TO REQUEST FOR QUALIFICATIONS. Law firms wishing to respond to this RFQ must submit their responses to Mr. Bishop Woosley on the date and time designated above. No contact with Arkansas Lottery Commission Audit/Legal Committee members is allowed and any such contact will be grounds for immediate rejection of a firm's proposal.

F. PROPOSAL TIMETABLE.

(date)	Request for proposal issued
(date)	Proposals due by 4:00 p.m. CST
TBA	Oral interviews, if needed
TBA	Commission action (ALC resolution affirming Chief Legal Counsel, authorizes the Director of ALC to negotiate fees)
TBA	ALCLOC Review

Note: After selection, the engagement contract is submitted to the Arkansas Lottery Commission Legislative Oversight Committee for review.

G. SELECTION PROCESS. The ALC Audit/Legal Committee and ALC Chief Legal Counsel will review the submitted proposals. Proposals will be evaluated based on responses to specifics outlined in the Proposal Format section of this RFQ and based upon the selection criteria. Proposals which omit any of these items may be rejected as non-responsive. ALC, at its sole option, may waive any non-compliant matter with respect to any or all proposals. From this review, a select group of firms could be chosen for interviews. All proposing firms will be advised of the firms selected. After interviewing the selected firms, the ALC Audit/Legal Committee will make its decision on a recommendation for selection, which will be reported to the full Arkansas Lottery Commission. The ALC may approve or reject the Legal/Audit Committee's recommendation. ALC may at any time prior to the selection of Outside Legal Counsel reject any and all proposals and cancel this RFQ, without liability therefore, upon finding by that there is good cause for rejecting all proposals and that it would be in its interest to cancel the solicitation. Further, regardless of the number and quality of proposals submitted, ALC shall under no circumstances be responsible for any proposer costs and expenses incurred in submitting a response to this RFQ. Each proposer who submits a response does so solely at the proposer's cost, risk and expense. ALC accepts no responsibility for the return of successful or unsuccessful proposals. This RFQ in no way obligates ALC to select a firm.

H. SELECTION CRITERIA. The ALC Audit/Legal Committee will use the following criteria to evaluate all acceptable proposals and to develop recommendations to be presented to the ALC; however, the Committee reserves the right to evaluate proposals based upon factors beyond the listed criteria.

Criteria.

1. The specialized experience and technical competence of the firm with respect to the type of professional services required, including, but not limited to prior experience with general Arkansas regulations, including state and federal law, and specifically the Arkansas Scholarship Lottery Act, the Administrative Procedures Act and the Freedom of Information Act.

2. Response to Arkansas presence issue including relevance of presence to this transaction.
3. The capacity and capability of the firm to perform the work in question, including specialized services, within the time limitations fixed for the completion of the project.
4. Qualifications of staff to be assigned, i.e., team members demonstrated abilities, years, and types of experience.
5. The past record of performance of the firm with respect to such factors as control of costs, quality of work, and ability to meet schedules and deadlines; and
6. Minority Owned and Female Owned Business Participation and Usage.

F. FEE DETERMINATION. Selection of counsel will not be based on a competitive bid, but will be considered. Interested parties should include an appropriate fee schedule. ALC will attempt to negotiate with the selected firm(s) to establish a fair and reasonable fee. If an agreement cannot be reached with the selected firm(s), negotiations may be attempted with other firms that responded to the initial RFQ. If negotiations are not successful with the firms, ALC reserves the right to solicit responses to another RFQ for Outside Counsel Services.

SECTION II: PROPOSAL FORMAT

A. TRANSMITTAL LETTER. A brief transmittal letter prepared on the proposer's business stationery should accompany the original and required copies of the proposal.

B. PROPOSAL. The proposal should be labeled, "Proposal to Serve as Outside Counsel". The proposal must contain sufficient information to enable to ALC Audit/Legal Committee to evaluate the proposal. It should be prepared in a clear and concise manner and should address all appropriate subsections.

1. **Counsel Team and Personnel.** Describe the manner in which you would organize your firm's resources to serve as counsel for the proposed legal services. In doing so, please address the following services and resources:
 - a. Personnel
 - b. Technology
 - c. Other Resources
2. **Arkansas Presence.** Please explain your firm's presence within Arkansas and describe how that presence is relevant to the proposed engagement.
3. **Potential Conflicts.** List any relationship that might lead to a potential conflict in performing any services for ALC. Please list specifically any conflicts resulting from material adverse matters, as distinguished from the conduct of business as usual. Indicate what steps would be taken to eliminate any such conflict.
4. **Rationale for Appointment and Proposal Summary.** This section of the proposal should be used by each proposer to present the case for its appointment to the position sought.
5. **Malpractice Insurance.** Acknowledge that if selected as Outside Counsel, your firm will provide to ALC proof of malpractice insurance.

Retailer Licensing Comparison

PROCESS CATEGORIES & SUBCATEGORIES		INTRALOT BACK OFFICE SYSTEM	DIS WEB APPLICATION
		Centralized real-time retailer management module. Application allows user to manage retailer life cycle including retailer licensing, retailer profiles, retailer functions (enable or disable retailer sales), issuance of a retailer license and assign user privileges. This data populates the gaming system and is required to sweep retailer bank accounts for weekly sales.	ASL re-enters retailer application information into this application.
SERVICE PROVIDED	RETAILER APPLICATION DATA	RETAILER ID	X
		LOCATION NAME	X
		STATUS-ACTIVE/INACTIVE	X
		PRIMARY PHONE	X
		SECONDARY PHONE	X
		FAX	X
		EMAIL	X
		VSAT (SATELLITE COMM.)	X
		WEB SITE	X
		RETAILER TYPE (CORP/IND)	X
		BUSINESS TYPE (SIC)	X
		AR SALES TAX #	X
		APPLICATION DATE	X
		LICENSE TYPE	X
		APPLICATION TYPE	X
		APPLICATION STATUS	X
		CHANGE OF OWNERSHIP	X
		EIN	X
		MINORITY BUSINESS TYPE	X
		MAILING ADDRESS	X
		PHYSICAL ADDRESS	X
		SHIP TO ADDRESS	X
		CONTACTS	X
		EFT	X
		CHAIN NUMBER	X
MSR ID	X		
OWNERSHIP TYPE	X		
RETAILER TYPE (TICKET SALES)	X		

PROCESS CATEGORIES & SUBCATEGORIES		INTRALOT BACK OFFICE SYSTEM	DIS WEB APPLICATION	
SERVICE PROVIDED	BACKGROUND INVESTIGATION	ASP/FBI NOTES	X	
		DFA STATUS	X	
		DFA CHECK DATE	X	
		CONTRACT NOTES	X	
		DFA NOTES	X	
		CONTRACT STATUS	X	
		CONTRACT CHECK DATE	X	
			INTRALOT BACK OFFICE SYSTEM	DIS WEB APPLICATION
	LICENSURE PROCESS	LICENSE PRINT DATE	X	
		LICENSE MAIL DATE	X	
		LICENSE EXPIRATION DATE	X	X
		LOTTERY REGION	X	
OWNER NUMBER		X		
OWNER NAME		X	X	
OWNER ADDRESS		X		
OWNER TITLE		X		
PRINT LICENSE		X	X	
APPLICATION CHECK DATE		X	X	
APPLICATION NOTES		X		
RESPONSIBLE PARTY NAME	X	X		
		INTRALOT BACK OFFICE SYSTEM	DIS WEB APPLICATION	
FIDELITY AND BOND DATA	FIDELITY FEE STATUS	X	X	
	FIDELITY FEE CHECK DATE	X	X	
	FIDELITY FEE NOTES	X		
	BOND STATUS	X	X	
	BOND CHECK DATE	X	X	
	BOND NOTES	X		
	BOND EXPIRATION	X	X	
		INTRALOT BACK OFFICE SYSTEM	DIS WEB APPLICATION	
REPORTING CAPABILITY	IN QUEUE REPORTS	X		
	RENEWAL REPORTS	X		
	BOND EXPIRATION REPORTS	X 8/29/11		
	TERMINATION REPORTS	X		
	REJECTED REPORTS	X		
	PENDING PHASE REPORTS	X		

PROCESS CATEGORIES & SUBCATEGORIES		INTRALOT BACK OFFICE SYSTEM	DIS WEB APPLICATION	
SERVICE PROVIDED	CORRESPONDENCE CAPABILITY	DFA FAILURE LETTER	INDIVIDUAL	
		RENEWAL LETTER	INDIVIDUAL	
		SUSPENSION LETTER	INDIVIDUAL	
		FINGERPRINT REJECTION LETTER	INDIVIDUAL	
		RETAILER INFORMATION LETTER	INDIVIDUAL	
		RETAILER CONTRACT	INDIVIDUAL	
		MAC (MOVE, ADD, CHANGE) FORM	INDIVIDUAL	
		INTRALOT BACK OFFICE SYSTEM	DIS WEB APPLICATION	
	COST	HOSTING DATA	PROVIDED AS PART OF CONTRACT	\$900.00 PER MONTH
		SYSTEM MODIFICATION	PROVIDED AS PART OF CONTRACT	\$80.00 PER HOUR