

MEMORANDUM

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TO: Members, House Committee on Federal and State Affairs
FROM: Scott Frank, Legislative Post Auditor
DATE: February 1, 2013
SUBJECT: Testimony on HB 2002

I appreciate the opportunity to testify in favor of HB 2002, which would modify the background check requirements for an audit firm that is selected to conduct the triennial security audit of the Kansas Lottery.

Background

K.S.A. 74-8707(b) requires an audit every three years to evaluate all aspects of security in operating the Kansas Lottery. Under that statute, the contract for this audit is a “major procurement contract” for the Lottery, and under the Lottery statutes, firms fulfilling such contracts have to undergo a background investigation (K.S.A. 74-8702; 74-8705).

Among other things, the investigation must include a background check on all officers and directors of the vendor. For large national and international accounting and consulting firms, some of who may have an interest and expertise in conducting security audits, this requirement may not be practical. In 2004, the consulting firm Deloitte and Touche submitted the lowest bid for the security audit, but declined the contract because of the background check requirement (*see Attachment A*). Similarly, in 2010 the accounting firm KPMG submitted a bid for the 2011 security audit, but indicated that it would not be able to comply with the background check requirement if it were awarded the contract (*see Attachment B*). That is because firms like Deloitte and Touche and KPMG likely have hundreds, if not thousands, of partners located throughout the world.

Because the background check requirement, as it currently stands in statute, may discourage large firms from pursuing the contract, it decreases competition for the contract and may increase the cost to the state.

How HB 2002 Addresses the Issue

HB 2002 would modify the background check requirement for triennial security audit. By removing the “major procurement contract” designation and the requirements that go along with that designation, it would eliminate the need for background checks on all officers and directors. In its place, the bill lays out the specific background check requirements for this audit project, which include checks of:

- the vendor to whom the contract is to be awarded (*part of the current requirements*)
- all persons who own a controlling interest in such vendor (*part of the current requirements*)
- all applicable staff having involvement with the audit (*new requirement*)

The Legislative Post Audit Committee voted to introduce the bill at its September 20, 2012 meeting. The bill was developed in consultation with officials from the Kansas Lottery.

MINUTES
Contract Audit Committee
August 10, 2004

The meeting was called to order by Senator Derek Schmidt at 11:00 a.m.

Committee members present: Senator Derek Schmidt, Chair (by conference call)
Representative John Edmonds, Vice-Chair (by conference call)

Senator Chris Steineger (by conference call)
Marilyn Jacobson, Designee of Secretary of Administration
Barbara Hinton, Legislative Post Auditor

Approval of Minutes

Ms. Hinton moved that the minutes of the June 2, 2004, meeting be approved. Ms. Jacobson seconded the motion. The motion carried.

Change in Selection of Contractor

At its previous meeting, the Committee awarded the contract for a security audit of the Kansas Lottery to Deloitte & Touche. Because Deloitte & Touche was unwilling to provide information needed for the statutorily-required background check, Legislative Post Audit was unable to enter into a contract with that firm. As a result, the Committee needed to re-award that contract. The other qualified bidder—RedSiren, Inc.—had indicated that it was willing and able to conduct the work in the timeframe required for its originally bid fee of \$88,000.

Ms. Hinton moved that the contract for a security audit of the Kansas Lottery be awarded to RedSiren, Inc. Ms. Jacobson seconded the motion. The motion carried.

New Business

No new business came before the Committee.

Date of Next Meeting

Mr. Tongier pointed out that the Committee probably would not need to meet again until the next round of regular three-year audit contracts was to be awarded. That would most likely take place toward the end of calendar year 2006.

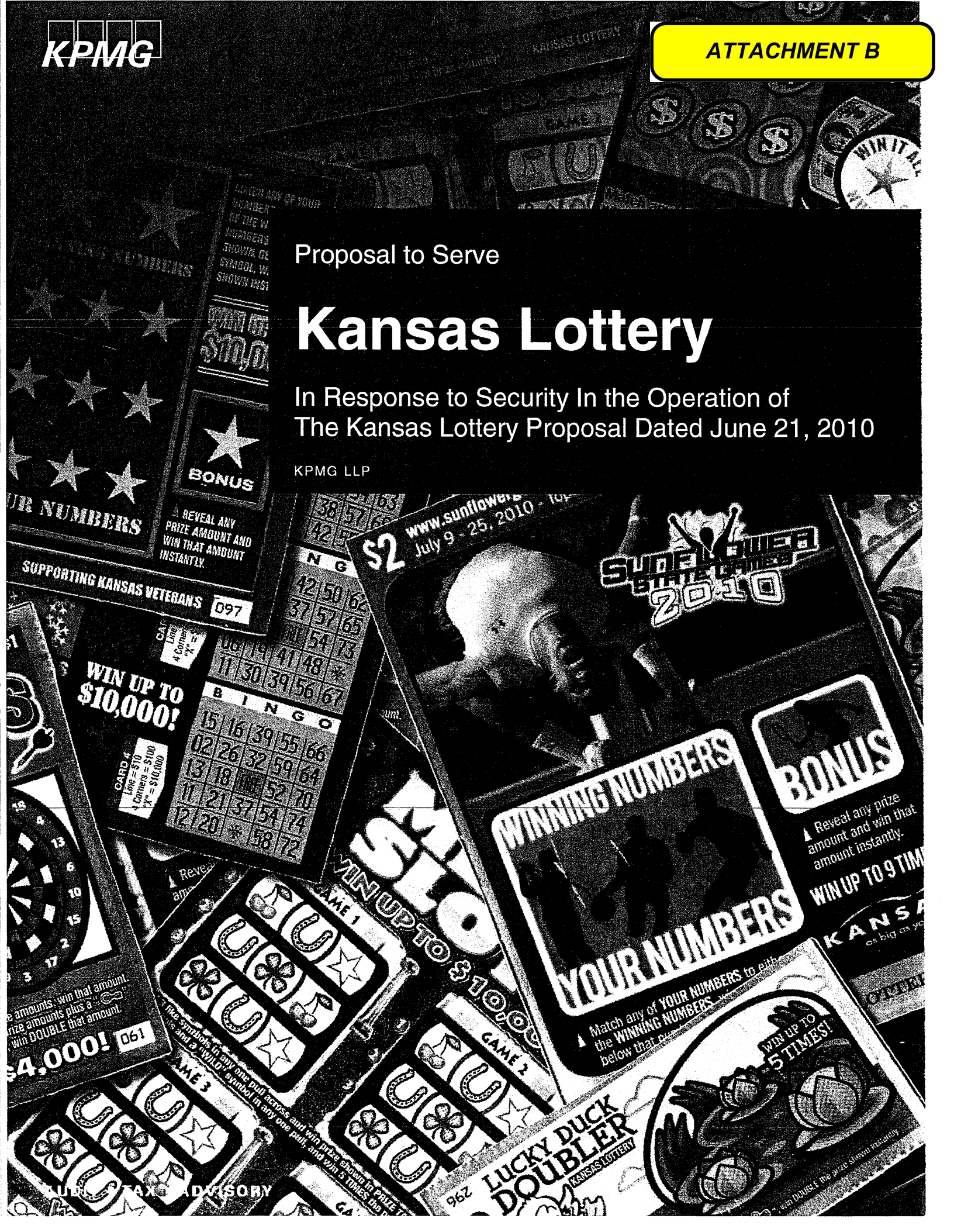
Senator Schmidt adjourned the meeting.

Proposal to Serve

Kansas Lottery

In Response to Security In the Operation of
The Kansas Lottery Proposal Dated June 21, 2010

KPMG LLP



WIN UP TO \$10,000!

BINGO

06	19	41	48	*
11	30	39	56	67
15	16	39	55	66
02	26	32	59	64
13	18	11	52	70
11	21	37	54	74
12	20	*	58	72

WIN UP TO \$10,000

WINNING NUMBERS
YOUR NUMBERS

BONUS

Reveal any prize amount and win that amount instantly.


WIN UP TO 9 TIMES

WIN UP TO \$4,000!

TAX ADVISORY

LUCKY DUCK DOUBLER
KANSAS LOTTERY

WIN UP TO 5 TIMES!



Appendix D – Other Related Matters

As noted in Section I.0 of the RFP, state law requires a background investigation before the contract award is final. In regards to the five groups included in the background investigation, we would like to provide clarification on some of them. In regards to groups (2) and (4), there are several thousand “officers and directors” in the firm and conducting a background investigation on all of them would be burdensome and expensive. We would suggest limiting the background investigation to the engagement team members with their specific approval. Any individual who does not wish to undergo the background investigation will be replaced without penalty. In regards to group (3), no individual owns 5 percent or more of the firm.