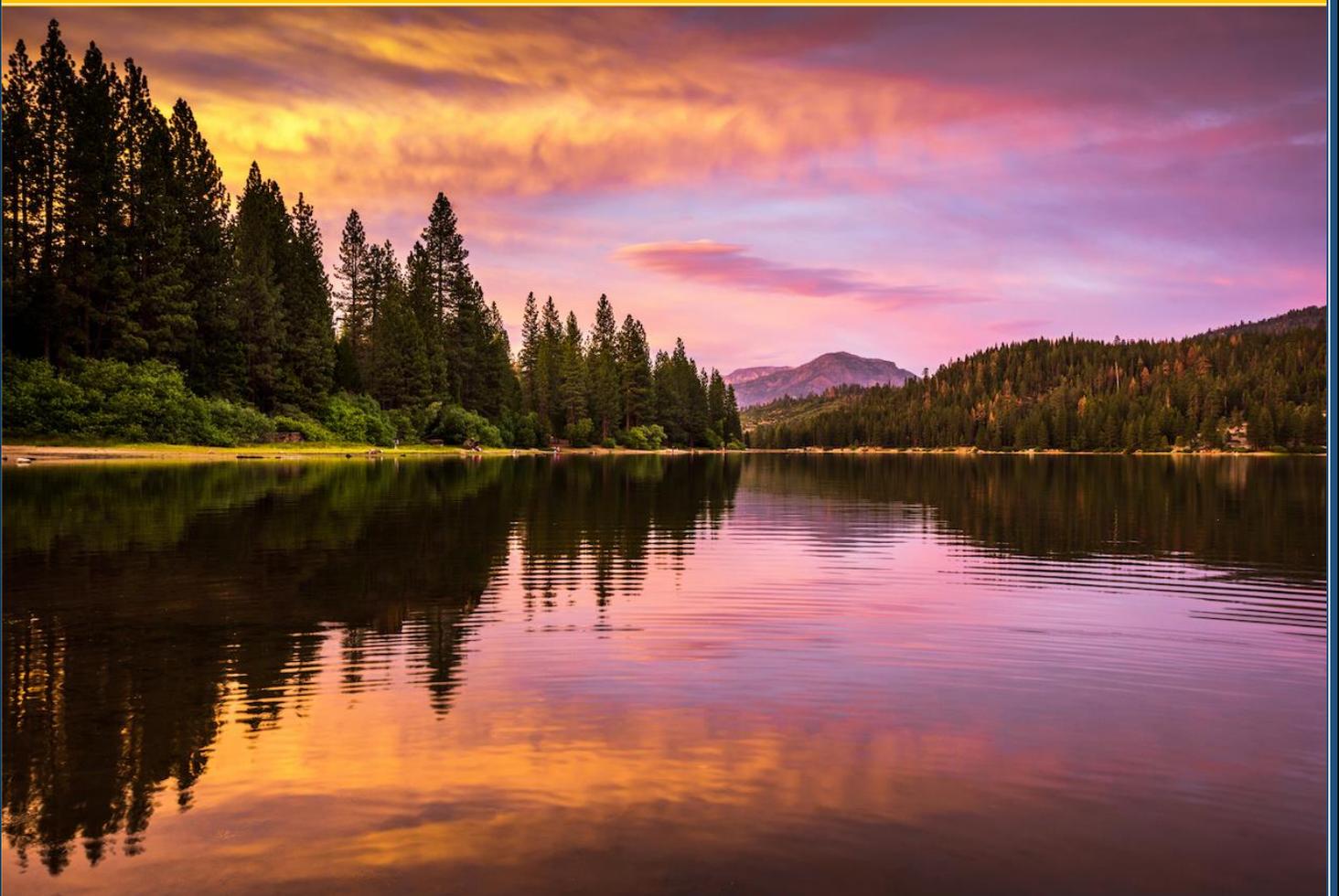




## **Request for Proposals**

# **GLOBAL MEDIA AGENCY**





November 2, 2018

To All Prospective Bidders:

Visit California, a privately funded nonprofit corporation, is seeking a global media agency for international media planning and domestic and international media buying services.

The California Travel and Tourism Commission d.b.a. Visit California is a private non-profit 501 (C) 6 funded by assessed businesses that have an interest in promoting tourism to California. California Tourism is marketed exclusively by Visit California. The Tourism Assessment Program was created under the California Tourism Marketing Act in 1995 with the passage of SB 256. The legislation authorized self-imposition of an assessment by businesses that benefit from travel and tourism. It also authorized the establishment of a non-profit, public benefit corporation, Visit California, to oversee the promotion of California as a premier travel destination.

Visit California oversees the production of a variety of marketing activities, that may include television and online advertising, content marketing to include website, social media, content series, visitor publications and maps, cooperative programs with traditional and non-endemic partners, public relations and travel trade programs – all designed to promote California to consumers, media and the travel trade industry. For more details, please visit <http://industry.visitcalifornia.com>.

The purpose of this Request for Proposal (RFP) is to seek and retain a qualified global media agency for international media planning and domestic and international media buying services. The initial Scope of Work contained within this RFP will be approximately March 1, 2019 to June 30, 2020. The first contract may be pro-rated depending on the date of completion of this RFP.

Attached is a RFP for those capable of meeting minimum requirements and carrying out the scope-of-work. All proposals will be carefully reviewed and evaluated based on the criteria noted in the attached document.

**Notice of Intent to Bid (a non-binding document), as well as any questions you may have to clarify this RFP, are due to Visit California no later than 4:00 p.m., Pacific Standard Time (PST), November 9, 2018.**

Sincerely,

A handwritten signature in black ink that reads "Caroline Beteta".

Caroline Beteta  
President and Chief Executive Officer  
Visit California

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VISIT CALIFORNIA

Request for Proposals

*Global Media Agency*

## **PART I**

# **BACKGROUND**



## 1. INTRODUCTION TO VISIT CALIFORNIA

California is the leading visitor destination in the United States (US) with more than \$130 billion in travel and tourism related spending in 2017. This spending directly supported over one million jobs and generated over \$10 billion in state and local tax revenues. Among California's export-oriented industries, tourism is the fourth largest employer. Since 1998, consistent investment in the California Tourism program (a joint marketing venture of Visit California and the California Division of Tourism) has helped to increase market share and put California in a strong competitive position.

### About Visit California

Visit California is a not-for-profit, 501 (C) (6) corporation formed in 1998 to work jointly with the State of California's Division of Tourism to implement the annual Marketing Plan, which promotes California as a premier travel destination. While these two partners (Visit California and Division of Tourism) are separate legal entities, they are commonly referred to jointly as Visit California.

Visit California's 37-member board of commissioners is composed of individuals from all 12 designated regions of California. Members represent five principal industry sectors: Accommodations, Restaurants and Retail, Attractions and Recreation, Transportation and Travel Services, and the Passenger Car Rental Industry. Twenty-five of the commissioners are elected by the approximately 18,000 assessed California businesses, and the governor appoints 12. The board meets three times a year to help direct Visit California's programs and activities. A 34-member statewide Marketing Advisory Committee also provides input in developing the Marketing Plan.

## 2. RFP PURPOSE

The purpose of this RFP is to seek and retain a qualified global media agency for international media planning and domestic and international media buying services. The contracted agency will work closely with Visit California's advertising agency of record (MeringCarson), serving as their global agency partner to assist in media strategy and planning, providing market research and insights and media buying services across online and offline channels for key markets.

## 3. AGENCY REQUIREMENTS

Your agency must have at least five years' experience with expertise and capabilities in:

- global and domestic media buying;
- international media planning; and
- managing accounts in excess of \$20 million.



Your agency must also be capable of accepting American Express as payment for services.

Finally, we prefer an agency with a West Coast office from which the primary work on our account will be conducted.

#### **4. OVERVIEW OF SCOPE OF WORK**

Visit California seeks a qualified company to provide our advertising agency of record with the following services:

- Strategic research and market insights: marketplace and/or landscape insights, budget allocation, market prioritization, and channel mix recommendations.
- Media buying: offline and online media with strategic and cost-effective planning, buying and audits.
- Analytics: campaign performance, measurements and insights.
- Innovation: insights on emerging trends and new media to reach the Visit California target.
- Consistent and efficient stewardship of programs.
- Budget and cost management.
- Post-buy auditing and reconciliation of media programs.
- Compliance with third-party audit of media billings and reconciliation.

The selected agency will contract with our advertising agency of record. However, Visit California shall lead the vendor selection effort and pay the global media agency directly.

#### **5. CONTRACT TERM**

The initial contract term may be pro-rated depending on the completion date of this RFP. Our contracts typically follow our fiscal year which runs from July 1 through June 30. Our goal is to have a contract in place by March 1, 2019 in order to allow sufficient time for development and implementation of planned activities by the beginning of our fiscal year July 1, 2019.

#### **6. EVALUATION PROCESS & CRITERIA**

Visit California will form a committee to evaluate the written proposals. The criteria for the scoring of the proposals is included as Attachment C. The committee may at any time during the evaluation process seek clarification from Proposers regarding any information contained within their proposal. Final scores for each Proposer will reflect a consensus of the evaluation committee. Any attempt by a Proposer to contact a member of the



evaluation committee outside the RFP process, in an attempt to gain knowledge or an advantage may result in disqualification of Proposer.

The top finalists chosen by the evaluation committee will be asked to provide oral presentations to the evaluation committee. All proposers and key team members working on the account should ensure they are available during the dates presented in the Tentative Schedule. After the oral presentations, there will be a question and answer period. You will be notified of the total presentation time. In addition to Proposer management, key personnel performing day to day activities will be requested to attend. The criteria for the scoring of the oral presentations is included as Attachment C.

***Please note: Upon completing the selection process under this RFP, Visit California will notify the winning Proposer and all other Proposers who were not selected. Visit California's deliberations are confidential. Accordingly, while we understand that non-selected proposers may wish to ascertain reasons for their non-selection, Visit California is unable to respond to any subsequent questions and/or requests for information as to why a company was not selected.***

## 7. TENTATIVE SCHEDULE

This tentative schedule may be altered at any time at the discretion of the Commission.

<b>November 2, 2018</b>	<b>RFP Released</b>
<b>November 9, 2018 (4:00 pm PST)</b>	<b>Deadline for agency to submit <i>Intent to Bid</i> &amp; questions</b>
<b>November 16, 2018</b>	Q&A provided to proposers
<b>December 7, 2018 (4:00 pm PST)</b>	<b>Deadline for agencies to submit proposal</b>
<b>December 14, 2018</b>	Compliance review completed – Committee review begins
<b>December 21, 2018</b>	Finalists selected and notified (actual notification date may vary)
<b>Week of January 21, 2019</b>	Management conducts oral interviews in Sacramento
<b>Week of February 4, 2019</b>	Selected proposer announced (actual notification date may vary)
<b>March 1, 2019</b>	Commencement date of new contract

## 8. QUESTIONS

All Proposers wishing clarification of this RFP must submit questions via email to: RFP Submissions [rfps@visitcalifornia.com](mailto:rfps@visitcalifornia.com) by the date and time referenced in Section 7, Tentative Schedule. **Prior to submitting questions, please review the questions and answers located on our website at: <http://industry.visitcalifornia.com/About-Visit-California/Requests-for-Proposals>.**

## 9. MINIMUM REQUIREMENTS

***Proposals may be rejected if minimum requirements are not met.***

### Notice of Intent to Bid

Notice of Intent to Bid, Attachment A, must be received by **November 9, 2018** 4:00 pm, PST. The notice must be submitted via e-mail to [rfps@visitcalifornia.com](mailto:rfps@visitcalifornia.com). The Notice of Intent to Bid is non-binding; however, it ensures the receipt of all addenda related to this RFP. Proposals will be accepted only from applicants who submitted a timely Notice of Intent to Bid.

### Budget Form

A complete Budget Form (Attachment B) must be included and must include all requested budget line items. All costs associated with the Scope of Work must be included in the format provided in US dollars. Costs for developing proposals are entirely the responsibility of the proposer and shall not be reimbursed by Visit California. All proposers agree that budget costs submitted with their proposals are valid for 90 days from the date Visit California receives your proposal.

### Annual Report and/or Financial Statements

Proposers are required to demonstrate financial viability for maintaining an account of this size. Please provide **one copy** of your Annual Report and/or GAAP/IAS compliant financial statements, including but not limited to:

- Income Statement; and
- Balance Sheet.

All of the above Financial Statements must be the most recent statements available, but no more than 12 months old. Financial statements are to be submitted in a sealed envelope. After review, all financial statements will be destroyed or returned to Proposer.



If Proposer would like a Non-Disclosure Agreement (NDA) signed, please complete, sign, and return the NDA (Attachment D) along with your *Intent to Bid* form by the date specified in the Tentative Schedule.

Financial Statements are not required to be audited.

#### Experience & Capabilities

Your agency must have at least five years' experience with expertise and capabilities in:

- global and domestic media buying;
- international media planning; and
- managing accounts in excess of \$20 million.

Your agency must also accept American Express as payment for services.

Finally, we prefer an agency with a West Coast office from which the primary work on our account will be conducted.

#### Audit Requirements

You must agree to allow Visit California or its representatives to audit on media, financial and contractual media commitments. Please indicate your agreement to these terms within your proposal.

#### Reserved Rights

All proposals submitted shall become the property of Visit California and shall not be returned to the Proposer. Visit California also reserves the right to:

- Reject any and all bids;
- Waive any or all mandatory requirements, if no proposers meet one or more of those requirements;
- Cancel this RFP;
- Revise the amount of funds available under this RFP;
- Amend this RFP as needed; and
- Not select a vendor and award a contract from this RFP.

#### Contract Award

The Scope of Work and all tasks involved will be subject to negotiation between Visit California and the Awardee for the initial contract period. The details of your proposal will be used to negotiate the contract scope of work, and to evaluate your overall proposal as described in Attachment C, Written & Oral Proposal Evaluation Criteria.

## 10. INTERNAL CONTROLS

As an attachment to your proposal, please provide a detailed discussion of your internal control structure for ensuring the following controls are in place and operating effectively:

- Controls for ensuring exchange rates are calculated properly, including how rates are calculated;
- Controls for ensuring the accuracy of invoices from your suppliers and the accuracy of invoices your company will provide to Visit California; and
- Controls for ensuring that no expenses are incurred without prior approval.

## 11. CURRENT STRUCTURE

Our advertising agency has a current relationship with a global media agency for national television buying within the US and expanded services of planning and buying within Visit California's international markets in:

- Canada,
- China,
- Mexico,
- United Kingdom (UK), and
- Australia.

The selected agency will contract with our advertising agency of record. However, Visit California shall lead the vendor selection effort and pay media buying agency directly.

Our current budget for the services and/or activities contained within this RFP generally ranges from \$25 million to \$35 million annually. Our investment may increase in subsequent years.

For FY2018/19, we estimate a media budget, as it relates to this RFP, of approximately \$26 million and stratified approximately as follows:

- Television: 55%
- Online Television: 26%
- Digital: 15%
- OOH: 4%



VISIT CALIFORNIA  
Request for Proposals  
*Global Media Agency*

**PART II**  
**PROPOSAL**

## 1. PROPOSAL STRUCTURE

Your proposal shall contain the following sections and/or items:

- Company Background;
- Company Management & Staff;
- Major Clients;
- Account Planning and Research;
- Amount of Company Billings;
- References;
- Scope of Work discussion;
- Budget Form (See attachment B); and
- Annual Report and/or Financials (financials may be submitted separately in sealed envelope).

Please ensure your proposal includes the following:

- A detailed table of contents or index which lists each key section of your proposal;
- Page numbers; and
- Tabs or other methods to identify key sections of your proposal.

Please also place sections of your proposal in the order they are presented within this RFP.

## 2. COMPANY BACKGROUND

Please include the following items:

- A description of your company's primary services;
- The year in which your company was formed;
- Your company's experience in global media planning and buying and specifically within the tourism industry, if applicable;
- The address from which the primary work on the contract would be performed;
- Numbers of total employees;
  - Please list locations of all of your global offices.
  - Please provide your West Coast US location, or other location from which the primary work on the contract would be performed.

## 3. COMPANY MANAGEMENT & STAFF

Please include the following items:

- The contract manager 'global lead' for this scope of work;
- The individuals who will be conducting the day to day work; and
- Team structure locally and globally.

For all individuals assigned to this account, please provide:

- Current resumes and/or biographies demonstrating qualifications related to this RFP;
- Length of time with your company; and
- Account roles and responsibilities.

Please describe any services and/or media expertise that may be provided by third parties.

#### **4. MAJOR CLIENTS**

- Please provide current major client names, locations and activities for each, as well as longevity of relationship.
- Please describe your experience managing tourism or tourism related clients, if any.
- Please list all tourism related clients across any relevant global offices during the past 12 months, and please address any potential conflicts of interest with Visit California.

#### **5. ACCOUNT PLANNING AND RESEARCH**

Account planning and research disciplines are critical aspects of this Scope of Work. Briefly describe your agency's commitment to, competency in, and relevant processes to both of these disciplines.

#### **6. AMOUNT OF COMPANY BILLINGS**

- Please provide the dollar amount of your annual company billings.
- Please describe how Visit California would rank in your agency based on our billings in the annual range of \$25 - \$35 million.

#### **7. REFERENCES**

- Please provide a minimum of three current customer references and one former customer reference.
- Please provide prior notice to those customers whose names are submitted as a reference as we may contact them. They should be willing to answer questions concerning your company's performance and programs.

## 8. PROPOSAL SCOPE OF WORK

Please include a complete, detailed discussion for each of the items listed below. This narrative will be used to evaluate proposer qualifications for effectively delivering the requirements outlined within this RFP.

### GLOBAL MEDIA

- Provide your media planning/buying expertise in ALL of the following countries:
  - US,
  - Canada,
  - UK,
  - China,
  - Australia,
  - Mexico,
  - Brazil,
  - India,
  - Germany,
  - France,
  - Japan, and
  - South Korea.
- Provide a list of research tools and access to tools that you use to assist in the media planning/buying functions.
- Describe your philosophy and approach to media strategy, planning and buying.
- Describe your key differentiating factors as compared to other global media agencies including buying power and rankings.
- Describe your key agency strengths.
- Provide two to three case studies that demonstrate your company's media planning expertise and showcases how your teams have delivered innovative media platforms to clients.

### ACCOUNT MANAGEMENT

- Please provide your documented procedures for managing global accounts.
- Describe how our account will be supported globally.

- Define how the supporting teams will manage strategic and tactical duties, including who will provide strategic leadership.
- Provide our main point of contact.
- Provide the number of other accounts our main point of contact and/or account manager will manage.
- Describe your communication model with global clients including frequency of communications, elevation protocols for issues that arise, etc.

#### IMPLEMENTATION

Describe the on-boarding process for new clients and the migration of data from existing campaigns into your oversight, along with any associated costs.

#### MEDIA PLANNING AND STRATEGY

- Describe your media research, planning and execution expertise in all of the following countries:
  - US,
  - Canada,
  - UK,
  - China,
  - Australia,
  - Mexico,
  - Brazil,
  - India,
  - Germany,
  - France,
  - Japan, and
  - South Korea.
- Describe your ideology and approach to media planning.
- Please explain how you provide budget allocation, strategic media mix guidance and market insight into planning recommendations.
- Describe your capabilities for digital media including online video, paid search, display advertising, native advertising, paid social, and online video in all Visit California priority geographies noted above.

- Describe your tactical process for digital planning, buying and approvals, etc.
- Describe your capabilities for offline channels including television, outdoor, and print in all regions.
- Describe how you establish goals and benchmarks for awareness campaigns across all digital and offline channels. Please provide examples of how you have executed against awareness campaign goals for other clients.
- Describe how you provide guidance on new media or emerging trends for your clients.

#### MEASUREMENT/REPORTING

- Describe your process for frequency of viewing metrics, optimizations, reporting and communications with clients for media.
- Describe your documented processes for implementation and quality assurance to ensure effective launch and tracking of digital campaigns.
- Describe your ad serving platform(s) and optimization tools.
- Describe any other technologies that you employ, either proprietary or third party, that improve your ability to plan, execute, and/or optimize media programs for your clients.
- Describe your POV on media effectiveness and measurement in emerging markets like China and India.
- Describe your process for testing and optimizing a campaign after it launches.

#### ANALYTICS

- Please provide an overview of your analytics capabilities and infrastructure.
- Describe the Analytics and Reporting capabilities your company offers. Please provide specifics around how you approach attribution across channels and media placements.
- Describe your own analytics platform and/or how you integrate campaign data with existing analytics platforms.
- Describe the advanced analytics technologies that your agency employs.
- Describe the tools/research/services that you provide to help us understand if your clients are spending their advertising dollars effectively, how campaigns are performing compared to our industry, and how they are delivering strong return on advertising spend.
- Please provide two case studies demonstrating analytics competency.

### BILLING/FINANCIAL

- Please describe your company's billing and reconciliation practices and processes.
- Provide a POV on how our global media programs could be audited to ensure impact, efficiency and guaranteed delivery of media.
- The respondent awarded the contract must adhere to strict billing timelines and procedures in order to meet all billing deadlines. Please share your global best practices and processes around management of and submission of billing to give us an understanding of how the process is handled at the local level and the global level of your organization.
- Briefly describe your agency's best practices with regards to managing and billing foreign exchange rates. We are looking for you to share how your other global clients are managing global exchange rates, setting global exchange rates and at what points you evaluate exchange rates for them in planning, billing, invoices and reconciliation process.

### PERFORMANCE EVALUATION

- We would like to assess and adopt any appropriate existing procedures or practices that the selected agency considers particularly effective in evaluating performance.
- Please help us understand how your agency currently conducts client satisfaction studies and share any supporting questionnaires or documents.

## **9. DELIVERY OF PROPOSAL**

Each bidder is required to deliver **ten** hard copies in addition to an electronic version of their proposal. Only **one** copy of your annual report and/or financial Statements is required. Electronic versions of the proposal must be in PDF format and sent to RFP Submissions at [rfps@visitcalifornia.com](mailto:rfps@visitcalifornia.com). Hard copies must be sent by courier such as FedEx or UPS to:

Visit California  
Request for Proposals: Global Media Agency  
Attn: RFP Submissions  
555 Capitol Mall, Suite 1100  
Sacramento, CA 95814 USA

*Proposals may not be faxed.* **Proposals must be received by the date and time referenced in the Tentative Schedule. Late submissions will not be accepted.**



**VISIT CALIFORNIA**  
**Request for Proposals**  
*Global Media Agency*

**PART III**  
**ATTACHMENTS**

- Intent to Bid**
- Budget**
- Evaluation Criteria**
- Non-Disclosure Agreement**



**ATTACHMENT A**

**NOTICE OF INTENT TO BID  
GLOBAL MEDIA AGENCY**

**Due: November 9, 2018**

4:00 PM PST

**Send to:**

Debi Himovitz  
Contracts and Finance Project Manager  
rfps@visitcalifornia.com

Name of Proposer:
Contact Person:
Mailing Address:
Agency URL:
Telephone:
Fax Number:
Email Address:
Signed

**ATTACHMENT B**

**BUDGET FORM  
GLOBAL MEDIA AGENCY**

**FINANCIAL / PRICING STRUCTURE**

Element	Description
<p>Please describe your pricing structure for accounts between \$25-\$35 million net annual budget across multiple regions and campaigns, including broadcast television, outdoor, video, SEM, etc. Please include how your fees/commissions are calculated, any additional fees, and breakdown of fees by media type and market.</p>	
<p>Please describe the services that are included in your fees (i.e. strategy, implementation and ongoing management activities, billing/post buys).</p>	
<p>Please provide any other information that will help us better understand your fees and pricing. Please also include why you believe your structure is the most competitive and/or how it differentiates your company from your competitors.</p>	

**STAFFING BUDGET**

Title	Years with Company	Years in RFP Field	Hourly Rate	% Time Assigned to Account
			Total FTE's	



**ATTACHMENT C  
WRITTEN & ORAL PRESENTATION / POPOSAL EVALUATION CRITERIA**

Written proposals will be reviewed, evaluated and scored by an evaluation committee. The evaluation committee may, if they deem necessary, select certain proposers for oral interviews. Interviews apply only to the top finalists, as determined by the evaluation committee. Evaluation of written and oral proposals will be based on the following criteria.

	<b>Max. Points</b>	<b>Score</b>
<b>1. OVERALL EXPERIENCE OF FIRM</b>	20	
Our evaluation will include an assessment of such items as the history of your company, your experience as it relates to the requirements within this RFP, evidence of past performance, and related items.		
<b>2. SCOPE OF WORK</b>	20	
Our evaluation will include an assessment of the quality of proposed strategies, creativity, detail of plan, ROI measurement systems, and related items.		
<b>3. FAMILIARITY WITH VISIT CALIFORNIA BRAND &amp; PRODUCT</b>	10	
Our evaluation will include our assessment of your understanding of our organization and how you integrated this knowledge into your proposal, cultural fit, and related items.		
<b>4. QUALIFICATIONS OF PERSONNEL</b>	10	
Our evaluation will include an assessment of the qualifications, experience, and creativity of your managerial team, staff, subcontractors, and related items.		
<b>5. CAPABILITIES</b>	20	
Our evaluation will include an assessment of your capabilities and past performance related to global media planning and buying.		
<b>6. COST EFFECTIVENESS</b>	20	
The maximum services are provided in relation to the fees charged and value of overall project. The budget is reasonable and appropriate.		
<b>TOTAL POINTS</b>	<b>100</b>	



## ATTACHMENT D

### NON-DISCLOSURE AGREEMENT (Proposal Information)

THIS NON-DISCLOSURE AGREEMENT ("**Agreement**") is made as of \_\_\_\_\_ ("**Effective Date**") by and between \_\_\_\_\_, a \_\_\_\_\_ ("**Disclosing Party**"), and the California Travel and Tourism Commission, a California non-profit mutual benefit corporation dba Visit California ("**Receiving Party**"), on the following terms and conditions:

1. Background and Purpose. Receiving Party has issued a request for proposal to which Disclosing Party intends to respond with a proposal (the "**Proposal**"). The proposal and supporting documentation will contain certain financial and other business information that is considered confidential and proprietary information by the Disclosing Party (the "**Confidential Information**"). The Disclosing Party has agreed to provide and the Receiving Party has agreed to hold and use the Confidential Information pursuant to the terms and conditions of this Agreement.

2. Requirement to Retain Confidentiality. The Confidential Information is regarded by the Disclosing Party as highly valuable and is not known publicly. Its continued value depends, in part, on retaining its confidential nature. The requirements of this Agreement will apply to the Confidential Information for a period of three (3) years from the Effective Date.

3. Use or Disclosure of Confidential Information. The Receiving Party recognizes that the improper use, disclosure or release of all or any portion of the Confidential Information could cause substantial damage to the Disclosing Party and its affiliates and damage his potential opportunities and revenues, and otherwise have a detrimental impact on the Disclosing Party. Accordingly, all Confidential Information received by the Receiving Party shall be (a) used solely for the purpose of the Receiving Party's evaluation of the Proposal, and (b) kept confidential and shall not be disclosed by Receiving Party in any manner whatsoever, in whole or in part, to any person who is not a party to this Agreement, or (ii) used or included in any information or reports disclosed or distributed by the Receiving Party to any person who is not a party to this Agreement; provided that Receiving Party is authorized to disclose the Confidential Information to affiliates, attorneys, agents, representatives, or employees of the Receiving Party who will review the Confidential Information in connection with the Proposal, subject to the terms and conditions of this Agreement.

4. Information Not Covered by Agreement; Disclosure under Legal Compulsion. Confidential Information shall not include such portions of the Confidential Information as are or become: (i) generally available to the public other than as a result of a disclosure in violation of this Agreement, (ii) available to a party to this Agreement on a non-confidential basis from a source (other than a party to this Agreement), which source is not prohibited from disclosing such Confidential Information by a legal, contractual, or fiduciary obligation, (iii) known by the Receiving Party prior to such disclosure as shown by credible evidence, or

(iv) subject to a governmental, judicial, or administrative order, subpoena or discovery request. If the Receiving Party receives any subpoena, order or other document legally compelling the Receiving Party to disclose any of the Confidential Information, the Receiving Party shall provide the Disclosing Party with prompt written notice of such request so that the Disclosing Party may seek a protective order or other appropriate remedy and/or waive compliance with the provisions of this Agreement. If such protective order or other remedy is not obtained or not requested, the Receiving Party agrees that it shall furnish only that portion of the Confidential Information that it is advised by counsel that it is legally required to disclose and shall exercise reasonable efforts to obtain assurance that confidential treatment will be accorded the Confidential Information so disclosed. Additionally, notwithstanding the foregoing, Disclosing Party acknowledges and agrees that Receiving Party is subject to the California Public Records Act, ("PRA") and shall provide any materials and make any disclosures required for Receiving Party to comply with the PRA.

5. Safeguard Confidential Information. The Receiving Party agrees to safeguard all Confidential Information in a secure place and restrict the disclosure of any Confidential Information as provided herein.

6. Property. The Confidential Information shall remain the exclusive property of the Disclosing Party. Upon the termination of the discussions regarding the Proposal the Receiving Party shall return any documentation or recordings of the Confidential Information, together with all copies thereof, immediately to Disclosing Party, provided that Receiving Party may retain a copy in its records, pursuant to its records retention policy, subject to the continuing obligation of confidentiality with respect to such Confidential Information.

7. Attorneys' Fees; Prejudgment Interest. If the services of an attorney are required by any party to secure the performance of this Agreement or otherwise upon the breach or default of another party to this Agreement, or if any judicial remedy or arbitration is necessary to enforce or interpret any provision of this Agreement or the rights and duties of any person in relation thereto, the prevailing party shall be entitled to reasonable attorneys' fees, costs and other expenses, in addition to any other relief to which such party may be entitled.

8. Severability. If any provision of this Agreement is held by a court of competent jurisdiction to be invalid or unenforceable, the remainder of the Agreement which can be given effect without the invalid provision shall continue in full force and effect and shall in no way be impaired or invalidated.

9. Governing Law. The rights and obligations of the parties and the interpretation and performance of this Agreement shall be governed by the law of California, excluding its conflict of laws rules.

10. Notices. All notices and communications pursuant to this Agreement shall be given in writing by personal delivery, prepaid first class registered or certified mail properly addressed with appropriate postage paid thereon, or facsimile transmission, and shall be



deemed to be duly given and received on the date of delivery if delivered personally, on the second day after the deposit in the United States Mail if mailed, or upon acknowledgment of receipt of electronic transmission if sent by facsimile transmission.

11. Waiver of Breach. No covenant or condition of this Agreement can be waived except by the written agreement of the party entitled to enforce the covenant or condition. Forbearance or indulgence by either party in any regard whatsoever shall not constitute a waiver of the covenant or condition to be performed by the other party.

12. Miscellaneous. This Agreement contains the entire understanding of the parties with respect to the matters described herein. This Agreement supersedes all prior and/or contemporaneous agreements and understandings between the parties, written or oral, with respect to the matters described herein. This Agreement may be executed in two or more counterparts, each of which shall be deemed an original document and all of which, taken together, shall be deemed to constitute but a single original document.

Each of the parties hereto has executed this Non-Disclosure Agreement as of the Effective Date first set forth above.

DISCLOSING PARTY:

RECEIVING PARTY:

\_\_\_\_\_

California Travel and Tourism Commission,  
a California non-profit mutual benefit  
corporation dba Visit California

By: \_\_\_\_\_

By: \_\_\_\_\_

Name: \_\_\_\_\_

Name: \_\_\_\_\_

Title: \_\_\_\_\_

Title: \_\_\_\_\_