



# **Request for Applications To Develop and Operate A Gaming Facility in New York State**

## **Round 1 - Questions and Answers**

**April 13, 2015**

**Q. 1:** With respect to the requirement to provide a Gaming Facility License Application Form for each of: (i) the Applicant; (ii) any direct and indirect parent entity of the Applicant including any holding company; (iii) any Manager; (iv) any entity having a beneficial or proprietary interest of five (5) percent or more in an Applicant or a Manager; and (v) any other entity that may designated by the Commission:

a. If a Gaming Facility License Application Form was submitted for any and/or all of the above-referenced entities in connection with a response to the Request for Applications to Develop and Operate a Gaming Facility in New York State dated March 31, 2014, will such Gaming Facility License Application Form(s) be required to be submitted again with a response to this RFA?

b. If the answer to question (a) is in the affirmative, will it be acceptable to resubmit a Gaming Facility License Application Form that was submitted for any and/or all of the above-referenced entities in connection with a response to the Request for Applications to Develop and Operate a Gaming Facility in New York State dated March 31, 2014?

**A. 1:**

**a. Yes, but submission should be of four (4) electronic copies, each contained on individual USB drives.**

**b. Yes, so long as all information submitted is correct as of submission on or before July 6, 2015 and there is a certification by the entity on behalf of which the form is submitted that all such information from the earlier-submitted form is complete and accurate as of the date of the 2015 submission.**

**Q. 2:** With respect to the requirement to provide a Multi-Jurisdictional Personal History Disclosure Form and New York Supplemental Form for each natural person who is (i) a director, manager, general partner or person holding an equivalent position with the Applicant, a Manager or any direct or indirect parent entity of the Applicant; (ii) a Casino Key Employee; (iii) a person having beneficial or proprietary interest of five (5) percent or more of an Applicant or a Manager; or (iv) designated by the Commission:

a. If a Multi-Jurisdictional Personal History Disclosure Form and New York Supplemental Form was submitted for any and/or all of the above-referenced natural persons in connection with a response to the Request for Applications to Develop and Operate a Gaming Facility in New York State dated March 31, 2014, will such Multi-Jurisdictional Personal History Disclosure Form(s) and New York Supplemental Form(s) be required to be submitted with a response to this RFA?

b. If the answer to question (a) is in the affirmative, will it be acceptable to resubmit Multi-Jurisdictional Personal History Disclosure Forms and New York Supplemental Forms that were submitted for any and/or all of the above-referenced natural persons in connection with a response to the Request for Applications to Develop and Operate a Gaming Facility in New York State dated March 31, 2014?

c. If the answer to question (a) is in the negative, may natural persons utilize financial information prepared in the 4 months preceding July 6, 2015 as an acceptable period in order to complete and compile the information in a timely manner for the July 6, 2015 submission, as was permitted during the Request for Applications to Develop and Operate a Gaming Facility in New York State dated March 31, 2014?

**A. 2:**

a. **Yes.**

b. **Yes, so long as all information submitted is correct as of submission on or before July 6, 2015 and there is a certification by the person submitting the form that all such information from the earlier-submitted form is complete and accurate as of the date of the 2015 submission.**

c. **Please see the Answer to Question 2 a., above.**

**Q. 3:** Regarding Section III, H:

a. Is an applicant obligated to follow the requirements related to number of copies and format of copies outlined in Section IV, B when providing an update to the application?

b. If not, how many copies and in what format should copies of updates be provided to the Board?

**A. 3: All updates should be digitally provided, labeled “update #, Exhibit Y.Y-[Exhibit Spelled Out Here]”. Eight (8) copies of any update should be submitted.**

**Q. 4:** Regarding Section IV, B – Original Submission, with respect to items 2 through 7, should these items be included in any specific box or marked with any specific color tape?

**A. 4: There is no preference as to box type, but an Applicant should use BLACK tape.**

**Q. 5:** Regarding Section IV, B – Original Submission:

a. Please clarify that the reference to Exhibit XIII is a reference to Section XIII, the required attachments.

b. Please clarify that it is the Attachments 1 through 4 that are required to be included, together with the Exhibit X documents, in the box sealed with Red tape.

**A. 5:**

**a. It is.**

**b. They are.**

**Q. 6:** Regarding Section IV, D – Public Presentations:

a. What types of Presentation aids are acceptable?

b. Will the Board accept presentation boards or digital (PowerPoint) presentations only?

c. If so, is there a size/format requirement for the boards?

d. Is there a limit as to the quantity of presentation aids?

**A. 6: At this time the location(s) for the Public Presentations have not yet been determined. As such, we are unable to comment as to what equipment may be available for use.**

**Q. 7:** Regarding Section VI, K – Conflicts of Interest, when does the Board anticipate posting a list of members, employees, consultants and agents of the Board and the Commission in order for an Applicant to submit an accurate description of any relationship or affiliation of the Applicant, the Manager or any of their respective Affiliates that currently exists or existed in the past five (5) years with any member, employee, consultant or agent of the Board or the Commission that is a conflict of interest or may be perceived as a conflict of interest during the RFA process?

**A. 7: No lists will be provided. Please see the answer to Question 99 a. from Request for Application to Develop and Operate a Gaming Facility in New York State, Round 1 Questions and Answers dated April 23, 2014.**

**Q. 8:** Regarding Section VI, L – Public Officials, please clarify whether the requirement of paragraph two regarding an “agreement, written or oral, to receive any compensation from anyone in connection with the Application, the RFA process or obtaining of a License from the State” is limited to an agreement that is for the benefit of the Applicant.

**A. 8: No, such requirement is not limited as described in this Question.**

**Q. 9:** Regarding Section VIII.A.8 – Documentation of Financial Suitability and Responsibility, can applicants take the position that Exhibit VIII.A.7.a. addresses the requirements of Exhibit VIII.A.8.a, as was permitted under the Request for Applications to Develop and Operate a Gaming Facility in New York State dated March 31, 2014 process?

**A. 9: Applicants may take the position that Exhibit VIII.A.7.a. addresses this request. See N.Y. Racing, Pari-Mutuel Wagering and Breeding Law § 1313.1(e).**

**Additionally, please see the answer to Question 160 from Request for Application to Develop and Operate a Gaming Facility in New York State, Round 1 Questions and Answers dated April 23, 2014.**

**Q. 10:** To what extent will the Board consider existing infrastructure and previous investments in scoring an Applicant?

**A. 10: Please review the following language from § VIII.A.2.b of the RFA:**

**Pursuant to PML Section 1315, the Board may, in its sole discretion, determine what portion, if any, of such capital investments may be included toward computing the Applicant’s Minimum Capital Investment.**

**Q. 11:** During the background investigation into suitability of an Applicant, the Applicant will necessarily have direct contact with the Commission staff.

a. Is such contact during the Restricted Period an exception to the communication restrictions described in the RFA?

b. Is it necessary that Applicant's copy the Board's designated contact persons on all correspondence with Commission staff and/or the Commission's/Board's consultants regarding background investigatory matters?

**A. 11: Yes. Please see the answer to Question 15 from Request for Application to Develop and Operate a Gaming Facility in New York State, Round 1 Questions and Answers dated April 23, 2014.**

**Q. 12:** Does the communication bar between the Commission/Board and Applicants as described in the RFA apply to an Applicant's provision of comments to proposed regulations of the Commission/Board or other responses by Applicants in reply to solicitations for public comment made by the Commission/Board?

**A. 12: No. Please see the answer to Question 16 from Request for Application to Develop and Operate a Gaming Facility in New York State, Round 1 Questions and Answers dated April 23, 2014.**

**Q. 13:** Does the Board anticipate providing more guidance on the weight of each factor in the selection process? For example, page 32 of the RFA details "Economic Activity and Business Development Factors" as being weighted 70 percent and then provides a breakdown of 9 items within the "Economic Activity and Business Development Factors".

a. Are these 9 factors the only factors comprising the 70 percent?

b. Are these 9 factors all weighted equally?

c. If not, will the Board provide guidance as to how these factors are weighted?

d. Similarly for the factor breakdown of "Local Impact and Siting Factors" and "Workforce Enhancement Factors".

**A. 13: No.**

**Q. 14:** As the Board clarified in response to a question during the Request for Applications to Develop and Operate a Gaming Facility in New York State dated March 31, 2014 process, will the Board here maintain its position that plans to eliminate VLTs in favor of Class 3 machines at an existing facility will not have a negative impact on scoring?

**A. 14: An application of an existing VLT facility will not be disadvantaged by the proposed elimination of VLTs. Please see the answer to Question 123 from Request for Application to Develop and Operate a Gaming Facility in New York State, Round 1 Questions and Answers dated April 23, 2014.**

**Q. 15:** Will the Board consider the employment, economic and regional negative impacts a proposed Gaming Facility will have on existing Video Lottery Gaming facilities in the region if the license is awarded to an applicant that does not currently operate as a Video Lottery Gaming facility?

**A. 15: Yes.**

**Q. 16:** Will the Board consider an application with multiple financing sources more favorably than an application with one financing commitment?

**A. 16: The Commission will consider all relevant factors in making its determination. Consistent with past practice, the Commission will not entertain any hypothetical financing scenarios.**

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