



**REQUEST FOR APPLICATIONS
TO DEVELOP AND OPERATE
A GAMING FACILITY IN NEW YORK STATE**

June 24, 2014

ADDITIONAL QUESTIONS AND ANSWERS

Q. 429. Based upon the Gaming Facility Location Board’s answer to Question 336 contained in the Request for Applications to Develop and Operate a Gaming Facility in New York State – Applicant Conference – Questions and Answers, dated May 2, 2014, Applicant has been working closely with several agencies (such as NYSTA and NYSDOT) regarding technical elements necessary to respond to the speed to market elements of the Application, including seeking technical guidance, review of required permits and approvals relating to such technical elements and a mutual undertaking to work towards completion of the road works in question. On June 16, 2014, the Joint Commission on Public Ethics, the Board and the Commission issued a document entitled “Joint Guidance on Casino Lobbying”. Joint Guidance Item 3 appears to permit less contact with the State Agencies than Answer 336.

In light of this contradiction, is it permissible to continue to discuss technical elements of Applicant’s bid with agencies involved therewith, including obtaining written confirmation that Applicant’s specific roadway designs will conform to the requirements of such agencies and the related permits and approvals, design approvals and agreement on time frames for completion of such projects?

A. 429. The Gaming Facility Location Board does not view the answer to Question 336 and Item 3 of the Joint Guidance on Lobbying issued June 16, 2014 to be inconsistent.

It is permissible for an Applicant to discuss technical elements of its bid with the relevant executive agencies. For example, an Applicant may

gather information about an agency's process or an agency's activity in subjects such as transportation studies or environmental rulemaking. The following activities specified in the question are allowable: "seeking technical guidance," "review of required permits and approvals relating to such technical elements" and "obtaining written confirmation that Applicant's specific roadway designs will conform to the requirements of such agencies and the related permits and approvals, design approvals and agreement on time frames for completion of such projects." It is not clear, however, what is meant by seeking "a mutual undertaking to work towards completion of the road works in question."

Please note that it is impermissible for an Applicant to make a specific request of an agency, or attempt to influence an agency, to garner such agency's support for the Applicant's proposal generally or to solicit support for an aspect of such proposal to the detriment of another Applicant's proposal.

Q. 430. Number of Copies. RFA Article IV, Section B appears to be unambiguous in requiring "two (2) hard copies of each Background Information Form" and "two (2) electronic copies of each Background Information Form in PDF format submitted via two (2) separate USB flash drives". The June 16, 2014 Q&A appears to change dramatically this requirement, by increasing the number of copies to twenty (20) hard copies and ten (10) electronic copies. The apparent inconsistencies between the plain text of the RFA and the June 16, 2014 Q&A require reconciliation to avoid unnecessarily, and significantly, increasing the reproduction burden on all entities and parties with limited time before the June 30, 2014 submission deadline, as well as to avoid unnecessarily creating a tremendous amount of paper waste.

Accordingly, we respectfully request clarification of the apparent inconsistency.

A. 430. Please see **Clarification on Document Submission, dated June 18, 2014. This document may be found at:**

[http://gaming.ny.gov/pdf/Document%20Production%20Clarification%20\(revised%20version\),%20June%202019,%202014.pdf](http://gaming.ny.gov/pdf/Document%20Production%20Clarification%20(revised%20version),%20June%202019,%202014.pdf)

Q. 431. Redacting Background Investigation Forms. The June 16, 2014 responses to Questions 423 and 424 also appear to raise for the first time the issue of whether it is necessary to provide redacted copies of Background Investigation Forms. By

their nature, Background Investigation Forms contain primarily confidential and proprietary information in the case of entities and confidential personal information including significant amounts of personally identifiable information in the case of individuals, which must be handled in accordance with all applicable laws.

Based on our understanding of practices in other jurisdictions, we believe that the practice of requiring redaction of information in Background Information Forms in anticipation of wider circulation may be novel. For these and other reasons we seek to confirm:

a. That entities and individuals are expected to submit redacted copies of Background Information Forms; and

b. That there is anticipation of potentially releasing portions of completed Personal History Disclosure Forms to a circulation pool beyond what is otherwise necessary to complete such background investigations in a confidential and restricted manner.

A. 431. The Board provided a clear intention to treat Applications as public records and will make them available to the public, with applicable exemptions pursuant to the FOIL. See RFA Article IV § F. PUBLIC DISCLOSURE OF APPLICATION MATERIALS. To that end, the Board requested clean and intended redacted materials. This would be consistent with the approach taken by the N.Y. Ad Hoc Committee on the Future of Racing in 2005 when engaged in the intended procurement of the State racing franchise.

Q. 432. The answer to Question 423 uses the phrase “redacted hard and electronic copies of the Background Information Forms”. Does the Commission want traditional “redacted” versions submitted on the front end or a cover letter with references to what we believed to be exempt from disclosure?

A. 432. The Board respectfully refers the questioner to RFA Article IV §§ B. 5. and F. These sections clearly indicate that both the clean and intended redacted versions must be submitted.

Q. 433. The answer to Question 423 states that “20 hard copies and 10 electronic copies of and redacted hard and electronic copies of the Background Information Forms”. RFA Article IV § B. calls for 2 hard and 2 electronic copies of the Background Information Forms.

Please confirm that the RFA as written is correct and that only two copies of each medium are required.

A. 433. See Answer to Question 430.

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