



Gaming Commission

RFP: C160001 - Regulatory Compliance Consulting Services

VENDOR ACKNOWLEDGEMENT OF ADDENDUM

Amendment Number: One (includes Q & A Summary)

Date Issued: February 5, 2016

Summary:

Questions and Answers

Revised Attachment 3 – Document Submittal Checklist

By signing below, the bidder attests to receiving and responding to the amendment number indicated above.

FIRM NAME: _____

REPRESENTATIVE SIGNATURE: _____

**REQUEST FOR PROPOSALS
REGULATORY COMPLIANCE CONSULTING SERVICES**

Questions and Answers

Released: February 5, 2016

- Q.1: Will the consultant be required to monitor submitted certified payrolls in order to validate that prevailing wages are being paid across applicable contracts?
- A.1: It is not anticipated that the consultant will need to review certified payrolls against the Prevailing Wage Schedules.**
- Q.2: What is the estimated value of all contracts to be released that would be subject to prevailing wages? And that would be subject to oversight by the consultant as referenced in the scope of work C Additional Services 1. Prevailing Wage Rates on page 41?
- A.2: See response to A.1. The consultant may be required to verify whether certified payroll records are submitted in accordance with Article 8 of the New York State Labor Laws.**
- Q.3: Is it expected that the consultant will interface with contract administration staff from the Gaming Commission?
- A.3: The consultant will work directly with the gaming facility licensees and the Gaming Commission Director of Regulation and Compliance and her staff. Contract Administration staff may also be involved in some of the work through the contract term.**
- Q.4: Will the consultant have the authority to interface directly with Gaming Facility Licensees and require of them the reporting as stipulated in the RFP?
- A.4: See response to A.3.**
- Q.5: Are the Casino Projects starting within the same time period or will they have different project timelines?
- A.5: Three of the four gaming facilities have been approved for licensure and have begun work on their projects. We expect that all three facilities will all work within similar timelines. The casino legislation requires that each casino open within 24 months of licensure. The licenses are effective on March 1st 2016; therefore, those projects should be completed before March 2018.**
- Q.6: Will the Commission have the authority to determine each project start date?
- A.6: The Commission has no control over the actual work within the timeline. Also, see response to A.5.**

Q.7: Is there an estimated/budget cost for each project?

A.7: The estimated budget cost for each of the three projects currently approved for licensing is as follows:

Rivers Resort & Casino: Estimated Budget: \$320 million
Estimated construction cost: \$127 million

Lago Resort & Casino: Estimated Budget: \$425 million
Estimated construction cost: \$171 million

Montreign Resort Casino: Estimated Budget: \$1.25B million
Estimated construction cost: \$500 million

Q.8: Bidder requests the following changes with respect to the State of New York Gaming Commission Request for Proposals for Regulatory Compliance Consulting Services RFP #C160001:

a. Section 1.21 of Part 1: It is requested that the following language be inserted in order to provide clarification regarding our handling of conflicts:

“Based on the names of the names of the parties that Commission has provided, Bidder is not aware of circumstances that constitute a conflict of interest or that would otherwise impair its ability to provide objective assistance. Commission acknowledges that Bidder provides a wide range of consulting services to numerous clients. In matters unrelated to the work performed hereunder, some of these clients may now or in the future have legal or economic interests that may be adverse to Bidder’s interests. As independent consultants and experts, Bidder’s determination of whether a conflict of interest exists is based primarily on the confidential information that it obtains or develops in the course of its engagements, rather than being based solely on the parties involved. Commission agrees that the provision of work hereunder will not preclude the Bidder from working for other clients on unrelated matters that are, or may be adverse to Commission, provided that the Bidder does not make use of any of Bidder’s confidential information that it may have received or had access to under this Agreement.”

b. Section 1.23 of Part 1: Please waive the requirement of notice of a material change in ownership as defined therein since we are a publicly held company.

c. Section 2.14 of Part 1: (i) Please waive the requirement that the Contractor submit copies of each required insurance contract/policy upon the Commission’s request, as we provide certificates evidencing the required coverages but not copies of the policies. (ii) Also, please change the last sentence of the third paragraph of this section to delete the requirement that the carrier send the notice of cancellation, termination or failure to renew. (iii) Please also revise the notice requirement under Section 2.14.A3 to provide instead that the Contractor will endeavor to provide the 30-day notice thereunder (rather than have the policy so provide).

- d. Section 10 of Sample Contract contained in Appendix B: Please change “in whole or in part by an actual or alleged act or omission of” to be “directly as a result of the gross negligence, willful misconduct or fraud of”.

--Please also insert the following at the end of this section:

“Notwithstanding the terms of any other provision, (i) the total liability of Contractor and its subsidiaries, officers, employees and agents for all claims of any kind arising out of this Agreement or the Services, whether in contract, tort or otherwise, shall be limited to the total fees paid to Contractor for the work giving rise to the liability in question; and (ii) neither party shall in any event be liable for any indirect, consequential or punitive damages, even if they have been advised of the possibility of such damages.”

- e. Section 15 of Sample Contract contained in Appendix B: Please add the following as new subsection (f):

“If access to any of the materials in Contractor’s possession relating to this engagement is sought by a third party, or Contractor is requested or compelled to testify as a fact witness in any legal proceeding related to Contractor’s work for Commission, by subpoena or otherwise, or Contractor is made a party to any litigation related to Contractor’s work for Commission, Contractor will promptly notify Commission of such action, and either tender to Commission the Contractor’s defense responding to such request and cooperate with Commission concerning our response thereto or retain counsel for Contractor’s defense for which Commission shall reimburse Contractor for all reasonable attorney’s fees and costs of defense. In such event, Commission will compensate Contractor at Contractor’s standard billing rates for its professional fees and expenses, including reasonable attorney’s fees (internal and external), involved in responding to such action.”

A.8: (a) The Commission declines to make the change requested, but see revisions below to Sections 1.21 and 4.4 of the RFP, which address Conflicts of Interest:

- 1. Section 1.21 of the RFP, Conflicts of Interest, is deleted and its entirety and replaced with the following:**

CONFLICTS OF INTEREST

Throughout the procurement process Bidders must identify, and bring to the attention of the Commission, actual or apparent conflicts of interest as knowledge of such conflicts arise. Any Bidder awarded a contract under this RFP will have an on-going obligation to inform the Commission of any actual or apparent conflicts of interest.

See Section 4.4 for specific information required to be submitted with the Bidder’s Proposal.

2. Section 4.4 of the RFP, Conflicts of Interest, is deleted in its entirety and replaced with the following:

CONFLICTS OF INTEREST

In its Proposal response each Bidder must:

- Fully disclose all relationships that exist between it and Gaming Facility Licensees.
- Provide a detailed explanation of its corporate structure and of its relationship to any other corporate entities within the same corporate family which have an existing relationship with the State of New York.
- Explain how any relationship that might create the appearance of possible conflicts of interest will be modified to eliminate such appearance or issue.

(b) The Commission declines to make the change requested.

(c) i. The Commission declines to make this change. The purpose of the “Note” in Section 2.14 of the RFP is to inform Bidders that we do not require the insurance policy upon submission of a Proposal or upon award, but have the right to request it anytime throughout the contract term. If the Bidder believes such information is confidential, it can be designated as proprietary as provided in Section 1.15 of the RFP.

ii. and iii. The Commission declines to make the changes requested.

(d) The Commission declines to make the change requested.

(e) The Commission declines to make the change requested.

Q.9: During our review of the New York State Gaming Commission’s Regulatory Compliance Consulting Services RFP, we found several of the Submittal Form’s appendices do not correspond with the actual RFP documents. Therefore, as a respondent, how should we address these discrepancies? We have listed them below.

Errors on the NYS Gaming Commission RFP Submittal Form

Discrepancies:

- a. Under §2.15A EEO (Appendix I) the Submittal Form does not correspond with the actual RFP EEO Section which is under Appendix J – Equal Employment Opportunity (EEO). Appendix I is actually “Sales & Use Tax” in the RFP document.
- b. Under §2.15B Minority and Women Business Enterprise (Appendix I) is listed on the Submittal sheet and is also incorrect. This should be Appendix J – Equal Employment Opportunity (EEO) as this corresponds with the RFP document.

- c. Under §2.11 of the Submittal List, Appendix H should be Appendix I as this would match the RFP document.
- d. Under §2.15A EEO and Minority and Women-Owned Business Enterprises (Appendix I) again does not correspond with the RFP document which has Appendix J as the matching item with the RFP document.
- e. Under §2.15B Minority and Women Business Enterprise (Appendix I) again is also incorrect. It should be Appendix J, in accordance with the RFP document.

A.9: In response to a – e above, see revised Attachment 3 – Document Submittal Checklist included with this Addendum. The references have been corrected and the form has been updated.

Q.10: (a) As noted on page 47, Section 4.7 of the MWBE Plan and Diversity Practices, “Points will not be awarded based on a company’s status as a certified MWBE firm”, affecting the possible 5 points awarded within the Technical Evaluation. However, it also states, “The Commission will conduct a comprehensive, fair, and impartial evaluation of the Proposals received in response to this RFP...scoring of the Technical proposals will be by consensus of the Committee” (p. 48, Section 5.2). If an MBE firm submits a Utilization Plan indicating M/WBE utilization, does this firm receive points? (b) If not, is there a way to recoup those points?

A.10: (a) Each proposal, regardless of the proposer’s status as certified MWBE Firm, will be evaluated on their company’s Diversity Practices pertaining to New York State Certified MWBE firms. Pursuant to the scoring matrix included in Appendix K, if your firm is proposing to utilize other certified MWBE companies in the fulfillment of the services required under this RFP, a proportionate amount of points available may be awarded to your firm based on the utilization plan submitted.

(b) The points awarded will be based upon the information submitted in the Proposal and available to the evaluation committee at that time; therefore, there is no manner in which to make up points at a later date.

Q.11: In reference to page 25, Section 2.6, the RFP explains, “Travel is not anticipated under the scope of work and will not be compensated.” It is to our understanding that traveling to multiple sites will not be necessary. Since this may be the situation, where and/or how will the proposed meetings take place?

A.11: The Commission anticipates that most or all work under a resulting contract can be accomplished through conference calls, video conferencing, electronic submission of documentation, or other related means.

Q.12: On page 41, Section C.1, the RFP discusses the responsibility of reviewing contracts for compliance with Article 8 of New York State Labor Law. Would the inclusion of this service require the use of site investigator(s) from our firm? If so, how should our firm represent the additional employees in our proposal?

A.12: No.

Q.13: As per Appendix J, Section VI, "The Contractor is required to submit a Quarterly MWBE Contractor Compliance Report through the NYSCS". How would our firm receive access to the information indicated within the Reports for each casino for our firm's own review and analysis?

A.13: Each Gaming Facility Licensee will be required to submit information and documentation in a format designated by the Commission and the Commission will make any and all information and documentation available to the consultant.

Q.14: What is the overall project budget?

A.14: See response to A.7.

Q.15: Where is Exhibit 8A – Conflicts of Interest as referenced in Attachment 3/RFP 1.21

A.15: See response A.8 and A.9. There is no Exhibit 8A.

Q.16: P.15 Volume II – Pricing Proposal. Reference – Attachment 2(pages 1 and 2) - where are pages 1 and 2 located?

A.16: Attachment 2 is the Pricing Proposal and is part of the RFP (toward end); however, it is only one page, not two.

Q.17: Is the Commission considering the award of multiple prime contracts?

A.17: Only one award will be made resulting from this RFP solicitation.

Q.18: Scope of Work, item 3, bullet # 6: Regarding review of each solicitation document and proposed contract award to ensure it meets the language requirements set by the Commission ...prior to submission to the Commission -- What is the anticipated volume of Licensee prime contracts as well as subcontracts expected per year?

A.18: There is no way for the Commission to determine that. Please see responses to A.2, A.7, and A.14.

Q.19: Are selected MWBE certified Regulatory Compliance Services Consulting Services contractors able to self-perform any portion of the 30% MWBE goal?

A.19: Yes, a certified M/WBE firm would be considered 100% relative to the participation goals. However, although the MWBE firm will be considered 100% as noted, for purposes of Diversity Practices, Section 2.15 of the RFP, status as a certified M/WBE does not allow for any portion of the available points. Points are awarded based on the firm's utilization of other New York State certified MWBE firms.

Q.20: Will the successful respondent be required to maintain offices in the vicinities of the gaming facilities?

A.20: No. See A.11.

Q.21: Will the Commission have an office in the vicinity of the gaming facilities? If so, will the Consultant be allowed access/use?

A.21: No. See A.11.

Q.22: Can the Consultant utilize a centralized location to administer the general services under this agreement?

A.22: No. See A.11.

Q.23: If the Proposer is a NYS Certified MWBE firm will the MWBE firm be able to count itself toward the 30% utilization participation plan goals?

A.23: See response to A.19.

Q.24: Will starting construction schedule dates for each of the gaming facilities be provided?

A.24: See response to A.5.

Q.25: On the pricing proposal (Attachment #2), would you like the hourly rate to include direct rate plus multiplier?

A.25: The hourly rate proposed on Attachment 2 must be an all-inclusive rate (including overhead and profit).



RFP – C160001 Regulatory Compliance Consulting Services

DOCUMENT SUBMITTAL CHECKLIST

Submissions Required:

Description of Document	RFP	Submittal Requirements	Checklist
Contract Form (Appendix B) (incorporates Appendix A)	§1.1 & §1.3	With Proposal (must be signed)	
Procurement Lobbying BODC Form (Appendix C)	§1.11	With Proposal	
Non-Collusive Bidding Certification (Appendix D)	§1.13	With Proposal	
NYS Vendor Responsibility Questionnaire (Appendix E)	§1.14	With Proposal	
Designation of Proprietary Information	§1.15	With Proposal, as defined in RFP	
Technical & Pricing Proposals	§1.16	Submit Technical and Pricing Proposals Separately as Defined in RFP	
Equal Employment Opportunity (EEO) (Appendix J) <ul style="list-style-type: none"> Policy Statement Staffing Plan (J-2) 	§2.15.A	Policy Statement: with Proposal; J-2: proposed staffing plan – with Proposal	
Minority and Women-Owned Business Enterprise Program (Appendix J) <ul style="list-style-type: none"> Proposed Utilization Plan 	§2.15.B	Proposed Utilization Plan: include subcontractor name, work to be performed, and percentage of utilization (not dollar value) – with Proposal	
Use of Service-Disabled Veteran- Owned Business Enterprises in Contract Performance (Appendix M)	§2.19	With Proposal	
Diversity Practices Questionnaire (Appendix K)	§4.7	With Proposal	

Submissions Required Subsequent to Award:

Description of Document	RFP	Submittal Requirements	Checklist
W-9 (Appendix F)	§2.8	Upon notification of award	
E-pay (Appendix G)	§2.9	Upon notification of award	

Consultant Disclosure (Appendix H)	§2.10	Form A: Within 2 Business Days of Notification of Award. Form B: Annually by May 15.	
Sales & Use Tax (Appendix I) <ul style="list-style-type: none"> ST220-CA (submit to the Commission) ST220-TD (submit to DTF) 	§2.11	Within seven calendar days of notification of award	
Insurance Documentation	§2.14	Documentation as required in §2.13	
Equal Employment Opportunity (EEO) (Appendix J) <ul style="list-style-type: none"> Utilization Report (J-3) 	§2.15.A	J-3: 10 days following the end of the previous quarter	
Minority and Women-Owned Business Enterprise Program (Appendix J) <ul style="list-style-type: none"> Utilization Plan Form (J-4) Quarterly Utilization Report (J-5 and J-6) 	§2.15.B	J-4: Utilization Plan - within 14 days after notification of award; J-5 and J-6: 10 days following the end of the previous quarter.	

FIRM NAME: _____

REPRESENTATIVE SIGNATURE: _____