



REVISED

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

Round 1 - Questions and Answers – Application Fee

April 21, 2014

NOTE: Only questions regarding the Application Fee are included in this summary. A cumulative Question & Answer summary addressing all questions received by the April 11, 2014 deadline for Round 1 questions will be posted to the Commission website by close of business on April 23, 2014.

Q.1: If we apply for two Licenses, will we be required to pay two Application Fees of \$1,000,000 each? If we apply for two Licenses, each in the name of a newly formed limited liability company, with each entity having the identical indirect owners, will we be required to pay an Application Fee for each limited liability company. For example, if we form LLC A, which is owned by newly formed Corp A, which is a wholly owned subsidiary of our Parent Company, and we form LLC B, which is wholly owned by newly formed Corp B, which is also a wholly owned subsidiary of our Parent Company, and LLC A plans on filing an Application for Region 1 and LLC B plans on filing an Application for Region 2, must LLC A and LLC B, each file a \$1,000,000 Application Fee?

A.1: The purpose of the Application Fee is to defray the costs of the applicant's investigation. Thus, a single fee may govern multiple applications, provided the financing, organizational structure, and principals and officers of the Applicant are identical within each application. If there is any material disparity between the submitted applications, each will require an independent Application Fee. Based on your facts in your submission contained in question, a single Application Fee should suffice.

It is important to note that the ultimate charge for the application process is determined by the actual costs of the investigation. Thus if the costs of investigating your applications exceed the \$1 million Application Fee, you will be charged that excess amount. Conversely, if the cost of the investigation is less than \$1 million, the unexpended funds will be returned to you. In short, regardless of the cost of the initial Application Fee, applicants are charged for the actual cost of the investigation.

Q.2: If the same applicant wishes to bid on multiple sites will they be required to pay multiple application fees?

A.2: See answer to Q.1.

Q.3: If an Applicant intends to file more than one application, is there a \$1 million fee payable on or before April 23, 2014 for each such application, if the Applicant entity is different but the ownership of the Applicant is the same?

A.3: See answer to Q.1.

Q.4: If a single Applicant or multiple Applicants with identical ownership are seeking multiple locations in more than one Region, must it or they pay a \$1 million Application Fee for each location for which an Application is made?

A.4: See answer to Q.1.

Q.5: With respect to the \$1 million application fee, the RFA indicates that if “an Applicant pays the \$1 million fee and does not complete and submit its Application on or before June 30, 2014, the Commission will return the fee less any reasonable costs the Commission will have already incurred related to processing, including overhead and administrative expenses”

Can you provide more details on the makeup of the costs that the Commission could incur prior to June 30th? Specifically, are the costs referenced above costs specific to the Applicant, or are they pooled costs that the Commission will have incurred across all applicants to that date? Further, if the costs are specific to the Applicant, what could those costs be related to if the Applicant has not yet submitted an Application?

A.5: If an interested party submits the Application Fee, but chooses to withdraw within five (5) business days following the Gaming Facility Location Board's release of capital investment guidance, the entire Application Fee will be refunded.

Q.6: Can the Board elaborate on its “overhead and administrative expenses” and how much it intends to allocate towards the Applicant’s fees?

A.6: See answer to Q.5.

Q.7: Would the amount of a refund be based upon apportioned expenses among all applicants or on expenses associated with the applicant requesting the refund?

A.7: See answer to Q.1.

Q.8: Does a person submitting a question, if a potential bidder, need to submit the \$1 million fee in order to submit a question?

A.8: No, however entities intending to submit an Application are required to remit the Application Fee no later than April 23, 2014.

Q.9: Refund of Application Fee: the RFA states “If an Applicant pays the \$1 million fee and does not complete and submit its Application on or before June 30, 2014, the Commission will return the fee less any reasonable costs the Commission will have already incurred related to processing, including overhead and administrative expenses.” The notice of the April 30 Applicant Conference states, in part “The purpose of the Application fee is to defray the costs of Applicant’s investigation. Unexpended funds will be returned to the Applicant. Full reimbursement will be made to any party declining to file an Application.”

a. If an Applicant does not file an Application by June 30, will it receive a refund of the “full” amount (i.e., the entire \$1 million application fee) or will a portion of that fee be retained by the New York State Gaming Commission?

b. If a portion will be retained, is there an estimated amount that Applicants should expect the Commission will retain?

c. If the costs of investigating the Applicant do not exceed \$1 million, will the unexpended amount of the initial fee be reimbursed to the Applicant?

A.9: See answers to Q.1. and Q.5.

Q.10: Would the amount of a refund be based upon apportioned expenses among all applicants or on expenses associated with the applicant requesting the refund?

A.10: See answer to Q.5.

Q.11: What application fees are due for each individual qualifier (key person) who is required to submit the Multi-Jurisdictional Personal History Disclosure Form and NY Supplement?

A.11: None. The purpose of the Application Fee is to defray the costs of an Applicant’s investigation, which includes review of individual Applicant qualifiers.

Q.12: Can the application fee be applied to a different site if the site in the application becomes less desirable?

Clarification to Question: If we change the location of the proposed casino site after we submit our application would we have to pay additional fees?

Reasons for such a change could include things such as unforeseen environmental, historical or geological problems with a site that are discovered after the application has been submitted.

A.12: In general, see answer to Q.11.

The latter portion of the question, as clarified, appears to concern the State Environmental Quality Review Act. This subject will be addressed in the Q. & A. summary to be released April 23, 2014.

Q.13: Application fee “individual, entity, consortium or other party evincing interest”

a. Must the ultimate applicant make the \$1 million payment?

b. May a representative make the payment?

c. Must a site and/or region be identified with the \$1 million payment?

d. Is the application fee “per applicant” as stated or “per application?”

e. Please define “reasonable costs the Commission will have already incurred related to “processing including overhead and administrative expenses.”

f. Will State employee payroll be included in “overhead and administrative expenses?”

g. When will the application fee be returned if no application is filed?

A.13:

a. We are uncertain as to what is meant by ‘ultimate applicant’, as the RFA contemplates the possibility of altering Applicant ownership.

b. Yes, but an Applicant must be revealed to participate in the Mandatory Applicant Conference.

c. No, it is not necessary to disclose the intended site at the time of Application Fee payment.

d. See generally the answer to Q.1.

e. See the answer to Q.5.

f. See the answer to Q.5.

g. The Application Fee will be refunded as soon as practicable.

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