

Relation, Stacey (GAMING)

From: Thorpe, Gail (GAMING)
Sent: Monday, January 27, 2014 8:11 AM
To: Torres, Janet (CHAMBER); Relation, Stacey (Gaming)
Cc: Martino, Debbie (GAMING)
Subject: RE: MWBE Waiver Request (Post RFP)

Thanks all.

From: Janet Torres [<mailto:Janet.Torres@exec.ny.gov>]
Sent: Friday, January 24, 2014 4:54 PM
To: Relation, Stacey (Gaming); Thorpe, Gail (GAMING)
Cc: Martino, Debbie (GAMING)
Subject: RE: MWBE Waiver Request (Post RFP)

Dear Stacey,

Based on this additional information I agree with granting this waiver.

Janet

From: Relation, Stacey (Gaming) [<mailto:Stacey.Relation@gaming.ny.gov>]
Sent: Friday, January 24, 2014 10:16 AM
To: Janet Torres; Gail Thorpe (GAMING)
Cc: Debbie Martino (GAMING)
Subject: RE: MWBE Waiver Request (Post RFP)

Hi Janet,

Gail is out of the office today, I will try to assist with your inquiry.

With regard to Macomber International, Inc., below is an excerpt from the proposal that further clarifies Macomber's expertise in the gaming industry:

"Macomber International, Inc. – Macomber is an international consulting firm that assists clients with development, strategic planning, tactical execution, funding organization issues, marketing, profit improvement and virtually every aspect of the casino gaming industry. Macomber's founder, Dean Macomber, has had significant expertise in the development, layout and operation of casino projects."

Primarily, Macomber will provide advice to the board on setting minimum capital investments required in each zone; advise on content of the RFA and evaluation tool (e.g. the size and layout of the proposed casino and number of tables, slot/video gaming machines, poker and high-limit positions, the size, number and type of food and beverage operations, hotel rooms, etc.).

All of the vendors involved with this project will be providing consulting advise. So, due to the nature of the work, they will not be making purchases of supplies, equipment, materials, or further subcontracting any of the work involved in this project.

Please let us know if you need any additional information.

Stacey

Stacey Relation
Contract Management Specialist 2
NYS Gaming Commission
One Broadway Center
Schenectady, NY 12305
(518) 388-3404

From: Janet Torres [<mailto:Janet.Torres@exec.ny.gov>]
Sent: Thursday, January 23, 2014 6:10 PM
To: Thorpe, Gail (GAMING)
Cc: Relation, Stacey (Gaming); Martino, Debbie (GAMING)
Subject: RE: MWBE Waiver Request (Post RFP)

Dear Gail,

I understand the waiver for the prime and for 2 of the subcontractors as they all have expertise in casino/gaming and that the MWBE directory had no such firms. However, this third subcontractor is not a specialist in casino industry and my question is why can't an MWBE firm be utilized.

Macomber International, Inc. ("Macomber"): Macomber, an international consulting company that provides custom development, finance/funding, operations, marketing and other services at every point of the business cycle to private and publicly owned companies, governments, and other stakeholders, will among other services, provide technical expertise to advise the Board on the projected size of the potential gaming market in the zones, together with CCA, on setting the minimum capital investment required in each of the zones and to advise the Board on the content of the RFA and evaluation instrument with respect to the applicants' proposed development programs.

Also, a question about the subcontractors- is it they do not want to subcontract out or they can't due the nature of the work?

Janet

From: Thorpe, Gail (GAMING) [<mailto:Gail.Thorpe@gaming.ny.gov>]
Sent: Wednesday, January 22, 2014 5:50 PM
To: Janet Torres
Cc: Stacey Relation (gaming); Debbie Martino (GAMING)
Subject: MWBE Waiver Request (Post RFP)

Janet, please see attached waiver from MWBE utilization for the proposed Contract for gaming advisory services related to the selection of applicants to develop and operate a casino in New York State. Please let me know if you require additional information and of the status of your review. Thank you in advance.

Gail

WE WORK FOR THE PEOPLE
Performance * Integrity * Pride

Andrew M. Cuomo
Governor

Barry C. Sample, Chair
John A. Crotty
John J. Poklemba
Todd R. Snyder
Commissioners



Robert Williams
Acting Executive Director

Edmund C. Burns
General Counsel

MWBE Waiver Request

Contract No.: C130007	Facility (if applicable): New York State Gaming Commission One Broadway Center, Schenectady, New York
Project Description: Gaming Advisory Services in relation to the selection of applicants to develop and operate a casino in New York State.	Contract Value: \$4,889,890 (within original estimate provided in initial Budget Request #1410000-57-2013)
Contractor: Taft, Stettinius & Hollister, LLP ("Taft")	Contract Term: One year following OSC approval, with option for two, six-month extensions as determined by the Commission.
Agency contact information: Name: Gail P. Thorpe Email: gail.thorpe@gaming.ny.gov Phone number: 518-388-3329	

Description: The Gaming Commission, on behalf of the future New York Gaming Facility Location Board (the "Board"), issued a RFP to solicit proposals from bidders seeking the award of a contract to provide gaming advisory services in relation to the selection of applicants to develop and operate a casino in New York State.

Chapters 174 and 175 of the Laws of 2013, known as the Upstate New York Gaming Economic Development Act of 2013 (the "Act"), sets forth, among other things, statutory requirements for casino gaming in New York State.¹ The Act authorizes four upstate destination gaming resorts to enhance tourism development. The Act amends the New York Racing, Pari-Mutuel Wagering and Breeding law (the "PML") by adding a new Article 13, which becomes effective January 1, 2014 and which authorizes casino gaming. Article 13 provides for the Commission to award up to four gaming facility licenses within three regions of the State: Hudson Valley Catskill area, Capital Region, and Eastern Southern Tier.

Section 109-a of the PML provides, "The Commission shall establish a separate board to be

¹ Chapter 174 of the Laws of 2013 may be found at: <http://www.gaming.ny.gov/pdf/Chapter%20174.%20Laws%20of%202013.pdf>.
Chapter 175 of the Laws of 2013 may be found at: <http://www.gaming.ny.gov/pdf/Chapter%20175.%20Laws%20of%202013.pdf>.

Andrew M. Cuomo
Governor

Barry C. Sample, Chair
John A. Crotty
John J. Poklemba
Todd R. Snyder
Commissioners



Robert Williams
Acting Executive Director

Edmund C. Burns
General Counsel

known as the New York gaming facility location board to perform designated functions under article thirteen of this chapter.” Section 109-a.5(b) provides, **“The Board shall Contract with an outside vendor to provide analysis of the gaming industry and to support the Board's comprehensive review and evaluation of the applications submitted to the board for gaming facility licenses.”**

Article 13 (the “Article”) gives broad powers to the Commission to oversee and regulate casinos and empowers the Board to carry out and effectuate its duties. The duties and authority of the Board include, but are not limited to, authority to issue Requests for applications for casino licenses; assisting the Commission in prescribing the form of the application; developing criteria, in addition to those outlined in the Article, to assess which applications provide the highest and best value to the State, the zone and the region in which a gaming facility is to be located; determining a gaming facility license fee to be paid by an applicant; determining, with the assistance of the Commission, the sources and total amount of an applicant’s proposed capitalization to develop, construct, maintain and operate a proposed gaming facility license under this Article.

Consistent with the duties prescribed to the Board, the contractor chosen as a result of this RFP will be expected to work with the Commission and the Board on different elements of the casino selection process, primarily related to financial and economic aspects, as fully defined in this RFP, Part 3 – Scope of Work.

Excerpt from the RFP, available at http://www.gaming.ny.gov/about/procurement_opp.inc.php

Reason for Request: The proposed award is to a firm which is not an M/WBE and who will be utilizing subcontractors who are also not M/WBE firms and who will not be subcontracting out their work. Specifically, in response to the Gaming Commission’s RFP for gaming advisory services, Taft submitted a proposal which will include the services of three consultants, who specialize in the services being sought under the RFP, as described below.

Christiansen Capital Advisors, LLC (“CCA”): CCA, has been advising governments, investors, companies, including casino companies, law firms and new media concerning casino gaming, lotteries, pari-mutuel racing, Internet gambling and related leisure activities domestically and abroad since 1988. CCA will, among other services, provide technical expertise and conduct revenue feasibility studies for the casino gaming market in each region; advise the Board, based on the projected size of the potential gaming market in the zones and, along with Macomber, on setting a proportionate licensing fee and minimum capital investment for each zone.

Houlihan Lokey Capital, Inc. (“Houlihan”): Houlihan, a global investment banking firm and leading advisor of gaming industry financial aspects including raising capital and structuring financings, will, among other services, advise the Board on the general prospects for financing casino development projects in each zone and review and advise the Board on the financial viability and ability of each applicant for a casino license to finance the proposed

Andrew M. Cuomo
Governor

Barry C. Sample, Chair
John A. Crotty
John J. Poklemba
Todd R. Snyder
Commissioners



Robert Williams
Acting Executive Director

Edmund C. Burns
General Counsel

casino.

Macomber International, Inc. ("Macomber"): Macomber, an international consulting company that provides custom development, finance/funding, operations, marketing and other services at every point of the business cycle to private and publicly owned companies, governments, and other stakeholders, will among other services, provide technical expertise to advise the Board on the projected size of the potential gaming market in the zones, together with CCA, on setting the minimum capital investment required in each of the zones and to advise the Board on the content of the RFA and evaluation instrument with respect to the applicants' proposed development programs.

Original Goal: MBE 10 % WBE 10 %

Recommended Goal: MBE 0 % WBE 0 %

Explanation of Good Faith Efforts: The Gaming Commission included the 20% combined goal in the RFP in an effort to obtain such goals, if feasible. Based on the explanation above relative to the prime contractor and its collaborative work with three subcontractors, each with specialties in the casino industry, MWBE utilization under the resulting Contract will not be feasible.

[Agency/Authority] has reviewed and accepted the attached MWBE utilization plan (UP), good faith effort documentation and waiver request from the above noted contractor/service provider.

Attachments include:

1. Utilization plan & Waiver Review
2. Good Faith Effort Documentation
3. Notice of Deficiency- if applicable
4. *Any other documents that may be helpful in the review of this waiver*