



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

ADDITIONAL QUESTIONS AND ANSWERS

June 27, 2014

Q.434. The Guidance Document states “the Board prefers the materials to be shipped, in the amounts specified, to the locations on the following page.” Will the Board deem delivery of all copies to the New York State Gaming Commission as non-compliant with the RFA?

A.434. No. Delivery of all copies of an Application to the Board at the Commission’s offices, so long as received by 4:00 p.m. EDT on Monday, June 30, 2014 will be considered conforming.

Q.435. The Guidance Document states delivery of materials to consultants should be received on or about the time of delivery to the Commission, “but receipt after 4:00 PM EDT at [the consultants’ offices] will not cause an Application to be considered untimely.” At what point subsequent to delivery of the Application to the Commission would delivery to consultants cause an Application to be considered non-conforming?

A.435. Delivery of Applications to the Gaming Advisory Services consultant and respective subcontractors should strive to be contemporaneous with those delivered to the Board. An Applicant must be able to provide proof that copies were sent to the Gaming Advisory Services consultant and specified subcontractors prior to 4:00 p.m. EDT on June 30, 2014 (e.g., Federal Express or United Parcel Service confirmation).

Q.436. Page 3 of the Guidance Document contains a blank box (4th box down in the Addressee column) for the location of a shipment of 2 hard copies, 2 electronic copies and 2 supplemental USB flash drives. Please provide guidance on where the Board prefers that these copies be shipped.

A.436. Please see revised Guidance Document, issued by email on Tuesday, June 24, 2014 at 11:39 a.m.

Q.437. The RFA and the Guidance Document have a discrepancy as to the number of electronic copies of the application that is required. Section IV.B.2 of the RFA (page 20) states that 10 electronic copies of the RFA submission are required. The Guidance Document states that 14 electronic copies of the Application are required.

- a. Does the Board consider the Guidance Document an addendum to the RFA with respect to the number of electronic copies of the RFA required?
- b. Does the RFA control as to the number of electronic copies of the RFA submission are required or does the Guidance Document control as to the number of electronic copies of the RFA submission are required?

A.437.

a. No. However, the Board would appreciate Applicants delivering their submissions in accordance with the Application Deliver Preferences (Revised) Guidance released June 24, 2014.

b. See answer to Question 437. a.

Q.438. The “Shipment Totals” on the bottom of Page 3 of the Guidance Document states that a total of 15 USB Supplemental Flash Drives are required. The Index on Page 3 totals only 13 USB Supplemental Flash Drives that are required for shipment.

A.438. See answer to Question 436.

Q.439. The Guidance Document does not provide guidance as to where the 4 sets (2 high quality and 2 medium quality) of images, renderings and schematics (RFA Section IV.B.4) should be submitted.

Can the Board confirm these should be submitted to the Commission?

A.439. The Board would appreciate Applicants submitting images, renderings and schematics to:

**New York State Gaming Commission
Attn: Gail P. Thorpe, Supervisor of Contract Administration
Contracts Office
One Broadway Center
Schenectady, NY 12301-7500**

Q.440. The Guidance Document does not provide guidance as to where the 2 redacted hard copies and 2 redacted electronic copies of the application should be submitted.

Can the Board confirm these should be submitted to the Commission?

A.440. Yes. These redacted documents (hard and electronic copies) must be sent to the Board as per RFA Article IV. § B.5.

Q.441. The Guidance Document provides that certain copies of the Supplemental USB Flash Drives are preferred to be sent to Christiansen Capital Advisors, LLC (2 Supplemental USB Flash Drives) and Macomber International, Inc. (1 Supplemental USB Flash Drive). Question and Answer 48 states that “the Board will take appropriate measures to evaluate the alleged proprietary nature of the model and, if necessary, shield disclosure of a model deemed to be proprietary from any consultant shown to be a competitor of the Applicant’s consultants.”

Delivery directly to consultants that are competitors of the Applicant’s consultants does not seem like a way of shielding disclosure. Can the Board confirm that they will accept delivery of copies of the USB Supplemental Flash Drives that are requested to go to Christiansen Capital Advisors, LLC and Macomber International, Inc.?

A.441. The Board will accept copies of the USB Supplemental Flash Drives that are requested to go to Christiansen Capital Advisors, LLC, Houlihan Lokey Capital, Inc. and Macomber International, Inc. Please note, however, that the Gaming Advisory Services consultant and its respective subcontractors have been instructed to not open the Application or its contents until authorized to do so by the Board following the Board’s review of any claim made by an Applicant that its consultants are competitors of the Gaming Advisory Services consultant or its respective subcontractors.

Q.442. Is there a specific entrance or area that will be designated for delivery?

A.442. The Board will accept delivery of the Application at the Commission’s loading dock, located on the south side of the building, accessible from Broadway. As a common landmark, the loading dock is located opposite the signage for Villa Italia Bakery. Questions related to physical delivery of the Application should be directed to Mark Messercola at 518-527-4092. If the loading dock is absent personnel, the Applicant or Applicant’s delivery service should check-in with Security at the ground floor lobby of the Commission office.

Q.443. Will the Board sign an acknowledgement of receipt of documents submitted to the Commission?

A.443. Yes.

Q.444. Will the Board accept applications on Saturday, June 28th and/or Sunday, June 29th? If so, what hours are acceptable for delivery on these weekend days?

A.444. No. The Board will accept deliveries on Friday, June 27, 2014, between 8:00 a.m. and 4:00 p.m. Deliveries on Monday, June 30, 2014 may be undertaken beginning at 8:00 a.m.

Q.445. On Monday, June 6, 2014 at 8:59 AM, by way of email, Ms. Thorpe indicated that “[a]n Addendum Acknowledgement Form will be posted shortly.”

How soon this will be posted?

A.445. Subsequent to this document.

Q.446. Due to the number of copies (both hard and electronic) of the RFA response that are required, multiple days are required for the production of the completed RFA submission in its entirety. If an Addendum Acknowledgement Form is not posted by Wednesday, June 25, 2014 are Applicants free to prepare their own Addendum Acknowledgement Forms to include in the submission?

A.446. See answer to Question 445.

Q.447. If Applicants are permitted to prepare their own Addendum Acknowledgement Forms, can you please confirm that Addendum Acknowledgement Forms are necessary only for the follow?

a. Addendum Regarding Minority and Women-Owned Business Enterprise dated May 12, 2014;

b. Templates for RFA Exhibit dated June 13, 2014; and

c. The Guidance Document if Question 4(a) above is answered in the affirmative.

A.447. See answer to Question 445.

Q.448. During Tioga Downs’ call regarding personal history disclosure forms and fingerprints, there was discussion that the New York State Gaming Commission would be obtaining a new Originating Agency Identification (ORI) number for fingerprint submissions.

a. Has this ORI Number been obtained?

b. If it has not been obtained before June 27, 2014, will the Board/Commission accept fingerprint cards with the ORI number blank on the card?

A.448.

a. Yes. The ORI number is NY922470Z.

b. The Board would appreciate that Applicants include the ORI number on each fingerprint card.

Q.449. For clarification, are we are required to submit 20 copies of the redacted application and 20 copies of the redacted personal applications and 20 copies of the entity applications?

A.449. Applicants must submit two (2) identical hard copies of the REDACTED Application, Multi Jurisdictional Personal History Disclosure Form (MJP HDF), New York Supplemental Form (NYSF) and Gaming Facility License Application Form (GFLAF). Applicants must also submit two (2) electronic copies, via two (2) separate USB flash drives, of the REDACTED Application, MJP HDF, NYSF and GFLAF.

Q.450. Should the hard copies and USBs of full and redacted copies of the personal and entity applications all be delivered to the Gaming Commission or should any copies be delivered to any consultant?

A.450. All copies must be delivered to the Board.

Q.451. Can you please confirm that the Gaming Facility Location Board and Gaming Commission will apply the same Freedom of Information Law standards to corporate information submitted in connection with the RFA, Gaming Facility License Application Forms and related investigations as the Division of Lottery and Racing and Wagering Board applied to corporate information submitted by entities to those agencies?

A.451. The Board and Commission will adhere to the standards outlined in Freedom of Information Law (N.Y. Public Officers Law Article 6).

Q.452. Specifically, can you please confirm that any category or type of corporate information that the Division of Lottery or Racing and Wagering Board withheld as confidential pursuant to New York's Freedom of Information Law or other laws will

similarly be kept confidential by the Gaming Facility Location Board and Gaming Commission?

A.452. Please see the answer to Question 451.

Q.453. Can you please confirm that the Gaming Facility Location Board and Gaming Commission will apply the same Freedom of Information Law standards to personal information submitted in connection with the RFA, Multi Jurisdictional Personal History Disclosure Form (MJPHDF), New York Supplement to the Multi Jurisdictional Personal History Disclosure Form (NYSF) and related investigations as the Division of Lottery and Racing and Wagering Board applied to personal information submitted by individuals to those agencies?

A.453. The Board and Commission will adhere to the standards outlined in Freedom of Information Law (N.Y. Public Officers Law Article 6) and the Personal Privacy Protection Law (N.Y. Public Officers Law Article 6-A).

Q.454. Specifically, can you please confirm that any category or type of personal information, including, but not limited to, personal financial information, that the Division of Lottery or Racing and Wagering Board withheld as confidential pursuant to New York's Freedom of Information Law or other laws will similarly be kept confidential by the Gaming Facility Location Board and Gaming Commission?

A.454. Please see the answer to Question 453.

Q.455. Is it permissible for an applicant involved in the Gaming Commission's procurement to enter into an agreement with a state agency/authority for reimbursement of that agency/authority's expenses to review, design, implement and construct infrastructure changes to public facilities that are proposed as part of an application for a gaming license?

A.455. Absent further specification as to the identity of the state agency/authority to be engaged, it would generally be impermissible, as the Board will be retaining the services of multiple state agencies and authorities to assist with the review of Applications.

Q.456. Has the ORI number for the fingerprint cards been obtained?

A.456. See answer to Question 448. a.

Q.457. The Board's latest guidance does not specifically address the shipping requirements with respect to the Background Investigation Forms (including redacted versions and electronic versions of same). Should all Background

Investigation Forms be submitted to the Gaming Commission, and *only* to the Gaming Commission?

A.457. Yes. The MJPHDF, New York Supplemental Form and GFLAF must be delivered to the Board at:

**New York State Gaming Commission
Attn: Gail P. Thorpe, Supervisor of Contract Administration
Contracts Office
One Broadway Center
Schenectady, NY 12301-7500**

Q.458. Based on the guidance document for delivery copies are now being distributed to all consultants direct. Please confirm the we are simple only distributing the RFA response (Exhibit binders and attachments to the consultants) and the 20 copies of the license application is being shipped only to Albany as it has confidential background information that is most likely not pertinent to the individual consultants.

A.458. See answer to Question 450.

Q.459. Please clarify the anticipated shipping plans for the multijurisdictional forms and NYS supplemental forms due on 7/14/14.

Are these all being delivered to Albany?

A.459. The MJPHDF, NYSF and GFLAF must be sent to the Gaming Commission by July 14, 2014 at the address below:

**New York State Gaming Commission
Attn: Gail P. Thorpe, Supervisor of Contract Administration
Contracts Office
One Broadway Center
Schenectady, NY 12301-7500**

Q.460. What is the last date of acceptance for submission of addendums for the application for consideration?

a. Specifically items related to the evolution of financing arrangements as agreements solidly further?

b. Do addendums need to be delivered in the same format as the original package to consultants individually or distributed through a central location?

A.460. The last date for submission of materials is June 30, 2014, with the following exceptions:

a. Financing arrangements shall be full and complete with the submission due June 30, 2014. Any changes or updates must be made to the Board promptly, in writing (and electronically), per RFA Article III § I. The Board may, in its sole discretion, determine to accept the update as an Application amendment.

b. The Board would appreciate that any changes or updates to the Application be distributed to the Commission, Gaming Services Advisory consultant and their respective subcontractors as set forth in the Application Delivery Preferences guidance.

Q.461. With the change in delivery, please confirm proof of a landing bill/invoice showing shipment prior to 4pm on 6/30/14 meets the requirement. It is our intent to use an expedited shipping service, but due to the size and weight of the pallets, it still may take up to 5 days to reach the Nevada Location.

A.461. Delivery of Applications to the Gaming Advisory Services consultant and respective subcontractors should strive to be contemporaneous with those delivered to the Board. An Applicant must be able to provide proof that copies were sent to the Gaming Advisory Services consultant and specified subcontractors prior to 4:00 p.m. EDT on June 30, 2014 (e.g., Federal Express or United Parcel Service confirmation).

Q.462. The Deadline for Questions Guidance Document states that the Board “is sensitive to the fact that addendums to the RFA, released so proximate to the submission deadline, may complicate an Applicant’s ability in doing such.”

a. Does the Board consider the Deadline for Questions Guidance Document to be an addendum to the RFA for which an Addendum Acknowledgement Form is required?

b. Does the Board consider any or all of the other guidance documents released to be addendums to the RFA for which Addendum Acknowledgement Forms are required?

c. Does the Board consider the questions and answers documents released by the Board to be addendums to the RFA for which Addendum Acknowledgement Forms are required?

d. Will the Board accept one Addendum Acknowledgement Form detailing all the guidance documents, addendums, and questions and answers documents received from an Applicant as sufficient compliance with the RFA?

A.462. An Addendum Acknowledgement Form will be posted shortly.

Q.463. We understand we need to populate the templates provided for Exhibit VIII.A.3 with independent analysis. We would ask for clarification if the revenue projection from Exhibit VIII.A.3 should be the same revenue projection from the report to be completed for the template of Exhibit VIII.A.4 or if the revenue projections in Exhibit VIII.A.4 may be our own projections which may be supported by other empirical data or third-party reports?

A.463. Yes. The gross gaming revenues determined by the expert in RFA Article VIII § A.3 are intended to be the gross gaming revenues used in the pro-forma financials provided in RFA Article VIII § A.4. If an Applicant believes it will perform better (or worse) than projections determined by its expert, in response to RFA Article VIII § A.4., the Applicant may indicate such belief and the basis for such belief.

Q.464. In preparing our response to the RFA for filing, we have come across certain documents that are exceedingly large. For instance, the tax returns for Saratoga Harness Racing, Inc. for 5 years total over 5,000 pages. With 20 paper copies, that will amount to over 100,000 pages of filing. In response to Question 332, the Commission permitted the filing of a paper summary of environmental reports with the full document only being supplied in electronic format. Will the Commission extend that reasoning to other extremely lengthy documents, such as tax returns?

A.464. Yes, it is acceptable to submit the tax returns only in electronic format.

Q.465. Answer 430 references the June 18th guidance which simply states "20 copies of each document". So to be clear, based on your answer below and what was sent this morning, can you confirm the following is the correct number and form of applications:

1. 20 hard copies of the RFA submission;
2. 14 usbs containing the RFA;
3. 2 hard copies of the redacted RFA submission;
4. 20 hard copies of the MJPHDF, NYSF and GFLAF;
5. 2 usbs containing electronic copies of the MJPHDF, NYSF and GFLAF;
6. 2 hard copies of the redacted MJPHDF, NYSF and GFLAF
7. 13 usbs with supplemental information;
8. 4 usbs (2 high, 2 low resolution) of all renderings;
9. 1 Original Attachment 1;
10. 1 original Attachment 2 (to be released);

11.1 original attachment 3 by each applicant, manager and each indirect and direct owner.

A.465. The Board requires Applicants' delivering the following number and form of applications:

1. **20 hard copies of the Application;**
2. **14 USBs containing the Application;**
3. **2 hard copies of the redacted Application;**
4. **2 USBs containing the redacted Application;**
5. **20 hard copies of the MJPHDF, NYSF and GFLAF;**
6. **10 USBs containing the MJPHDF, NYSF and GFLAF;**
7. **2 hard copies of the redacted MJPHDF, NYSF and GFLAF;**
8. **2 USBs containing the redacted MJPHDF, NYSF and GFLAF;**
9. **13 USBs with supplemental information;**
10. **4 USBs (2 high, 2 low resolution) of all renderings;**
11. **1 Original Attachment 1;**
12. **1 Original Attachment 2 (forthcoming);**
13. **1 Original Attachment 3 by each Applicant, Manager and indirect and direct owner.**

Recall that a solid state hard drive or drives may be used in lieu of a flash drive.

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