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DIRECTOR

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TO: All Parties Interested in Submitting a Proposal for Special Internet Gaming Counsel

FROM: The Delaware State Lottery Office

DATE: October 21, 2013

SUBJECT: Responses to RFP Questions for Bid No.: LGL1302

ADDENDUM I

The Delaware State Lottery Office issues the following RFP questions, answers, and clarifications in response to questions submitted from September 30, 2013 through October 11, 2013. All other terms and conditions of the Special Internet Gaming Counsel RFP remain unchanged.

EXECUTIVE SUMMARY

1. **Q:** Is there an incumbent contractor providing similar services to the Lottery? If yes, who is the incumbent contractor?

A: While there is no incumbent contractor, the State of Delaware Department of Justice has and will continue to assist the Lottery in relation to legal services.

2. The Executive Summary requires “a transmittal letter that briefly summarizes the Bidder’s interest in providing the required professional services.”

Q: Can you explain what type of additional information is being requested to evidence a Bidder’s interest in providing the professional services?

A: As set forth at Page 3 of the RFP, “[e]ach proposal must be accompanied by a transmittal letter that briefly summarizes the Bidder’s interest in providing the required professional services. The transmittal letter must also clearly state and justify any exceptions to the requirements of the RFP that the applicant may have taken in presenting the Proposal. Lottery reserves the right to deny any and all exceptions taken to the RFP requirements.” Proposing parties are free to include any additional information that is reasonably believed to identify why that proposing party is best suited to provide the scope of services identified in the RFP.

SECTION 1.0 – GENERAL INFORMATION

3. Section 1.01(A) lists as a scope of services: “Provide legal advice related to the Delaware Gaming Competitiveness Act of 2012 (“DGCA”).”

Q: Can you please elaborate on the areas that you are seeking legal advice- e.g. on the constitutionality of the law, on its interplay with federal statutes, on its implementation, etc.?

A: The areas and specific subjects for which the State seeks legal advice have been intentionally defined in the manner set forth in the RFP in an effort to preserve any and all applicable legal privileges and protections. Upon contract award, more specificity may be provided subject to appropriate protections. No further definition will be provided. Please use the plain meaning of the words, phrases and terms of the RFP unless they are specifically defined.

4. Section 1.01(B) lists as a scope of services providing “legal advice on legal issues related to the creation and review of multijurisdictional Internet gaming compacts, the creation of international multijurisdictional Internet gaming systems, and the sharing of liquidity in Internet gaming.”

Q: What is the meaning behind the difference in “creation and review” of multijurisdictional Internet gaming compacts and “the creation of” international multijurisdictional Internet gaming systems? And, what is meant by the difference between “gaming compacts” and “gaming systems”?

A: No further definition will be provided in this forum. Please use the plain meaning of the words, phrases and terms of the RFP unless they are specifically defined.

Q: Is the “sharing of liquidity” meant to refer to sharing among different companies/jurisdictions or how a specific company/jurisdiction provides liquidity?

A: The term “sharing of liquidity” is intended to mean “the lawful sharing of players/customers between jurisdictions.”

5. Section 1.01(C) lists technical and regulatory issues related to Internet gaming.

Q: Can you please explain what are the technical issues included in this RFP? Can you also explain what are the regulatory issues- i.e. are they solely related to the DGCA and/or to anticipated future regulation?

A: The areas and specific subjects for which the State seeks legal advice have been intentionally defined in the manner set forth in the RFP in an effort to preserve any and all applicable legal privileges and protections. Upon contract award, more specificity may be provided subject to appropriate protections. No further definition will be provided in this forum. Please use the plain meaning of the words, phrases and terms of the RFP unless they are specifically defined.

6. Section 1.01(D) lists advising on “intellectual property laws as they relate to Internet gaming.”

Q: Can you please provide additional detail and also specify the type(s) of intellectual property laws (e.g. trademark, patent infringement, etc.) that is being sought?

A: The areas and specific subjects for which the State seeks legal advice have been intentionally defined in the manner set forth in the RFP in an effort to preserve any and all applicable legal privileges and protections. Upon contract award, more specificity may be provided subject to appropriate protections. No further definition will be provided in this forum. Please use the plain meaning of the words, phrases and terms of the RFP unless they are specifically defined.

SECTION 2.0 – MINIMUM REQUIRED QUALIFICATIONS

7. Section 2.10(C) requires “at least three (3) or more years prior experience in representing governmental agencies or private entities in gaming and Internet gaming matters”. There are also numerous other sections with similar language (e.g. Section 3.02(A)(2)(i)).

Q: Can you please clarify whether there is any preference for experience representing government agencies or private entities, and, whether either experience would be rated higher than the other?

A: Please review Section 5.01 (entitled “Selection Criteria”) of the RFP.

8. Section 2.03 requires a demonstration of capacity to perform services.

Q: Is a demonstration of satisfactory past performance sufficient for this qualification, or, does the Lottery seek specific numerical breakdowns of attorneys, staff, etc.?

A: Please review Section 5.01 (entitled “Selection Criteria”) of the RFP. Proposing parties are encouraged to accurately reflect the experience of the party’s and the party’s personnel in sufficient detail to allow the Lottery to make informed decisions about the Selection Criteria.

SECTION 3.0 – TECHNICAL PROPOSAL FORMAT

9. Section 3.01 mandates a “concise description”, however, there are no other instructions regarding the limitations on the proposals.

Q: Is there any page restriction or other formatting requirements (e.g. font, spacing, etc.)?

A: There are no page restrictions or formatting requirements other than those specifically listed in the RFP.

10. Section 3.02(A)(vi) references a key attorney, who is the primary contact and lead counsel, and also functions as the “Administrator”, but there is no other reference to the Administrator.

Q: Is the Administrator the same attorney that is identified as the “lead attorney” in Section 2.01(C)? If not, can you please explain the different roles and how the lead attorney interplays with the Administrator position?

A: The “lead attorney” and the “Administrator” are intended to be the same individual.

11. Section 3.02(A)(2)(iv) requires “Monitoring, oversight and ongoing administration services.”

Q: Can you please explain what is meant by this requirement- both in terms of the services being requested and, if different, in the experience being asked about?

A: The areas and specific subjects for which the State seeks legal advice have been intentionally defined in the manner set forth in the RFP in an effort to preserve any and all applicable legal privileges and protections. Upon contract award, more specificity may be provided subject to appropriate protections. No further definition will be provided in this forum. Please use the plain meaning of the words, phrases and terms of the RFP unless they are specifically defined.

12. Section 3.02(A)(3) requests “a brief description of areas of the law related to the purpose of this RFP in which the Vendor has an expertise, including, but not limited to, gaming law.”

Q: Can you please elaborate on the additional areas of gaming law that are not already included in subsection (2) (Gaming Counsel Experience)?

A: The areas and specific subjects for which the State seeks legal advice have been intentionally defined in the manner set forth in the RFP in an effort to preserve any and all applicable legal privileges and protections. Upon contract award, more specificity may be provided subject to appropriate protections. No further definition will be provided in this forum. Please use the plain meaning of the words, phrases and terms of the RFP unless they are specifically defined. This section is intended to allow the respondent to

supplement with any other relevant qualifications that may not have been specifically identified but are otherwise related.

13. Section 3.02(B) contains a number of questions relating to the specific individuals responsible for performing the services under the contract.

Q: How many individuals does the Lottery anticipate would be required or recommended as part of the team? Is there a maximum or minimum number of individuals?

A: There is no anticipated minimum or maximum number of individuals, however the Lottery will not tolerate or condone “layering” or other unacceptable legal billing practices. This matter is subject to negotiation after an award has been rendered.

14. Section 3.02(B)(4) requests the availability of individuals for the term of the contract and Section 3.02(B)(5) requests the planned division of responsibilities.

Q: How long is the expected term of the Contract? What is the daily/weekly/monthly/yearly breakdown of the expectation of the total hours for the contact?

A: There is no pre-determined expectation regarding the length of the contract or the number of hours. The Lottery will not accept or condone commercially unreasonable billing practices. This matter is subject to negotiation after an award has been rendered.

15. Under Section 3.02(C), the RFP discusses conflicts of interest.

Q: Would a firm’s representation of a vendor contracted to operate Internet gaming systems for the Delaware State Lottery disqualify that firm from serving as Special Internet Gaming Counsel under this RFP?

A: The Proposing Parties are required to identify all actual and potential conflicts of interest with sufficient specificity to allow the Lottery to determine whether a waiver or limited waiver of any such conflicts is appropriate or desirable. The failure to appropriately identify such conflicts may be grounds for disqualification of the Proposing Party or the termination for cause of any resulting agreement.

Q: Would a firm’s representation of a vendor contracted by the Delaware State Lottery for non-internet related services disqualify that firm from serving as Special Internet Gaming Counsel under this RFP?

A: The Proposing Parties are required to identify all actual and potential conflicts of interest with sufficient specificity to allow the Lottery to determine whether a waiver or limited waiver of any such conflicts is appropriate or desirable. The failure to appropriately identify such conflicts may be grounds for disqualification of the Proposing Party or the termination for cause of any resulting agreement.

Q: Would a firm's representation of another jurisdiction in which it provided legal advice related to Internet gaming systems and Internet gaming compacts disqualify that firm from serving as Special Internet Gaming Counsel under this RFP?

A: The Proposing Parties are required to identify all actual and potential conflicts of interest with sufficient specificity to allow the Lottery to determine whether a waiver or limited waiver of any such conflicts is appropriate or desirable. The failure to appropriately identify such conflicts may be grounds for disqualification of the Proposing Party or the termination for cause of any resulting agreement.

16. Section 3.02 – (iv) *Within the last five years, has your firm, or a partner or attorney in your firm, been involved in litigation or other legal proceedings relating to provision of legal services? If so, provide an explanation and indicate the current status or disposition.*

Q: Can you please clarify if you mean personally or professionally involved in litigation/legal proceedings relating to the provision of legal services being sought after by the State of Delaware?

A: Please use the plain meaning of the words, phrases and terms of the RFP unless they are specifically defined.

Q: Within the last three years, which law Firms has the State retained as outside counsel for gaming matters or lottery matters?

A: While there is no incumbent contractor, the State of Delaware Department of Justice has and will continue to assist the Lottery in relation to legal services.

Q: Within the last three years what rates has the State historically paid for its gaming matters or lottery matters?

A: While there is no incumbent contractor, the State of Delaware Department of Justice has and will continue to assist the Lottery in relation to legal services. The State of Delaware Department of Justice's budget is a matter of public record.

SECTION 4.0 – PRICE PROPOSAL FORMAT

17. Section 4.01 requests current billing rates.

Q: Depending on the length of the contract awarded (see Question 14), would a party be able to proposed higher billing rates during the contract negotiation stage (i.e. section 5.02)?

A: Please review Section 4.02 (entitled "Alternative Pricing Proposals") of the RFP.

18. Under Section 4.0, the RFP discusses billing rates and alternative pricing proposals. Under Section 5.01, the RFP discusses selection criteria and states: “The selection of the firm or firms to provide legal services will be based on an evaluation of the Proposals to determine which Proposal reflects the best value to Lottery in which technical factors will be considered significantly more important than cost of services.”

Q: Would the State of Delaware select a firm as a finalist based on its technical factors and then attempt to negotiate an alternative pricing proposal other than what was included in the firm’s Proposal or is the firm bound by the billing rates or alternative pricing proposal it includes in its Proposal?

A: The price terms are subject to negotiation following award of the contract. Please review Section 4.02 (entitled “Alternative Pricing Proposals”) of the RFP.

SECTION 5 – EVALUATION OF PROPOSALS

19. Section 5.01 lists the selection criteria in descending order of importance.

Q: Is there a more specific breakdown how the individual criteria will be evaluated and weighed? For instance, will the individual criteria be assigned a color designation (i.e. for exceptional, good, fair, etc.), a numerical designation, a ranking relative to the other offers, etc.?

A: Please review Section 5.0 of the RFP.

Q: Will the video lottery agents have the ability to offer internet lottery games under their own brands? If so, may they contract with others to offer third party brands?

A: The areas and specific subjects for which the State seeks legal advice have been intentionally defined in the manner set forth in the RFP in an effort to preserve any and all applicable legal privileges and protections. Upon contract award, more specificity may be provided subject to appropriate protections. No further definition will be provided in this forum. Please use the plain meaning of the words, phrases and terms of the RFP unless they are specifically defined.

Q: Will the video lottery agents be permitted to engage additional software and content providers?

A: The areas and specific subjects for which the State seeks legal advice have been intentionally defined in the manner set forth in the RFP in an effort to preserve any and all applicable legal privileges and protections. Upon contract award, more specificity may be provided subject to appropriate protections. No further definition will be provided in this forum. Please use the plain meaning of the words, phrases and terms of the RFP unless they are specifically defined.

Q: Is it anticipated that the video lottery agents will be expanded beyond those who offer horse racing?

A: The areas and specific subjects for which the State seeks legal advice have been intentionally defined in the manner set forth in the RFP in an effort to preserve any and all applicable legal privileges and protections. Upon contract award, more specificity may be provided subject to appropriate protections. No further definition will be provided in this forum. Please use the plain meaning of the words, phrases and terms of the RFP unless they are specifically defined.

Q: Does Delaware anticipate that as a condition to compacting with other states it will exercise any jurisdictional authority of casino operators outside the State of Delaware?

A: The areas and specific subjects for which the State seeks legal advice have been intentionally defined in the manner set forth in the RFP in an effort to preserve any and all applicable legal privileges and protections. Upon contract award, more specificity may be provided subject to appropriate protections. No further definition will be provided in this forum. Please use the plain meaning of the words, phrases and terms of the RFP unless they are specifically defined.

Q: Our law firm currently represents Scientific Games Corporation outside the State of Delaware in matters unrelated to internet gaming. Does that representation preclude our firm from representing the State of Delaware as special internet gaming counsel?

A: The Proposing Parties are required to identify all actual and potential conflicts of interest with sufficient specificity to allow the Lottery to determine whether a waiver or limited waiver of any such conflicts is appropriate or desirable. The failure to appropriately identify such conflicts may be grounds for disqualification of the Proposing Party or the termination for cause of any resulting agreement.