

State of Delaware



Department of Finance

Carvel State Office Building, 8th Floor
820 North French Street
Wilmington, DE 19801
Telephone (302) 577-8522

State Lottery Office Request for Proposals for Special Internet Gaming Counsel

Bid Number: LGL1302

Bid Closing: November 1, 2013; 3:00 PM EST

**REQUEST FOR PROPOSALS FOR
SPECIAL INTERNET GAMING COUNSEL
ISSUED BY THE STATE LOTTERY OFFICE
THROUGH THE DEPARTMENT OF FINANCE
OF THE STATE OF DELAWARE**

Executive Summary

The State Lottery Office (“Lottery”) of the State of Delaware (“State”) is issuing this Request for Proposals (“RFP”) through the Department of Finance (“Finance”) to engage a law firm to act as Special Internet Gaming Counsel (“Gaming Counsel”).

Lottery’s mission is to maximize revenue contributions to the State’s General Fund, thereby helping to fund the delivery of governmental services to the people of Delaware through the marketing, sale, and distribution of innovative, entertaining, and secure Lottery products that ensure the public’s confidence in the integrity of the games, retailers, agents, and Lottery operations. The Delaware Gaming Competitiveness Act of 2012 (“DGCA”) permits Delaware to offer Internet gaming. The Lottery intends to select one or more experienced Internet Gaming Counsel to provide legal advice in connection with the implementation of the DGCA. This RFP will define the scope of the work to be performed, the requirements the vendor/s (“Vendor”) must address, the method for response, and the administrative requirements that must be followed. Lottery will advise potential Vendors of changes to any dates as may be necessary. Lottery also reserves the right to modify and/or cancel this solicitation at any time during the RFP process.

RFP Schedule

ID	Date/Time	Activity
1	September 30, 2013	RFP issued, posted on the State’s website at http://bids.delaware.gov and the Attorney General’s website at http://attorneygeneral.delaware.gov .
2	October 11, 2013	All Bidder questions regarding RFP are due
3	October 21, 2013	Lottery issues answers to questions regarding RFP via http://bids.delaware.gov and the Attorney General’s website at http://attorneygeneral.delaware.gov .website
4	November 1, 2013; 3:00 pm EST	RFP Response due date
5	November 4, 2013	Invitations to selected Vendors for oral presentations (subject to change)
6	November 12, 2013	Begin Vendor interviews (subject to change)
7	November 15, 2013	Begin negotiations (subject to change)
8	November 18, 2013	Contract awarded

All Bidders must submit: (1) an original and 5 bound copies of their proposals (“Proposal”) and (2) one electronic version to the designated contact person. Proposals may be mailed or hand-delivered for receipt **no later than 3:00 p.m. EST on November 1, 2013**

(“Closing Date”). All timely Proposals become the property of the State. Requests for extensions of the Closing Date will not be granted. Any request for modification must be received and approved prior to the Closing Date. Timely delivery of any Proposal is the Bidder’s responsibility. Any Proposal received after 3:00 p.m. on the Closing Date will be late and may not be considered. The Proposals may be delivered by Express Delivery (e.g., FedEx, UPS, etc.), U.S. Mail, or by hand. Proposals shall be submitted to:

James R. Adams
Deputy State Solicitor
Carvel State Building
820 N. French Street, 6th Floor
Wilmington, Delaware 19801

Each 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.

The cost of preparing Proposals will be borne solely by the Bidders. Proposals shall address all the questions posed by Lottery in the order in which they appear in this request.

RFP Designated Contact:

Please submit all questions and requests for information in writing to:

James R. Adams
Deputy State Solicitor
Carvel State Building
820 N. French Street, 6th Floor
Wilmington, Delaware 19801
Direct Dial: (302) 577-5306
Fax: (302) 577-6630
Email: James.Adams@state.de.us

All questions submitted, along with answers, will be consolidated into a single Q&A document. The source of the questions will not be disclosed in the document. The Q&A document will be posted on the State’s website at <http://bids.delaware.gov> and the Attorney General’s website at <http://attorneygeneral.delaware.gov>.

1.0 GENERAL INFORMATION

1.01 Project Scope and Objectives

The Delaware Department of Finance (“Finance”) is seeking proposals from qualified law firms to act as Special Internet Gaming Counsel (“Gaming Counsel”) for its State Lottery Office (“Lottery”). The anticipated scope of services for the firm selected to act as Gaming Counsel are listed below:

- A. Provide legal advice related to the Delaware Gaming Competitiveness Act of 2012 (“DGCA”).
- B. Provide Lottery with 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.
- C. Advise Lottery on technical, regulatory, and compliance issues related to Internet gaming.
- D. Advise Lottery regarding intellectual property laws as they relate to Internet gaming.
- E. Advise Lottery on legal issues related to developing gaming technology.
- F. Provide legal advice on the changing legal environment (domestic and international) surrounding Internet gaming, including issues related to mobile gaming, player protection, payment and deposit acceptance/rejection, Internet gaming fraud, player location verification, and age and residency verification, and other issues related to Internet gaming.

Such legal services as listed above shall include, but not be limited to, rendering objective legal opinions, as well as advice and research.

1.02 Procedures

Selected Gaming Counsel will work closely with Lottery executive staff and the DAG assigned to act as counsel to Lottery.

2.0 MINIMUM REQUIRED QUALIFICATIONS

2.01 Experience and Reputation

- A. The law firm must have been in business at least three (3) years.
- B. The law firm should have at least three (3) or more years prior experience in representing governmental agencies or private entities in gaming and Internet gaming matters; and
- C. The law firm must designate, as a member of the team proposed for this representation, a lead attorney licensed to practice law with five (5) or more years experience in providing advice to governmental agencies or private entities in gaming and Internet gaming matters. Members of the proposed team must demonstrate relevant knowledge and experience related to Internet gaming.

2.02 Professional Liability Insurance

The Vendor shall agree to maintain in full force and effect during the term of the contract professional liability insurance in an aggregate amount of not less than \$5 million. In order to satisfy this requirement, the Vendor must

- A. Include a statement in its Proposal affirmatively responding to this requirement; and
- B. Include in its Proposal either:
 - 1) A certificate of insurance or letter from its insurer demonstrating that the Vendor meets this requirement, or
 - 2) A commitment letter or other evidence, satisfactory to the Procurement Officer, that the Vendor will have such coverage as of the date the contract commences.

If the Vendor is a joint venture, and one party of the joint venture does not presently have such liability insurance, this requirement may be satisfied if the members of the joint venture include in their proposal evidence, satisfactory to the Procurement Officer, that all members of the joint venture will have such coverage as of the date the contract commences, either through actual insurance policies or an indemnity agreement by the properly insured firm, in form and substance acceptable to Lottery.

2.03 Vendor's Capacity

Each Vendor must demonstrate the capacity to perform the type of services needed by Lottery described in Section 1.01 above. The Vendor must be available at all times to render services required under the contract.

3.0 TECHNICAL PROPOSAL FORMAT

The following information shall be provided in each proposal in the order listed below. A Vendor is expected to provide a response for each requirement listed in this RFP. Failure to respond to any request for information within this proposal may result in rejection of the proposal at the sole discretion of Lottery.

3.01 General

All technical proposals shall be prepared with a concise description of the Vendor's capabilities to satisfy the minimum qualifications of Section 2 above and the information requested under Section 3 below. The Vendors should organize their proposals so that their responses correspond to the specific subsections to the extent possible without unnecessary repetition.

3.02 Required Information

The proposal shall contain the information described below. Joint ventures should provide the information separately for each firm.

A. Vendor's Prior Experience

1. General Experience and Information:

- (i) Within the past three (3) years, have there been any significant developments in your firm such as changes in ownership or restructuring? Do you anticipate any significant changes in the future? Please describe.
- (ii) Describe the on-line services, publications and other resources maintained by your firm dealing with Internet gaming. Will any of these resources be available to the Lottery staff?
- (iii) Has your firm or an attorney in your firm's employ ever been disciplined or censured by any regulatory body? If so, describe the principal facts.
- (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.
- (v) Does your firm currently represent a governmental agency or private entity in a matter generally related to Internet gaming or other gaming matters? If so,

list the full name, address, and telephone number of each.

(vi) Please describe your firm's backup procedures in the event one or more attorneys assigned to Lottery leaves the firm. Identify the key attorney who will be the primary contact and lead counsel in providing services to Lottery as the Administrator, whose continuing status as such is an essential element of this contract.

(vii) Describe your disaster recovery plan and facilities.

2. Gaming Counsel Experience:

(i) Provide a list of engagements where you acted as Gaming Counsel or counsel to a governmental agency or private entity specifically in Internet gaming matters. Please describe the engagement and services provided.

(ii) List all attorneys you would expect to render legal services to Lottery if your firm is engaged to serve as Gaming Counsel and the area of specialization of each. Describe the role of each attorney who would be assigned to Lottery. Are any of the attorneys listed pursuant to the prior question rated by Martindale Hubbell? If so, provide the Martindale Hubbell rating for each.

(iii) Describe your legal team's experience with similar work performed for other Internet gaming clients. State whether or not the attorneys assigned to this team have any responsibilities other than providing legal services, and if so, specify such responsibilities.

(iv) Monitoring, oversight and ongoing administration services. Provide a brief description of the your experience and capacity to provide the types of services described in this RFP by listing the approximate number of representations during the last five (5) years, to the extent possible. Of those, select no more than three (3) such representations.

3. Related Legal Experience.

Provide 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.

B. Vendor's Team (Specific Individuals Responsible for Performance of Contract). Provide a detailed description of the team that would provide services identified in this RFP and include the following information:

1. The identity of the individuals, the areas of law in which each specializes and the type of Internet gaming law cases which the attorney has handled, the number of years of experience in such areas, and the extent to which each has analyzed laws and provided advice on issues relevant to the purpose of this RFP.
2. Resumes of each member of the team, attached to the Proposal as Appendix A.
3. The courts in which each is admitted to practice, the year of admission, and the location of the principal place or places of business, if not included on resume.
4. State the availability of individuals proposed for this representation during the term of the contract, specifically including the availability of senior members of the team.
5. The planned division of responsibilities among the members of the team, including an approximate percentage of the time each individual is expected to devote to performing services for Lottery (the total of the percentages shall equal 100%).
6. For a joint venture, discuss the division of responsibilities between the venturing entities, including the type and approximate amount of work to be performed by each party, and the approximate percentage of time each party expects to devote to performing services for Lottery.

C. Conflicts of Interest.

1. In general, if a conflict of interest arises, the Vendor should be willing to continue to represent Lottery, and be in a position to inform other existing or potential clients that they must find representation elsewhere in particular situations. The Attorney General may entertain a request for a waiver of a Vendor's representation of a party in litigation involving a unit of State government other than Lottery, but does not expect to waive any other conflicts.

Lottery reserves the right, in its sole discretion, to select another approved law firm to work on a particular matter if a conflict is not resolved to its satisfaction.

Each Vendor shall identify any conflicts of interest which may arise if the Vendor serves as Gaming Counsel and shall describe in its Proposal how it proposes to deal with such conflicts. Conflicts may arise not only from attorneys named on the contract but also from representation of parties involved in the transactions or other matters involving Lottery, by any other member of the firm, regardless of whether that attorney is in the same office or a different office of the firm.

2. Conflict Check System.

The Vendor shall describe in detail its existing system for identifying conflicts of interest in undertaking new representations. The description should include information about who maintains the records, how often the information is updated and at what stage of representation the check is made. The Vendor shall provide a copy of its written conflicts policy or explain in detail why there is no written policy.

3. Potential Conflicts.

Prior to entering into any contract, the Vendor shall provide assurances that potential conflicts have been discussed with other existing clients of the Vendor who might be requested to engage other counsel for a specific transaction, and that those existing clients are amenable to such an inconvenience.

4.0 PRICE PROPOSAL FORMAT

4.01 Billing Rates

- A. Current billing rates for all attorneys assigned to represent Lottery pursuant to this RFP;
- B. Current billing rates for all para-professionals assigned to represent Lottery pursuant to this RFP;
- C. No compensation will be permitted for the services of law clerks and law school graduates not admitted to practice.

4.02 Alternative Pricing Proposals

Although each Vendor is required to submit a price proposal containing the information set forth in Part 4.01, Lottery will also accept proposals for alternative billing arrangements, which enhance the value and efficiency of the services to be provided. The Vendor may submit a statement, not more than one page in length, with respect to any alternative pricing proposal.

5.0 EVALUATION OF PROPOSALS

The selection committee shall evaluate the proposals. During the evaluation process the selection committee may, at its discretion, request any or all firms to make oral presentations. Such presentations will provide firms with an opportunity to answer questions about a firm's Proposal. Not all firms may be asked to make such oral presentations.

5.01 Selection Criteria

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. The selection of the firm to provide legal services will be based upon the following technical factors in descending order of importance:

- A. Experience of the firm and the individual attorneys representing governmental or private agencies in Internet gaming matters;
- B. Proposed work plan, soundness of approach and understanding of the needs of Lottery;
- C. Demonstrated ability to perform the services referred to in the Scope of Gaming Counsel; and
- D. References and recommendations of other clients.

5.02 Contract Negotiation

Lottery intends on opening negotiations with the Vendor that Lottery determines has a reasonable likelihood of being awarded a contract based on the proposal, interview and supplemental submissions (if any) that are submitted. Negotiations will focus on any technical weaknesses or deficiencies in proposals as well as cost and pricing issues.

A written contract with the law firm(s) selected will be required, which must be approved by the Attorney General of the State of Delaware, Delaware Department of Justice ("DDOJ") and the Governor of the State of Delaware pursuant to 29 *Del. C.* § 2507. The successful firm will be required to comply with the DDOJ Outside Counsel Billing Policy. ("Attachment A").

5.03 Contract Award

Lottery reserves the right to award all, part, or none of this contract and intends to award contracts to more than one law firm if deemed appropriate and desirable.

5.04 Lottery's Right to Cancel Solicitation

Lottery reserves the right to cancel this solicitation at any time during the procurement process, for any reason or for no reason. Lottery makes no commitments expressed or implied that this process will result in a business transaction with any Bidder.

This RFP does not constitute an offer by the Lottery. Bidder's participation in this process may result in the Lottery selecting your organization to engage in further discussions and negotiations toward execution of a contract. The commencement of such negotiations does not, however, signify a commitment by the Lottery to execute a contract nor to continue negotiations. The Lottery may terminate negotiations at any time and for any reason, or for no reason.