

**IOWA LOTTERY
REQUEST FOR PROPOSAL
IL-10-01 On-Line Gaming System and Related Products and Services
11/18/09**

NOTICE TO VENDORS Questions/Answers for Round 2 of the above stated RFP

Q1 Page 8

1.16.1 Volume 1 - Technical (Non-Price) Proposal – The Iowa Lottery has requested that written documents be submitted in size 12 Arial font but has acknowledged that exceptions, such as schematics, attachments, diagrams, etc., may apply.

With the understanding that the text/main body of our response will adhere to the size 12 Arial requirement, we respectfully ask if we can submit portions of the response in font size larger than Arial 12, for things such as headers, but no smaller than Arial 10, for items such as RFP requirement text, quotes from Lottery or third-party sources, and image/table captions?

Incorporating such a range of Arial font sizes within our response will help us to provide the Lottery with a concise and compact response.

A) Yes, the text/main body of the response must be size 12 Arial or larger and other portions of the response may be in font size larger than Arial 12, for items such as headers.

Q2 Page 2, Amendment No. 1

1.16.1, as amended - Thank you for your revision to item 6 of Section 1.16.1 to permit the provision of only one (1) paper copy of the Class "L" Business Entity disclosure form, and one (1) copy on CD.

As permitted by RFP Section 1.35, this bidder had a follow-up discussion with Charis Paulson of the Iowa Department of Public Safety, Division of Criminal Investigation. This bidder noted that the provision of state tax returns plus schedules for a three (3) year period could be voluminous. Ms. Paulson suggested that the bidder provide the tax returns requested in Section 3 of the Class "L" form on CD, rather than by paper copy. She suggested that bidder formally request approval from the Lottery to submit the returns on CD, only as it would meet the needs of her department.

Therefore, we respectfully request that the Lottery confirm that it is acceptable to submit the three (3) years of federal and state tax returns, with schedules, in the Class "L" form, on CD only.

A) Yes, the Lottery confirms that it is acceptable to submit the three (3) years of federal and state tax returns as a PDF on CD, no paper copy will be required.

Q3 Section 2.1 – Contract Elements (Page 23)

Will the Lottery reconsider the order of precedence of the integral parts of the contract based on a temporal criteria with the latest dated document as the highest priority to the earliest document? Because of the nature of the bidding and negotiation processes, it has been our experience that there is more clarity in contracting from a temporal

organization of precedence because issues are clarified by the parties as time passes in these processes.

A) We respectfully disagree and the order of precedence will remain unchanged.

Q4 Section 2.12 – Vendor Error Liability (Pages 29 & 30)

Regarding any potential liability of refund or other by the Contractor for errors referred to in this section, is it correct that any liability will be assessed through the establishment of mutually agreed to objective factors, such as whether the verification code of any ticket at issue is correct?

A) The Lottery CEO has the authority to make payment if he/she determines it is in the best interests of the Lottery. If the CEO authorizes a payment based on an error or omission by the Vendor, the Vendor will be held financially responsible.

Q5 Section 2.17 – End of Contract Conversion (Page 32)

Does the Lottery agree that the vendor will be reasonably compensated for any end of conversion services that are standard services provided at the end of contract?

A) The Lottery does not agree. The Vendor is expected to provide all standard services during the conversion with no additional compensation.

Q6 Section 2.22 – Title to, Use of, and Compensation for Intellectual Property (Pages 35 & 36)

We will be glad to enter into a license with the Lottery for the use of our intellectual property embodied by the goods and services we may provide during the term of the contract to be awarded. However, the requirement that this license be for an indefinite duration does not seem appropriate given the nature of the intellectual property, nor does the requirement that it be provided at no additional cost.

The intellectual property will include patents, trade secrets, trademarks, and service marks all of which are of substantial value to us and comprise the core of our business. In fact, this intellectual property is in large part what the Lottery will be paying for under the contract. To grant the Lottery the right to indefinitely make use of this intellectual property can be interpreted to mean the Lottery may sublicense to third parties, or compete directly with us with, our proprietary property.

Further, if the Lottery requires us to grant the right for the Lottery to continue to use our valuable intellectual property even after the contract expires without compensation appears to take from us our proprietary property and our ability to conduct this business in Iowa.

Therefore, will the license be limited to the term of the contract and only for use related to the performance of the contract?

Also, will the Lottery please confirm that this is not intended to include the intellectual property that may be provided to the Lottery as value-added materials, such as branded properties, unique production methods or patented play styles owned by our organization?

A) The license will not be limited to the term of the contract. There may be an instance at the end of the contract that may require the continued use of intellectual property for uninterrupted Lottery on-line or instant ticket sales. It

is the Lottery's intent that the free use of the license after the contract expiration/termination would be limited to the game(s) utilizing the license prior to the expiration/termination of the contract. The vendor would be entitled to compensation for any additional games after the contract expiration/termination that utilized the intellectual property.

Q7 Section 2.25 – Ticket Purchase and Prize Payment Restrictions (Pages 36 & 37)

Providing addresses, dates of birth and social security numbers for every employee of the vendor and any individuals living in the same household would potentially violate the privacy laws of other jurisdictions, given that this potential vendor has employees in various states and other countries. Will the Lottery please revise this requirement for a listing of employees of the successful vendor or with the above information for those employees exclusively working on the Iowa lottery contract?

A) Refer to Section 2.25 that cites the Code of Iowa. The Lottery will work with the Successful Vendor upon the award of the contract to satisfy the requirements of this section.

Q8 Section 2.26 – Liquidated Damages (Page 35)

Q8-1 Will the Lottery please confirm that the Contractor shall not be liable for Liquidated Damages to the extent the incident was caused by the Lottery, its retailers, or force majeure?

Q8-2 Will the Lottery agree that if Liquidated Damages are not assessed within six months of the incident such liquidated damages are deemed waived by the Lottery?

Q8-3 Will the Lottery agree to have a dispute resolution process if the Successful Vendor does not agree with any assessment of liquidated damages?

A) Q8-1 Yes, the Lottery confirms that the Contractor shall not be liable for Liquidated Damages if the incident was caused by the Lottery, its retailers, or force majeure.

Q8-2 The Lottery does not agree to this waiver.

Q8-3 The Lottery will not agree to a dispute resolution process.

Q9 Section 2.26.9.2 – Gaming Host Systems Down - Damages (Page 40)

This RFP Section states that: "In the event that the gaming host systems have been down, the Lottery may impose liquidated damages according to the following schedule: Liquidated damages in an amount of one thousand five hundred dollars (\$1,500) may be assessed for each one (1) minute of system downtime after the two (2) minute grace period, as applicable, or fraction thereof."

Will the Lottery consider using a formula for estimating damages that would reflect an estimation of the anticipated actual loss to the state which are more in line with similar jurisdictions?

For example, based on \$249,000,000 of FY 2008 sales in RFP Section 4.2.1, the average minute's sales for the Iowa Lottery is $\$249,000,000/365 \text{ days}/23 \text{ hours}/60 \text{ minutes} = \494 .

If we assume gross Lottery proceeds of 50%, this rate of sale corresponds to direct damages potentially suffered by the Lottery of approximately \$250 per minute (average). This value is inclusive of both instant and Online sales.

Will the Lottery consider revising the Liquidated Damages section to calculate Liquidated Damages for Central System downtime based on Sales for of the prior year or quarter, and a 50% gross contribution rate to the Lottery, rather than as a flat rate of \$1,500 per minute of downtime minus the two (2) minute grace period?

A) We respectfully disagree with the proposed revisions to Liquidated Damages. This section will remain unchanged.

Q10 Section 2.26.13 – Terminal and Peripherals Repair – Condition (pages 42 & 43)

This RFP Section states that: “A retailer terminal is considered non-operational if:

- Tickets cannot be sold or canceled, or
- Validations cannot be performed, or
- Pull-tab verifications cannot be performed

The terminal is also considered to have a critical failure if the reader and/or scanner cannot process wagers or play slips. Critical failures are those involving nonfunctioning readers, scanners, retailer display screens and printers.”

Will the Lottery consider limiting “non-operational” terminals to “not being able to sell on-line tickets or validate tickets”?

If not modified, these requirements will severely impact staffing models, preventive maintenance schedules, and pricing – and from our perspective, without an associated positive impact on overall sales or support.

A) The Lottery will not consider limiting the definition of “non-operational” terminals.

Q11 Section 2.26.13 – Terminal and Peripherals Repair – Condition (pages 42 & 43)

This RFP Section states: “The repair or replacement time schedule is two (2) hours for non-operational terminals and terminals with critical failures.

For less critical failures that do not render the terminal non-operational as defined above, the Successful Vendor has twenty-four (24) hours to complete a repair from the time of notice by the retailer.”

The requirement as currently written could force the vendor to potentially drive by the #1 retailer in the state to service the lowest retailer based on the response time and liquidated damages structure above. Furthermore, based on overall size of Iowa covering 56,276 square miles - with at least two thousand six hundred (2,600) online terminals and peripherals - it would be virtually impossible to respond within two hours to every “non-operational” terminal during the specified service hours without severely impacting staffing models and pricing.

Will the Lottery consider employing a tiered service level approach based on sales or location for the terminal service level repair or replacement time schedule?

A) This section has been amended. Refer to Amendment 3.

Q12 Section 5.4.3 - Desirable Items (pages 164 & 165)

Since there are no specific bonus points pre-determined for desirable items, exactly how will a desirable feature “favorably impact the scoring?” What is the precise meaning of “may favorably impact the scoring?”

A) The Lottery will look at the desired item within the totality of the section, therefore, the ability to offer the item may reflect in the points awarded to a Vendor for that section.

Q13 Appendix C, Subsection 11 – Indemnifications

Will the Lottery agree that indemnification pertains to third-party claims?

A) Appendix C, Subsection 11 will remain unchanged.

Q14 General Games and Marketing Question

In order to fully respond to the RFP requirement in RFP Section 3.5.1.3 (Gaming Product Planning) that we “provide a brief analysis of the Lottery’s current slate of products and promotions and propose appropriate changes, if any, for the next one (1) year,” will the Lottery please provide samples of current mass media (e.g., radio, television, etc.) advertising campaigns, including POS examples?

A) The Lottery website www.ialottery.com provides an extensive view of products offered by the Iowa Lottery, current promotions, samples of television commercials, and the Lottery’s use of social media.