

## **PRE-PROPOSAL CONFERENCE SUMMARY**

### **VIDEO LOTTERY OPERATION LICENSE** **IN PRINCE GEORGE'S COUNTY** **RFP #2013-0101**

**February 27, 2013**

At approximately 10:00 a.m., Mr. Robert Howells, Director of Procurement for the Maryland State Lottery and Gaming Control Agency (“Lottery”), welcomed everyone to the Pre-Proposal Conference for Video Lottery Operation License in Prince George’s County (RFP #2013-0101), being conducted on behalf of the Video Lottery Facility Location Commission. He introduced the State representatives present: Jaclyn Vincent, Director of Gaming Research and Chief of Staff for the Lottery; Robert Fontaine, Assistant Attorney General; and Marie Torosino, Lottery staff and recorder. Mr. Howells explained that the State representatives present have a dual role, one of which is acting in the capacity of staff to the Location Commission.

Mr. Howells said that there are two separate Commissions involved in the award of the VLT License. The Video Lottery Facility Location Commission (“Location Commission”) was created by the VLT law specifically for the purpose of receiving applications and awarding licenses for the VLT Facilities. The Location Commission reviews the application and the proposals for technical merit for the Facility and the financial proposal. The Maryland State Lottery and Gaming Control Commission (“Lottery Commission”) is responsible for the background investigations and issuing the licenses to Facility operators, manufacturers and employees. The Lottery Commission is also responsible for the ongoing regulation and compliance of the Facilities once they are up and running, and has the task of owning the VLT central monitor and control system. Recent changes in the VLT Law will transition the ownership of VLTs to the Facility operators and also permit the operation of Table Games.

Mr. Howells asked that if anyone did not sign-in to please do so before leaving and reminded the attendees to sign-in or clip their business card to the sign-in sheet. If there were any minority business enterprises (“MBEs”) present, they were requested to indicate this on the sign-in sheet and he explained that prime vendors/operators and potential MBE subcontractors should take advantage of this opportunity to network.

Mr. Howells said that a Summary of the Pre-Proposal Conference, complete and final answers to the written questions previously submitted, questions asked at the Pre-Proposal Conference, the Sign-In Sheet listing the attendees at the Conference, and any Amendments to the RFP, if necessary, would be sent by e-mail to the attendees and to any other entities who were sent the RFP or who are known to have obtained a copy of the RFP. This information will also be published on e-Maryland Marketplace as well as the Maryland Lottery and Gaming Control Agency’s website.

A number of questions were received prior to today's Pre-Proposal Conference, and they will be answered in writing. As he goes through the sections of the RFP, he would comment on some of the questions that can be answered today. If there are any other questions today as we go forward, please feel free to ask. Please keep in mind that anything said here today is for general discussion purposes only until the final answers to the questions are published in writing.

Mr. Howells noted that this is not a State contract, but a license award. COMAR Title 21 does not govern this process, and applicants should follow the requirements set forth in the RFP, current Gaming Law, Title 9, Subtitle 1A, State Government Article, and the current Lottery regulations in COMAR Title 14. Please note that COMAR Title 14 regulations are in the process of being re-codified under COMAR Title 36. There are regulations in the process of being published in the Maryland Register and being transferred over to Title 36. The regulations that have been approved by the Lottery Commission are on the Lottery's website. Although they may not yet be formally published in the Register as, you can see what the Lottery Commission has approved and what is forthcoming. If there are any questions, please contact the Lottery. Mr. Howells then proceeded to review each Section of the RFP and to address any other questions that the attendees may have.

### **SECTION 1. INTRODUCTION/OBJECTIVE**

Mr. Howells reviewed Section 1 including the written questions that had been previously submitted and noted that the previously submitted questions will also be responded to in writing. No additional questions were asked.

### **SECTION 2. REQUEST FOR PROPOSALS TERMS AND CONDITIONS**

Mr. Howells reviewed Section 2 including the written questions that had been previously submitted and noted that the previously submitted questions will also be responded to in writing. No additional questions were asked.

### **SECTION 3. INFORMATION REQUIRED IN APPLICANT'S PROPOSAL**

Mr. Howells reviewed Section 3 including the written questions that had been previously submitted and noted that the previously submitted questions will also be responded to in writing.

He said some of the questions received were regarding the Labor Peace Agreement, the parent guarantee, background and experience, and joint ventures.

The following question was also asked:

**Question:** Is the State going to do the investigations this time or will that be contracted out?

**Answer:** We have two contractors, Spectrum and MDBI, that are under contract to do background investigations. However, we have also been steadily increasing our in-house capabilities to do investigations with in-house staff and investigators. He was not sure if that decision has been made as yet. Ms. Vincent said it will depend on the number and complexity of applications that are received.

#### **SECTION 4. FACILITY SPECIFICATIONS**

Mr. Howells reviewed Section 4 including the written questions that had been previously submitted and noted that the previously submitted questions will also be responded to in writing.

No additional questions were asked.

#### **SECTION 5. EVALUATION AND SELECTION PROCEDURE**

Mr. Howells reviewed Section 5 including the written questions that had been previously submitted and noted that the previously submitted questions will also be responded to in writing.

The following questions were also asked:

**Question:** In the 70% scoring, there are nine factors for consideration. How are those mathematically scored?

**Answer:** Mr. Howells said it is not mathematically scored. It is a subjective analysis based on those factors.

**Question:** So it is not a quantitative analysis, it is a qualitative analysis?

**Answer:** Mr. Howells said that is correct. So assuming that your proposal meets that initial screening, then you will move forward into the evaluation process and the Location Commission will be reviewing the proposal relative to the stated factors for evaluation.

#### **SECTION 6. REQUIREMENTS OF OPERATION LICENSE AND OPERATION LICENSEE**

Mr. Howells reviewed Section 6 including the written questions that had been previously submitted and noted that the previously submitted questions will also be responded to in writing

He noted one major change in Section 6.2 that is different from previous RFPs. As you are probably aware, previously the State would sweep all funds on a daily basis from the operator's account. The Lottery would then run our accounting process and return the operator's portion. That process has been changed. A daily sweep will still be done but only the State's portion will be taken from the account, leaving the operator's portion in its account.

No additional questions were asked.

Mr. Howells then provided the attendees with a final opportunity to ask any questions regarding the entire RFP or the process.

**Question:** Why weren't MBE goals established in the RFP? Why wait until the award has been established?

**Answer:** Mr. Fontaine said it is to comply with the Federal constitution.

**Question:** Is that the State constitution?

**Answer:** Mr. Fontaine said it is Federal.

**Question:** When can we expect the goals?

**Answer:** Mr. Fontaine said they will be set after the license has been awarded.

**Question:** This one appears to be the most highly sought after location. I would think that part of the evaluation process would be one that, e.g., where I say I will achieve 35% and another person says they'll achieve 45%. Then perhaps they give you a plan on how they plan to achieve that not only on the construction, but also on the operation. I think that would be advantageous to the bidder.

**Answer:** Mr. Fontaine said that there isn't anything that prohibits an applicant from doing that. The Location Commission will review all information that is submitted with an application, but in terms of actual goal setting by the State at this point that cannot happen. That is not a requirement.

**Question:** Not constitutional to encourage that in the proposal?

**Answer:** Mr. Fontaine said that we are encouraging MBE participation. I don't think there is any question about that. To the extent that we have a written question along those lines, we could answer it.

Mr. Howells said you are asked to identify as part of your submission your corporate structure, and your subcontractors. There is an opportunity to explain what your anticipated MBE participation may be and what firms you may plan on using. As far as making a requirement that you meet a specific goal and identify specific MBEs prior to the submission of your proposal, as Mr. Fontaine said, there have been some legal challenges to that and this is the constitutional process that we are permitted to go forward with.

**Question:** In Section 5.3.A. 70% Based on Business and Market Factors, it lists nine technical points. Under (7) it asks to include as part of the proposal the percent of ownership by entities meeting the definition of Minority Business Enterprise, and under (9), applicant's plan to achieve

MBE participation goals. If a proposal was submitted and that identified, do you give a full 70% on that?

**Answer:** Mr. Howells said that the MBE factor is one of the nine factors that compose the overall 70% factor. There is ample opportunity to explain your MBE plan. You do not have to provide company names or specific percentages. If you know an MBE that you think you are going to use, you can identify them, but you do not have to. It is not like the previous process and form that would be submitted with the proposal that had every MBE company identified, the exact percentage, and the type of work.

**Question:** What about the concession that you were talking about, the percentage of ownerships by an MBE enterprise. So in Section 5.3.A(7), are you stating there should be a certain percentage that is identified as owned by minorities?

**Answer:** Mr. Howells said it is a factor for evaluation. We are not dictating that you must have “x” percentage of minority ownership. We are saying that is a fact we are going to look at.

**Question:** Is that factored in the proposal after the award? If the goal is not achieved, are there regulations saying I could not achieve that, that will be used to enforce....

**Answer:** Mr. Howells said the waiver process applies to the goal setting. Once the goal is agreed upon, it becomes part of the license. It is monitored and the operator is required to meet the goal. There are extenuating circumstances, for example, an MBE company that is the only one that provides a specific service then goes out of business. We would have to look at that.

**Question:** Is there any anticipation of what the goal will possibly be? Could it be theoretically 5%?

**Answer:** Mr. Fontaine said there is no anticipated goal.

**Question:** What will be the framework to determine what that goal will be after the award? Who determines it and how?

**Answer:** Mr. Fontaine said it is a process that the Lottery Commission in conjunction with the Governor’s Office of Minority Affairs, establishes based on the disparity between minority contractors and non-minority contractors within the area and within particular work categories. Mr. Howells said it is based on the disparity study that the State had done about two years ago.

**Question:** Gaming wasn’t included in that disparity study?

**Answer:** Mr. Fontaine said that gaming has been included in the disparity study.

**Question:** I understand that Cordish gets about 40% at Arundel Mills and that is an area probably that is not comparable to Prince George’s County. You probably have less MBEs in that area than you would have in Prince George’s County.

**Answer:** Mr. Howells said one of the reasons we are doing this by Facility now is just for that type of thing. To state a blanket MBE goal overall lends people to believe that that goal was not tailored to a specific area or specific work and that is where we get into trouble with constitutional issues and so forth. That is why it is being done by Facility based on the actual work to be accomplished. We have the existing operators actually submit a list of all of their sub-categories of work and what they have had done. The concrete, landscape, drywall, plumbing, electrical and we are going through that line by line and establishing goals based on the disparity of all the work categories and coming up with an overall goal for that Facility. It is being done for the Facility for the specific work that licensee is doing, which is not necessarily the way it started out when specific goals were previously stated in the RFP.

**Question:** One thing that I am very pleased with is that in giving credit in the evaluation for the ultimate ownership by those of minority. From what I understand, the intent is there but one that would have more minority ownership, I think at least in my mind should be a stronger contender. Because clearly we want to be included.

**Answer:** Mr. Howells said that is a factor for evaluation and it is certainly the intent. As indicated with some of the other Facilities, when there wasn't a lot of competition remaining at the end of the process, that just wasn't something that we had the luxury of factoring in.

**Question:** You mentioned the Labor Peace Agreement. Can you talk more about the labor requirements on this project?

**Answer:** Mr. Howells said it is best if we respond to that question in writing.

**Question:** Before these proposals are due, do you anticipate any additional meetings or are there other deadlines that have to be met?

**Answer:** Mr. Howells said no. As I said, you can submit your questions at anytime and we will respond in writing.

**Question:** Would you touch on past performance?

**Answer:** Mr. Howells said there is a requirement in the RFP to indicate any past State contracts or State licenses that you have had so that we can use that as a reference. You probably haven't had a past license agreement since licensing for VLT Facilities is new. Very likely, you could have had some type of State contract and list that so we can see what you have done. We would take that into account as a reference and verify what you have done in the past.

**Question:** Will it be graded on a percentage basis or like you have it spelled out here.

**Answer:** Mr. Howells said it is in the section where we are asking you to give us all the information on your Facility and so forth, Section 3 Background and Experience.

**Question:** Will you send out updated statistics to everyone?

**Answer:** Mr. Howells said we will send out a copy of the sign in sheet from today. Any MBEs who want to network, make sure you are on the sign-in sheet so you can make contact with the potential primer operators..

**Question:** Do you have a previous list or will this be the first list going out?

**Answer:** Mr. Howells said there is no previous list, just the list from today.

Mr. Howells then provided the attendees with a final opportunity to ask any questions regarding the entire RFP or process. There were no additional questions asked

In conclusion, Mr. Howells stated that a Summary of the Pre-Proposal Conference, Questions & Answers, the Sign-in Sheet and Amendment to the RFP, if any, will be sent to all parties as soon as possible. He also reminded the attendees that the Location Commission will accept additional questions after the Conference up until such time as it becomes impractical to research and distribute the answers to all parties.

Mr. Howells thanked everyone for attending today. The Pre-Proposal Conference concluded at 11:18 a.m.

Summary prepared by:

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