

**VIDEO LOTTERY OPERATION LICENSE IN
BALTIMORE CITY
(#2012-0101)**

**RESPONSES TO WRITTEN QUESTIONS
August 19, 2011**

This List of Questions and Responses #7 (Q&A#7) is being issued to clarify certain information contained in the above named RFP. The statements and interpretations of License requirements, which are stated in the following questions are not binding on the State, unless the State expressly amends the RFP. Nothing in the State's responses to these questions is to be construed as agreement to or acceptance by the State of any statement or interpretation on the part of the entity asking the question as to what the License does or does not require. Some questions have been edited for brevity and clarity, and duplicate questions may have been combined or eliminated.

The following are questions submitted pursuant to the RFP and the Location Commission's responses to those questions:

63. QUESTION: Section 2.21: The MBE goal is established at 35%. Sec. 2.21.3 identifies less than a 35% participation goal in Baltimore City. Can the State provide a citation to the local governing statute, rule or regulation which sets the MBE participation goal at an amount that is higher than the Baltimore City goal? Please explain the State's rationale and justification for the increase for this location? What is the WMBE requirement? Is it 35%, or 27%, or something other?

ANSWER: The VLT Law (SG § 9-1A-10) establishes the minority business participation goal as that described under Title 14, Subtitle 3 of the State Finance and Procurement Article. Although the State has established a general statewide overall MBE participation goal of 25%, individual goals are set for specific projects based on the actual work proposed and the availability of MBEs to perform the work. SG § 9-1A-10 also provides that if the local jurisdiction has higher participation requirements, the Applicant/Licensee is to meet the higher goals, to the extent possible.

Since the issuance of the RFP on April 29, 2011, the State has received an analysis of the 2011 MBE Disparity Study as it relates to the VLT Program. The analysis concludes that, because over 99% of the work contemplated for the construction and operation of a VLT facility fits within the

established work codes included in the 2011 Study, there is strong evidence to support continued implementation of the MBE provisions of SG § 9-1A-10. The 2011 Disparity Study can be found at: http://www.mdot.maryland.gov/MBE_Program/Documents/NERA_MD_Disparity_Study_Final_20110218.pdf

The analysis and related correspondence will be posted on the Location Commission's website.

The RFP has been amended to clarify that, after award of the License, the Lottery Commission will set goals for the Awardee/Licensee based on the actual work proposed and the availability of MBEs to perform that work. The Lottery will work with Baltimore City, GOMA, and other State agencies, as appropriate, to establish the goals. By submitting a Proposal in response to the RFP, including Appendix D-1, the Applicant agrees to meet the goals or seek and obtain a waiver after demonstrating good faith efforts to meet the goals.

Minority businesses must be certified by the Maryland Department of Transportation to be eligible to be counted toward satisfying the goals established by the Lottery Commission.

64. QUESTION: Section 5.3 A lists 9 business and economic factors to be considered by the Location Commission in evaluating Proposals. How will the Location Commission consider number 7, the percent ownership by entities meeting the definition of MBE?

ANSWER: The Location Commission in its discretion has determined that it will consider that factor only in the case of competing proposals, and only if all other factors are equal.

65. QUESTION: Section 3.1.6.5: How may an Applicant get a copy of the applicable Labor Peace Agreements?

ANSWER: A sample format Labor Peace Agreement has been posted on the Location Commission's website under the section "Rocky Gap Location Documents".

66. QUESTION: Section 3.1.6.G. (2): There is a request to "describe the plan for Lottery ticket and monitor game sales at the Facility ... and provide a proposed floor plan specifying locations where Lottery tickets will be sold". Please confirm that this is referring to the sale of tickets that will be used to play the VLTs and not to traditional Lottery tickets.

ANSWER: This Section refers to the sale of traditional Maryland Lottery tickets. (See also Section 4.4, sixth bullet point)

67. **QUESTION:** Section 2.9.3: The Proposal is required to be provided in the format of "an unbound original ... and twelve (12) paper copies" and "all paper copies should be unbound and assembled in a manner that ensures all documents will be maintained in a secure and orderly manner in a three ring binder". Please confirm whether it is acceptable to provide all versions (the original and 12 paper copies) in three ring binders, each of which will be inserted into individually-designed boxes.

ANSWER: Yes, that would be an acceptable format.

CLARIFICATION TO PREVIOUS QUESTION #58

(Note: New language has been double underlined)

58. **QUESTION:** Are persons who are required to complete certain license application or disclosure forms required to disclose criminal history that has been expunged, sealed, or that was handled by a juvenile court?

ANSWER: No. The license application and disclosure forms have been revised to consistently provide that a person is not required to disclose an arrest or charge for which the record has been expunged pursuant to an order of court or otherwise sealed by a court of competent jurisdiction, or that occurred when the person was under 18 years of age and that was adjudicated entirely in juvenile court. The following forms have been revised accordingly: 1001; 1002; 1004; 1005; 1006; 1007; 1020; 1022; 2001; 2002 and 2003. The undertaking of this revision revealed variations between the forms' definitional sections; the definitions have been deleted from the revised forms, and the Consolidated Definitions should be used instead. All required license application and disclosure forms, and definitions, are available at <http://slots.mdlottery.com/licensing/>. However, for a video lottery operation license applicant and any person that must be qualified by the Lottery Commission as part of the operation license application, the Lottery Commission is required by § 9-1A-08(d)(9) of the VLT Law to disqualify the applicant if the background investigation reveals the committing of an act by the applicant or a person required to be qualified by the Lottery Commission that would constitute an offense involving moral turpitude or a gambling offense, even if the act has not been or may not be prosecuted under the criminal laws of the State.