**REQUEST FOR PROPOSALS (RFP)**

**CENTRAL MONITOR AND CONTROL SYSTEM FOR A VIDEO LOTTERY TERMINAL PROGRAM**

**#2021-06**

**RESPONSES TO WRITTEN QUESTIONS (Q&A #2)**

**November 12, 2020**

This list of questions and responses #2 (Q&A#2) is being issued to clarify certain information contained in the above named Request for Proposals (RFP). The statements and interpretations of Contract requirements, which are stated in the following responses 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 Contract 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 State Lottery and Gaming Control Agency’s (“MLGCA”) responses to those questions:

**21. QUESTION:** Section 5.2.5, Page 117 states: Offerors shall provide their Proposals in two separately sealed and labeled packages as follows:

Volume I - Technical Proposal consisting of:

• One (1) original executed Technical Proposal and all supporting material marked and sealed,

• Eight (8) duplicate copies of the above separately marked and sealed

Given the current state of the pandemic and for the safety and well-being of employees and their families, our company is strictly enforcing limited access to our facility. Only a limited number of critical personnel are allowed to enter the building due to strict social distancing rules and regulations in order to protect essential personnel. Production of hard copies requires people to work in relatively close quarters with one another, making it difficult at best during these times. Therefore, will the MLGCC remove all requirements to provide hard copies by the specified due date and amend requirements to allow for electronic submissions on USBs only?

**ANSWER:**  **No, the MLGCA will not amend this requirement, hardcopies are required as specified in the RFP.**

**22. QUESTION:** Section 2.3.4.B Back-up Site, Page 32: Items 2) and 3) are incomplete. Will the MLGCC provide the full/missing text for these two items?

**ANSWER: Yes, these two sections should read in-full as follows:**

**“2) The latest technology Redundant Array of Independent Disk ("RAID") shall be used to protect key data at the Back-up Site. Data transferred to and recorded at the Back-up Site shall always contain all most recent transactions, allowing a rapid Failover. The MLGCA and VLT Facility networks must be routed so as to permit transaction processing at the Back-up Site. The Telecommunications Network shall have a routing mechanism independent of the Primary Data Center so that the Back-up Site can be reached without the Primary Site.**

**3) The Contractor shall provide a Back-up Site, which contains sufficient hardware to support the same requirements stated for the Primary Data Center with no single point of failure. The Back-up Site shall contain the capability to perform all functions associated with VLTs, as well as being available remotely by communications from the Primary Operations Site. The Back-up System shall have the same security specification as the Primary System.”**

**(See Amendment #2 to the RFP)**

**23. QUESTION:** Section 7, RFP Attachments and Appendices, Instructions Page 133: The RFP states: “For documents required as part of the Proposal, submit two (2) copies of each with original signatures.” Would the MLGCC accept electronic signatures on all required documents in lieu of original signatures due to the pandemic restrictions?

**ANSWER:** **Yes, electronic signatures are acceptable**

**24. QUESTION:** Section 2.2.2 Current Environment, Page 14: VLT Facilities use different wiring solutions. Two VLT facilities use single-mode fiber and four VLT Facilities use Cat6 cabling. Are these cabling solutions from MTSCs to Wiring Closets or from MTSCs all the way to VLTs?

**ANSWER:** **CAT6 wiring is from the floor to the MTSCs and fiber from the floor terminates at a patch panel and is converted to ethernet before connecting to the MTSCs.**

**25. QUESTION:** Section 2.2.2 Current Environment, Page 14: Since VLT Facility Site Visits were discouraged in the Pre-Proposal Meeting, is it possible to obtain floor layouts of each of the VLT Facilities? Is it also possible to obtain VLT Breakout by Protocol (SAS vs G2S) per Facility?

**ANSWER: Floor layouts will not be provided. Although formal site visits will not be conducted, it was further stated at the Pre-Proposal Conference that the Casinos are public facilities and potential offerors may visit them at any time.**

**Protocol for all VLTs is SAS**

**26. QUESTION:** Section 2.3.2.C, Redundancy, Page 18: For Private Cloud solution, the Virtual Machines and Datastores would reside on a storage array network (SAN) for each data center. Is it acceptable that single SAN is used for storage within each data center?

**ANSWER: A single SAN is acceptable as long as it provides internal redundancy and there is no single point of failure in each data center. Additionally, hardware must be dedicated to Maryland operations and not shared among multiple customers.**

**27. QUESTION:** Section 2.3.1 General, Sub-section E.6), Page 17: What protocol do the current VLT interface boards utilize?

**ANSWER: All are SAS**

**28. QUESTION:** Section 2.3.1 General, Sub-section E.6), Page 17: What type of connections (e.g. Copper RJ45, Copper DB9, Agilent fiber), do the current VLT interface boards support?

**ANSWER: All use POF VersaLink plastic core fiber optic cables.**

**29. QUESTION:** Section 2.3.5, Telecommunications Network, Page 34: Do all VLT Facilities currently have separate points of entry, disparate paths inside the building into the site controller closets, and redundancy inside the closets for telecommunications?

**ANSWER: Yes**

**30. QUESTION:** Section 2.3.5, Telecommunications Network, Page 34: Do the major carriers (i.e. Sprint, Verizon, AT&T, or CenturyLink) support one or both paths into the VLT Facilities?

**ANSWER: Yes, currently Verizon and Centurylink provide dual paths.**

**31. QUESTION:** Section 2.3.4.A, Primary Site, Pages 30-32: Is the Testing Lab required to have all makes and models of VLTs connected at all times, or just as needed for interop testing.

**ANSWER: Just as needed for interop testing.**

**32. QUESTION:** Section 2.3.9, Hotline, Pages 43 and 44: Will the MLGCC provide data on Operations and Hotline call activity, including volume of calls weekdays/weekends or days/nights?

**ANSWER:** **The MLGCA does not have this data.**

**33. QUESTION:** Section 5.3.3.8, Staffing, Page 122: Will the MLGCC provide 1) the job titles and number of employees currently staffed by the existing central monitoring system provider, and 2) an organizational chart?

**ANSWER:** **The MLGCA does not have this information.**

**34. QUESTION:** Attachment M, Contract, Pages 43 and 44: We understand negotiation of the contract is not encouraged. As a public company, we do have certain diligence obligations and we would ask for understanding as to scope of negotiation permitted. In particular, the following sections of the agreement we would review:

• Section 2.2 - We would ask if email can be considered a 'writing' for purposes of Contractor asserting its right for a payment adjustment if contract changes are requested by the MLGCC.

• Section 3.3 - We would ask that any extension requests by MLGCC to extend the contract are expressly made in writing.

**ANSWER:**

**2.2) Yes**

**3.3) For unilateral extensions it is the normal business practice of the MLGCA to notify the contractor of the intent and subsequently upon final approval by BPW or other State agency, as necessary.**

**35. QUESTION:** Section 1.1 Offeror Minimum Qualifications, Sub-section 1.1.1.B, Page 11: The MLGCA states the following:

“The proposed system must:

A. be owned and operational by the Offeror for not less than three (3) years;

B. currently control not less than 10,000 VLTs in a single jurisdiction; and

C. be scalable to control not less than 20,000 VLTs across six or more gaming venues.”

Would the MLGCA include the environments where we are connecting VLTs in wide area network (bars, cafes, etc.) as a reference to meet the 10,000 VLT requirement?

**ANSWER: Yes**

**36. QUESTION:** Section 2.3.2 J. Asset Tracking, Page 26:

Item 1) states (emphasis added):

“The Contractor shall provide state-wide asset management for all VLTs, including asset tracking, ***hardware status, location, maintenance history, inventory status, spare parts.*** For all VLTs the asset management system shall include the following fields: State identification number, serial number, VLT Manufacturer name, game name, and location. The Contractor shall provide designated MLGCC employees with update and report capability to the asset tracking system.”

The MLGCA was responsible for VLTs up until 2014 when the State transferred ownership to the individual casinos. Thus, the MLGCA is no longer in the VLT business.

a) Is this requirement possibly a carryover from the 2009 RFP and the Contractor is no longer actually needed to perform this service since the MLGCA no longer owns the machines?

b) Alternatively, if the MLGCA does require this service, does it envision asset tracking to be performed by the Contractor and the Casinos in coordination with one another, or to be performed by the Contractor alone as an alternative to the Casinos?

c) Furthermore, since the MLGCA is no longer in the VLT business, the following requirement items are no longer under its scope but are managed by the Casinos and known at the Casino level: ***hardware status, location, maintenance history, inventory status, spare parts.*** Some items, such as spare parts, would be particularly challenging for the Contractor to track. Would the MLGCA consider removing these items from the requirement and revising the requirement as follows:

The Contractor shall provide state-wide asset management for all VLTs, including asset tracking. For all VLTs the asset management system shall include the following fields: State identification number, serial number, VLT Manufacturer name, game name, and location. The Contractor shall provide designated MLGCC employees with update and report capability to the asset tracking system.

**ANSWER: a) No, tracking of the following are not required: hardware status, maintenance history, inventory status, spare parts.**

**b) Contractor and Casino**

**c) Yes, the suggested language is acceptable and the RFP will be amended.**

**(See Amendment #2 to the RFP)**

**37. QUESTION:** Section 2.3.11 B. Implementation Testing, Page 48: Item 1) c) indicates that the MLGCA would “Verify TITO accuracy” as part of its Acceptance testing. This testing would normally be done through the Operator’s system and not the Auditing system. Therefore, would the MLGCA consider removing this requirement or further clarify what TITO testing it would perform?

**ANSWER: Accurate reporting of TITO relates to coin-in and the Central System is considered to be the system of record.**

**38. QUESTION:** Section 2.3.11 B. Implementation Testing, Page 48 Item 1) k) indicates that the MLGCA shall include “Test of a full floor sweep” as part of its Acceptance testing. This testing would normally be done through the Operator’s system and not the Auditing system. Therefore, would the MLGCA consider removing this requirement or further clarify what “Test of a full floor sweep” testing it would perform?

**ANSWER: A full floor sweep will not be tested as part of implementation testing and the RFP will be amended.**

**(See Amendment #2 to the RFP)**

**39. QUESTION:** Section 3.3.1 (D.), Page 64: This section provides that the MLGCA may reduce or withhold Contract payment in the event the Contractor does not provide the MLGCA with all required deliverables within the time specified in the Contract or otherwise breaches the terms and conditions of the Contract until such time as the Contractor brings itself into full compliance with the Contract. Would the MLGCA confirm that it will provide a reasonable cure period prior to reducing or withholding payment for those situations that are capable of cure?

**ANSWER: Provision of a reasonable cure period is the normal business practice of the MLGCA.**

**40. QUESTION:** Section 3.4 Liquidated Damages, Page 65: If the MLGCA does not incur any actual damages, can the MLGCA confirm that it will not assess liquidated damages.

a) If actual damages are materially lower than asserted liquidated damages, and where the application of the liquidated damages would otherwise result in a windfall to the MLGCA, would the MLGCA agree to consider evidence produced by the Contractor of actual damages and, in its discretion, reduce the liquidated damages amount accordingly?

b) Please confirm that the Contractor shall not be liable for any liquidated damages to the

extent that the incident causing the assessment of liquidated damages was not caused by the Contractor but was caused by the MLGCA, the Facilities, or any other third parties not under the control or direction of Contractor, or, consistent with Section 19.2, where such incident arises from unforeseeable causes beyond the control and without the fault or negligence of the Contractor, including but not restricted to acts of God, acts of the public enemy, acts of the State in either its sovereign or contractual capacity, acts of another Contractor in the performance of a contract with the State, fires, floods, epidemics, quarantine restrictions, strikes, freight embargoes, or delays of subcontractors or suppliers arising from unforeseeable causes beyond the control and without the fault or negligence of either the Contractor or the subcontractors or suppliers.

c) Prior to the assessment of any liquidated damages, would the MLGCA provide the Contractor notice of the potential assessment as well as a reasonable opportunity to discuss the assessment of any liquidated damages that the Contractor objects to?

d) Would the MGLCA confirm that it will not assess liquidated damages in multiple categories for the same incident if to do so would amount to an unenforceable penalty under Maryland law?

**ANSWER: a) The MLGCA has the discretion to modify Liquidated Damage assessments.**

**b) The Contractor would generally not be responsible for damages caused by another party or force outside of its control.**

**c) Provision of notice and a reasonable cure period is the normal business practice of the MLGCA**

**d) In the event of a recurring situation that requires the MLGCA to seek remedies other than Liquidated Damages, the MLGCA’s right to seek such remedies shall not be precluded by the fact that Liquidated Damages may have previously been assessed.**

**41. QUESTION:** Section 3.10.1. Personnel Experience and Section 3.11.1. Continuous Performance of Key Personnel, Page 84: The following two questions have to do with creating an even playing field for all Offerors:

Section 3.10.1.C., item 1), provides that (emphasis added):

“The Project Manager/Account Executive/General Manager (Project Manager) shall be ***permanently located at the Contractor’s Primary Operations Site*** and shall serve as the primary point of contact between the Contractor and the MLGCC for all Contract and operational matters.”

Section 3.11.1.A. provides that (emphasis added):

“Key Personnel shall be available to perform Contract requirements as of the NTP Date. Unless explicitly authorized by the Contract Monitor or specified in the Contract, Key Personnel shall be assigned to ***the State of Maryland*** as a dedicated resource.”

a) Would the MLGCC consider removing the requirement for Key Personnel – i.e., the Project Manager/Account Executive/General Manager (Project Manager) as defined in Section 3.10.2 (A.) – to be permanently located in the Contractor’s Primary Operations Site to allow the Offeror/Contractor to provide efficiencies, best practices, and economies of scale while not impacting the level of service?

If so, a revision to requirement 3.10.1.C., item 1), to remove the location language would be required, for example:

“Project Manager/Account Executive/General Manager

The Project Manager/Account Executive/General Manager (Project Manager) shall serve as the primary point of contact between the Contractor and the MLGCC for all Contract and operational matters.”

b) Alternatively, if that is not acceptable, would the MLGCC consider changing Section 3.11.1.A. to require that the resources are assigned only to the CENTRAL MONITOR & CONTROL SYSTEM FOR A VLT PROGRAM (#2021-06) Contract – and not the State – so that all Offerors are provided a level playing field and the MLGCC receives the same level of service from among the Offerors? This would require a change to the 3.11.1.A. requirement language as follows (emphasis added):

“Key Personnel shall be available to perform Contract requirements as of the NTP Date. Unless explicitly authorized by the Contract Monitor or specified in the Contract, Key Personnel shall be assigned to ***the Contract*** as a dedicated resource.”

**ANSWER: a) Yes, the suggested language is acceptable and the RFP will be amended.**

**b) N/A**

**(See Amendment #2 to the RFP)**

**42. QUESTION:** Section 4.38.3. Performance Bond, Page 108 and Attachment R, Page 176: Paragraph E. of this section states that the bond can be annually renewed. However, the Performance Bond form in Attachment R does not include such language.

It is requested that the Performance Bond form in Attachment R be amended as follows to be consistent with the annual bond term language in the RFP and consistent with standard practice:

Delete the following language in the Now, Therefore paragraph:

“NOW, THEREFORE, ~~during the original term of said Contract, during any extensions thereto that may be granted by the Administration, and during the guarantee and warranty period, if any, required under the Contract, unless otherwise stated therein,~~ this Performance Bond shall remain in full force and effect unless and until the following terms and conditions are meet:

1. Principal shall well and truly perform the Contract; and

2. Principal and surety shall comply with the terms and conditions contain in this Performance Bond”

And add the following language:

“This Performance Bond shall be in effect for the definite period of \_\_\_\_\_ to \_\_\_\_\_\_. This Performance Bond may be extended, at the sole option of the Surety, by continuation certificate for additional periods from the expiry date hereof. However, neither (a) the Surety’s decision not to issue a continuation certificate, nor (b) the failure or inability of the Principal to file a replacement bond or other security in the event the Surety exercises its right to not renew this Performance Bond, shall itself constitute a loss to the Obligee recoverable under this Performance Bond or any extension hereof.

Regardless of the number of years this Performance Bond is in force or the number of continuation certificates issued, the liability of the Surety shall not be cumulative in amounts from period to period and shall in no event exceed the amount set forth above, or as amended by Rider.”

**ANSWER: As stated in Section 4.38.3.E, “The Performance Bond may be renewable annually”.**

**The Bond form in Attachment R will not be revised. Use of the form provided in Attachment R is encouraged in order to avoid an Offeror’s substitute form being determined to be unacceptable. However, an industry standard bond form containing all provisions of the form provided in Attachment R and underwritten by a surety company authorized to do business in the State may be acceptable, subject to the MLGCA’s review and approval.**

**43. QUESTION:** Section 4.39 Ownership of Material, Page 111: Would the MLGCA confirm that this section does not refer to Intellectual Property rights but, instead, refers to the opened Proposal which becomes the physical property of the Commission, and that all underlying proprietary information and materials contained in the Proposal remain the property of the Offeror?

**ANSWER: Yes, Section 4.39 clearly states that “opened proposals become the property of the MLGCC”.**

**44. QUESTION:** Attachment B – Financial Proposal, Page 138: In the Financial Proposal, under the “Financial Proposal Sheet (Summary)” section is a sum formula labeled “Total Estimated 5-Year Contract Price.” Would the MLGCA confirm that sum formula should be labeled “Total Estimated 7-Year Contract Price?” All other amounts in the Financial Proposal are based on 84 months to align with the 7-Year Base Contract term.

**ANSWER: Yes, the label for this section should be “Total Estimated 7-Year Contract Price”. (See Amendment #2 to the RFP)**

**45. QUESTION:** Contract 13.3, Page 158: With respect to the Termination for Default provision in Section 13.3:

a) Would the MLGCA confirm that the right to terminate for default for failure of the Contractor to fulfill its obligations is limited to material failures to perform, or otherwise clarify the reasonable interpretation of this ability to terminate for cause in terms of materiality?

b) Will the Contractor be afforded the ability to cure its failure to perform within a period of 10 days (or such longer period as the State may authorize in writing) after receipt of notice from the State specifying such failure?

**ANSWER: No. The Termination for Default provision is a mandatory requirement of State law and will not be changed. As stated in Section 17, “Termination hereunder, including the termination of the rights and obligations of the parties, shall be governed by the provisions of COMAR 21.07.01.11B.”, which states the following in paragraph (4):**

**"If, after notice of termination of this contract under the provisions of this clause, it is determined for any reason that the Contractor was not in default under the provisions of this clause, or that the default was excusable under the provisions of this clause, the rights and obligations of the parties shall, if the contract contains a clause providing for termination for convenience of the State, be the same as if the notice of termination had been issued pursuant to such clause. If, after notice of termination of this contract under the provisions of this clause, it is determined for any reason that the Contractor was not in default under the provisions of this clause, and if this contract does not contain a clause providing for termination for convenience of the State, the contract shall be equitably adjusted to compensate for such termination and the contract modified accordingly; failure to agree to any such adjustment shall be a dispute concerning a question of fact within the meaning of the clause of this contract entitled "Disputes."**

**46. QUESTION:** Contract 29.1, Page 162: Can the MLGCA confirm that the reference to Section 5 Patents, Copyrights, and Intellectual Property in Section 29.1 is meant to be Section 7; and the reference to Section 6 (“Indemnification”) in Section 29.2 is meant to be Section 10?

**ANSWER: Yes. (See Amendment #2 to the RFP)**

**47. QUESTION:** Contract 39, Page 166: Will the State allow the Contractor to submit evidence regarding its performance and the facts surrounding a proposed assessment of liquidated damages and consider such evidence prior to issuing a written determination that the Contractor has failed to comply in good faith with one or more of the specified MBE Program requirements or MBE Contract provisions?

**ANSWER: Provision of notice and a reasonable cure period is the normal business practice of the MLGCA**

**48. QUESTION:** Contract 39.2 (d), Page 167: In the event that failure to meet the Contractor’s total MBE participation goals and sub-goal commitments is due to matters outside of the Contractor’s control, and not due to any action taken or not taken by the Contractor, is it correct that the State would not attempt to assert liquidated damages in such case?

**ANSWER: The Contractor would generally not be responsible for damages caused by another party or force outside of its control.**