



RFP: C202305 – Lottery Scratch-off Ticket Printing and Services

BIDDER ACKNOWLEDGEMENT OF AMENDMENT

Amendment Number: Two
Date Issued: November 10, 2023
Summary: Round Two Questions and Answers Attached

- 1. Round Two Questions and Answers follow.

By signing below, the bidder attests to receiving and responding to the amendment number indicated above.

FIRM NAME: _____

REPRESENTATIVE SIGNATURE: _____

**New York Lottery Scratch-off Ticket Printing and Services
Question and Answer Summary – Amendment Two
Issued: November 10, 2023**

Q.1: Section 1.5 Minimum Qualifications, Page 10

Section 1.5, Minimum Qualifications, states:

- “Information demonstrating the qualifications defined below must be incorporated into a Successful Bidder’s response to **Part Four - Evaluation and Selection.**”

Would the Commission please clarify if this requirement should be amended to state “Information demonstrating the qualifications defined below must be incorporated into a Successful Bidder’s response to **Section 3.2.B, Experience of Organization.**” as section 3.2.B states “The description must include how the Bidder meets the Minimum Qualifications as outlined in Section 1.5.”?

A.1: The Commission confirms that this reference should be to “Bidder”, rather than “Successful Bidder”. The first paragraph of RFP Section 1.5 Minimum Qualifications is hereby amended as follows:

Any Bidder submitting a Proposal in response to this RFP must meet the minimum qualifications listed below. Information demonstrating the qualifications defined below must be incorporated into a Successful Bidder’s response to Part Four - Evaluation and Selection.

Q.2: 2.2. E. Licensed Properties, Page 14

Our understanding is that the vendors must passthrough the costs related to the Licensed Properties. Would the Lottery please provide more details of what is considered a cost related to the Licensed Properties? For example, would the Lottery consider the costs of printing the tickets as part of the passthrough costs?

A.2: Examples of passthrough costs would include licensing fees and any actual costs related to the development of media such as a microsite or mobile application or printed material that is proprietary to licensed property. The Scratch-off ticket printing costs are not to be considered a licensed property passthrough cost.

Q.3: 2.2.I.e. Scratch-off Ticket Laboratory Testing, Page 37

Will the Lottery please provide an indication of how many of its Scratch-off games it plans to test with independent laboratories on an annual basis and/or how many games it has tested with independent laboratories over the past three (3) years?

A.3: The Commission intends to test 100% of games printed during the contract term. The Commission has not tested any games with independent laboratories over the past three years.

Q.4: Section 3.2.A.b.i, Page 29

The Bidder does not have audited stand-alone financial statements, but its public parent has audited consolidated financial statements that include the financial performance and results of the operation of the Bidder.

Would the Commission please confirm that the Bidder may submit its public parent's audited consolidated financial statements in satisfaction of the financial viability requirements set forth in this subsection?

A.4: Confirmed.**Q.5: Section 3.2.A.a.xii, Page 49**

Would the Commission please confirm our understanding that "accounts lost or resigned" in this section means lottery customer contracts that have been terminated prior to their stated expiration date, or please specify otherwise?

A.5: Confirmed.**Q.6: Section 3.2.E.e, Oversize Cards or Printed Marketing Material, page 55**

Describe how the Bidder will provide oversize cards or printed marketing materials to support Scratch-off games.

Question: Will the Commission please define as well as provide examples of the requested "printed marketing materials" to support Scratch-off games.

A.6: RFP Section 3.2.E.e is hereby amended as follows:

e. Describe how the Bidder will provide oversize cards ~~or printed marketing materials~~ to support Scratch-off games.

Q.7: Section 5.12, Disclosure and Investigations During Proposal Evaluation, page 68 and Document Submittal Checklist

Question: The requirement states that "subsequent to proposal submission, the Commission may initiate investigations into the backgrounds of the Bidder and individuals..." which seems to indicate that the Commission may choose to do background checks after proposal submission. However, the Document Submittal Checklist contains the item "Disclosure and Investigations During Proposal Evaluations" which references Section 5.12 and indicates that the response to this requirement should be included "with Proposal". Would the Commission please clarify what should be included with the Proposal as it relates to this section/requirement?

A.7: Bidders do not need to include any response in their proposals to this post-proposal-submission evaluation, but acknowledge by submitting a proposal that they are subject to this evaluation process after proposal submission. If a Bidder does not participate in any such evaluation initiated by the Commission post-proposal-submission, the Commission may disqualify such Bidder's proposal.

Q.8: Section 3.2.D.n, Samples, page 54

Question: The requirement states “Provide ten actual samples that have been produced by the Bidder in the past 24 months of each of the following scratch-off tickets.” Will the Commission please clarify if these samples should be 10 samples of the same ticket or 10 samples of different tickets?

A.8: Provide 10 samples of the same ticket for each of the Scratch-off tickets requested in section 3.2.D.n, i-x (e.g., 10 of the same \$1 tickets, 10 of the same \$2 tickets, 10 of the same \$5 tickets)

Q.9: Appendix N Insurer Qualifications and Insurance Requirements Section B.1 General Liability, Section B7 Media Liability Insurance

Under the General Liability section, coverage is specifically outlined for Personal and Advertising Injury. The section goes on to state that claims arising from the bulleted items must be included. The third bullet states:

- “negligent or intentional infliction of emotional distress, outrage or outrageous conduct”

Standard policy language, consistent with public policy, excludes coverage for intentional acts. Insurance is intended to cover fortuitous acts, not those that are intentionally committed or already in progress.

Therefore, we respectfully request that the Commission delete the word “intentional” in the third bullet of the Personal and Advertising Injury paragraph.

This language is also contained in B.7, Media Liability Insurance. For the same reason as above, we request that the word “intentional” be stricken from the third bullet in Section B.7, Media Liability Insurance.

A.9: The Commission declines to change this requirement. Although some types of insurance coverage may not cover intentional torts, Media Liability Insurance coverage routinely provides coverage for intentional torts, including, but not limited to, intentional infliction of emotional distress.

Q.10: Appendix N Insurer Qualifications and Insurance Requirements, Section B.6 - Data Breach and Privacy/Cyber Liability

The last bullet in the Data Breach and Privacy/Cyber Liability section states:

- “Cyber theft of customers’ property, including, but not limited to, money and securities.”

The term “customer” is not defined in the RFP. Will the Commission please clarify who the “customer” is referring to. Is it the Commission/Lottery as the customer? Or is it the

customers of the Commission/Lottery?

A.10: The reference to “customers’ property” in the above-referenced section refers to the property of the customers of the insured, *i.e.*, the “customer” refers to the Commission for the policy where the Successful Bidder is the named insured, but the “customer” refers to the Commission’s customers for the policy where the Commission is the additional insured.