



**REQUEST FOR INFORMATION**

**for**

**Unawarded Commercial Casino Licenses**

**October 20, 2021**

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## **PART 1 – GENERAL INFORMATION**

The New York State Gaming Commission (“Commission”) is the only entity authorized to clarify, modify, amend, alter, or withdraw the provisions of this REQUEST FOR INFORMATION (“RFI”).

### **1.1 INTRODUCTION**

The Commission, on behalf of the State, issues this RFI to solicit Information from parties interested in developing and/or operating certain gaming facilities. The Commission is likewise interested in receiving input from parties that may be affected by developed facilities.<sup>1</sup>

### **1.2 BACKGROUND**

In 2012, New York State Governor Andrew M. Cuomo proposed an amendment to the State Constitution to permit casino gaming. The constitutional amendment process— passage of legislation by two consecutive Legislatures followed by a public referendum— culminated in November 2013, when voters approved the constitutional amendment.

On July 30, 2013, Governor Cuomo signed into law The Upstate New York Gaming Economic Development Act of 2013, which outlined a process and criteria for siting no more than four destination gaming resorts to create jobs, reduce unemployment in disadvantaged areas of the State, enhance the State’s tourism industry and generate substantial revenue for public education and taxpayer relief.

To fully capitalize on the beneficial aspects of legalized gambling, the legislature determined that Upstate New York most needed jobs and economic development. Accordingly, the law established the eligible Regions of the State where such gaming resorts could be sited, while respecting boundaries established with Native American Tribes that have exclusivity over gaming rights in various parts of the State. The Act provided for the Commission to award up to four Gaming Facility licenses within three Regions of the State: Catskill/Hudson Valley Region (Region One, Zone Two), Capital Region (Region Two, Zone Two), and Eastern Southern Tier/Finger Lakes Region (Region Five, Zone Two).

Pursuant to the Act, the Commission established the Gaming Facility Location Board to select up to four Applicants, following a competitive bid process, to apply to the Commission for a gaming facility license. Four licenses were awarded, and these gaming facilities remain in operation.

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<sup>1</sup> Please see Section 3.1, *infra*, for further detail.

The remaining three licenses were reserved for possible future development.

Please note that on September 10, 2019 the Commission issued a Request for Proposals “to provide a gaming market study in relation to the evaluation of the gaming market in New York State” and “the economic and revenue impacts of the potential award of an additional three (3) commercial gaming facilities in downstate New York.” Spectrum Gaming Group was selected on November 14, 2019 to undertake the study.

The full *Spectrum Gaming Group Gaming Market Study: State of New York* dated January 2021 may be found at the following links:

- [Executive Summary](#)
- [Main Report](#) and [Errata](#)
- [Appendices](#)

### **1.3 LEGISLATIVE DIRECTION**

Pursuant to Part Z of Chapter 59 of the Laws of 2021, the Commission was directed to issue a RFI for the purpose of soliciting interest regarding the three unawarded gaming facility licenses authorized by the State Constitution. A copy of this law has been included as **Part 5 – Applicable Statute**.

### **1.4 PURPOSE**

The RFI was directed to seek information from parties interested in developing and/or operating gaming facilities which shall inform the Commission for the purposes of determining the:

- Appropriate size and scope of development
- Value of the gaming facility license, and
- Process that should be used in award consideration.

### **1.5 REPORT TO BE ISSUED**

The Commission is obligated to prepare and distribute a report with the results of the RFI to the Governor and the State Legislature no later than six months after receiving such information.

## PART 2 – RFI ADMINISTRATION

### 2.1 ISSUANCE AND INTENT

Respondents to this RFI should not anticipate award of a contract; this is an information gathering process only. This RFI is for planning purposes only and should not be interpreted as a solicitation for bids on the part of the State or the Commission.

### 2.2 KEY DATES

The table below lists the key dates and timeline that parties must consider in the preparation of responses to this RFI. If the Commission finds it necessary to revise these dates, an addendum or updated RFI will be provided to all interested parties:

Event	Date and Time
RFI Release	October 20, 2021
Deadline for Submission of Questions	November 10, 2021
RFI Response Submission Date	December 10, 2021

### 2.3 RESERVED RIGHTS

The Commission reserves the right to:

- Revise any dates provided within the RFI;
- Seek clarifications and revisions of responses;
- Consider and utilize or reject any ideas submitted in the responses; and
- Request to meet with interested parties.

### 2.4 DESIGNATED CONTACTS

The Commission has designated certain staff members identified below to communicate with interested and affected parties concerning this RFI. These contacts are listed below:

N.Y.S. Gaming Commission  
Office of the Secretary, 5th Floor  
One Broadway Center  
Schenectady, New York 12305

Secretary to the Commission  
[Kristen.Buckley@gaming.ny.gov](mailto:Kristen.Buckley@gaming.ny.gov)

or

Contract Management Specialist 3  
[Stacey.Relation@gaming.ny.gov](mailto:Stacey.Relation@gaming.ny.gov)

or

Contract Management Specialist 2  
[Alysan.Bowers@gaming.ny.gov](mailto:Alysan.Bowers@gaming.ny.gov)

All communications shall be made in writing via electronic mail utilizing the addresses provided above.

## **2.5 COSTS ASSOCIATED WITH PREPARATION OF RFI RESPONSE**

Neither the Commission nor the State shall be liable for the costs incurred by an interested or affected party in preparing or submitting a response to this RFI.

## **2.6 DISCLOSURE OF RFI RESPONSES**

All responses may be disclosed or used by Commission to the extent permitted by law. The Commission may disclose a response to any person for the purposes of research and planning, or for any other lawful purpose. All responses will become State agency records, which will be available to the public in accordance with the Freedom of Information Law (FOIL).

Any portion of the response that an interested party believes constitutes proprietary information entitled to confidential handling as an exception to the Freedom of Information Law must be clearly and specifically designated in the response.

If the Commission agrees with the proprietary claim, the designated portion of the response will be withheld from public disclosure. Blanket assertions of proprietary material will not be accepted, and failure to specifically designate proprietary material may be deemed a waiver of any right to confidential handling of such material.

## **PART 3 – QUESTIONS FOR INTERESTED PARTY CONSIDERATION**

### **3.1 INTRODUCTION**

The Commission is seeking information to develop a better understanding of interest in the unawarded commercial casino licenses and, if there is interest, what factors should be considered by the State in the development of a process to award such licenses.

Accordingly, the Commission is issuing this document to draw input from interested and affected parties. The Commission has defined “interested parties” as a prospective bidder for one of the unawarded commercial casino licenses, and “affected party” as an individual or entity who potentially could be affected by the development of unawarded commercial casino license.<sup>2</sup>

Below is a listing of questions, loosely grouped by topic, that interested and affected parties should use to guide their response. All responding parties are encouraged to address questions in narrative or illustrative form. They should not be limited to the Topics and Questions listed in Section 3.2 and may provide any information they believe the State should consider in a potential unawarded casino license evaluation process.

While input from all interested and affected parties is welcome, the statutory directive places greatest significance on those who have an interest in bidding for development of a commercial gaming facility. To the extent that any interested party has developed plans for a specific facility, questions should be answered in context of their proposal or how their proposal addresses such information.

### **3.2 TOPICS AND QUESTIONS**

#### **3.2.1 Interest**

- Are any parties interested in developing a gaming facility pursuant to the grant of award?
  - What factors would be limiting to this interest?
- Are any cities, towns, or municipalities interested in hosting a gaming facility?
  - What factors would be limiting to this interest?
  - What inducements should be provided to hosts?
- Should all three unawarded licenses be awarded?

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<sup>2</sup> The Commission expects affected parties to include but not be limited to local governments, neighborhood associations, commuter advocacy groups, existing non-bidding gaming operators, environmental advocates, business associations and labor organizations.

### 3.2.2 Locations

- Should the State limit the potential award of licenses to existing development zones and regions defined at N.Y. Racing, Pari-Mutuel Wagering and Breeding Law § 1310?
  - The law divided the State into two zones, which are functionally Zone 1: Downstate and Zone 2: Upstate.
    - Zone 1 consists of New York City, and the Counties of Nassau, Putnam, Rockland, Suffolk and Westchester.
      - Region 1: Putnam, Rockland and Westchester
      - Region 2: Bronx, Kings, New York, Queens and Richmond
      - Region 3: Nassau and Suffolk
    - Zone 2 consists of the Rest of the State.
      - Region 4: Cayuga, Chenango, Cortland, Herkimer, Lewis, Madison, Oneida, Onondaga, Oswego and Otsego
      - Region 5: Broome, Chemung (east of State Route 14), Schuyler (east of State Route 14), Seneca, Tioga, Tompkins, and Wayne (east of State Route 14)
      - Region 6: Allegany, Cattaraugus, Chautauqua, Chemung (west of State Route 14), Erie, Genesee, Livingston, Monroe, Niagara, Ontario, Orleans, Schuyler (west of State Route 14), Steuben, Wayne (west of State Route 14), Wyoming, and Yates)
- Should certain zones or regions be excluded from consideration?
- Should differing criteria and consideration be given to proposals in rural, suburban, or urban areas?
- Should a certain number of licenses be guaranteed for different zones or regions?
- Should locations be preferred in underutilized parcels?
- Should locations requiring dislocation of existing tenants be disfavored?
- Should property use history be considered?



- How should proposals on public lands be compared with those on privately held lands?

### **3.2.3 Scale**

- Should there be a facility size requirement, or should the expected market determine size?
  - If a facility size requirement is preferred, how should the size be selected?
- Should the State require any minimum level of table games, slot machines or poker tables?
- Should certain amenities be required in any proposed development? Should certain amenities be prohibited or limited from being developed?
- Should the State consider varying types of proposals? For instance, allowing a facility with fully-integrated amenities and allowing a facility with just gaming, if located in an area with substantial surrounding commerce? If yes, how should the differing proposal be compared?
- Should there be a minimum dollar figure required to be invested? If so, how should this dollar figure be established and verified?
- Should existing structures be allowed to be utilized or re-purposed or should greenfield construction be required?

### **3.2.4 Transportation**

- Should proposed development have convenient access to public transportation?
- Should proposed development be required to have an associated parking structure?
- Should local traffic impacts be considered? If so, how should these concerns be evaluated?

### **3.2.5 Local Factors**

- How should the State gauge local support of a development project?
- Should local zoning requirements be considered?

- How should the State consider the potential impacts of any proposed development on infrastructure such as roads, water and sewer? How should any necessary improvements be funded?
- Should the State consider the potential impact on a host's public services (such as police, fire, EMS, public health)? If so, should proffered private sector funding be considered?
- Should a proposed facility be seamlessly integrated into the locale or should it be developed as a focal point?
- How should local business impacts be considered?

### **3.2.6 Taxation and License Fees**

- Should the State seek an upfront license fee? If so, how should this fee be set?
- What taxation rates should be imposed for table games, slot machines and other gaming activities?
- How should the State balance gaming taxes against license fees?
- What purposes should gaming taxes and license fees be used? How should these fees be distributed?

### **3.2.7 Evaluation**

- In evaluating proposals, which of the following factors should the State deem important?
  - Construction investment
  - Construction employment
  - Permanent employment
  - Induced employment
  - Facility development cost
  - Use of renewable energy
  - Infrastructure development cost
  - Incremental gaming tax revenue, e.g. impact on existing gaming locations and gaming revenues
  - Speed to market
  - Level of local support
  - MWBE/V utilization
  - Impact on nearby cultural institutions and small businesses
  - Some other factor (specify)

- Should existing gaming facility development be credited against greenfield development? If so, what methodology should be used?
- How should the State consider the potential infrastructure impacts of any proposed development on roads, water and sewer? How should improvements be funded?
- What review and evaluation criteria should be replicated from the evaluation criteria associated with the Gaming Facility Location Board's 2014 and 2015 RFAs?

### **3.2.8 Other Factors**

- What are the main barriers to development of a successful gaming development?
- What is a reasonable timeline for RFA issuance, review, license award and gaming facility development?
- What other information is pertinent to the State in ensuring this gaming development process will be successful?

## **PART 4 – SUBMISSION REQUIREMENTS**

### **4.1 QUESTION SUBMISSION AND RESPONSE**

Interested and affected parties may submit questions and/or requests for clarifications regarding this RFI via e-mail to the contacts listed in **Section 2.4 Designated Contacts** by the specified time listed in **Section 2.2 Key Dates**. While all questions will be answered not later than one week after the RFI Deadline for Submission of Questions, November 10, 2021, questions submitted early will be answered and posted online on a rolling basis.

Questions should include the following:

- The e-mail subject line should read “RFI Questions”;
- Name of entity, contact person, telephone number and e-mail address of the party asking the question or seeking clarification;
- The RFI section, page number, and/or other information to support identification of the specific problem or issue in question; and,
- The question(s) or item needing clarification.

At its discretion Commission staff may contact the submitting party to seek clarification of any inquiry received.

### **4.2 RFI SUBMISSION**

Please submit responses in electronic format (such as MS Word, MS Excel, MS PowerPoint and PDF) to the contacts listed in **Section 2.4 Designated Contacts** by the specified and time listed in **Section 2.2 Key Dates**. Please note that if the submission exceeds 20MB, it cannot be received electronically and must be delivered to the address specified in **Section 2.4**.

All responses should be ordered in a manner that clearly reflects the Topics and Questions, as applicable. Responses are not limited in page length.

Responses received by the Commission after the Deadline for RFI Response Submission may not be evaluated for inclusion in the statutory report.

### **4.3 COVER LETTER**

Each submission shall include a cover letter identifying the following information:

- Submitter’s Name
- Contact Name and Title

- Contact Telephone Number
- Contact Electronic Mail Address
- Mailing Address

## **PART 5 – APPLICABLE STATUTE**

### **Chapter 59, Laws of 2021**

#### **Part Z**

Section 1. The gaming commission shall issue a request for information for the purpose of soliciting interest regarding the three unawarded gaming facility licenses authorized by the state constitution. Such request shall seek information from parties interested in developing and/or operating such gaming facilities which shall inform the commission for the purposes of determining: the appropriate size and scope of development, the value of the gaming facility license, and the process that should be used in award consideration. The commission shall prepare and distribute a report with the results of the request for information to the governor and the legislature no later than six months after receiving such information.

§ 2. This act shall take effect immediately.