



**Vendor Acknowledgement of Addendum**

RFP: Full Service Lottery System

Amendment Number: Two

Date Issued: 12/4/08

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

Bidder Name: \_\_\_\_\_

Company: \_\_\_\_\_

**RFP Amendments**

<b>Section</b>	<b>Change</b>
1.18	Delete the last paragraph of the section;
1.33	Delete the following clause in the last paragraph of this section: “...including the cost of appeal described in Section 1.19 [sic; should have been 1.18] relative to the additional cost in compensation to the current vendor during implementation or conversion delay...”





## New York Lottery Full Service Lottery System RFP Question's and Answers Round 2

Please be sure to complete and sign Attachment 2, Vendor Acknowledgement of Addendum, for both sets of answers and return them to the Lottery.

### SECTION I

#### 1. Section 1.18 – New York lottery Response to Bidder Question #14

Is the 0.74% of net instant sales received by GTECH under the current contract a gross amount or is it a net amount after GTECH pays 3.2% of instant ticket sales for the Marketing underwriting fee?

**Answer: GTECH receives an initial 3.94% of instant sales, provides 3.2% of instant sales to the Lottery as part of the Lottery's marketing expenses, and retains the 0.74% as GTECH's fee.**

#### 2. Section 1.18 – Protest or Appeal

New York law affords an eligible vendor the unconditional right to protest an award and signing of a contract. We respectfully suggest that requiring a vendor to agree to bear the "costs of appeal" as described in RFP 1.18, without regard to the merits or outcome of a protest would likely be void as a matter of law or public policy. Accordingly, would the Lottery please revise RFP 1.18 to delete this condition, as the Lottery will have the benefit of a litigation bond under Section 1.33 to protect the Lottery's interest against frivolous protests?

**Answer: Yes, the last paragraph of RFP section 1.18 is hereby deleted. In addition, the following clause is hereby deleted from the last paragraph of RFP section 1.33: "including the cost of appeal described in Section 1.19 [sic; should have been 1.18] relative to the additional cost in compensation to the current vendor during implementation or conversion delay."**

#### 3. Section 1.19.1.E – Response to Specifications, and 3.9.10 – Financial Viability

As a follow up to the Lottery's answer to Question #18, does the Lottery intend for the vendor to provide the one original copy of its financial information as a printed copy? Our financial information is quite voluminous and will be approximately 500 printed pages. In keeping with the requirements stated in RFP Section 1.24, Latitude in Proposal Contents, would the Lottery please accept the one original copy on CD? If the one original copy must be printed, would the Lottery please accept it as a separate volume?

**Answer: As stated we require one original hard copy and 4 CDs with the same documents. Additionally, the hard copy may be in a separate volume.**

#### 4. Section 1.19.1.F – Vendor Supplied Technical Documentation as Appendices

As a follow up to the Lottery's answer to Question #19 and in keeping with Section 1.24, Latitude in Proposal Contents, would the Lottery please allow the vendor the flexibility to place documents at the end of each section, behind an Appendices tab, versus in a separate binder, thus adding bulk to the

deliverable? For example, there would be a 3.1 Appendices Tab at the end of Section 3.1, a 3.2 Appendices Tab at the end of 3.2, and so on.

**Answer: Yes, as long as the appendices are not voluminous making the technical proposal overly bulky.**

## **SECTION II**

### **5. Page #20-22, 29 – Contractual Provisions**

To the extent there are deliverables required to be delivered to comply with Part 2 and given that the Lottery has not specified where such deliverables reside within Volume 1, will the Lottery please allow that any deliverable required in Part 2 go behind the Transmittal Letter?

**Answer: Yes, but if a document is clearly associated with a particular section Vendors may place the document in that section.**

Further, would the Lottery please confirm that it would be appropriate to submit the Performance Bond Letter referenced in Section 2.20 along with the Proposal Bond and Litigation Bond required by 1.19.1.B?

**Answer: Yes. (See Attachment 1 – Checklist).**

### **6. Section 2.22 – Vendor Error Liability**

Consistent with the Lottery's response to Question 37 regarding Vendor Error Liability, while the Lottery does not believe Section 2.22 would not impose any liability on the Vendor that exceeds the Lottery's under § 2804 of the New York State Lottery for Education Law, will the Lottery please confirm that it does not intend to impose liability on a Successful Vendor for misregistered, defective, or erroneous tickets in excess of the Lottery's own liability under § 2804?

**Answer: Yes.**

### **7. Section 2.23 – Liquidated Damages**

While the Lottery confirmed that it does not intend to attempt to collect a penalty that would be unenforceable under New York law, will the Lottery please confirm that as part of the liquidated damages assessment process (i) that the Successful Vendor may furnish, and the Lottery will consider, factual evidence where available to establish that the Lottery's actual damages were less than the liquidated sum; and (ii) that the Lottery will not assess more than its actual damages for any incident where the evidence establishes to the Lottery's reasonable satisfaction that its actual damages were less than the liquidated amount?

**Answer: Yes**

## **SECTION III**

### **8. Section 3.2.1.2.D.5 – Ticket and Report Printer Stock (Page 52)**

The Lottery's response to round 1, question # 63 suggests vendors may offer non top-coated paper as an Offered Option. However, since non top-coated paper is less expensive than top-coated paper, will the Lottery change the base RFP requirement to non top-coated paper and have top-coated paper available to be bid as an Offered Option?

**Answer: No.**

### **9. Section 3.2.4.4 – Multilane Terminals (Page 63)**

In order to accurately scope and cost the multilane terminal requirement included in the base price, we request the Lottery please provide the following information:

- a) Are the multilane retailers included in the 18,000 retailer count?

**Answer: Yes, as one for each location. For example a 20 lane grocery location with Lottery available at each lane would count as 1 not 20. (Also please see question and response to number 80 in round one).**

b) An estimate of the total number of lanes the Lottery intends for this solution to support.

**Answer: Each chain retail location would vary based on the chain type (convenience or grocery) and the size of the chain. The Stewarts chain of convenience stores has over 310 locations with 2 to 3 point of purchase typically in each store. Another retailer chain in New York, Price Chopper has approximately 70 grocery stores and typically 15-20 lanes per store. A likely scenario is 2,000 - 5,000 points of purchase (and or lanes) would be utilizing a non-typical sales and validation method during the contract period.**

**10. Section 3.3 – Communications Network**

Would the New York Lottery please disclose if the contract between OFT and Verizon is considered public records? If so, would the Lottery please provide a copy of this contract? If not, would the Lottery please disclose the scope of responsibility provided by Verizon?

**Answer: The Lottery does not have a complete copy of the contract. The contract number is C002262 and is between The Office of General Services, Verizon New York, Inc and Verizon Select Services, Inc. A copy of the contract may be sought from The Office of General Services**

**11. Section 3.3 Regarding First Round Question 85**

a) Will Stewart shops be providing their own receipt paper on which to print lottery tickets, or will the Lottery be providing the Lottery's ticket stock to Stewart Shops for printing of Lottery Tickets?

**Answer: The Successful Vendor will provide standard Lottery ticket stock for these printers.**

b) Is the external printer currently associated with the cash registers of Stewart Shops a printer with special ticket stock in it and used only for printing Lottery tickets or is this external printer the same printer used by the Stewart Shops to print all cash register receipts and reports?

**Answer: The printer will be a Vendor provided Lottery ticket printer connected to the POS system.**

c) Please specify the manufacture and model of the playslip reader that will be attached to the Stewart Shops cash register. Is this dedicated playslip reader paid for and provided by GTECH, by the Lottery, or by Stewart Shops?

**Answer: The reader will be a Vendor provided playslip reader connected to the POS system, so the current manufacturer is not relevant.**

**12. Section 3.3.1.9 – Network Design and Implementation – ITVMs Regarding First Round Question 90:**

a) What connectivity method is used currently for the EDS-Q machines to communicate currently with the Lottery Central Site is this dial-up to the Central Site, is this radio to the local terminal?

**Answer: It currently is radio to the local terminal. Each on-line terminal can accommodate up to 4 ITVM units for reporting and communications.**

b) Please describe in detail how the current machines are communicating the information currently being gathered at the Central Site so that non-incumbent vendors can understand exactly what is required.

**Answer: It is assumed the bidder may desire to transmit the data from the ITVM via its own method and protocol to their retailer terminal. The method and protocol should be identified by the vendor.**

- c) How often do the current EDS-Q machines send sales data, sales reports, and bin status to the Host system for Lottery reports, is this daily, weekly, multiple times per day or week, monthly, etc?

**Answer: The data is transmitted when the terminal is signed on, when retailer requests reports and hourly.**

- d) We believe that the requirement for a new Vendor to provide connectivity, maintenance and repairs for the current EDS-Qs or provide replacement machines at their own cost seriously penalizes non-incumbent Vendors and provides a significant advantage to the incumbent Vendor, thus creating a playing field that is not level. In addition to whatever costs will be incurred by a new Vendor to connect the machines (assuming that can even be done), unless the Lottery has an established contract for the availability and cost of replacement parts, they cannot provide a new Vendor with the assurances that will be necessary in order for that Vendor to commit to maintaining them and being able to do so at reasonable prices. This seems particularly pertinent because the incumbent Vendor does not even show the EDS-Q in its current product line. Because of these factors, non-incumbent Vendors will most likely be forced to substitute new machines at their cost. This can easily create a cost disadvantage for the new vendor in the tens of millions of dollars.

We respectfully request that the Lottery change the base requirement to include 4,000 dual function machines rather than 3,000 and eliminate the requirement to connect and service the old machines. This change will not only level the playing field but will also allow all machines to sell all lottery products, thus increasing sales. This will also simplify the service and maintenance of machines and the Lottery will have uniformity of reporting and real-time accounting for all online and instant products including real time information about bin status, not to mention the latest technology and security available in ticket vending machines.

**Answer: The Lottery is not changing the requirement. It is our understanding that at least one vendor has agreed to develop a communications interface between a non-GTECH system and EDS-Qs in another jurisdiction, so this is not a new industry requirement. We also understand that these parts are commercially available at a reasonable price.**

**13. Section 3.3.1.9 – ITVMs (Page 65)**

To properly estimate the costs of maintaining the 1,000 EDS-Q ITVMs, please answer the following questions:

- a) How old are the 1,000 EDS-Q ITVMs owned by the Lottery?

**Answer: 18 months old. We began installations in June 2007.**

- b) What is the average mean time between failure for the 1,000 EDS-Q ITVMs?

**Answer: The Lottery does not have this exact data. There were 113 calls received from retailers by the current contractor in November 2008 for this equipment.**

**14. Section 3.3.1.9 – ITVMs, New York Lottery Response to Bidder Question # 96**

Please confirm that the quoted average of 210 ITVM moves is a monthly average (about 7 per day), not a total of 210 for the last three months, a little more than 2 per day.

**Answer: The average is monthly. A move is considered a delivery or removal of an ITVM. In some cases, such as an upgrade, a single stop will be considered 2 moves with a delivery of a new larger ITVM and the removal of an older smaller ITVM. Also, locations with more than 1 ITVM being delivered or removed count as 1 move for each ITVM delivered or removed. This data is for the approximately 4,000 ITVM's installed.**

15. **Section 3.4.7 – Instant Ticket Order Distribution: Order Packaging and Warehouse System (Page 84)**

The requirement states, “The Successful Vendor will equip and perform the warehousing and order distribution function as well as full and partial pack return processing. The Successful Vendor will pay ... to help make order distribution efficient and accurate.” To properly size the Order Packaging and Warehouse System as required in Section 3.4.7;

- a) Will the New York Lottery please identify the average number of orders that are processed in a typical week (daily orders only)?

**Answer: 11,000 per week**

- b) Will the Lottery please provide the average number of ticket packs in a daily replenishment order and in a new game allocation order?

**Answer: Regular daily orders: 11.5 books per order  
Hassle Free orders: 5.75 books per order**

- c) Will the Lottery please identify the average number of ticket packs returned on a weekly basis?

**Answer: 1,215 packages per week with 9.86 books per package. These packages include both full and partial books. Full books may be returned to inventory to be reissued or destroyed.**

16. **Section 3.4.7 Regarding First Round Question 104:**

Please provide the annual total number of instant ticket packages shipped for the last two years so that non-incumbent vendors can estimate the total number of packages to be shipped and thus calculate an accurate cost for courier fees?

**Answer: See answer to Round 2, Question 15. Those figures are based on 2007 – 2008 data.**

17. **Section 3.4.17 – Checkwriting System – Item 5**

Would the Lottery please define “proper accounting?”

**Answer: Proper accounting means correctly accounting for the designated financial value and inventory of non-cash prizes.**

18. **Section 3.5.2 – Player Analysis and Retailer Placement Assistance Regarding First Round Question 112.**

The Lottery indicated in its answer to question 112 that it has used Claritas for several years. Would the Lottery please indicate what modules have been used such as PRIZM ((NE, NE (PNE)), ConsumerPoint™, Prime Location, etc.?

**Answer: We currently use the Imark software from Claritas utilizing the PRIZM module. It is primarily used for creating retailer lists, prospect lists, maps and sales forecasting for retailer applications and changes of ownership to be sent to the LSR's. Additional uses include demographic reports providing sales, retailers, and population per zip code.**

Has the Lottery been satisfied with this product? What features and or functions of the programs, if any, have been found to be inadequate and what features or functions would the Lottery like to see added to the functionality of the package?

**Answer: The Lottery's primary interface with Claritas as a data tool is for providing data for other applications within the Lottery such as sales force automation. The Lottery does not use Claritas as a hands-on tool for analyzing any type of sales trends. The Lottery prefers an intuitive object oriented data management tool that provides data in a logical and readable format (for example spreadsheets, charts, maps) for the development of analysis and reporting.**

19. **Section 3.5.2**

In the New York Lottery's First Round Question and Answer Responses (Response #112, Section 3.5.2), the Lottery notes that it uses Claritas as its geo-demographic / psychographic application. Does the Lottery procure the Claritas application direct from Nielsen Claritas or does the Lottery get this application from somewhere else? Can the Lottery specifically name the vendor (i.e. advertising agency or specific market research vendor or GTECH, etc.) from where it gets this Claritas application?

**Answer: GTECH provides the Claritas application.**

20. **Section 3.5.4 – Games Menu – Item 6: Interactive Website**

With respect to the Lottery's response to Question #117 regarding Section 3.5.4.6, we understand the Lottery's position that the Lottery is authorized to offer Internet play under the New York State Lottery for Education Law (Tax Law Article 34) and the federal Unlawful Internet Gaming Enforcement Act ("UIGEA") and accordingly the bidder will provide a response to 3.5.4.6. However, we do note that certain federal court decisions and Department of Justice interpretations of 18 U.S.C. § 1084 (the "Wire Act") may be inconsistent with the Lottery's position. Given the potential conflict, would the Lottery please reconsider making the requirement under Section 3.5.4.6, Interactive Website, an option and not part of the base system? If not, as an alternative, would the Lottery please remove such indemnity requirement from Response 117, as potential bidders may be concerned to contractually indemnify the Lottery for actions that are permissible but arguably subject to challenge?

**Answer: The Successful Vendor will not be required to indemnify the Lottery for any criminal penalty imposed on the Lottery or any Lottery employee by a court of competent jurisdiction.**

21. **Section 3.5.4 – Games Menu – Item 6: Interactive Website**

In the response to Question #117, the Lottery stated that "...the Lottery may pay Internet sales commission." In that the Lottery also previously responded that the successful vendor is responsible for covering the cost of debit/credit card transaction fees and will have variable costs, would the Lottery then agree that the successful vendor will receive a retailer type sales commission as the selling agent? Without such a commission, the successful vendor's variable costs would likely exceed any percentage of sales bid on the base contract.

**Answer: Yes, the Successful Vendor would receive a retailer commission at a rate to be determined. The rate of commission would not be equal to a traditional retailer commission with a storefront, but commensurate with the vendor's cost to cover processing fees (Also, please refer to question and answer 117 from Round 1).**

22. **Section 3.5.4.6 Regarding First Round Question 117**

The Lottery stated that the vendor would be responsible for fees charged by debit and credit card companies for cost of making transactions on the interactive gaming web site. Because this cost can run as low as 1% and as high as 7% per transaction dollar amount, and because the volume and success of the sales on the website can not be calculated or known, is it allowable for the vendor to pass the cost of this on to the players, in order to avoid potential large costs to the vendor, and thus overcharging for the services and function to the NY Lottery.

**Answer: No, it should be paid out of the funds received as retailer commissions.**

23. **Section 3.6.1.2 – Lottery Offices Co-located at the Primary Data Center**

We respectfully ask the Lottery if it would be acceptable to provide the required 1,000 square feet of office space in a manned Backup Instant Ticket Facility that will be located in the Schenectady area.

**Answer: Yes, but please note the Lottery recovery space need not be in a staffed back-up site.**

24. **Section 3.7.3 – Terminal Provisioning Services: Moves, Adds, Changes, Removals**

Land-based telecommunication services provided by local exchange carriers are unlikely to be available within the 10-day window required by the Lottery. Would the Lottery please consider amending the requirement to allow an exception of 3 days from circuit completion if in fact a local exchange carrier provided circuit is required?

**Answer: No, but the Lottery may determine not to assess liquidated damages on a case by case basis depending upon the availability of alternative telecommunication methods.**

25. **Section 3.7.5.1 – Retailer Training Programs, Retailer Instruction (page 107) and New York Lottery Response to Bidder Question #136**

During the first round of questions, the Lottery answer to question 136 stated that “retailer training in English and Spanish is necessary...Spanish is focused in NYC and Suburban Regions.” To estimate resources needed, can the Lottery please provide the percent of retailers that would require training in Spanish?

**Answer: It is estimated that approximately 10% of the retailers in the NYC and Suburban regions need training in Spanish.**

26. **Section 3.9.2 – Gaming Systems Experience**

This section asks for the maximum number of live transactions in any one week. We will make every effort to obtain this information; however, to the extent that such material is owned by a lottery, and a lottery does not give a bidder the right to provide this information, would publicly available annual sales volumes be an acceptable alternative?

**Answer: The Lottery will assign the greatest value to actual data. Please ask your customers for permission to release the data, but you may designate it as confidential if you provide such a request from the customer. If the customer will not permit release of the data, then provide what is publicly available.**

**SECTION IV**

27. **Section 4.5 – Price Quotation Sheet, Section 3 (Page 124)**

Please confirm/correct our understanding of the pricing for Invited Options. The Price Quotation Sheet states: “Vendors are not required to submit cost information for Invited Options. Response Note: TBD pricing is not allowed.”

a) We interpret “Vendors are not required to submit cost information for Invited Options” to mean that if a Vendor does NOT propose a particular Invited Option within its technical proposal (not required to propose Invited Options per RFP section 1.37), then the New York Lottery does not require cost information since the option was not bid/proposed. Is this interpretation correct?

**Answer: Yes.**

b) Furthermore, since “TBD pricing is not allowed,” we interpret this to mean that if a bidder does propose an Invited Option within its technical proposal, then the bidder MUST price that Invited Option. Is this interpretation correct?

**Answer: Yes.**

c) Is the bidder allowed to price any Invited Option included in its technical proposal as TBD under any circumstance?

**Answer: No**

**28. Section 4.5.3 – Lottery-Invited Options**

This section states that “Vendors are not required to submit cost information for Invited Options.” Further, it states in the response note that TBD pricing is not allowed. Would the Lottery please confirm that vendors are not required to submit cost information for Invited Options and that TBD information is allowed?

**Answer: No. If a Vendor responds to an Invited Option it must provide a price.**

**APPENDICES**

**29. Attachment 1**

Will the Lottery please confirm that Appendix H-3 is submitted post-award and not with the proposal?

**Answer: Correct.**

**30. General Question Regarding First Round Question 173.**

We apologize for referencing the NY Lottery Commission, we want public information in the form of minutes or other information from meetings held by the highest management body of the NY Lottery Division, similar to meetings that a private company might hold with that company’s board of directors and very top senior executive management. Could the Lottery please provide such information so that as a non incumbent vendor we can be better informed of the historical policy and management decisions that have been made at the NY Lottery and the possible policy and management decision that are currently in place or possibly anticipated?

**Answer: The Lottery does not maintain such records.**

**RFP Amendments**

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