

**MISSISSIPPI LOTTERY CORPORATION**

**LIST OF QUESTIONS RECEIVED BY JULY 8, 2019**

**RE: RFP NO. 4 – REQUEST FOR PROPOSALS FOR INSTANT TICKET LOTTERY GAME SERVICES**

**ANSWERS TO WRITTEN QUESTIONS DEADLINE: JULY 16, 2019 (5:00 P.M. CST)**

	<b>VENDOR #1 QUESTIONS – RFP NO. 4</b>	<b>MS LOTTERY CORPORATION ANSWERS</b>
1	Part 1-General Information Section 1.1 Introduction, page 2: Will the Lottery please provide the names and addresses for the first 1,500 retailer locations?	Retailer information will be provided to the successful bidder as retailers are approved.
2	<p>Part 1-General Information Section 1.2 Corporation Objectives, page 6-7: <i>RFP requirement: Seventh bullet states, “To ensure that the System is fully operational and installed and all instant ticket products are in retail locations and available for sale to the public in all Retailer locations approved by the Corporation at least two weeks prior to the December 1, 2019 Startup Deadline;”</i></p> <p>It is our understanding that the requirement is for the System and instant ticket products to be available December 1, 2019 to any Retailer locations that are approved by the corporation two weeks prior to December 1, 2019. Please confirm that instant tickets are not required to be in retailer locations two weeks prior to December 1, 2019.</p>	All retailers approved by the Corporation by November 17, 2019, must have tickets delivered, activated and available for initiation of sales in their location prior to December 1, 2019.
3	Part 1-General Information Section 1.4 Governing Law, page 8: Is the 30-day timespan in this requirement referring to calendar or business days?	Calendar days.
4	Part 1-General Information Section 1.10 Right to Use Information in the Proposal, page 10: Please verify whether the materials submitted to the Corporation by Vendors that become the property of the Corporation remain subject to the limitations of the Mississippi Public Records Act of 1983.	As stated in Section 1.5 of the RFP, “After all Vendors have been notified of the award of a Contract, Vendors’ Proposals will be available for public review, subject to the limitations of the Mississippi Public Records Act of 1983, <i>Miss. Code Ann. §§ 25-61-1 et seq.</i> , as amended, and the Corporation’s Public Records Request Policy.”

5	Part II – Proposal Process Section 2.5, pg. 12: Would the Lottery like any soft copies of the Proposal Package provided on USB?	An original hard copy and seven (7) additional copies are required. The additional copies can be provided in a digital format on a USB device which is compatible with both USB and USB-C. Be advised that blank, corrupt or unreadable forms of digital media will not be considered responsive to RFP requirements.
6	Part II – Proposal Process Section 2.5, pg. 12: Would the Lottery like Vendors to provide a hard copy redacted version of their proposal with the confidential content removed?	No. Section 1.5 of the RFP governs the marking and identification of Confidential Information, and an original and seven (7) copies are required.
7	Part II – Proposal Process Section 2.5, pg. 12: Please Clarify how many hard copies of the Price Proposal the Lottery requires.	An original hard copy and seven (7) additional copies are required. The additional copies can be provided in a digital format on a USB device which is compatible with both USB and USB-C. Be advised that blank, corrupt or unreadable forms of digital media will not be considered responsive to RFP requirements.
8	Part III – Contractual Terms and Conditions Section 3.9, pg. 21: Please clarify the intended scope of rights the Corporation seeks to obtain from the vendor through the license grant in this provision. For instance, as drafted, this grant could be interpreted to mean that the successful Vendor would need to grant a license to the Corporation for all printing presses used to produce tickets for the Corporation since they could be considered “equipment . . . used in connection with the System or performance of the Contract”. Similarly, if that essentially unbounded right to use Vendor’s materials and intellectual property (including its patents), that incumbent Vendor could be considered unable to charge for its products and services in the next procurement unless it has created an entirely new portfolio of products and systems since the Corporation would already have the right to use everything it has to offer. Since this seems unlikely, could the Corporation please provide explanation of its purpose and goals for this provision so that the bidders can provide reasonable redlined changes to the Instant Ticket Lottery Games Services Agreement that ensures the Lottery obtains the continuity in goods and services it needs and the Vendor is not required to sacrifice its ownership rights to its lottery product portfolio.	The Corporation’s intention regarding Vendor Licensed Intellectual Properties is to avoid an interruption of business that would negatively affect Lottery sales. The Corporation’s rights pertaining to Vendor Licensed Intellectual Properties are limited to Successful Vendors, Proprietary Materials used in connection with the System or performance of the contract in the event of breach, expiration or termination of the contract, but only for a period required for the Corporation to transition to a new vendor without disruption of business.

9	<p>Part III – Contractual Terms and Conditions Section 3.9, pg. 21: Please clarify that the transfer of ownership described in the first paragraph of this section applies only with respect to the described materials that are developed, produced or provided by the Vendor exclusively for the Corporation. This would include materials such as ticket art, customized software, Corporation-specific web applications and similar materials and not items such as core computer hardware designs, operating system software, production processes and methods and all the other components that are proprietary to the Vendor and fundamental to its existence as a lottery supplier and a going concern.</p>	<p>As provided in the first paragraph of Section 3.9, the Corporation’s ownership rights apply to the enumerated materials which are “developed, produced or provided in connection with the services provided <b>exclusively</b> for the Corporation under the Contract” (emphasis added).</p>
10	<p>Part III – Contractual Terms and Conditions Section 3.9, pg. 21: Please confirm that, as is standard and customary in commercial agreements of the type of the contract: (i) items of the type listed that are owned by the Vendor that pre-exist the Contract will remain the property of Vendor; and (ii) neither this Section 3.9 nor any other section of the RFP or the Instant Ticket Lottery Games Services Agreement is intended to limit the Successful Vendor’s intellectual property rights in any goods or services that are generally provided to the Vendor’s other customers.</p>	<p>Confirmed.</p>
11	<p>Part III – Contractual Terms and Conditions, Section 3.9, pg. 21: Will the Corporation, as part of contract negotiations, consider reasonable limits on the license rights granted under this section?</p>	<p>The Corporation will consider reasonable limits during negotiations, although the Corporation reserves the right to negotiate with other bidders if a Contract has not been executed within fifteen (15) days of the Corporation’s selection of a Successful Bidder.</p>
12	<p>Part III - Section 3.12 Intellectual Property Indemnification, pg. 22: Please confirm and clarify that the indemnification obligations in this Section apply only to third party claims that the listed items infringe such third party’s intellectual property rights. Also, please confirm and clarify that the Vendor will have indemnification obligations only with respect to “development, possession, license, modification, disclosure or use” solely by the Corporation, and that the Vendor will not have indemnification obligations to the extent that the Corporation or another Corporation vendor develops, possesses, licenses, modifies, discloses or uses any of the listed items in violation of, or in a manner not contemplated by, the contract.</p>	<p>Section 3.12’s indemnification obligations apply to “any and all suits, damages, expenses, . . . and other damages” brought by any person in any way related to the Successful Vendor’s, the Corporation’s or the Corporation’s vendors’ “development, possession, license, modification, disclosure or use’ of the listed items furnished by the Successful Vendor and used in the performance of the Contract.</p>

13	<p>Part III - Section 3.13 Warranties, pg. 22: Given that the contract will provide for various categories of liquidated damages, please consider removing the representation and warranty in the first sentence of the third (3rd) paragraph, that states, “The Successful Vendor represents, warrants and agrees that all Systems, analyses, items designed and other items procured pursuant to this RFP, its Proposal and the Contract have been and shall be prepared or done in a workman-like manner consistent with the highest standards of the industry in which the services are normally performed.”</p>	<p>The Corporation declines to remove this representation and warranty.</p>
14	<p>Part III – Section 3.17 Indemnification, pg. 24: Please confirm and clarify that the Vendor will have indemnification obligations only for negligence or willful misconduct in performing under the contract and only for third party claims.</p>	<p>The Corporation declines to amend Section 3.17, Indemnification, in the manner requested.</p>
15	<p>Part III – Section 3.17 Indemnification, pg. 24: Please confirm that Vendor has no indemnification obligation to the extent that Corporation or any third party (other than Vendor and its subcontractors and employees) acting for or on behalf of Contractor contributes to the underlying loss or for use of any materials, goods or equipment in violation of, or in a manner not authorized by, the contract.</p>	<p>The Corporation declines to amend Section 3.17, Indemnification, in the manner requested.</p>
16	<p>Part III – Section 3.17 Indemnification, pg. 24: Please clarify that the scope of parties whose acts and omissions may give rise to an indemnification obligation are those over whom the Vendor would reasonably be expected to have responsibility by under the language “or any person directly or indirectly employed by the Successful Vendor or a subcontractor of the Successful Vendor”.</p>	<p>The Corporation believes the scope of the parties whose acts and omissions may give rise to an indemnification obligation are clearly delineated in Section 3.17 as “the Successful Vendor, or a subcontractor or joint venture of the Successful Vendor, or any person directly or indirectly employed by the Successful Vendor or a subcontractor of the Successful Vendor.”</p>

17	<p>Part III - Section 3.21 Liquidated Damages, pg. 25: Please confirm that: (i) the amount of liquidated damages to be set out in the contract will be reasonable and in line with industry standards; (ii) to the extent that an event occurs for which liquidated damages may be assessed under more than one category, the Corporation is not entitled to recover under multiple categories; (iii) the Corporation will assess liquidated damages within a reasonable period of time, otherwise, it waives its right to assess, and the Corporation will provide written notification of a proposed assessment of liquidated damages and provide the Vendor with the right to protest such assessment; and (iv) liquidated damages cannot be assessed against the Vendor if the underlying product or service has not been furnished by the Vendor or its subcontractors.</p>	<p>Bidders are required by the RFP to propose liquidated damages in their Proposals. To the extent that bidders desire to propose conditions upon the imposition of liquidated damages, they may do so, but the Corporation is under no obligation to accept such conditions.</p>
18	<p>Part IV – Section 4.6, Disclosure of Litigation &amp; Legal Matters, pg. 29: <i>The RFP states that a “Vendor must include in its Proposal a complete disclosure of any civil or criminal litigation or indictment involving such Vendor.”</i></p> <p>Typically, these requests specify a timeframe (i.e., in the last five years). Would the Corporation please indicate if the disclosures should fall within a certain timeframe?</p>	<p>Please include all responsive matters for the last ten (10) years.</p>
19	<p>Part IV – Section 4.8, Financial Soundness, pg. 29: <i>The RFP states that a “Vendor must submit a copy of its last three (3) years financial statements that have been audited by an independent public accounting firm.”</i></p> <p>Would the Corporation accept these financial statements on a USB drive in PDF format?</p>	<p>An original hard copy and seven (7) additional copies are required. The additional copies can be provided in a digital format on a USB device which is compatible with both USB and USB-C. Be advised that blank, corrupt or unreadable forms of digital media will not be considered responsive to RFP requirements.</p>

20	<p>Part V – Section 5.1 Technical Specifications, pg. 31: <i>RFP requirement: Any items that are not specifically mentioned in this RFP but which are integral to the smooth efficient operation of the proposed services should be included in a Vendor’s Proposal and pricing. Those items not specifically requested under this RFP shall be identified in the appropriate Sections of the Proposal. All required supplies and materials necessary for the success of the overall operation of the Mississippi Lottery are to be included in the base Proposal price, even though those items may not be specifically requested under this RFP.</i></p> <p>A vendor’s full list of ticket enhancements or game options may not be integral to the smooth efficient operation of the proposed services. However, if the Vendor has available additional products and services which would be beyond those “included in the proposed ticket price” but may be considered by the Lottery as enhancements for use at a later date, in what section should prospective Vendors describe these products and services in their proposals and pricing documents? In addition, we recommend the following language be added to the RFP; “The Corporation encourages Vendors to provide a full list of all ticket enhancements and game options with pricing for each. As new enhancements and options are developed the Corporation expects the selected Vendor(s) to demonstrate new features.”</p>	<p>The Corporation declines to add the suggested language to the RFP. The Corporation’s intent in Section 5.1 is to ensure that the Vendor provides in its proposal all aspects of core components and functionality not otherwise requested in this RFP that may be necessary for the daily operations of the Mississippi Lottery.</p>
21	<p>Part V – Section 5.1.2 Limitations &amp; Expectations, pg. 32: Will the Corporation please clarify if they are seeking limitations to imaging (variable game data) or printing (static display graphics) in regard to words, letters, etc., as the two technologies are very different?</p>	<p>The Corporation is seeking limitations to both imaging and printing in regard to words, letters, etc.</p>
22	<p>Part V – Section 5.4.7, Second Chance Loyalty Program, pg. 36: How many second-chance entry promotions does the Lottery anticipate offering per year of the contract term?</p>	<p>The Corporation anticipates 5-6 second-chance entry promotions per year of the contract term.</p>
23	<p>Part V – Section 5.4.7, Second Chance Loyalty Program pg. 36: Is the Lottery permitted to offer interactive second-chance promotional games? And if so, how many does the Lottery anticipate offering per year of the contract term?</p>	<p>Disregarding the use of the term “interactive” in the question, the Corporation is permitted to operate second-chance promotional games. The Corporation anticipates 5-6 second-chance entry promotions per year of the contract term.</p>
24	<p>Part V – Section 5.4.8, Winner’s File, pg. 36: Can the Lottery define what the term “play spots” means?</p>	<p>“Play spots” means the images which appear underneath the coating in the play area.</p>

25	Part V – Section 5.6, Ticket Inventory Control and Management, pg. 37: Section 5.6 of the Online Lottery RFP No. 5 (pages 49-50) references the “instant inventory system”. Please confirm that the Online vendor is responsible for providing the instant inventory system.	The successful online gaming vendor will provide the associated equipment (hardware, software, monitors, manifest printers and communications to the CGS and the instant ticket vendor) to perform all pick and pack/distribution functionality as part of the Successful Vendor’s proposed solution for “instant game management, including game start/end, pack status changes, inventory accounting and ticket validation activities.
26	Part V – Section 5.6, Ticket Inventory Control and Management, pg. 37: Please confirm that the online vendor will provide all required systems hardware, equipment (pick and pack computer equipment, monitors, manifest printers), software, communication lines (to Central System and to the Instant Vendor) associated with the instant inventory system.	The successful online gaming vendor will provide the associated equipment (hardware, software, monitors, manifest printers and communications to the CGS and the instant ticket vendor) to perform all pick and pack/distribution functionality as part of the Successful Vendor’s proposed solution for “instant game management, including game start/end, pack status changes, inventory accounting and ticket validation activities.”
27	Part V – Section 5.7 Distribution of Tickets from Other Vendors, pg. 37: Will the Corporation please confirm the initial games launched are not subject to printing by another vendor?	Yes
28	Part V – Section 5.7 Distribution of Tickets from Other Vendors, pg. 37: Will the Corporation please clarify if the 8 games that potentially could be supplied by another vendor are on an annual basis or over the life of the contract?	Up to 8 games on an annual basis
29	Part V – 5.11 Instant Ticket Destruction, pg. 38: Will the Corporation allow for returned tickets to be destroyed locally by a certified recycler under Vendor supervision or do they have to be returned to the Vendor’s production facility for destruction?	The Successful Vendor can utilize a local certified recycler under Vendor and Corporation supervision.

30	<p>Part V – 5.12 Marketing Services, pg. 38: Section 5.12 states that the Corporation is interested in knowing what service(s) or product(s) the Vendor shall offer, over and above those, which are specifically required in this RFP. It further states that “services described in this Section 5.12 should be included in the proposed ticket price.” Is it the Lottery’s intent that all services included in the marketing plan be included in the base ticket price? Or will the Lottery accept separate proposed pricing for options?</p>	<p>All services described in 5.12 should be included in the base price, excluding those services over and above those which are specifically required in the RFP. Over and above services or products should be priced separately.</p>
31	<p>Attachment C, Contract Compliance and Financial Disclosure Form: <i>Attachment C, item #14 requires Vendors to list all the individuals constituting the Vendor Team who will work on the Contract.</i></p> <p>In other instances within the RFP, “Vendor Team” is defined as the company (or companies) submitting a Proposal. In the case of item #14, we believe the Corporation intends Vendors to provide list of “<i>Key Personnel of the Vendor Team</i>”. Would the Corporation please confirm our interpretation of the meaning of vendor team?</p>	<p>The use of the term “individual” in items nos. 14 and 15 of Attachment C are intended to elicit information pertaining to individuals owning, managing, employed by or otherwise associated with any member of the Vendor Team.</p>

	<b>VENDOR #5 QUESTIONS – RFP NO. 4</b>	<b>MS LOTTERY CORPORATION ANSWERS</b>
32	<p>The current provision for the Primary Vendor to warehouse and distribute up to 8 games to be provided by (a) Secondary Vendor(s) per year, without reimbursement for the warehousing and distribution of these tickets, or a shared percentage of sales when the tickets are sold, unduly penalizes the Primary Vendor if the Lottery chooses to acquire games from a Secondary Vendor. A more equitable solution for all parties is for the Lottery to require Primary Vendors to supply an optional price for games which it is NOT required to print but is required to warehouse and distribute. This will also better serve to provide the Lottery with the flexibility it is seeking for working with Secondary vendors. Please confirm the Lottery will add this requirement.</p>	<p>The Corporation declines to add the requirement requested.</p>
33	<p>Can the Lottery clarify its intentions for the transition of the inventory on hand at the end of the contract, as there could be considerable value in this inventory. Will it continue to sell it through and compensate the existing vendor based on the stipulated percentage of net sales? Or will it purchase the remaining ‘good inventory’, discounting for stale games and sell through rates?</p>	<p>The intention of the Corporation is to best serve all parties for a smooth and equitable transition between vendors.</p>
34	<p>Will the Lottery consider expanding the number of games potentially available to other vendors from 8 to 16 either initially or increasing over time? There has been a general trend in the industry to lower minimum guarantees to Primary Vendors, particularly for contracts that are potentially up to 10 years in length. The increased competition can benefit all players, particularly the Lottery.</p>	<p>No</p>

35	Regarding shipping of the RFP Response, we would like to respectfully request the Mississippi Lottery Corporation's tax ID number for the purposes of our courier shipment of the response to this RFP. Per our courier company, UPS, our understanding is that US Customs and Border Protection and US Homeland Security requires that this number be provided on documentation when the lottery is deemed to be 'importing' anything i.e. the proposal response. If this number is not provided on UPS' shipping paperwork that we fill out when we ship the boxes, then it must be found and added to the paperwork by those agencies. When the tax ID number is left out, delays have been caused in the past. To ensure that there are no issues at customs and to expedite delivery, please provide the tax ID number.	83-4246760
36	Regarding shipping delays in receiving the RFP Response, will the Mississippi Lottery Corporation please clarify if there are any additional steps in the shipping process for security or logistics reasons that will add time to the delivery of couriered proposals? For example, some state governments route all shipments to a security screening facility and, after processing each shipment, distribute locally from there. This can result in unexpected time delays and may result in a late proposal delivery.	The Corporation is not aware of any delay for the delivery of couriered Proposals.
37	If the Mississippi Lottery Corporation has conducted any market research into the area of instant tickets, will the Lottery please provide any findings and/or reports? This information would further assist us in customizing our response for the Mississippi market.	The Corporation has not conducted any market research into the area of instant tickets.
38	If available, will the Lottery please provide a print quality Mississippi Lottery Corporation logo, preferably in EPS or vector-based format, for use in our bid response?	The Corporation is working on finalizing the logo. The Corporation will provide it as soon as possible.
39	Specific to this RFP, one party requested that any future addendums, modifications, responses to questions, or other pertinent information be emailed directly to their emails provided.	The Corporation will post any addenda, amendments, responses to questions, and other information pertinent to this RFP on its website, <a href="http://www.mslotteryhome.com">www.mslotteryhome.com</a> . Although the Corporation is under no obligation to do so, the Corporation will take reasonable efforts to provide notification, by email, of any additional postings on the website relative to this RFP to those persons requesting copies of additional postings or notification thereof.