

**New York Lottery Central System RFP
Questions & Answers
January 23, 2002**

- Q.1 We understand that a supplier cannot provide both a central and VLT solution, however can the supplier submit a response to both RFP's?
- A.1 A supplier cannot provide both the central system and the VLTs. A supplier can submit proposals for both RFPs, however, the winner of the Central System Contract will not be awarded a Video Lottery Terminal Contract .
- Q.2 In the Lottery Objectives section of the RFP, the electronic keno paragraph refers to players choosing numbers and competing against other players. How does the lottery anticipate this specific game to operate if players are continuously choosing to play keno at different times, different bets, etc.?
- A.2 The Lottery is researching this issue and will provide a response to all vendors by February 4, 2002.
- Q.3 In the schedule of events, the lottery anticipates testing the central system on the 22nd of July after awarding the central on the 22nd of March. How early would the central system provider require the VLT vendors' final software prior to the testing: We are assuming that the lottery will require the VLT vendors to have the software independently tested and approved (a testing agency of choice by the NY Lottery) prior to the field test.
- A.3 Prior to the release of the RFP for VLTs, the Lottery will issue an RFP for an Independent Testing Firm. Vendors should describe in their proposals the time frames they feel necessary for testing and implementation of the central system.
- Q.4 In the System Overview section, one of the primary objectives of the Lottery is that the central system provider will be able to download games within 6 months of operation. How does the lottery anticipate the distribution of instant tickets from the site controller to the VLTs prior to downloading capacity?
- A.4 The time frame for downloading game software was specifically stated in the RFP in order not to exclude a vendor who may not have the capability at time of implementation. If the winning vendor has the capability, it will be used at start up. If a vendor does not have the capability at present, then the vendor should describe in the proposal how they plan to handle the distribution of tickets until such time as the download capability is available.
- Q.5 In section 3.15, the Lottery refers to EPROM management. The Lottery's intentions are to have a completely downloadable system. Is it our understanding that the chips will be Flash? If so, can we assume that is what the Lottery means by EPROM management?

- A.5 "EPROM" is a generic term. The VLT vendors will have to supply machines with the appropriate technology to support the downloading function.
- Q.6 In section 3.18, Progressive Jackpots, how does the Lottery anticipate having progressive jackpots with electronic instant scratch tickets?
- A.6 We are asking vendors (both central system and VLT) to describe how this would work given the definition of Video Lottery Gaming. Progressive jackpots will clearly require setting aside a specific percentage of the Prize structure to support it.
- Q.7 In section 3.19 Site Controller and VLT Communications, our opinion on the site controller reporting to the VLTs every 3 seconds is not frequent enough if the Lottery wants to maintain the integrity of the network. Currently in an overseas operation, our site controllers are required to report back to the VLTs every half second. This is also true for the reporting between the central system and site controllers. This communication should be real-time. What is the rationale for the site controllers reporting to the VLTs at 3-second intervals?
- A.7 The RFP indicated "at least once every three (3) seconds." Vendors are to describe their system and recommend what they deem as satisfactory.
- Q.8 With regard to game development, approval, modifications, etc. how does the Lottery view this process? For example, will the VLT supplier be responsible for the game design and the approval process?
- A.8 VLT providers will be responsible for game development. Any game software developed will be tested by the Independent Testing Firm prior to release to the central system.
- Q.9 Referring to Page 20, 3.1 –A 4th bullet. Could the Lottery please provide a more specific definition of "real-time" as it relates to racetrack account balances and invoice amounts. Could we assume this is not on a transaction basis but more akin to a "snapshot in time."
- A.9 This is a correct assumption.
- Q.10 Referring to Page 27, Section 3.12–B: Our interactive system supports both IP and utilizes IBM central hardware. Could the Lottery please give a more detailed definition of the reference to "all gaming data in real-time"?
- A.10 Similar to the current on-line system, all transactions processed through the terminal are passed on to the Lottery.
- Q.11 Referring to Page 28, Section 3.12 –F: Could the Lottery please provide more details and provide examples related to this requirement?

A.11 Each individual vendor may handle this differently depending on their system design. Examples would include: tables of authorized users with associated permissions, inventory of VLTs, unique identification of racetracks and associated accounting data, etc.

Q.12 Referring to Page 28, Section 3.12 – I: Do the racetracks currently have the player tracking systems for the totalizator environment? Or, is there a specification or system already selected where the Lottery could provide the interface specifications in order to accurately provide an accurate “fixed dollar cost” for this component?

A.12 The racetracks do not have a player tracking system. There is no specification or system selected where the Lottery could provide interface specifications. We are asking proposers to describe their ability to provide the interface between their system and a turnkey player tracking software package that would be operated by each racetrack. It is assumed that standard software packages exist for tracking.

Q.13 Referring to Page 30, Section 3.15 –D: Could the Lottery please define or provide a more detailed explanation for the “EPROM Status” conditions outlined in this section?

A.13 These statuses may depend on how each individual VLT provider implements their system, for example:

Pending: machine physically installed, but not yet authorized for playing;

Fully Enabled: machine is available for all player use;

Partially Enabled: machine is temporarily unavailable for play, cash hopper being emptied, maintenance, etc.

Disabled: machine out of service for an undetermined time physical glass changes, being replaced, major game/hardware change, etc.

Q.14 Referring to Page 30, Section 3.16 – C: How many regional offices does the Lottery have and will they each require a validation terminal? With reference to paragraph two in this section, can the Lottery please provide detailed specifications of the systems associated with “delinquent child support” and “public assistance”?

A.14 The Lottery has regional offices in New York, Long Island, Fishkill, Schenectady, Syracuse and Buffalo and a claim center in Rochester. The Lottery desires the ability of each office to validate a winning voucher if claimed at any of our offices. Vendors are asked how this will be accomplished and if it requires a validator.

The Lottery receives a tape on a monthly basis from the Department of Social Services with appropriate information identifying individuals owing past due child support or having received public assistance. Currently, this information is resident on the Lottery's IBM system, and if a claim (winning ticket valued at over \$600) is processed at any Lottery office, the system queries the DSS file for a match.

The Lottery will supply offset tables (files) for loading on the contractor's system if this approach is proposed. The contractor may also propose to use a real-time transaction sent to the Lottery's mainframe to perform this look up.

- Q.15 Referring to Page 33, Section 3.20 – B: When could the Lottery provide the format specifications related to the ICS requirements?
- A.15 The Lottery will work with the central system and VLT providers as soon as they are identified, to jointly develop the data formats.
- Q.16 Referring to Page 35, Section 3.24 – A: Would the Lottery consider alternative approaches to the testing concept in order to minimize the risk associated with rigorous acceptance and performance testing on a production system?
- A.16 Yes, providing they meet the requirements of this RFP.
- Q.17 Referring to Page 36, Section 3.27 – C: Should it be the responsibility of the VLT suppliers to provide descriptions of the VLT interface boards as we assume they will be supplied with the VLT? This section also implies the central system provider will supply the cabling to the VLTs. Is this correct?
- A.17 VLT manufacturers will provide the descriptions of the interface. The central system provider will provide the cabling to the VLTs.
- Q.18 Referring to Page 39, Section 3.31 – G: Given the random nature of typical progressive jackpot concepts, could the Lottery provide more detailed examples of the progressive concepts with respect to the electronic instant games and any legal limitations the Lottery may foresee?
- A.18 The Lottery is asking vendors to describe how the concept will work.
- Q.19 Referring to Page 44, Section 4.3 –B: Could the Lottery please explain the objective of the vendor including the 2% advertising in the pricing offer and then remitting it back to the Lottery? Does the vendor have any role in advertising as it relates to this 2%?
- A.19 Similar to the Lottery's current Instant Game Full Service contract, the Lottery seeks to create a funding source for marketing directly commensurate with driving revenues. The vendor has no role in advertising.
- Q.20 Section 1.1 Page 2. The RFP states that paper currency, a voucher, "or other Lottery approved representative of value" will be inserted in the VLT to play. In addition to the media specifically mentioned in the RFP, will the Lottery allow magnetic stripe or bar-coded cards as an approved representation of value?

Note: We are not requesting a change to the RFP, but simply requesting a clarification that would allow this instrument in addition to, not as a substitution to, those specifically indicated. This clarification will allow us to accurately price the addition of player tracking to our system as requested by the RFP (Section 3.12-l page 28).

A.20 The Lottery is interested in providing all possible alternative options of play for customers. It is recognized that a player tracking system will require a bar-coded card or magnetic stripe card. Central system providers need to consider this in their proposal as the Lottery will require VLT manufacturers to incorporate this feature in their proposals.

Q.21 The RFP requires "The contractor's primary site must be located within 1 mile of Lottery headquarters in Schenectady. The backup site must be 10 miles or more from the primary site." Given that the Lottery's current on-line vendor operates the on-line lottery system within the Lottery headquarters in Schenectady, they would have a near insurmountable price and benefit advantage over all other bidders if they are allowed to use either their existing primary or backup data centers in any form or application in this RFP.

With this in mind, will the Lottery amend the RFP to require all bidders to provide completely separate and exclusive primary and backup data centers from any that are supporting the Lottery at this time and remove this unfair advantage?

A.21 As an amendment to this RFP, the Lottery is requiring vendors to outline separately in their price proposals the cost of build out for both the primary and backup locations. These costs will not be included in the Lottery's evaluation of pricing proposals. By doing so, all vendors will be treated equally in terms of cost proposals.

Q.22 If the Lottery does not wish to amend the RFP in this manner, will the Lottery remove all facilities elements from both the Technical and the Price Evaluation in order to ensure that all vendors are provided fair and equitable opportunities in this procurement process and remove this unfair advantage?

A.22 See above answer.

Q.23 Section 2.33 – D; page 18: The RFP requires that "Each proposal must include a Staffing Plan describing the work force expected to be used on the contract". Again, given that the Lottery's current on-line vendor operates the on-line system with a significant staff, they would have a near insurmountable price and benefit advantage over all other bidders if they are allowed to use any of that staff (either full-time or apportioned) in any form or application in this RFP.

With this in mind, will the Lottery amend the RFP to require all bidders to provide a completely separate and exclusive staff from any that might be currently provided to the Lottery at this time and remove this unfair advantage?

A.23 The Lottery considers this RFP as a separate project from existing operations. Accordingly, all vendors are required to provide staffing dedicated exclusively to the requirements of this RFP.

Q.24 If the Lottery does not wish to amend the RFP in this manner, will the Lottery remove all staffing elements from both the Technical and the Price Evaluation in order to ensure that all vendors are provided fair and equitable opportunity in this procurement process and remove this unfair advantage?

A.24 No. See above answer.

Q.25 Section 3.36 A, page 41: The RFP states "The Lottery desires that a player be able to purchase a standard on-line lottery product, i.e., Daily Numbers, Lotto, etc. from a VLT." Further the RFP states that consideration will be given in the evaluation to this desirable option if it is included as part of the basic system. We agree that this option is desirable. However, the current on-line vendor intends to submit a bid on this procurement, providing consideration for this option in the evaluation clearly gives them an unfair competitive advantage. For others to articulate exact and accurate answers, as required by the RFP, and include this item as part of their basic system, they would have to get the cooperation of, and proprietary information from, the current vendor, who is also a bidder on this procurement. Technically, any modern central system can do this function. Our previous experience with your current on-line vendor in other states is that they are particularly uncooperative in all aspects of allowing other vendors to either put information into or take information out of their proprietary systems.

Given the request for information about "how an on-line 'ticket voucher' would be produced, and how the necessary fund transfers would be accomplished", its associated impact on system base price, the historical track record of your on-line vendor, the proprietary interfaces to your current on-line vendor's system, and the competitive nature of the process, will the Lottery preclude "consideration" being given for this option and remove this unfair advantage?

A.25 The Lottery is amending the RFP and deleting subsection A of Section 3.36.

Q.26 Section 5.5, page 48: The breakdown of points for the technical evaluations puts a heavy weight on vendor experience (making it twice as important as the technical solution for network communication.) The assignment of 20 points, or 13 1/3% of the overall possible score, is the same weight as that given the entire central computer system, and more than any other single item. While experience and the ability of a bidder to execute their proposed technical solution is certainly a critical criterion, we do not believe it is appropriately applied in the technical evaluation. The evaluation of vendor experience should establish the lottery's confidence that the vendor is capable of providing the actual technical solution proposed and as such should be used as a simple pass/fail gate in the evaluation process. Whatever the score on the technical evaluation, if a vendor is deemed incapable of providing the proposed system, that proposal should be eliminated from consideration regardless of any technical features offered. This approach accounts for the critical nature of the experience criteria without skewing the evaluation of the technical solutions proposed.

Will the lottery eliminate vendor experience from the technical points available for Technical Evaluation and consider bidder's corporate experience, fiscal strength, and ability to fulfill its proposal promises as a pass/fail criteria before the determination of technical acceptability and technical solution scoring?

A.26 Vendor experience has historically been a critical factor in every RFP for gaming services and other procurements conducted by the New York Lottery. The assignment of 20 points to this category is considered entirely appropriate and consistent with other gaming procurements.

Q.27 Section 5.7 Price Evaluation, page 48: Under the terms of the RFP, price constitutes one-third of the total possible score, and the score for price is based on the ratio of the proposed price to the lowest acceptable price. Given such a formula, a price that exceeds another acceptable solution by a factor of greater than four times could still be awarded this contract significantly reducing the revenue to support primary and secondary education in New York State. This issue is extremely noteworthy given the political climate in New York State. It is our understanding that the introduction of VLTs into New York's racetracks was passed by the legislature as a revenue generation vehicle given the most extreme circumstances. If this is the case, then cost is paramount to the state of New York, its legislature, and its taxpayers, and should be considered in like fashion by the RFP. It would seem more appropriate to the spirit of the legislation to identify the preferred proposal as that which is the lowest cost and judged to be technically acceptable. This method would use the technical score as a simple gate whereby some technical score would be chosen as the lowest acceptable score, all proposals meeting or exceeding that score would be eligible to be evaluated by price with the preferred proposal being that with the lowest price. This method is consistent with other State and Federal practices and the Governor's stated mission ("to raise revenue to support primary and secondary education in New York State"). The award should be made to a responsible bidder (pass/fail above) who proposes an acceptable solution (technically sound) at the lowest cost for the State.

In addition to the above modification of the evaluation criteria, will the Lottery modify the criteria so that the qualified vendor that meets the technical requirements with the lowest price will be awarded the Lottery contract?

A.27 Section 5.5 Scoring-Technical will be amended so that 70 points will be the minimal score judged acceptable. Proposers scoring 70-79 will be deemed to have several limitations, require possible improvements, but the proposal is capable of providing a satisfactory system. Proposers receiving less than 70 points will be judged unacceptable. Section 5.7 Evaluation will be revised to read if a proposer does not pass the technical evaluation (i.e., score below 70) such proposer price proposal will not be opened. A copy of the amendment will be provided to vendors within the next few days.

Q.28 Section 1.0 Introduction, page 1: The RFP states "It is the intent of the Lottery to procure a central system that is independent of and not an integral part of a VLT manufacturer's standard offering. Accordingly, the vendor awarded the central system contract and its subsidiaries will not be allowed to provide VLTs during the duration of the contract and/or any extensions to the contract." We believe this requirement is improper for the following reasons:

- This language is counter to Section 3.2.B, No VLT Restrictions, which states that the selection of a central system must not influence the selection of VLTs.

Therefore, selection of an "integrated system provider" should not preclude their VLTs.

- If a vendor can provide acceptable and economical solutions to the Lottery and the State of New York for each, they should be allowed to compete for both.
- Since the gaming industry is a small highly vertical industry in which large vendors supply all aspects and elements required for a gaming system this requirement limits competition for both the central system bid and the terminal vendor bids by making them mutually exclusive. By excluding vendors from either bidding process you are decreasing competition and increasing the cost of the procurements to the State of New York, thereby reducing the revenue to support primary and secondary education in New York State. This is absolutely counter to the Lottery's single mission as defined by the Governor of the State of New York, as well as in conflict with the Lottery's Request for Information letter specifically inviting the presenter to address its capabilities to do both. This language is restrictive, reduces competition and provides an unfair advantage to GTECH, who abandoned VLT manufacturing several years ago.
- There is precedent for a common central system and lottery terminal provider in the New York Lottery.

Will the Lottery remove that statement from the RFP and allow any and all qualified vendors to bid (and possibly win) on any and all RFPs issued by the Lottery and the State of New York?

A.28 The Lottery specifically requested potential providers of a central system and VLTs to present their credentials to ascertain that there was adequate competition to justify the separation of the two RFPs.

Q.29 If not, will the Lottery waive this requirement for those vendors who specifically proposed both in their formal presentation to the Lottery and the Lottery's request?

A.29 See the answer above.

Q.30 The language that describes the requirements throughout the RFP is remarkably similar to the language contained in US Patent 6,048,269 (see Attachment 1.).

Will the Lottery provide an opinion as to whether or not compliance with the method of play required in the RFP infringes this patent (particularly in light of Section 3.0 which states the Lottery will not "accept any proposal which conceptually differs from the definition in Section 1.1 of this RFP"), and indemnification if it so infringes?

A.30 At this time, the Lottery does not believe that mere compliance with the method described in the RFP infringes either of these patents. If, after reviewing the proposals, the Lottery believes an opinion is necessary, the Lottery will consider at that point whether to obtain an opinion.

Q.31 The language that describes the method of play in the RFP is remarkably similar to the language contained in Patent #US 6,168,521 B1.

Will the Lottery provide an opinion as to whether or not compliance with the method of play required in the RFP infringes this patent (particularly in light of Section 3.0 which states that the Lottery will not "accept any proposal which conceptually differs from the definition in Section 1.1 of this RFP"), and indemnification if it so infringes?

A.31 Please refer to answer to Question 30.

Q.32 The RFP states that the Lottery will not "accept any proposal which conceptually differs from the definition in Section 1.1 of this RFP".

Will the Lottery modify the RFP to allow alternate technology implementation that does not infringe the two patents indicated above?

A.32 The Lottery will allow an alternate technology which does not conceptually differ from the definition in Section 1.1.

Q.33 Section 1.1 Lottery Objectives, page 1: Paragraph 6, please explain what the Lottery means by "other Lottery approved representative of value". Does "other approved representative of value" in addition to marketing coupons include coins, tokens or account wagering? Should such items be priced separately as options?

A.33 The central system provider needs to provide the capability to record transactions other than reading a barcode or currency inserted into the VLT. The Lottery is attempting to achieve maximum flexibility for customers interacting with VLTs and does not seek to limit any approach.

Q.34 Section 2.3 Term of Contract, page 9: The maximum of three one-year extensions is also dependent upon the legislation authorizing the operation of video lottery gaming to be renewed after the legislation expires three years after the commencement of the games (RFP section 1.0), correct?

A.34 The authorization for video lottery gaming expires three years after the implementation and operation of VLTs at a racetrack. Any extension of the contract would require legislation renewing video lottery gaming.

Q.35 Section 2.8 Audit Requirements, page 11: Paragraph B., in order for vendors to properly prepare costing/pricing, vendors need to know the scope of the SAS 70 audits required. Since the Lottery reserves the right to specify the type of report to be done, will the Lottery agree that the first audit is an all-inclusive review of internal control and the audits for contract years 2 & 3 be of lesser scope? If so, will the Lottery also agree that if it requests all-inclusive reviews for audits contract years 2 & 3, the Lottery will pay the incremental cost of such all-inclusive review?

A.35 The SAS 70 required will be based on control objectives that probably will have minor changes over the life of the contract. It is expected that development of these objectives and the familiarization process that auditors would go through will result in

more billable hours in the first year. There may, however, be vendor, Lottery or possibly control agency changes that may effect the requirements of the SAS 70. Therefore, the Lottery cannot guarantee that the audit for years 2 and 3 would be of a lesser scope than year 1.

Q.36 Section 3.2 Vendors Responsibilities, page 21: How many management and validation terminals for each racetrack does the New York Lottery estimate will be necessary? Does a validation terminal need a printer?

A.36 Each racetrack will require two management terminals. One for management, one for surveillance. The Lottery will require one management terminal for the seven Lottery offices, two for Lottery central. All validation terminals will require a printer. We are asking vendors to identify how many validators are required based upon the estimated net machine income provided today.

Q.37 Section 3.2 Vendors Responsibilities, page 21: Is the central system vendor expected to provide service of central system equipment (communications, controller, validation and management terminals, and LAN's) at the tracks or will the Lottery, tracks or others provide this service?

A.37 The central system provider is responsible for providing service to all components as identified by the question.

Q.38 Section 3.2 Vendors Responsibilities, page 22: Paragraph C., how many VLT vendors will be selected? How many site controllers will the Lottery need for testing?

A.38 The Lottery intends to license as many VLT manufacturers as meet the requirements to be outlined in the upcoming RFP.

The central system supplier will need to provide a site controller for each VLT manufacturer (this number will be known before the central system test), plus one to simulate a second track for testing. The equipment must be able to be configured as one per track to be able to test multiple tracks.

Q.39 Section 3.2 Vendor Responsibilities, page 22: Paragraph A, can you please provide an anticipated date for the mandatory VLT vendors' conference?

A.39 It is anticipated that the RFP for VLTs will be issued on or around March 29, 2002. The Mandatory Conference would be held approximately two weeks after RFP issuance.

Q.40 Section 3.2 Vendors Responsibilities, page 23: Paragraph F, would the Lottery please elaborate on the Meter maintenance (accounting) requirements?

A.40 Vendors are asked to describe how the meter operation works so Lottery staff will know what to look for in reports to identify when the meters are reset and if the counts are correct.

- Q.41 Section 3.3 Communications Network Specifications, page 23: Does the Lottery have an estimate of exactly when in 2002 the Lottery mainframe computer will be moved from Lottery Headquarters in Schenectady to the State Data Center in Albany? Will the Lottery Headquarters also move to Albany? If so, we assume that the Contractor's site may remain located within 1 mile of the current Lottery headquarters in Schenectady, correct?
- A.41 The Lottery cannot anticipate a date for the move to the State Data Center. The Lottery Headquarters will remain at the present location in Schenectady. The Contractor's primary site will be located within one mile of the Schenectady office.
- Q.42 Section 3.6 Central System – Back-up Data Center, page 25: Paragraph A., this section states Bidders should not include the cost of upgrading the back up data center hardware to a fault tolerant or duplexed system in the bid. We assume the Lottery means this upgrade should be priced as an option, correct?
- A.42 Yes, the upgrade should be priced as an option. It will not be included in the evaluation, but will be discussed with the selected vendor during contract negotiation.
- Q.43 Section 3.10 Data Retention and Archiving, page 26: Paragraph A., what are the retention periods for the following types of data: security event data, machine game play data, currency accepting events, vouchers, sales records, cashed voucher records?
- A.43 The operational data identified must be retained on location and in a format immediately available for a period of 12-14 months. The complete and accurate books, records, documents, accounts and other evidence directly pertinent to performance under this contract will be kept or archived in a manner approved by the Lottery for a period of 6 years after the calendar year end in which the records was created.
- Q.44 Section 3.12 General System Software Specifications, page 27: Paragraph H., is the Internal Control System (ICS) referenced in this section the existing Lottery ICS, or will the Contractor be required to provide a new ICS to the Lottery?
- A.44 The internal control system (ICS) discussed in this section is an ICS installed on the Lottery's mainframe computer system.
- Q.45 Section 3.12 General System Software Specifications, page 27: Paragraph I., would the Lottery prefer to pay a one-time charge for this interface or a periodic charge for three years? Will the VLTs have player tracking readers that can read player cards during the player sessions or must the central system vendor provide the player tracer readers?
- A.45 The Lottery is requesting a one time cost. VLT providers will be required to provide the appropriate reader.
- Q.46 Section 3.14 System Monitoring and Data Maintenance, page 28: Paragraph A., the amount of daily sales by game, series, or type of VLT, by racetrack available "through the end of the previous business day." What does this mean?

- A.46 At any time during the operational day, the track must be able to view the data identified as of close of business the previous day.
- Q.47 Section 3.14 System Monitoring and Data Maintenance, page 29: Paragraph C, What are the different values of "status" envisioned?
- A.47 Possible values would include VLTs ordered, delivered, installed, operational, in maintenance (not operational) VLTs removed.
- Q.48 Section 3.14 System Monitoring and Data Maintenance, page 29: Paragraph D., the term "authorized" is used in conjunction with site controller. Please define the meaning of "authorized"?
- A.48 This refers to site controllers that have been approved by the Lottery and are operational.
- Q.49 Section 3.17 Application Security Code, page 31: Paragraph C, the central system is required to direct event transactions to selected printers. Where will the printers be located? How will they be selected and by whom?
- A.49 The printers (included with each Management Terminal) will be located at each racetrack and Lottery Central. The Lottery will determine where they are installed.
- Q.50 Section 3.19 Site Controller and VLT Communications, page 32: Paragraph C., what reports are envisioned coming from a site controller? Why from the site controller in lieu of the central system?
- A.50 Reports do come from the central system.
- Q.51 Section 3.20 Periodic Application Processing, page 33: Paragraph C., can we query the NYL system for "racetrack net adjustments" data in lieu of using CDROM or diskette?
- A.51 A "query" approach is not acceptable for security reasons. If the selected vendor wants to implement electronic transmission, the Lottery will work with the vendor to set up a regular schedule for such transmissions that meet all Lottery and vendor security requirements.
- Q.52 Section 3.20 Periodic Application Processing, page 34: Paragraph G., what is the sign-on message used for?
- A.52 The sign on message is used to verify to the track and central system that the site controller is active and operational. It can be displayed on a management terminal.
- Q.53 Section 3.29 Site Controller Reports, page 38: Can the Lottery tell us why most of these reports are not obtained from the racetrack management terminals?
- A.53 They can be obtained from the racetrack management terminal.

- Q.54 Section 3.36 Desirable Options, page 41: Paragraph A, Does the Lottery's on-line system create and assign ticket serial numbers? Does the Lottery desire to cash winning on-line lottery games through VLTs? Will the central system be tested by an independent laboratory and can you specify which laboratory?
- A.54 Please refer to answer to Question 25.
- Q.55 Section 4.3 Form of the Pricing Submission, page 44: Paragraph B, we interpret the pricing in this section is required to be equal to the price quoted in Paragraph A of Section 4.3 plus 2.0000 percent. Is this correct? How does the Lottery intend to collect the 2% video advertising – as a deduction from amounts owed the Contractor or will the Contractor remit a separate payment back to the Lottery?
- A.55 Section A of 4.3 of the RFP is included to show what the vendor is expected to receive as their pricing quote. Section B is the vendor's fee in addition to the 2% included for advertising. The Contractor will remit a separate payment back to the Lottery.
- Q.56 Section 5.7 Price Evaluation, page 48: The sales forecast to be distributed at the Vendors' conference will be based on 9,750 terminals. This assumes the racetracks requiring local authorization obtain such authorization. If those three racetracks do not obtain local authorization, will the vendors be allowed to change their percentage of net machine income bids to adjust for the lower anticipated sales due to these tracks not obtaining authorization?
- A.56 It is anticipated that those racetracks awaiting local authorization will obtain that authorization prior to the central system proposal due date. In the event that local approval is not obtained (either through denial or if action is still pending) at a point 5 business days before proposals are due, the Lottery will notify all potential bidders. A revised schedule of VLTs and locations will be provided all bidders at that time for pricing and evaluation purposes.
- Q.57 Are we correct in our interpretation of the RFP that a joint venture between the central system provider which does not manufacture VLTs and a VLT manufacturer is acceptable, so long as they are separate business entities and the central system bid allows for and supports a number of different VLT manufacturers?
- A.57 Yes.
- Q.58 Are we correct in our interpretation of the RFP that affiliated entities that are not wholly owned subsidiaries may each submit a proposal to provide the central system?
- A.58 Yes. Affiliated entities that are not wholly owned subsidiaries may each submit a proposal to provide the central system. "Affiliated entities" are entities that have a working relationship for the purpose of carrying out a specific project or program and which do not own the majority shares of each other, do not share common employees or business locations, and whose majority shareholders do not own the majority shares of the other.

Q.59 Are we correct in our interpretation of the RFP that an affiliate of a successful bidder to provide the central system will be able to bid on the VLTs?

A.59 Please refer to answer to Question 58.

Q.60 Are we correct in our interpretation of the RFP that the Lottery requires that the central system provider may not also manufacture VLTs because the Lottery desires the central system to support a number of VLT manufacturers?

A.60 The Lottery requires that the central system provider may not also supply VLTs in New York. The Lottery desires the central system to support a number of VLT manufacturers.

Q.61 If this is the intent of the agency, should the language in the introductory section be interpreted to provide that an independent central system provider, which has a contractual relationship with a VLT manufacturer covering financial issues only but whose system allows for and supports a number of different manufacturers, would not be prohibited from competing?

A.61 Please refer to answer to Question 58.

Q.62 Is the intention of the Lottery in the language of section 1.21 of the RFP (Multiple Proposals From One Vendor Not Allowed) to allow more than one proposal from affiliated but not wholly owned entities?

A.62 Please refer to answer to question 58.

Q.63 Section 2.10 Indemnification: would the Lottery consider modifying this section to state the following (Note to the Lottery: The following section text in brackets [] has been deleted and underlined text has been added) The contractor shall indemnify and save harmless the Lottery, the State of New York, and their officers, employees, and racetracks from and against any and all claims, liabilities, losses, damages, costs, or expenses, including reasonable attorneys' fees, which may be incurred, suffered, or required [in whole or in part by an actual or alleged act or omission of] related to the conduct of business of:

- The contractor, or
- A subcontractor, or
- Any person directly employed by the contractor or a subcontractor.

A.63 No.

Q.64 Section 2.33 Equal Employment Opportunity and Affirmative Action Requirements C #2, page 18: Would the statement "X is an equal opportunity employer" in all solicitations or advertisements for employees be acceptable to the Lottery?

A.64 Yes "X is an equal opportunity employer" is acceptable to the Lottery.

- Q.65 Section 2.33 D, page 18: Would the requested staffing plan need to be developed prior to or after hire? If it were prior to hire, how would the categories be determined without the plan becoming a quota plan? Or does the Lottery just need to know how many of each category we will be hiring and then after we hire we would supply the Lottery with the ethnic mix and gender, as well as manage to these demographics, and, if needed, set goals accordingly?
- A.65 Generally, most responders to the Lottery's past RFPs illustrate the makeup of their present workforce in lieu of exhibiting a contract specific plan.
- Q.66 Section 2.33 E. page 19: Who notifies the contractor when reports are due and whom do they notify? Would our current utilization analysis that is a part of our most current AAP be adequate, or would a separate analysis need to be conducted at the time the report is requested?
- A.66 A separate analysis is used if contract specific data is available. If contract specific data is not available the contractor's total work force is reported.
- Q.67 Section 3.9 Central System Capacity Growth Capability, page 26: Will the Lottery please elaborate on the types of functionality expected to be alterable as a result of VLT downloaded software?
- A.67 The intent of this section is to have vendors describe basic upgrades they determine necessary to accommodate growth in the number of VLTs.
- Q.68 Is it expected that the VLTs will start out with EPROMs and, in order to accommodate download capabilities, be replaced with accommodating storage devices such as flash memory?
- A.68 VLT providers will be required to support downloading of game related software. If a VLT vendor chooses to install EPROMs at startup and subsequently replace them with some other kind of technology, it is up to them as well as they are able to support the downloading requirement.
- Q.69 Section 3.14 System Monitoring and Data Maintenance G. page 29: Will the Lottery please elaborate by providing additional examples defining the types of "money laundering" it expects the lottery system to detect?
- A.69 The Lottery does not have any specific examples. We are relying on vendors' expertise to describe detection devices for money-laundering schemes and other illegal activities or attempts at fraud.
- Q.70 Section 3.16 Cash Voucher Production and Validations C, page 30: The Lottery stipulates that a W2-G must be printed and reported for every patron win of \$600 or more. This amount is significantly lower than the amount identified by most other venues offering video lottery terminals. Generating a W2-G at each win of \$600 or more could have a negative effect on player appeal due to reporting administrative delays and what may be considered excessive reporting to the IRS. Would the Lottery

be willing to consider identifying a higher amount that is more consistent with other venues? Altering this requirement would not change the cash collection procedure.

A.70 The \$600 requirement is based on Federal law as applied to Lotteries. This is a Video LOTTERY system and all Federal and State laws that are applicable to lotteries apply in this operation.

Q.71 Section 1.6 defines the Proposal as "All materials submitted by a vendor in response to the RFP." This definition appears overbroad, and could be interpreted to include written comments between a vendor and the Lottery which are not included in the final version of the RFP, and which may confuse the final terms of the vendor's proposal.

Would the Lottery consider changing the definition to state that the Proposal will be "all materials submitted by a vendor as part of its final Proposal in response to this RFP"?

A.71 For the purposes of any RFP issued by the Lottery, the RFP, questions and answers relating to the RFP and any clarifications to questions are considered a part of the process. Once the Lottery issues an RFP, any correspondence regarding the process is provided to all firms receiving the RFP and are considered to be a part of the process.

Q.72 Section 1.7 provides for the Installation of the Central System to be completed on June 17, 2002, which is approximately ninety days after the designation of the apparent winning proposal on March 22, 2002. As the Lottery is aware, New York law requires the State Comptroller's approval of any procurement contract valued in excess of \$15,000 before the contract can be executed. Approval from the State Attorney General is also required before a written agreement resulting from this RFP becomes binding. Given the time-consuming nature of contract negotiation in general, coupled with the approval requirements from both the Comptroller and the Attorney General, it is likely that a final, binding agreement will not be executed until a date significantly later than March 22, 2002. The winning vendor will need to expend substantial resources in order to make the installation deadline, and without a binding agreement, the vendor will be putting itself at considerable risk without any guarantee of compensation.

Accordingly, we respectfully request that the Lottery revise the Schedule to reflect the potential delay of the execution of a binding agreement.

A.72 As stated in the RFP, the agreement will not become binding until approved by the Office of the State Comptroller and the Office of the Attorney General. The winner of this RFP will be required to be ready to comply with the Letter of Intent when issued.

Q.73 Section 1.16 requires that the vendor must make continuing disclosures without qualification in regards to "any pending civil or criminal litigation or known investigation involving the company." As this section is currently worded, a Vendor must make disclosures regarding immaterial as well as material pending litigation.

Would the Lottery consider limiting the requirements of this section to include disclosure (including the requirement of continuing disclosures) of only "material pending civil or criminal litigation? Further, would the Lottery consider defining "material pending civil or

criminal litigation” as “litigation that includes a claim of monetary damages in excess of \$500,000 or that may jeopardize a Vendor’s contractual agreement to provide goods and services to an existing lottery customer”?

A.73 No. The Lottery reserves the right to determine what is material.

Q.74 Section 1.17 requires that a vendor must notify the Lottery in the event that the vendor “experiences a substantial change in financial condition prior to the award of a contract pursuant to this RFP, or [...] during the term of a contract with the Lottery.” A “substantial change in financial condition” is not defined in this section, and no differentiation is made between a positive substantial change and an adverse financial change. We believe that the Lottery would only be concerned with an adverse financial change in financial condition, and that this section should so reflect such a position.

Would the Lottery please provide a definition of “substantial change in financial condition.” Additionally, would the Lottery consider inserting the word “adverse” before the phrase “substantial change in financial condition” in the first sentence of Section 1.17?

A.74 No. The Lottery reserves the right to determine or evaluate the change of financial condition.

Q.75 The third paragraph of Section 2.3 provides that the Lottery reserves the right to “reactivate or further extend the Agreement” upon two days’ notice for ninety day periods if the Lottery selects a different vendor “for a subsequent contract, and the subsequent vendor’s system does not meet the requirements of the Lottery. Further, the “contractor for this contract must maintain the system in a state of readiness for any such period of ninety days after the completion of the initial contract period or any extension thereof.”

We understand that the Lottery expects a seamless transition between vendors. However, we believe the short two-day notice period and the requirement of maintaining the system for “ninety days after the completion of the initial contract period or any extension thereof,” combined with the fact that the RFP does not allow the “contractor for this contract” to seek reimbursement for additional costs associated with maintaining the system during the extension places an unnecessary burden on the successful vendor of this RFP. If the successful vendor of this RFP is not given sufficient notice, it will be difficult to renegotiate the term of leases and service agreements and to ensure that personnel can be retained during the transition period to maintain the system for the required ninety-day period.

In order for the Successful Vendor to make the appropriate arrangements for continued service, would the Lottery agree to increase the requisite notice period to 120 days? Additionally, will the Lottery agree to reimburse the Successful Vendor for its additional costs incurred while providing service during the extension period?

A.75 The Lottery will agree to increase the requisite notice period to 30 days. The Lottery will agree to reimburse the subsequent vendor for its pre-approved costs incurred while providing service during the extension period.

Q.76 Will the Lottery consider replacing the last sentence of Section 2.7 with the following:

If the contractor breaches a material provision of the contract and fails to cure such breach within thirty (30) days after receipt of notice from the Lottery specifying such breach, then the Lottery shall have the right to terminate the Contract: provided, however, that if such breach is of a type that cannot be cured within thirty (30) days and the Contractor is diligently and in good faith attempting to cure such breach, then such period shall be extended for a time sufficient to enable the Contractor to cure such breach.

A.76 No.

Q.77 Section 2.8 grants the Lottery the right to "approve the accounting firm chosen to perform the internal control audit, and reserves the right to designate the annual period to be covered by the report and the date by which the report is due." A vendor that is a publicly traded company registered with the Securities and Exchange Commission ("SEC") must engage an independent auditor to perform an annual audit of the vendor's books. It would be duplicative and impose unnecessary expense on a vendor for the Lottery to impose an additional audit by another accounting firm based on a different annual period designated by the Lottery. The requirements of Subsection B and C of Section 2.8 appear to be identical to the SEC 10-K filing requirements for a publicly traded company.

Will the Lottery permit a vendor to satisfy the requirements of Section 2.8 by submitting to the Lottery its 10-K and 10-Q filings in accordance with the SEC?

A.77 No, the 10Q and 10K reports would not be construed as satisfying the requirements of section 2.8 subsection B and C.

Q.78 Section 2.12 states that "[t]he litigation bond or checks will be returned following the award as soon as the Lottery is able to determine that the contract award will not be contested by the vendor submitting the bond or check." Section 5.9 states that "[n]ot later than ten (10) days after the date of such notice [of the highest ranking proposal], any competitor claiming to be aggrieved by the ranking may protect the ranking by filing a written protest with the Contracting Officer..." Considering the terms of both Sections 2.12 and 5.9, it would be impossible for a vendor to contest the contract award after (10) days from the notice of the name chosen competitor. Therefore, the Lottery should be able to determine that the contract award will not be contested after the (10) days from the notice of the name of the chosen competitor or the award of the contract.

Accordingly, would the Lottery consider amending the 5th sentence of Section 2.12 to read, "The litigation bond or checks will be returned following the award as soon as the Lottery is able to determine, pursuant to Section 5.9 of the RFP, that the contract award will not be contested by the vendor submitting the bond or check?"

A.78 No.

Q.79 1) Section 2.17 states that the "Lottery may, therefore, in its discretion deduct liquidated damages from the compensation otherwise due to the contractor in the amount of \$1000 unless otherwise stated herein. "This sentence is overbroad and unclear as to when the Lottery may deduct \$1000 as to liquidated damages.

Will the Lottery clarify what circumstances will the \$1000 liquidated damages apply? Is this a one-time penalty?

2) Section 2.17 states that liquidated damages "shall be in addition to, and not in lieu of, the right of the Lottery to . . . pursue other appropriate remedies, including the right to pursue in a court of competent jurisdiction a claim for actual damages arising from the contractor's failure to fulfill its obligations under the terms of this contract." It should be understood (and is stated in Subsections B and C of this Section) that the nature of liquidated damages in a contractual relationship is a method for the parties to a contract either to "quantify the damages that could be reasonably anticipated at the time of making of the contract and are intended to bear a reasonable proportion to the probable loss sustained by the contractor's failure to fulfill the obligations of this contract" or to establish damages in the event that "{e}stablishing the precise value of such damage would be costly, and difficult, and the amount of actual loss may be or is capable of difficult of precise estimation." Therefore, it would be improper and excessive to impose additional "appropriate remedies" unless the breach of contract would also give rise to the application of other remedies specifically enumerated in this RFP (such as the provisions of Section 2.7).

Accordingly, would the Lottery consider amending the second sentence of section 2.17D of this RFP to read, "All assessments of the liquidated damages shall be within the discretion of the Lottery and shall be in lieu of the right of the Lottery to pursue other appropriate remedies, as specifically set forth in this RFP".

A.79 1) Liquidated Damages will apply when, in the Lottery's determination, the contractor has failed to fulfill its contractual obligations under the contract. Liquidated damages will be assessed under those circumstances in which the Lottery is unable to determine with reasonable certainty actual damages. A \$1000 liquidated damage clause is applicable under the circumstances unless otherwise specified in the RFP.

2) Yes.

Q.80 Section 2.18 states that liquidated damages may be assessed "based upon comparable sales days and times the level of potential lost revenue". This section does not clearly state whether liquidated damages will be assessed according to a proposed detailed formula based on historic sales for similar sales periods or according to a fixed amount per minute of System down Time. Additionally, Section 2.19 relies on damage assessments detailed or described in Section 2.18. Without such a detailed formula in Section 2.18, it is impossible to evaluate what a vendor's potential liability may be for System down Time or other degraded performance.

Would the Lottery confirm that it intends to base liquidated damages on historical sales as a means of estimating actual damages?

A.80 Yes.

Q.81 Would the Lottery add to the definition of "down" to the phrase "as a result of a central system problem"?

A.81 As a clarification, this would include hardware, software, communications as well as other equipment provided by the central system provider.

Q.82 Would the Lottery please clarify that degraded performance liquidated damages are only applicable if the system is degraded as a result of a central system problem?

A.82 Please refer to answer to Question 81.

Q.83 Section 2.19B relies on "[L]iquidated damages as described in Section 2.18" to determine liquidated damages if the central system is "not capable of performing any other central system functions, including but not limited to, cashing vouchers, or producing accounting reports. The central system shall also be considered to be operating with degraded performance if data is not being recorded on magnetic media at both the primary and backup sites." Without clarification as to how liquidated damages will be computed according to Section 2.18, it is impossible to assess liquidated damages in Section 2.19. Further, the degraded performance (based on cashing vouchers, or producing accounting reports) described in Section 2.19B cannot be aligned with a specific and quantifiable loss of revenue, as the computation of liquidated damages in Section 2.18 appears to be based.

Would the Lottery clarify how liquidated damages will be assessed under this Section 2.19B? Is it possible that the reference to Section 2.18 instead should have been a reference to the default liquidated damages provision in Section 2.17D of \$1000?

A.83 For functions affected by degraded performance that are not directly related to sales, liquidated damages would be assessed as outlined in Section 2.17D.

Q.84 1) Section 2.20 states that "During the term of the contract, the Lottery and the contractor shall agree in writing to a schedule for developing, testing, and implementing or installing a modification or enhancement to support an addition of a new game unless otherwise approved in writing by the Lottery. "It is unclear whether the last phrase of this Section, "unless otherwise approved in writing by the Lottery" reduces the requirement that the Lottery and the contractor must mutually agree to the terms for modifications or enhancements of the system.

To eliminate the potential confusion over the contractor's obligation to provide enhancements to the system to support "an addition of a new game", would the Lottery consider deleting the last clause of section 2.20, "unless otherwise approved in writing by the Lottery"? In the alternative, would the Lottery consider clarifying its intent under this Section?

2) The second paragraph of Section 2.20 states that "[O]nce the Lottery's request for a change has been issued to the contractor, the contractor has 15 working days to respond with a written proposal for delivery of the change. The Director can make the

binding determination of a delivery date for modifications and enhancements.” It is unclear whether the Lottery intends to permit the director to make a binding determination of a delivery date for modifications and enhancements before the 15 working days granted to the contractor to respond with a written proposal for delivery of a requested change. It would be preferable that the Director can only make such a binding determination at a certain point after receipt of the contractor’s written proposal.

Would the Lottery consider amending the last sentence of the second paragraph of Section 2.20 to read, “after receipt from the contractor of the written proposal for delivery of the testing, implementation and installation of a modification or enhancement to support an existing game or an addition of a new game, the parties will agree to a binding determination of a delivery date for such modifications or enhancements or such new game”?

- A.84 1) The RFP will be amended to delete “unless otherwise approved in writing by the Lottery”.
2) The Lottery does not intend to make a binding determination before the 15 working days granted to the contractor.

Q.85 Will the Lottery require the racetracks to provide the central system provider on site, secure controlled space suited for the placement of computer equipment?

A.85 Yes.

Q.86 1) Section 2.25 subjects the contractor, without qualification, to forfeiture of the entire performance bond in the event of “[F]ailure of the contractor to pass these [acceptance] tests”. While it is understandable that the Lottery should expect the Central System to operate in accordance with the specifications of the RFP and the winning proposal, we believe that this unilateral provision is overly burdensome and unfairly express the successful contractor to excessive risk of loss. This requirement does not define what would be considered “failure” and does not provide the contractor a period to cure any Central System problems associated with the test failure. Further, this Section does not provide for the terms and conditions of such acceptance test parameters, or there the parties will jointly develop the test parameters.

Would the Lottery define the conditions under which it would consider the Central System to have failed the acceptance test?

Would the Lottery also permit the parties to jointly develop the acceptance test parameters?

2) Section 2.25 provides that the Lottery “may utilize the services of an independent contractor to assist in the acceptance testing.” This section does not give any criteria for the selection of the independent contractor. Given the sensitive nature of acceptance testing, an independent contractor would likely have access to confidential, proprietary information which the successful Central system contractor reasonably would want to protect. While we expect that any independent contractor would be required to comply with the terms of a confidentiality and non-disclosure

agreement, we are concerned that the Lottery could choose a direct competitor as the independent contractor to assist in acceptance testing.

Accordingly, would the Lottery consider amending the last sentence of the second paragraph of Section 2.25 to read, "The Lottery may utilize the services of an independent contractor to assist in acceptance testing, provided that the independent contractor is not a direct competitor of the successful Central System contractor?"

A.86 The Lottery will be issuing an RFP for an independent firm to test both the central system and VLTs.

Q.87 Is it the Lottery's intent that all money will be removed from the VLTs, accounted for, and deposited on a daily basis so that facilities accounts may be swept? Also, who is responsible for sweeping, accounting, stacking, storing and ultimately delivering money to banks?

A.87 It is the intent that all money will be removed from the VLTs on a daily basis. Racetracks will be responsible for the ultimate storing and delivery of monies to the bank. The central system provider will be responsible for the sweep.

Q.88 In the first sentence of Section 2.26B, should the word "take" be replaced with the word "tape"?

A.88 Yes.

Q.89 Section 2.28 states that among other things, any "engineering changes or variations in the designs and specifications of . . . working papers" must be approved by the Director prior to installation or implementation. It is unclear what the Lottery means by "working papers".

Would the Lottery consider deleting "working papers" from the requirements of Section 2.28, or the alternative provide a definition of "working papers"?

A.89 "Working Papers" refers to any documents submitted by the contractor with specific information on proposed hardware or software changes.

Q.90 1) Section 2.29 requires, among other things, that a complete listing of the "source programs" and "object code tapes of all programs (software)" be delivered to the Lottery. It is unclear whether the Lottery expects the actual source programs and object code, an executable version of the source programs and object code (software), or simply a listing of the programs and object code in question.

If the Lottery intends to receive the actual source programs and object code, an executable version of the source programs and object code (software), we believe this requirement is not customary, as the Lottery has no need to access to such programs during the normal course of business. Further, the requirement would be unnecessary due to the fact that source programs will be deposited with an escrow agent.

Would the Lottery please further specify the requirements of the first paragraph of Section 2.29? Further, would the Lottery consider deleting reference to "source programs" and "object code tapes of all programs (software)", as such information will be deposited with an escrow agent?

2) The second paragraph in Section 2.29 states that "the Lottery is the sole determination as to when the programs are released" from an escrow agent. We believe that this requirement is overbroad and onerous, in that the Lottery could unilaterally gain access to the contractor's most valuable asset, its source code. This is not customary and could, we believe, significantly increase a bidder's risk under the Contract, which could result in bid pricing increases that far exceed the benefit to the Lottery of keeping the language in the RFP. Further, absent extraordinary circumstances, the Lottery has no reason to have access to the source code, and the provision of an escrow agent sufficiently protects the Lottery's interests. Finally, the provisions of Section 2.29 contradict Section 3.2E, which provides that "all software source code must be held in escrow . . . with mutually agreeable access rights."

To reconcile the inherent problems with Section 2.29 and the contradictions with Section 3.2E, would the Lottery consider replacing the second paragraph of Section 2.29 with the following: "The Contractor shall provide a current copy of the source code and executable code for all proprietary software in the third-party escrow, at a mutually agreeable location, available to the Lottery to the extent necessary for the Lottery to continue to support the Central System or any component thereof upon (i) any material breach of the contract by the Contractor resulting in termination, (ii) insolvency or (iii) failure of the Contractor to continue to support the System or any component thereof".

A.90 Yes to both 1 and 2 above.

Q.91 1) Section 3.2 provides that "[t]he contractor must assist VLT vendors" with a number of tasks, request for assistance will be handled promptly, and "at no additional charge to the Lottery or VLT vendors." While we are willing to assist the VLT vendors with the implementation of their equipment, this Section as it is currently written exposes central system vendors to unlimited risk and cost in providing assistance to the VLT vendors. It would be more equitable if the amount of work hours that central system vendors must donate for assisting VLT vendors should be capped, after which VLT vendors should be required to pay the central system vendor a reasonable rate.

Accordingly, would the Lottery consider changing the first sentence of the last paragraph of Section 3.2C to read: "Reasonable requests for assistance, information, and documentation will be handled promptly and at no additional charge to the Lottery or the VLT vendors, up to 40 work hours of assistance. After 40 work hours, the VLT vendors will compensate the contractor for its assistance provided to the VLT vendor, at the contractor's normal rate"?

2) To reconcile the inherent contradictions Section 3.2E and Section 2.29, would the Lottery consider replacing the second paragraph of Section 3.2E with the following: The Contractor shall provide a current copy of the source code and executable code for all proprietary software in the third-party escrow, at a mutually agreeable location, available to the Lottery to the extent necessary for the Lottery to continue to support the

Central System or any component thereof upon (i) any material breach of the contract by the contractor resulting in termination, (ii) insolvency or (iii) failure of the Contractor to continue to support the System or any component thereof”.

- A.91 Proposers should delineate what they consider reasonable in this respect in their proposals. The Lottery will consider this as a part of contract negotiations.
- Q.92 When is the VLT Vendors' Conference? There are many deliverables that the Central System Vendor will need to deliver for this conference. (3.2A page 22)
- A.92 It is anticipated that the Central System Contract award will be identified by March 22, 2002. The VLT RFP will be issued one week following the award of the Central System Contract. It is the intention of the Lottery to provide potential VLT providers with required information at the Mandatory Vendors' Conference which will be approximately two weeks after the issuance of the VLT RFP.
- Q.93 Would the Lottery please clarify its intention to begin operations with multiple (3 or more) VLT providers?
- A.93 Based upon experience with other successful VLT jurisdictions, the New York Lottery anticipates there will be more than three licensed VLT manufacturers in New York.
- Q.94 Would the Lottery consider replacing the word “propose” in the first sentence of Section 3.3 with the word “provide”?
- A.94 The Lottery assumed that the inference “propose and operate” meant that the vendor would propose the network, obtain it and be responsible for it.
- Q.95 What is the intended use of the Central System Simulator? Does a workstation class environment, dedicated to testing, meet this requirement? 3.7 Page 25
- A.95 The simulator will allow for Lottery testing of central system software changes as well as new/revised games and VLT vendors. A vendor may propose a workstation if that is required to meet the requirement.
- Q.96 Since pricing is based on weekly net terminal income, the number of VLTs operating weekly has a large impact on accurately forecasting revenue. Would the Lottery please explain their anticipated growth to 20,000 VLTs in a weekly format?
- A.96 There are capital construction investments needed at all tracks even for the proposed number of terminals at startup. There are possibilities for additional VLTs at each site depending upon player demand, construction costs, the costs of the terminals, the expenditure authorizations given to the Lottery and the cost effectiveness of the added terminals from supplier, racetrack and Lottery standpoints. There are clearly too many alternatives and considerations to come up with a plan for expansion at the time. Cost evaluations will be done on a 9,750 terminal base.
- Q.97 In the first sentence of Section 3.39, please confirm that “VLTs” should be inserted after “9,750”.

A.97 Yes.

Q.98 Please explain the process by which the racetrack generates form W2G?

A.98 The W-2 G's must be generated by the central system. The central system provides the automated validation process to support the track cashiers.

Q.99 Whom does the Lottery envision as performing the "validation" process?

A.99 The validation process will be performed by track employees at the track.

Q.100 Is it acceptable to the Lottery to use a validation mechanism connected to the vendor's central system, instead of the Lottery's internal system? The Lottery's system would be updated by the real time feed provided from the vendor's central system.

A.100 It would be acceptable providing such a solution meets the requirement of the RFP.

Q.101 Please clarify when the Lottery expects downloading? Does 6 months after implementation mean 6 months from June 2002 or 6 months from December 2002? (3.19E page. 32). Also, what is the penalty for failing to deliver downloading on time?

A.101 The six months is from December 2002. If the contractor fails to meet this time due to its own actions, the liquidated damages in RFP Section 2.20 "Failure to Provide Enhancements" would apply.

Q.102 Is the Lottery referring to Progressive games only, or all games? Could the Lottery further define a jackpot prize?

A.102 All games. A jackpot prize is the highest single prize for which the customer is playing.

Q.103 Will the Lottery consider making adjustments directly into the vendor's central system through a user interface?

A.103 Yes, providing the vendor provides for proper security.

Q.104 In our experience, significant risk is introduced by having a test region on a production lottery computer. Will the Lottery amend the RFP to require a separate test system?

A.104 The test requirement is defined in the RFP. Vendors are required to describe how they will accommodate the testing requirements and maintain security of the system.

Q.105 Does "production" of cash ticket mean completion of printing? If so, the central system cannot control the amount of time it takes each VLT vendor to print a given ticket.

A.105 The central system is responsible for completing the process of accepting the voucher request, recording appropriate data on its system and returning data to the VLT. This process must be completed within the ten seconds required. Physical printing of the voucher itself is the responsibility of the VLT provider.

Q.106 Will the Lottery please define "game type bank of games" in the second sentence of Section 3.36B? Did the Lottery intend to insert a comma between "type" and "bank"?

A.106 Yes.

Q.107 Is the intent to utilize serial numbers used to track every transaction or is the real purpose to account for all tier winners (SOLD/UNSOLD)? Is the ultimate purpose of central determination to account for a distinct number of tickets (i.e. like Instant Tickets)? If so, is a method of maintaining the count of sold and unsold prize tiers per day per terminal acceptable without serial numbers?

A.107 No. A method of maintaining the count of sold and unsold prize tiers per day is not acceptable without serial numbers.

Q.108 Is the intent of paragraph B to place a 5 second limitation on real time transactions? If not, please clarify intent of paragraph.

A.108 Can the vendor clarify the question by identifying the appropriate section number?

Q.109 The RFP specifies in Section 3.3 that the contractor is required to propose a data communication as network and operate it including "all data lines". This section goes on to describe this network as connecting the primary data center to the site controllers at each track from the primary to the backup data center. Concerning this section:

The description above seems to imply that the contractor is responsible for wiring the site controller to the central system but not the site controller to the VLTs at the track. Section 3.27C states that the proposal must describe the physical cabling requirements from the site controller to the VLT and the VLT interface board but does not state that that contractor must complete the cabling. Are we correct to assume that the central system provider will **not** bear the cost and responsibility to wire the VLTs to the site controllers?

A.109 The central system provider will be responsible for wiring the central system to the site controllers, and the site controllers to the VLTs.

Q.110 The above description suggests that the site controllers are wired to the primary site and that the primary site is then wired to the backup. This makes sense but for a true "hot" backup. Shouldn't the site controllers also be wired directly to both the primary and the backup sites to prevent a system shutdown if the primary site fails.

A.110 Yes.

Q.111 Is the projected number of VLTs at each racetrack the maximum number of VLTs they can accommodate without any major construction? If not please provide the maximum number of VLTs each facility can accommodate.

A.111 Please refer to answer to Question 96.

Q.112 Will the Lottery please describe each racetrack's plan for expansion, including capacity increases and timing?

A.112 Please refer to answer to Question 96.

Q.113 The RFP is not specific on how the operational responsibilities at the racetracks will be assigned. Would the Lottery please outline the operational responsibilities for the Lottery, the racetracks, and the VLT providers?

A.113 Racetracks would be responsible for all day-to-day on-site operations of the video lottery operation. VLT providers will be expected to provide VLT maintenance, promotions specific to their terminals and perhaps some customer relations staff. The Lottery's on-track responsibilities will be limited to ensuring that marketing programs are followed.

Q.114 Should the vendors assume that the three racetracks requiring local approval be included in the price proposal (i.e., telecommunications requirements, site controllers, etc.)?

A.114 Please refer answer to Question 56.

Q.115 Section 1.0 states that the "Lottery's intent is to, where practical, place an equal number of VLTs from each licensed manufacturer at each racetrack". This raises a number of questions:

- a. How many licensed manufacturers does the Lottery anticipate?
- b. Since the revenue generated by the VLTs will be a function of the degree to which the VLT games can compete with the full casino offerings at NY tribal casinos, and successful casinos in other nearby states, is it the intent of the Lottery to prioritize procurement of finite-pool implementations of games which have been proven to be popular in those locations?

A.115 a. Please refer to answer to Question 93.

b. It is premature to answer prior to the release of the VLT RFP.

Q.116 Section 1.0 states that it is the "intent of the Lottery to procure a central system that is independent of, and not an integral part of the VLT manufacturer's standard offering." We agree that this is a prudent direction for the Lottery. The statement then goes on to say, "Accordingly, the vendor awarded the central system contract and its subsidiaries will not be allowed to provide VLTs during the duration of the contract and/or any extensions to the contract." This restriction would seem to limit competition, to the detriment of the state.

The type of system being requested by the Lottery has been developed, tested, operated and approved for operation by only a few companies which have had the foresight to invest in the development of such a product in anticipation of meeting the needs of current jurisdictions and potential customers such as New York. If one of those companies is also a VLT manufacturer, it seems that the state would want to utilize proven technology and allow the competitive market to potentially reward such a company for making the investment.

This restriction in section 1.0 could potentially cause a strong bidder to not present a system bid to the state. It would also limit the ability of smaller companies to ally with larger ones to present a stronger system proposal to the state of New York. Accordingly, will the Lottery eliminate the last sentence of Section 1.0 in order to maximize competition, minimize risk, and maximize opportunity for the state to generate revenue?

A.116 No.

Q.117 Section 1.1 states that the Lottery will require "electronic keno capability". This vendor is not aware of any popular games which are implemented in a keno-based system that are not available or implementable in a finite pool methodology, including keno itself. Any keno game can be implemented using an equivalent finite pool methodology. Keno implementations were allowed in some other jurisdictions like California and Washington, but were never implemented because they proved to be unnecessary. Also, if the implementation is not well specified, it may not pass legal challenges. It is unlikely that the increased costs required to produce the keno implementation would ever be recovered from an increase in revenue. Would the Lottery consider removing the keno requirement and allow vendors to bid it as an option?

A.117 Please refer to answer to Question 2.

Q.118 "Electronic Keno", is described in section 1.1. Would an equivalent finite pool game be an acceptable alternative?

A.118 Please refer to answer to Question 2.

Q.119 Section 1.1 describes a two tiered system architecture in which a central computer communicates directly with a site controller which communicates directly with VLTs. There may be considerable advantages to be gained with equivalent architectures which accomplish the specified functions. Are we correct in assuming that a bidder that proposes a different architecture will not be disadvantaged provided that functional requirements specified by the Lottery are met?

A.119 There would not be a penalty (from a system concept standpoint) if the architecture provides the same finite pool instant game characteristics. The system would have the same categories evaluated as all systems proposed.

Q.120 Section 1.1 does not indicate that one of the Lottery objectives is to maximize state revenue with minimal risk. Are we correct in assuming that this is nonetheless a primary objective, and that proposals and vendors will be evaluated in terms of their ability to meet this objective?

A.120 Our evaluation process is designed to identify the best vendor we believe will provide the system for generating the most cost effective revenues.

Q.121 Section 1.19 restricts disclosure of proposal contents. If interpreted literally it would probably make every potential vendor a violator immediately since a great deal of information that will be contained in the proposal is generally available on websites and in marketing materials. Some of that same information will also necessarily be disclosed to potential subcontractors and landlords. Are we correct in assuming that the reference is to prevent the premature disclosure of information not already in the public domain?

A.121 Yes.

Q.122 Section 2.18 allows system down time, not to exceed two minutes per day, before liquidated damages are invoked. "Down" is defined as the inability to process VLT transactions. This is an appropriate definition for traditional on-line games, where the on-line transaction is linked directly with the ability to sell tickets, and, hence, generate revenue. This is not true in a video lottery. Transactions are primarily to REPORT on revenue generation and to handle voucher transactions, if the voucher database is central. Alternative methods are available for cashing vouchers in a degraded performance scenario.

Since the revenue is generated at the VLTs, wouldn't it be more appropriate to define "Down" as the inability to accept game play transactions at all of the VLTs? This would more closely parallel potential lost revenue, and would result in lower price proposals to the Lottery.

A.122 No.

Q.123 Section 2.19 discusses "degraded performance", not to exceed two minutes per day, before liquidated damages are invoked. "Degraded Performance" is defined in terms of inability to process VLT transactions. This is an appropriate definition for traditional on-line games, where the on-line transaction is linked directly with the ability to sell tickets, and hence, generate revenue. This is not true in a video lottery. Transactions are to REPORT on revenue generation and to handle voucher transactions, if the voucher database is central. Alternative methods are available for cashing vouchers in a degraded performance scenario. Since the revenue is generated for VLTs, wouldn't it be more appropriate to define "Degraded Performance" in terms of inability to accept game play transactions at a significant number of the VLTs? This would more closely parallel potential lost revenue, and would result in lower price proposals to the Lottery.

A.123.No.

Q.124 Section 3.16 of this RFP requires that the voucher database be central, despite the fact that vouchers are local to the venues (they cannot be generated on one and cashed at another). A fundamental problem with this approach is that if there is a problem at the central facility or if there is a communications breakdown, then all voucher processing is compromised. An alternative mode of operation is that the voucher information be kept in a secure database at each racetrack facility. This would improve response time, reduce the vulnerability of the system to a total failure scenario and protect the state revenue stream.

Such a mode of operation has been proven secure in many environments. If the ability to generate reports centrally and validate vouchers from the Lottery is retained, would the Lottery accept a proposal that keeps the voucher database at a secure facility within each venue?

A.124 This approach may be deemed acceptable. Vendors should describe how and with what frequency the central system would be updated with all cashing activity.

Q.125 In section 3.1 of the RFP site controllers and validation devices are described as separate entities, yet references to the site controller in section 3.25 through 3.33 (and others) seem to follow a model established for older VLT systems in which a small site controller served as a combination communications concentrator, validator, and reporting station for a small number of VLTs in a remote location.

In New York, where there are expected to be hundreds or thousands of VLTs in a large facility, it makes better economic sense to utilize specialized devices for some of those functions, as alluded to in section 3.1. For instance, ticket validations are better handled by cashiers in cashier stations where they can use larger monitors with touch screens and scanners. Likewise, site reporting requirements are much more extensive than is reasonably handled by 20 character per line printers. PCs with laser printers are much more appropriate as a general reporting tool. Therefore, is it appropriate to interpret that, wherever there is a reference to site controller or validator, the proposing vendor may substitute the appropriate module, or modules, in their particular architecture, so long as the functional intent is met?

A.125 Yes.

Q.126 Games implemented by VLT suppliers will require pool contents that are robust enough to support features of a wide variety of complex games. For instance our experience is that the required capabilities of finite pools to support a complex bonus game like Little Green Men will be dramatically different from the minimal pool structure requirement for a relatively simple 3-reel game like Double Diamond.

As part of the VLT Interface Specification required in section 3.2, although it is not specifically stated, it is understood that the winning bidder will have to be required to disclose pool structures to the VLT suppliers. Is the system supplier going to be evaluated according to their ability to support a wide range of complex games, like keno, draw poker, 5-reel 9 line games, 9-reel 8 line games, complex bonus games, etc? This information should be supplied to VLT suppliers under appropriate non-disclosure restrictions. Is this consistent with the Lottery's plans?

A.126 Yes.

Q.127 In section 3.1 in the description of validation terminals, it states that an appropriate response to a voucher validation is "not a winner". Since all vouchers do represent an amount, and are not the result of individual wins, are we correct in assuming that this is an inadvertent leftover from a description of validation functions as they relate to validation of online tickets and is therefore not relevant to this procurement?

A.127 Section 3.2 describes the validation terminal. Messages to be provided from the central system will be determined by the Lottery. If a creative individual attempted to "create" a winning voucher on a computer at home, it is assumed that the central system would recognize this as an invalid transaction and respond with a message of "not a winner" or something similar.

Q.128 The Lottery indicates in section 3.36A that it is desirous of being able to sell standard on-line products through VLTs. Does the existing on-line system support a TCP/IP interface for ticket sales? Could the Lottery provide a complete specification on the desired interface so that prospective bidders can evaluate the work effort necessary to accomplish the desired connectivity?

A.128 Please refer to answer to Question 25.

Q.129 Section 3.40 requests the vendor's experience in video lottery gaming. It does not specifically request experience in Finite Pool video lottery gaming. Finite Pool video is as unlike traditional video lottery gaming as traditional video lottery gaming is unlike on-line lottery or standard slot machines. We would suggest that the Lottery modify section 3.40, to specifically request information relative to experience in operating video lottery systems that use a finite pool methodology.

A.129 The Lottery is requesting vendors to describe their experience in video lottery gaming, and any other experience they determine to be appropriate for evaluation in their proposal.

Q.130 In describing Data Retention and Archiving, section 3.10A of the RFP mentions "due to various reporting requirements some data must be retained on disk storage for over one year". More detailed information on retention requirements is required in order to reasonably evaluate the Lottery's proposed retention methodology. Could the Lottery be more specific in describing what information retention requirements are? What specific information is required to be held over one year?

A.130 Please refer to answer to Question 43.

Q.131 Section 3.28 describes a password mechanism for allowing access to the VLT cash area. This is a mechanism which is appropriate for small facilities, where the site controller is a user device. Other mechanisms for drop procedures may be more desirable in larger facilities. Are we correct in assuming that alternative mechanisms are equally acceptable?

A.131 Alternate mechanisms are acceptable as long as all required functions are met.

Q.132 Section 3.24 describes a "test region" of the central system. It may be more secure, guarantee non-interference with the production environment, and be more cost effective to provide an independent hardware configuration for testing. Are we correct in assuming that this is an acceptable approach?

A.132 This is acceptable, however, any proposed solution must include to ability to utilize the current data and software on the primary (back up system).

Q.133 Section 3.3 of the RFP states that "The contractor is required to propose the data communications network and operate it." Are elements of the state communications network available to be used in this implementation, and if so, who is the contact with whom we may discuss it? Also, are there state rates on common carriers that will be available to the contractor, and who would be the contact with whom we could discuss possible arrangements?

A.133 The Lottery will provide a response to all vendors by February 4, 2002.

Q.134 Section 1.1 of the RFP describes a system in which pools are created on the central system and sent to the site controllers in smaller ordered subsets. Although easily achievable, we would suggest that there are two difficulties with this centralized pool approach. The first is that the creation of the pools and ordered information in a general purpose computing environment and the subsequent transmission of that data over a communications network is a security issue. Such transmission of data over a communications network is a security issue. Such transmission of data outside the operating venue is prohibited in other jurisdictions. Premature awareness of those numbers is like knowing the winning numbers of the numbers game drawing before the draw. The second issue is that the vulnerability of the system to loss of revenue in the event of difficulty in the central system or interconnecting network is seriously increased.

An alternative architecture is one in which the creation of all pools is authorized by the central system, but the actual pools are created in a physically and logically secure environment at the racetrack and distributed on demand to multiple player terminals within each racetrack facility. Since such a system meets all the control and security requirements would the lottery find such an approach acceptable?

A.134 The Lottery will provide a response to all vendors by February 4, 2002.

Q.135 Section 1.29 references "OFT Review". What is the scope of that review, and is there more information that can be made available as to how vendors should prepare their proposal in order to assure that such review does not slow down the procurement process?

- A.135 The State Office for Technology is responsible for reviewing all EDP equipment purchases or leases to determine whether or not they conflict with existing contracts relating to equipment or services for the State's Data Center. Vendors do not need to address this process in their proposals, and such review by OFT will not delay the procurement process.
- Q.136 Section 3.19G specifies a time parameter which defines how long a VLT may continue to function without communication with a site controller. Since the site controller is supplying the game information on every play it is evident that the VLT cannot operate games at all when it is out of communication with the site controller. Other functions such as cash out and diagnostics should be enabled indefinitely. We suggest that the lottery modify or remove section 3.19G.
- A.136 The Lottery agrees with the above statement. The intent of 3.19G is to have vendors describe in their proposals what happens if a VLT does not receive communication after "X" seconds. What is the time frame that the central system determines whether or not a VLT can operate.