

**VIDEO LOTTERY OPERATION LICENSE IN
ALLEGANY COUNTY
(#2012-0102)**

RESPONSES TO WRITTEN QUESTIONS

August 24, 2011

This List of Questions and Responses #3 (Q&A#3) is being issued to clarify certain information contained in the above named RFP. The statements and interpretations of License requirements, which are stated in the following questions are not binding on the State, unless the State expressly amends the RFP. Nothing in the State's responses to these questions is to be construed as agreement to or acceptance by the State of any statement or interpretation on the part of the entity asking the question as to what the License does or does not require. Some questions have been edited for brevity and clarity, and duplicate questions may have been combined or eliminated.

The following are questions submitted pursuant to the RFP and the Location Commission's responses to those questions:

17. QUESTION: Section 3.1.6.1.D.(2)(f): States that the existing water and wastewater treatment facilities are being evaluated for relocation and upgrade. The RFP also states the Licensee shall be responsible for the pro rata share of the capital construction costs.

a) Can any further information or study concerning the projected cost, term of payment for capital costs or impact on the Rocky Gap Resort be provided?

b) Will State Bonds initially be issued for the full cost of the Project with the Licensee then being responsible for a pro rata share of the annual Debt Service on the Bonds?

ANSWER: a) **Maryland Environmental Service (MES) manages the water treatment and wastewater treatment projects on behalf of DNR. As Amendment #1 to this RFP clarified, replacement costs for the water or wastewater treatment facilities will be funded by the State. The necessary expansion of both facilities to serve the VLT Facility will be borne solely by the licensee. Below are preliminary cost estimates prepared by MES based on 22,500 gallons per day additional capacity. The Awardee/Licensee will be responsible for developing its own estimates and should include those estimates in its Proposal.**

| FACILITY | ESTIMATED COSTS (1) |
|----------------------------|---------------------|
| | EXPANDED FACILITY |
| Water Treatment Plant (2) | \$495,000 |
| Wastewater Treatment Plant | \$1,320,000 |

NOTES:

(1) Costs include design and construction

(2) Preliminary Engineering Report completed; estimated costs were developed by the A/E

b) No. The Awardee/Licensee will be responsible for financing the design and construction costs for the necessary additional capacity at the water and wastewater treatment facilities.

18. QUESTION: Section 4.2.3.6.1: Exhibit 4B provides in part that the Purchase Price for the Rocky Gap Resort should be reflected as:

- A. Cash \$ _____ OR
 B. Cash \$ _____ and Equity.

a) What is the reference to "Equity"? Is this intended to refer to the Equity that is contributed to the Purchasing Entity and then in turn used to refurbish the Resort and construct the gaming facility?

b) For an offer to purchase the lodge which includes cash and equity, does the equity portion count towards the \$25 million capital investment requirement?

c) For a bondholder in an equity position, are there any VLT Licensing requirements?

ANSWER: a) Equity refers to the bondholders' retained interest in the resort and VLT Facility.

b) Yes, but the actual amount that would be counted would be determined by the net present value of the equity position as calculated by the Commission. Applicants should provide in its Proposal whatever back up or evidence that it has used to support its calculation of value.

c) An owner of an interest of more than 5% of an applicant is required to submit to a background investigation. (COMAR 14.01.10.04 – 14.01.10.10) The Lottery Commission may in its discretion decide to waive a qualification requirement of SG § 9-1A-08(a) for an "institutional investor," as that term is defined in SG § 9-

1A-01(o). SG § 9-1A-08(c).

19. QUESTION: Section 4.2.3.6.3: Provides in part that the “purchase price for the acquisition of the Resort must be acceptable to all parties in interest including MEDCO bondholders” and the “transaction must result in an acceptable resolution of the repayment of the MEDCO Bonds and other Resort debts and obligations, with the full release of all liens on the Resort at closing, subject to Board of Public Works approval”.

a) Does this mean that the “interested parties” will take the Proposed Purchase Price for the Resort and negotiate an acceptable allocation of the funds among themselves which results in a “full release of all liens on the Resort at closing”.

b) The prohibition of all communications between the Prospective Applicant and “interested parties” appears to take the Prospective Applicant out of this part of the process. Is the foregoing a correct interpretation of the RFP Process?

c) With which party will an Applicant need to negotiate the financial settlement on the bonds and other debt/liabilities, and will this "settlement" be the purchase price of the assets?

d) How will the financial settlement amount be determined and what assets will be transferred in consideration of such amount?

ANSWER: a) No. The Applicant shall include its best offer in its Proposal and the Location Commission will consider that offer as part of its overall evaluation of the Proposal. After an Applicant submits its Proposal, as part of the Discussion and Negotiation process described in Section 5.4 discussions may be conducted by the Location Commission that may include DNR, MEDCO and the Bondholders.

b) See answer to a) above.

c) After an Applicant submits its Proposal, as part of the Discussion and Negotiation process described in Section 5.4 discussions may be conducted by the Location Commission that may include DNR, MEDCO and the Bondholders.

d) It is the Location Commission’s intent that the final negotiated purchase price for the resort will result in an acceptable resolution of the repayment of the MEDCO Bonds and other Resort debts and obligations, with the full release of all liens on the Resort at closing, subject to Board of Public Works approval. The purchase price will be subject to a net asset adjustment at closing to reflect receivables, payables, inventory, payroll, and other expenses.

20. QUESTION: Section 4.2.3.6.4:

- a) Are there any reports that describe the physical condition and code compliance of the existing resort lodge, rooms and amenities?
- b) Is there a current database of customers that is part of the sale?
- c) What current systems or licenses stay with the resort and what belongs to the current management company (e.g. reservations, phone, sales/contact management, purchasing, payroll, accounts receivable, accounting, liquor license, etc.)?
- d) Are there any obligations the Licensee must assume regarding the current management company?

ANSWER: a) There are no independent or governmental reports that describe the physical condition or code compliance of the lodge, its rooms or amenities. However, as a condition to holding certain licenses and permits the lodge and certain parts thereof are regularly inspected. As of this date, no federal, state or local governmental agency has advised the lodge of any deficiency or violation nor have any vendors of the lodge advised of any deficiency or violation.

b) Rocky Gap currently has two (2) databases containing customer information; (i) the Property Management System (PMS) which contains current and past guest information, and (ii) Delphi, a database containing group sales information. While the database systems are licensed the information contained in the databases belong to the Owner and would transfer upon the sale of the lodge.

c) Any equipment, system or license purchased by the management company for the lodge has been purchased in its capacity as agent for the Owner. Therefore all equipment, systems and licenses belong to the Owner and stay with the lodge. However, certain systems (such as the PMS, Delphi, Mitel) and licenses are either (a) not assignable, or (b) can only be assigned with the prior consent of the licensor. Also there are a limited number of agreements for the purchase of goods and services that are entered by the management company directly with vendors for the benefit of the hotel. Such agreements are not assignable or transferable.

All business licenses of the lodge, including without limitation, the liquor license are issued and held in the name of the lodge or MEDCO. MEDCO will cooperate with the Awardee/Licensee in the transfer of the liquor license and the liquor license may be transferred to the Licensee subject to any required local or Allegany County approvals. The liquor license is for all 260 acres of the resort area including the golf course which is within the existing ground

leased area.

d) In addition to any Management Fees and Expenses and any Advances to the Line of Credit, which have accrued the Licensee would be required (i) honor any and all reservations and contracts entered in the normal course of business and at rates prevailing for such reservations at the time they were made, and (ii) reimburse Management Company any and all costs and expense related to the termination of its employees on account of any termination of the Management Agreement.

21. **QUESTION:** Section 4.2.3.8: Provides in part that the "governing body of Allegany County shall enter into an agreement with the owner or operator of [the Resort] *** for a negotiated payment in lieu of taxes on the [Leasehold Interest and the Resort]".

a) How will the amount of the payment in lieu of taxes for the County be determined?

b) What is the timing on this Agreement? When does this take place?

ANSWER: a) The current Allegany County real property tax rate is \$0.982 cents per \$100 of assessed value, and the personal property tax rate for unincorporated areas of the county is \$2.455 per \$100 of assessed value. As clarified by Chapter 240 of 2011, the personal property tax does not apply to video lottery terminals or a person's interest in video lottery terminals, or any associated equipment or software.

b) The State Department of Assessments and Taxation will assess the property, and the terms of the agreement, including the amount to be paid by the Awardee/Licensee, will be in place by the time the Board of Public Works considers approval of the ground lease and purchase agreements.

22. **QUESTION:** Existing Employees at the Rocky Gap Resort - Would it be possible to have some additional details concerning the current operations of the Rocky Gap Lodge, especially concerning employees and payroll, such as:

- (a) total full-time and part-time number of employees,
- (b) total compensation including salaries and hourly wages and benefits,
- (c) a total compensation cost allocation by department,
- (d) Census Bureau Status/minority classification or non-minority classification or background of the current employees
- (e) detailed profiles or resumes of senior staff.

ANSWER: This information is not available from the operator of the Lodge at this time. Some information may be available from publicly available

documents such as financial reports and organizational chart.

23. QUESTION: Utilities - Who are the current service providers of the other major utilities (natural gas, electricity, cable or satellite, Internet service, gasoline, etc.) and describe the service record and degree of disruption of services over the past five years?

ANSWER: Yes. This utility information has been posted to the Location Commission's website.

24. QUESTION: Can you provide the annual hotel occupancy rate and average daily rate for years 2007, 2008, 2009 and 2010.

ANSWER: Year-End Occupancy and Average Rates

| | | |
|-------------|---------------|-----------------|
| 2007 | 52.54% | \$127.76 |
| 2008 | 47.58% | \$128.12 |
| 2009 | 44.57% | \$123.22 |
| 2010 | 41.68% | \$113.29 |