



STATE OF MAINE  
DEPARTMENT OF ADMINISTRATIVE AND  
FINANCIAL SERVICES  
78 STATE HOUSE STATION  
AUGUSTA, MAINE 04333-0078

Paul R. LePage  
GOVERNOR

H. Sawin Millett, Jr.  
COMMISSIONER

Honorable Dawn Hill  
Honorable Margaret R. Rotundo  
Chairs, Joint Standing Committee on Appropriations and Financial Affairs  
5 State House Station  
Augusta, ME 04333-0005

Dear Senator Hill and Representative Rotundo,

Enclosed please find the Department's response to the questions posed by the Appropriations and Financial Affairs Committee at the August Committee meeting regarding the spirits trade marketing RFP.

Sincerely,

A handwritten signature in cursive script, appearing to read "Jennifer M. Smith".

Jennifer M. Smith  
Director of Legislative Affairs and Communications

Enclosures

**Q1. What was the reasoning behind the decision to change the terms of the RFP when it was reissued and who made, or weighed in, on that decision?**

A. The Department of Administrative and Financial Services (DAFS) and the Bureau of Alcoholic Beverages and Lottery Operations (BABLO) do not consider the "terms" of the second Request for Proposals (RFP) for the spirits trade marketing to have changed from the original RFP. The second RFP continued to address all critical and relevant requirements from the first, including maximizing sales in-state and recovering sales from other states.

During the appeal case of the original trade marketing RFP, the Assistant Attorney General (AAG) representing DAFS/BABLO advised Commissioner Rosen that a lengthy and costly appeal was likely to ensue. The AAG recommended that BABLO cancel the conditional award of the original trade marketing RFP and also recommended BABLO reissue a new trade marketing RFP to provide clarity for potential bidders and the scoring panel when reviewing bid responses.

Commissioner Rosen followed advice of AAG counsel and directed BABLO to cancel the conditional award letter. DAFS/BABLO then proceeded with the review and re-write of the trade marketing RFP, with continued input and oversight of the re-write of the RFP by the AAG.

**Q2. In setting the criteria for determining whether bidders on the marketing RFP had a conflict of interest, did you factor in all spirits and wine?**

A. The State of Maine only sells and markets spirits. The contract for trade marketing will only apply to spirits sales. Therefore, the conflict of interest in the RFP address only spirits sales.

**Q3. Given the changes to the RFP which appears to have reduced the incentive payment to recapture sales lost to New Hampshire, is there any danger that the revenues will be insufficient to make payment on the bonds and fund the other programs as originally planned.**

A. No, the bond repayment is not dependent on the trade marketing, Part B contract. Funding available to repay the bonds was based on the Part A contract, which has been in effect since July 1.

The first RFP provided the bidder's propose an incentive plan as part of the bid ("Bidders must propose their own incentive plan concept..."). The RFP did not specify that the incentive plan must be related to recapturing sales lost to New Hampshire. The incentive plan concept was ultimately removed from the second trade marketing RFP on advice of the AAG, who had concerns that the complexity of incentive proposals had potential to make scoring difficult for a review panel and possibly subject the RFP award to litigation.