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MASSACHUSETTS GAMING COMMISSION

2017 COMMUNITY MITIGATION FUND GUIDELINES

What is the Community Mitigation Fund?

The Expanded Gaming Act, MGL c. 23K, created the Community Mitigation Fund to help entities offset costs related to the construction and operation of a gaming establishment.

When Is the Application Deadline?

February 1, 2017. MGL c. 23K, § 61 states that “parties requesting appropriations from the fund shall submit a written request for funding to the Commission by February 1.”

Who Can Apply?

MGL c. 23K, § 61 states the Commission shall expend monies in the fund to assist the host and surrounding communities ... “including, but not limited to, communities and water and sewer districts in the vicinity of a gaming establishment, local and regional education, transportation, infrastructure, housing, environmental issues and public safety, including the office of the county district attorney, police, fire, and emergency services.” The Commission may also distribute funds to a governmental entity or district other than a single municipality in order to implement a mitigation measure that affects more than one community.

Private non-governmental parties may not apply for Community Mitigation Funds. However, governmental entities may apply to the Commission for funds to mitigate impacts to private parties provided that such funding is for a “public purpose” and not the direct benefit or maintenance of the private party; the governmental entity provides a program that ensures that funding will be made only to remedy impacts; and provided that the governmental entity will be responsible for overseeing such funding and complying with all applicable state and municipal laws including but not limited to Art. 46, §2, as amended by Article 103 of the Amendments to the Massachusetts Constitution.



Massachusetts Gaming Commission

The Community Mitigation Fund may be used to offset costs related to both Category 1 full casino facilities (MGM Springfield and Wynn Everett), the state’s Category 2 slots-only facility (Plainridge Park), and may be utilized, pursuant to these Guidelines, for a program of technical assistance for communities that may be impacted by the potential Tribal gaming facility in Taunton.

Does a Community Need to Be a Designated Host or Surrounding Community to Apply?

No. The Commission’s regulations and MGL c. 23K, § 61 do not limit use of Community Mitigation Funds to only host or surrounding communities. The Commission’s regulation, 205 CMR 125.01(4), states that “[a]ny finding by the commission that a community is not a surrounding community for purposes of the RFA-2 application shall not preclude the community from applying to and receiving funds from the Community Mitigation Fund established by MGL c. 23K, § 61....”

Status of One-Time 2015/2016 Reserves

In 2015 and 2016, a Reserve Fund was established for communities that may not have been able to demonstrate significant impacts by the submittal deadline date. The Commission reserved \$100,000 for the following communities which were either a host community, designated surrounding community, a community which entered into a nearby community agreement with a licensee, a community that petitioned to be a surrounding community to a gaming licensee, or a community that is geographically adjacent to a host community:

CATEGORY 1 – CASINO/RESORT

Region A

Boston
Cambridge
Chelsea
Everett
Lynn
Malden
Medford
Melrose
Revere
Saugus
Somerville

Region B

Agawam
Chicopee
East Longmeadow
Hampden
Holyoke
Longmeadow
Ludlow
Northampton
Springfield
West Springfield
Wilbraham

CATEGORY 2 – SLOTS

Attleboro

Mansfield

Plainville

Foxborough

North Attleborough

Wrentham

In many cases, communities may not be in a position to access their 2015 or 2016 reserves by the February 1, 2017 deadline. Therefore, the Commission has extended such reserves for the 2017 Community Mitigation Fund Program. Communities may continue to access whatever portion of the original \$100,000 that remains unexpended. The above communities **do not** need to submit any new application to keep their reserves. These reserves have automatically been extended by action of the Commission.

The criteria for the use of the reserve remain the same. This reserve can be used to cover impacts that may arise in 2017 or thereafter. It may also be used for planning, either to determine how to achieve further benefits from a facility or to avoid or minimize any adverse impacts.

Funds will be distributed as the needs are identified. Communities that utilize the reserve are not prohibited from applying for funding for any specific mitigation request.

What are the Reserve Amounts?

Can communities apply both for the reserve and for a specific impact?

Yes. However, if a specific impact application is successful, a portion of the reserve will be used as an offset against the amount requested for the specific impact. The reserve amount will be reduced by fifty thousand dollars (\$50,000.00) assuming the specific impact request is at least that amount.

Can a community apply for mitigation of a specific impact even though it has not fully utilized its 2015 or 2016 Reserve?

Yes. However, if a specific impact application is successful, a portion of the reserve will be used as an offset against the amount requested for the specific impact. The reserve amount will be reduced by fifty thousand dollars (\$50,000.00) assuming the specific impact request is at least that amount

What Specific Impacts Can Be Funded?

The 2017 Community Mitigation Fund for mitigation of specific impacts may be used only to mitigate impacts that either have occurred or are occurring as of the February 1, 2017 application date. Although the definition in the Commission's regulations (for the purpose of determining which communities are surrounding communities) references predicted projected impacts, the 2017 program is limited to only those impacts that are being experienced or were experiencing by the time of the February 1, 2017 application date.

The Commission has determined that the funding of unanticipated impacts will be a priority under the annual Community Mitigation Fund. Thus the Commission will review funding requests in the context of any host or surrounding community agreement to help determine funding eligibility.¹ The Community Mitigation Fund is not intended to fund the mitigation of specific impacts already being funded in a host or surrounding Community Agreement. Please note that impacts determined through any look back review likely are unanticipated impacts.

No application for the mitigation of a specific impact shall exceed \$400,000.

Allowable impacts for funding are as follows:

Category 1 Gaming Facility: In recognition that no Category 1 gaming facility will be operational by February 1, 2017, the Commission has determined that the 2017 Community Mitigation Fund is available only to mitigate impacts related to the construction of Category 1 gaming facilities. This limitation does not apply to planning activities funded under the 2015/2016 one-time reserve fund, or 2017 Transportation Planning Grants, or 2017 Pre-employment Grants.

The Commission's regulation 205 CMR 125.07 defines construction period impacts as:

"The community will be significantly and adversely affected by the development of the gaming establishment prior to its opening taking into account such factors as noise and environmental impacts generated during its construction; increased construction vehicle trips on roadways within the community and intersecting the community; and projected increased traffic during the period of construction."

¹ The Commission is aware of the difference in bargaining power between host and surrounding communities in negotiating agreements and will take this into account when evaluating funding applications.

Category 2 Gaming Facility: In recognition that the Category 2 gaming facility in Plainville opened during calendar year 2015, the Commission will make available funding to mitigate operational related impacts that are being experienced or were experienced from that facility by the February 1, 2017 date. The Commission will make available up to \$500,000 in total for applications for the mitigation of operational impacts relating to the Plainridge facility.

The Commission's regulation 205 CMR 125.01 2(b)4 defines operational impacts as:

"The community will be significantly and adversely affected by the operation of the gaming establishment after its opening taking into account such factors as potential public safety impacts on the community; increased demand on community and regional water and sewer systems; impacts on the community from storm water run-off, associated pollutants, and changes in drainage patterns; stresses on the community's housing stock including any projected negative impacts on the appraised value of housing stock due to a gaming establishment; any negative impact on local, retail, entertainment, and service establishments in the community; increased social service needs including, but not limited to, those related to problem gambling; and demonstrated impact on public education in the community."

Although these definitions include the types of operational impacts that may be funded, it is not limited to those. The determination will be made by the Commission after its review.

What Cannot Be Funded?

2017 Community Mitigation Fund may not be used for the mitigation of:

Category 1 Gaming Facilities:

- any operational related impacts;
- impacts that are projected or predicted but that are not occurring or have not occurred by February 1, 2017;
- impacts that are the responsibility (e.g. contractual, statutory, regulatory) of parties involved in the construction of gaming facilities (such as damage caused to adjoining buildings by construction equipment, spills of construction-related

materials outside of work zones, personal injury claims caused by construction equipment or vehicles);

- The cost of the preparation of a grant application;
- The CMF will not fund requests related to utility outages, such as the mitigation of business interruptions; and
- Other impacts determined by the Commission.

Category 2 Gaming Facilities:

- impacts that are projected or predicted but that are not occurring or have not occurred by February 1, 2017;
- impacts that are the responsibility (e.g. contractual, statutory, regulatory) of parties involved in the construction of gaming facilities (such as damage caused to adjoining buildings by construction equipment, spills of construction-related materials outside of work zones, personal injury claims caused by construction equipment or vehicles);
- Please note that the Commission may determine to expand the eligible uses of funds for the 2017 program or other future programs when impacts are more clearly identifiable. The Commission will also consult with mitigation advisory committees established in MGL c. 23K in determining such uses;
- The cost of the preparation of a grant application; and
- The CMF will not fund requests related to utility outages, such as the mitigation of business interruptions.

Guidance on Funding for Non-Governmental Entities

As noted, communities and other parties may apply for funds to mitigate the impact to non-governmental entities. However, the Commission strongly encourages applicants to ensure the impacts are directly related to the gaming facility. For example, an applicant could limit a request for assistance for impacts to all businesses within 1000 feet of a gaming facility. Further, applicants should demonstrate that the governmental entity, the licensee, or both will also financially contribute to any program of assistance. The Commission will not fund any applications for assistance to non-governmental entities unless the applicant governmental entity or the licensee or both provide

significant funding to match or partially match the assistance required from the 2017 Community Mitigation Fund. Any such application for assistance to non-governmental entities by a host community must demonstrate that the host community, the licensee, or both will match the assistance required from the 2017 Community Mitigation Fund. Communities may ask the Commission to waive this match or partial match requirement. Any community seeking a waiver should include a statement in its application specifying the reason for its waiver request. Please note that as stated by the Commonwealth's Comptroller's Office: "The Anti-Aid Amendment of the Massachusetts Constitution prohibits 'public money or property' from aiding non-public institutions.... Article 46 has been interpreted to allow the expenditure of public funds to non-public recipients solely for the provision of a 'public purposes' [sic] and not for the direct benefit or maintenance of the non-public entity."

Any community seeking funding for mitigation involving non-public entities should provide detail how its planned use is in conformity with this provision of the Massachusetts Constitution and with Municipal Finance Law.

How Much Funding Is and Will Be Available?

In sum, a total of \$17.5 million from the current licensees was deposited in the Community Mitigation Fund for use until Category 1 gross gaming revenues are generated, or thereafter (if all such funds are not used prior to that date). After the deduction of purposes approved in 2015 and 2016, the fund has approximately \$12 million available after accounting for potential future awards of previously authorized grants.

No further contributions will be made to the Community Mitigation Fund until either MGM Springfield or Wynn Everett become operational and generate revenues.² MGM Springfield is currently projected to be operational on September 5, 2018 and Wynn Everett is currently projected to be operational on June 3, 2019. Once operational, MGL c. 23K, § 59 specifies that 6.5% of the revenues from the tax on gross gaming revenues from Category 1 (full casino) licensees shall be deposited in the Community Mitigation Fund.

Once the MGM Springfield and Wynn Everett facilities are operational, approximately \$18 million generated by these two facilities will be annually deposited into the

² These guidelines do not describe revenue estimates from the potential Tribal facility in Taunton or the participation of a Region C facility, as no Region C license or Tribal facility has yet been fully authorized. Further, after the initial deposit, no further contributions from the Slots licensee will be made to the fund.

Community Mitigation Fund using a conservative estimate provided by the Commission's financial consultants.

Limitations

Because the fund needs to be available until the facilities are operational, the Commission anticipates authorizing no more than \$4 million in awards out of the 2017 Community Mitigation Fund, including potential future awards of previously authorized grants. No application for a specific impact grant shall exceed \$400,000.

Of that amount, for 2017, no more than \$500,000 may be expended for operational impacts related to the Category 2 gaming facility, unless otherwise determined by the Commission.

Transportation Planning Grants

For calendar year 2017, the Commission will make available funding for certain transportation planning activities for all communities eligible to receive funding from the Community Mitigation Fund in Regions A & B and for the Category 2 facility, including each Category 1 and Category 2 host community and each designated surrounding community, each community which entered into a nearby community agreement with a licensee, and any community that petitioned to be a surrounding community to a gaming licensee, each community that is geographically adjacent to a host community.

The total funding available for planning grants will likely not exceed \$800,000, approximately 20% of the estimated annual allotment for the fund. No application for a transportation planning grant shall exceed \$150,000.

Eligible planning projects must have a defined area or issue that will be investigated as well as a clear plan for implementation of the results.

Eligible expenses to be covered by the Transportation Planning Grant include, but not necessarily limited to:

- Planning consultants/staff
- Data gathering/surveys
- Data analysis
- Design
- Engineering review/surveys

- Public meetings/hearings
- Final report preparation

The planning projects must be clearly related to addressing transportation issues or impacts directly related to the gaming facility.

Applicants will be required to submit a detailed scope, budget, and timetable for the planning effort prior to funding being awarded.

Pursuant to the Guidelines, the Commission will evaluate requests for planning funds (including both the use of Reserve Planning Funds and Transportation Planning Grant Funds) after taking into consideration input the applicant has received from the local Regional Planning Agency ("RPA") or any such interested parties. Although there is no prerequisite for using RPA's for planning projects, consultation with RPA's is required to enable the Commission to better understand how planning funds are being used efficiently across the region of the facility. Please provide details about the applicant's consultation with the RPA or any such interested parties.

Communities that requested and received reserves in 2015 or 2016 must first expend those funds before accessing any Transportation Planning Grant funds. Transportation Planning Grant funds may be sought to expand a planning project begun with reserve funds or to fund an additional project once the reserves have been exhausted.

In addition to the specific impact grant factors further defined in section "[How Will the Commission Decide on Applications?](#)", the Commission will also consider whether the applicant demonstrates the potential for such transportation project that is the subject of a CMF application to compete for state or federal transportation funds.

Applicants may, but are not required, to include a description how the project meets the evaluation standards for the Fiscal Year 2017 TIP criteria for the Boston MPO Region or the Pioneer Valley Planning Commission's transportation evaluation criteria, or other regional transportation project evaluation standard, whichever may be most applicable.

Compact Technical Assistance

The Commission shall make available no more than \$200,000 in technical assistance funding to assist in the determination of potential impacts that may be experienced by communities in geographic proximity to the potential Tribal Gaming facility in Taunton. Said technical assistance funding may be made through Southeastern Regional Planning and Economic Development District ("SRPEDD"), the regional planning agency that

services such communities or a comparable regional entity. Such funding will only be made available, after approval of any application by SRPEDD or a comparable regional entity, if it is determined by the Commission that construction of such gaming facility will likely commence prior to or during Fiscal Year 2017. Any such application by SRPEDD or a comparable regional entity must demonstrate that any studies of impacts will address the technical assistance needs of the region which may include but not be limited to the communities that are geographically adjacent to Taunton. Such funding shall not be used to study impacts on or provide technical assistance to Taunton, as funding has been provided in the Intergovernmental Agreement By and Between the Mashpee Wampanoag Tribe and the City of Taunton. Any such program of technical assistance may be provided by SRPEDD itself or through a contract with SRPEDD.

Pre-Employment Grant

For the fiscal year 2018, the Commission will make available funding for certain career pathways workforce development pilot programs in Regions A and B for service to residents of communities of such Regions, including each Category 1 host community and each designated surrounding community, each community which entered into a nearby community agreement with a licensee, any community that petitioned to be a surrounding community to a gaming licensee, and each community that is geographically adjacent to a host community.

The total funding available for grants will likely not exceed \$200,000. No application for a grant in each Region shall exceed \$100,000. One grant will be considered for each Region.

Eligible career pathways workforce development proposals must include a regional consortium approach to improve the skills, knowledge, and credential attainment of each Region A and Region B residents interested in a casino career, focusing on increasing industry-recognized and academic credentials needed to work in the most in-demand occupations related to the expanded gaming industry or a focus on occupations that could be in high demand from the casino, potentially negatively impacting the regional business community. This could include a focus on hospitality, culinary, cash handling, or customer service, etc.

Goals include:

- To help low-skilled adults earn occupational credentials, obtain well-paying jobs, and sustain rewarding careers in sectors related to hospitality and casino careers.

- To get students with low basic skills into for-credit career and technical education courses to improve their educational and employment outcomes.
- To deliver education and career training programs that can be completed in two years or less and prepare program participants for employment in high-wage, high-skill occupations related to the casino.
- To align and accelerate ABE, GED, and developmental programs and provide nontraditional students the supports they need to enable more low-income adults to complete postsecondary credentials of value in the regional labor market.
- To mitigate a strain in existing resources and a potential impact to the regional labor market

Eligible activities include: a program in Region A or Region B that structures intentional connections among adult basic education, occupational training, and post-secondary education programs designed to meet the needs of both adult learners and employers, post-secondary vocational programs, registered apprenticeships, courses leading to college credits or industry-recognized certificates, Adult Basic Education (“ABE”) and vocationally based English for Speakers of Other Languages (“ESOL”) training programs, Contextualized Learning, Integrated Education & Training, and Industry-recognized Credentials.

A consortium application is required. However, governmental entities eligible to receive funds would include but not be limited to: host communities, communities which were each either a designated surrounding community, a community which entered into a nearby community agreement with a licensee, a community that is geographically adjacent to the host community of a gaming licensee, a community that petitioned to be a surrounding community to a gaming licensee state agencies, state agencies, and Regional Employment Boards.

Applicants should consider leveraging other funding resources.

What Should Be Included in the Applications?

- Applicants are required to complete the 2017 Specific Impact Grant Application, the 2017 Transportation Planning Grant or the 2017 Pre-Employment Grant Application and may also submit additional supporting materials of a reasonable length.
- Applicants will need to describe how the specific mitigation, planning, or pre-employment project request will address any claimed impacts and provide

justification of any funds requested. Unlike existing surrounding community agreements which were based on anticipated impacts, any Specific Impact Grant will be based on impacts that have occurred or are occurring, as noted previously.

- Applicants will need to describe if and how such impacts were addressed or not addressed in any host or surrounding community agreements.
- Applicants may include a letter of support from the applicable gaming licensee. However, this is not necessary, as the Commission will request the licensee's opinion regarding each application.

How Will the Commission Decide on Applications?

- Similar to the Commission's surrounding community review process, the Commission will ask each licensee to review and comment on any requests for funding.
- The Commission will evaluate the submittal by the community, any input received from the community and interested parties (such as Regional Planning Agencies), the responses of the licensee, Commission consultant reviews, and any other sources determined by the Commission.
- The Commission will evaluate any funding requests in the context of any host or surrounding community agreements.
- Factors used by the commission to evaluate transportation planning grant applications may include but not be limited to:
 - o A demonstration that the impact is being caused by the proposed gaming facility;
 - o The significance of the impact to be remedied;
 - o The potential for the proposed mitigation measure to address the impact;
 - o The feasibility and reasonableness of the proposed mitigation measure;
 - o The demonstration that any program to assist non-governmental entities is for a demonstrated public purpose and not for the benefit or maintenance of a private party;
 - o The significance of any matching funds;
 - o Any demonstration of regional benefits from a mitigation award;

- o A demonstration that other funds from host or surrounding community agreements are not available to fund the proposed mitigation measure; or
- o A demonstration that such mitigation measure is not already required to be completed by the licensee pursuant to any regulatory requirements or pursuant to any agreements between such licensee and applicant.
- The Commission may ask applicants for supplementary materials, may request a meeting with applicants, and reserves the ability to host a hearing or hearings on any application.
- The Commission's deliberations on Community Mitigation Fund policies will also be aided through input from the Gaming Policy Advisory Committee, the Community Mitigation Subcommittee, and any Local Community Mitigation Advisory Committees, as established pursuant to M.G.L. c. 23K.
- The Commission reserves the ability to determine a funding limit beyond what is detailed in these Guidelines, as additional contributions to the Community Mitigation Fund will not be made until Category 1 gaming facilities are operational. The Commission also reserves the ability to determine a funding limit above what is detailed in these Guidelines.
- **The Commission reserves the ability to fund only portions of requested projects and to fund only a percentage of amounts requested. The Commission also reserves the ability to place conditions on any award.**
- **There is limited funding available. The Commission therefore reserves the right to determine which requests to fund based on its assessment of a broad range of factors including the extent of public benefit each grant is likely to produce.**

When Will the Commission Make Decisions?

The Commission anticipates making funding decisions on any requests for grant assistance before July 2017, after a comprehensive review and any additional information requests.

Is There a Deadline for the Use of the 2015/2016 Reserve?

There is no deadline. Funds may be used on a rolling basis when specific impacts are determined or the specific planning activity is determined. Once known, communities should contact the Ombudsman's Office, which will assist the community in providing

the needed information. Communities with specific impacts will, at the time the impacts are known, complete the grayed sections of the 2017 Use of Reserve Grant Application (the grayed boxes 1-4 beginning on page 3). Communities with requests for planning funds will provide similar information to the Commission: a description of the planning activity, how the planning activity relates to the development or operation of the gaming facility, how the planning funds are proposed to be used, consultation with the Regional Planning Agency, other funds being used, and how planning will help the community determine how to achieve further benefits from a facility or to avoid or minimize any adverse impacts. Each Community applying for planning funds will also need to provide detail on what it will contribute to the planning project such as in-kind services or planning funds. Please note that such details do not need to be determined by the February 1, 2017 application date. Commission approvals of the use of the 2015/2016 reserve funds will also be on a rolling basis corresponding to the rolling determinations of use by communities.

Who Should Be Contacted for Any Questions?

As the 2017 Community Mitigation Fund program is just in the third year of the program for the Commission, communities and other parties may have a number of questions. They are encouraged to contact the Commission's Ombudsman with any questions or concerns. The Commission's Ombudsman will regularly brief the Commission regarding the development of Community Mitigation Fund policies.

The Commission's Ombudsman, John Ziemba, can be reached at 617-979-8423 or via e-mail at john.s.ziemba@state.ma.us. The Commission's address is 101 Federal Street, 12th Floor, Boston, MA 02110.

Where Should the Applications Be Sent?

Applications **must be sent to** www.commbuys.com. An application received by COMMBUYS by February 1, 2017 will meet the application deadline. Applicants that are not part of the COMMBUYS system should contact Mary Thurlow of the Commission's Ombudsman's Office well in advance of the February 1, 2017 deadline to make arrangements for submission of the application by the deadline. Mary Thurlow can be contacted at 617-979-8420 or at mary.thurlow@state.ma.us.

If you have any questions or concerns contact the COMMBUYS Help Desk at COMMBUYS@state.ma.us or during normal business hours (8am - 5pm ET Monday - Friday) at 1-888-627-8283 or 617-720-3197.