

Massachusetts Gaming Commission

Summary of answers to Policy Questions

Updated: February 13, 2013

Policy Question	Needs Reg.	Priority	Commission Policy
1 How will we define "surrounding communities" and should we publish that definition early in the process?		2	The Commission will take a functional approach to the definition and will issue a definitive advisory or draft regulation in January in order to obtain further public comment
2 Should the Commission issue guidelines for municipalities which may be a surrounding community to more than one host community?		2	The MGC will utilize the procedures specified in MGL c. 23K, §17(a) to resolve any disputes that may result from status as a surrounding community to more than one host community and will issue regulations to carry out those procedures. However, some additional provisions, including comparison of executed surrounding community agreements will be added. The MGC will establish MGL c. 23K, §17(a) protocols and procedures as quickly as possible order to provide as much certainty as possible to host communities, surrounding communities, and applicants as they begin negotiations on agreements.
3 What criteria will we use to decide which "not-for-profit or municipally-owned performance venues" are "impacted live entertainment venues" within the statute's meaning.		2	The Commission will not enumerate specific criteria for determining which live entertainment venues are impacted but will handle the on a case-by-case basis. The Commission will issue an advisory that certain criteria will be considered in the event then Commission needs to determine which venues are impacted. The most important consideration would be the relationship between the location of the venue in question and geographic scope of the exclusivity clauses the applicant uses, whether oral or written, when they book performances. Any entertainment venue within the exclusivity zone will be considered presumptively impacted but that presumption is rebuttable. The advisory will encourage applicants to proactively reach out and negotiate arrangements with impacted live entertainment venues because there will be a delay of the licensing process if the Commission has to intervene. In the event they cannot negotiate an agreement after the first 30 days, the Commission will favor an arbitration process. If it is necessary to do so, the Commission will issue regulations that embody those principles.
4 What, if any, information in addition to that specified in G.L. c. 23K, § 9 should the Commission require Phase 2 applicants to provide as part of the Phase 2 application.	Yes	2	This will be determined in large part by reference to the statute and the answer to 5. In any event, the Commission will require each applicant to submit the business plan for the project it is proposing.
5 What, if any, criteria in addition to those listed in G.L. c. 23K, §§ 15, 18 should the Commission use in the RFA-2 licensing determinations in order to ensure that the license awarded will provide the highest and best value to the Commonwealth in the region in which a gaming establishment is to be located and how should all of those criteria be weighted, ranked or scored?	Yes	1 or 2	In the next 4-6 weeks, we will prepare a list of the criteria we are going to take into account and then decide on the evaluation method, e.g., numerical ranking, comparative ranking combination or something else. The criteria will include the thematic considerations outlined in Chairman Crosby's memorandum of January 11, 2013 that was discussed at the Commission's January 17 meeting.
6 What criteria should the commission use to determine whether a gaming license applicant should receive a gaming beverage license for the sale and distribution of alcoholic beverages and what application fee should the commission charge?	Yes	2	The MGC will work with the ABCC to develop appropriate criteria and then incorporate those criteria in MGC regulations.
7 What regulations should the commission issue with respect to distribution of alcohol and the forms of identification that may be presented to a gaming licensee to demonstrate proof that a person has attained the age of 21	Yes	3	MGC will promulgate regulations specifying the forms of identification listed in G.L. c. 138, §34B, but will also explore use of out of state drivers' licenses. Insofar as distribution of alcohol is concerned, MGC will pursue a regulatory policy that allows distribution of complementary drinks on the gaming floor but not in restaurants or other non-gaming facilities that are part of the gaming complex.

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8 Should the Commission make casino licensing decisions region-by-region or simultaneously for all regions?		2	<p>A. We should make the license decision on Regions A and B at approximately the same time, mitigated only by delays beyond our control such as the receipt of RFA-2 applications.</p> <p>B. We should consider to the extent possible the benefits of spreading the various licensees rationally around the Commonwealth, in order to maximize the economic return and service the most people conveniently. However, we should not hold the slots license artificially in order to consider its impact upon the casino licensees.</p> <p>C. We should attempt to license the slots parlor first, and allocate resources accordingly, in order to facilitate the earliest possible opening of a facility generating economic benefits to the Commonwealth. This decision, however, will be mitigated by the extent to which we receive all the applications for the slots license, and should not materially compromise the speed with which we pursue the other decisions.</p>
9 Should the Commission increase the minimum license fee and/or capital investment requirements? Should the Commission encourage bidding on the license fee? If the amounts are modified, should they vary by region?		2	No. The fee, as stated in the statute, will be \$85 million for a Class 1 license and \$25 million for a class 2 license.
10 How should the Commission determine a suitable debt-to-equity ratio for applicants for a gaming license?		2	The Commission will not establish a debt-to-equity ratio at this point, but in lieu of that, research and establish in regulations a series of tests designed to assess the financial risk of applicants at any given point.
11 Should the Commission allow a facility to open in stages, with the casino opening prior to the hotel and/or other facilities? If so, under what constraints?		2	The Commission will not preclude facilities from building or opening in phases and will allow applicants to present as part of their application details and plans as to the construction and operations and opening of the facilities. However, the speed with which the applicant plans to open all facilities will be a factor that the commission will take into account in the licensing decisions.
12 To what degree will an applicant be required to have progressed in federal, state and local permitting and other regulatory process before submitting its RFA-2 application?		2	Applicants will be required to have filed their Environmental Notification Form Form (ENF) and to have received their ENF Certificate before filing the application, will be encouraged to include as much detail in the ENF as possible and, before being awarded a license, will be required to show that their project is consistent with local zoning.
13 What criteria should the Commission use to prescribe the manner in which gaming licensees and gaming vendors must keep their books and financial or other records and statements?	?	2	Deferred for further study and report in the coming weeks. See Question 49.
14 Should the Commission require that a developer use a specified percentage of in-state or regional employees in the construction and operation of its facility?			The Commission determined that it would not require a minimum, but will use various monitoring requirements and incentives to encourage the hiring of an indigenous workforce whenever possible and will continue to work on this issue.

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15 What degree of building design completion will be required before the licensing selection?		2	The Commission will require submission of a schematic design as defined/understood by AIA along with a statement of work and a detailed cost estimate. In addition, the Commission will establish a process for review of the design evolution
16 Should the Commission confirm through a formal policy that no host community agreements should be executed or referendums held before the relevant applicant has qualified through RFA-1?		1	A vote on a host community agreement pursuant to General Laws 33K, Section 15(13) may not take place before the Commission has made a decision on qualifications of the applicant. However, the host community and the prospective applicant need not wait until the completion of the RFA-1 process before signing a host community agreement if they choose to do so.
17 Should the Commission specify the minimum required content for a host community agreement?		2	The Commission will not issue requirements regarding the minimum content of host community agreements nor will it issue guidelines regarding what the agreements should contain. The Commission, however, will work with communities, RPA's and others to help facilitate thoughtful and comprehensive agreements.
18 Should the Commission approve the wording of the summary required by G.L. c. 23K, § 15(13) before it is submitted to the public?		3	No.
19 How will the Commission consider the strategic implications of when, how and where to issue licenses, including the slots license, in the context of other license-issuing decision so as to maximize the benefits to the Commonwealth as a whole?		3	See answer to 8
20 What kind of a team with what kinds of skills and competencies does the Commission need to help it assess the Phase 2 proposals?	No	3	The MGC will begin the process of assembling a team consisting of a financial consultant or consultants, an architect and planner with experience in development of large facilities, a traffic consultant and an individual with regional planning experience to help MGC assess applications. If one firm possesses the necessary expertise, that would be preferred. At the same time, MGC will begin discussions with RPA's to see what assistance they can provide. The team assembly subject will be revisited after MGC makes its final decision regarding evaluation criteria.
21 Should the commission issue a regulation or policy statement dealing with the portion of G.L. c. 23K, §§ 19(a), 20(a) providing that the Commission may not award a gaming license if it is not convinced that the applicant has "provided convincing evidence that [it] will provide value" to the region, in the case of a category 1 license, and to the Commonwealth, in the case of a category 2 license.		3	No. The statute is clear on this point and the competition now existing for all licenses will produce maximum value.
22 What, if any, conditions in addition to those prescribed in G.L. c. 23K, § 21, should the Commission prescribe for each gaming license?	Yes	2	Subsumed within Question 5.

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23 What, if any, information and in addition to that described in G.L. c. 23K, §31(b) should the Commission require from an applicant before issuing a gaming vendor license?		2	This question was not reached
24 What information should the commission require in respect to an applicant's "description of its minimum system of internal procedures and administrative and accounting controls for gaming and any simulcast wagering operations" required by G.L. c. 23K, § 25 (d).	Yes	2	The Commission will promulgate a general set of regulations governing the types of controls that casino operators must have in place, and the casino will be required to submit a comprehensive and detailed set of minimum internal control standards that supplement the regulations and which the Commission must approve.
25 When should the regulations pertaining to operations on the gaming floor be issued and what should those regulations contain?	Yes	2	MGC will issue these regulations as part of the Phase 2/2 process. It will begin by relying on best practices as revealed by a canvass of other jurisdictions and discussed in the strategic plan prepared by the Commission's gaming consultants.
26 When should regulations regarding issuance of credit be issued and what should those regulations contain?	Yes	2	MGC will issue these regulations as part of the Phase 2/2 process. It will begin by relying on best practices as revealed by a canvass of other jurisdictions and discussed in the strategic plan prepared by the Commission's gaming consultants. The overall objective should be to approve an amount of promotional gaming credit sufficient to enhance the competitive environment, but not so much as to destroy of the viability of the industry.
27 When should regulations regarding check-cashing be issued and what should those regulations contain?	Yes	2	MGC will issue check cashing regulations as part of the Phase 2/2 process. In the process of doing so, it will collaborate with the Department of Transitional Assistance, the Department of Labor and Workforce Development, the Department of Housing and Community Development, and/or other administering agencies. It will also invite commentary on how check-cashing regulations might address problem gambling issues.
28 When should regulations regarding approval of promotional gaming credits be issued and what should those regulations contain?	Yes	2	MGC will issue promotional credit regulations as part of the Phase 2/2 process. Spectrum will provide information on nationwide best practices.
29 When should regulations regarding excluded persons be issued and what should those regulations contain?	Yes	3	The regulation should be issued as part of the Phase 2/2 process and should exclude individuals for a period of three years with an option for longer periods in specific circumstances. Overall, the objective should be to create a period long enough so that there is no revolving door but short enough to avoid creating a disincentive for people with a problem to sign up.
30 When should regulations regarding provision of complementary services, gifts, cash or other items of value be issued and what should those regulations contain?	Yes	3	The regulation should be issued as part of the Phase 2/2 process. The Commission will study the gaming consultants' recommendation that casino operators be given latitude to create a program and then bring that program to the commission for approval rather than have the commission initially issue an extended set of rules and regulations regarding program content.
31 Will the Commission promulgate additional ethics or reporting standards for applicants and/or related municipalities?		1	At the present time, The Commission will not draft for promulgation a specific set of ethics requirements for applicants, licensees, municipal employees or municipal officials.

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32 Should the Commission set a time limit or other rules addressing the Tribal compact/land-in-trust issue in Region C?		1	Question tabled
33 Should the community college process that we are endorsing and supporting be the exclusive mechanism for qualifying applicants for key gaming licenses?			The community college program will not be the exclusive entity for casino job training. MGC will certify schools and will work with DPL to monitor compliance with certification conditions. MGC will also ensure competency by working with training schools and with casino operators.
34 If the answer to question 33 is no, should the Commission regulate private training schools?			See answer to Question 33.
35 To expand on the point in question 5, should the Commission formulate and communicate a scoring system prior to the receipt of proposals with the relative weight of different criteria? Should the Commission establish a minimum scoring for applicants?	Unknown	3	The subject of the scoring or other evaluation system remains a work in progress.
36 If MOU's and other agreements may be part of an applicant's proposal to the commission to demonstrate their commitment to key evaluation criteria, how should the commission weigh these agreements and enforce them in the coming years after the license is awarded?		2	MOU's can be included in an application. The Commission will defer discussion or development of enforcement measures until a later date
37 Should the Commission set election criteria for a local referendum if there are more than one project on the ballot?		2	The Commission will not set any criteria or requirements in addition to the requirement that each project must receive majority approval as required by MGL Chapter 23K, 15(13)
38 As part of an applicant's goal to impact small businesses, what information should the commission require?		2	In addition to the information required by the statute, the applicants will be required to provide their expected spending categories and projected amounts.
39 How much weight or consideration should the Commission give to the facility itself in meeting the goals of c. 23K, § 5(a)(3) related to building appeal and other factors?	Depends on the answer to Q. 35	2	Subsumed within Question 5.
40 Should the commission prescribe the games, rules and controls a licensee may have or should it solicit proposals from the applicants/licensees?	Yes	2	Question tabled pending further input
41 What process should the commission use/require for testing gaming equipment? See § 66.	Yes	3	The Commission will promulgate the regulations for independent testing laboratories, create its own set of standards, and license all those who are qualified.

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42 What should be the length of the licenses issued to employees whom the statute requires to be licensed?	Yes	2	The Commission will authorize a three year license for key gaming employees and gaming employees and will reevaluate the three year period at the end of the first three years. The Commission will not require licensure of gaming service employees, but they will be registered with the Commission.
43 What non-gaming vendors should be excused from the licensing process?	Yes	2	All gaming vendors be licensed as will non-gaming vendors who annually do \$250,000 worth of business with a gaming licensee. Other non-gaming vendors will be registered in a tiered system. The group conducting under \$33,333 worth of business per year over a three-year period will only require registration. Those annually doing over \$33,333 in business but under \$250,000 would require registration with a heightened background check.
44 What should the studies and reports required by G.L. c. 23K, §§ 9 (a) (13), 18 (18) contain?		2	The Commission will continue to refine the criteria and issue guidelines relative to the information it will require.
45 Similar to question 16 above			
46 Should the commission prohibit gambling by local officials in casinos located within their jurisdiction?		3	Yes, though the definition of "public officials" for purposes of this policy was not resolved and will require further thought as the Phase 2 regulations are drafted.
47 Should the commission adopt the self-exclusion lists in effect in other jurisdictions? (See §46(k))	?	3	The commission decided that this issue needed more study during the Phase 2/2 process. Typically, state self-exclusion lists are confidential. However, there seem to be no sound reason why a person desiring self-exclusion could not ask that his or her name be shared with other jurisdictions.
48 What criteria should be used to exclude individuals involuntarily from casinos?	?	3	G.L. c. 23K, §45 provides four criteria for exclusion. In addition, MGC will consider whether to exclude individuals who are on an involuntary exclusion list and other jurisdictions and will also consider a regulation containing a broad discretionary exclusion provision.
49 What regulations and standards should the commission prescribe for the audits it is required to conduct?	Yes	2	Deferred for further study and report in coming weeks. See Question 13
50 How should the role of the Commission be defined in the licensing process? What other departments (if any) have a role in the licensing of certain occupations? Will the Commission be licensing on the basis of suitability only, or skills and education as well? Will licensing be limited to occupations closely associated with the gaming area?		3	This topic will require additional research as part of the Phase 2/2 process. The commission has some role in ensuring competency as well as a satisfactory background, though in the competency area the commission's interests and the operator's interests are typically aligned. The commission tentatively focused on the desirability of certifying the curriculum used by training schools, focusing background investigations on those who had conditional job offers from a casino, looking at the training regimen casinos themselves proposed and looking at ways to enforce the casino training programs if the commission were satisfied that the program was acceptable.

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51 To address concerns regarding inappropriate pressures on casino companies, should the Commission require applicants and licensees to report to the Commission all resumes, recommendations, referrals, requests for donations, etc. they receive from any public official, with failure to do so resulting in a penalty?		3	The commission tentatively decided that gaming applicants and licensees must periodically disclose letters of recommendation for employment they receive from public officials. It also tentatively decided that all requests or solicitations gaming licensees received from any public official for monetary or nonmonetary contributions, and all monetary or nonmonetary contributions the applicants and licensees actually made to elected or public official or a municipality be disclosed on a periodic basis.
52 What regulations, criteria and other requirement should the Commission consider to ensure that a preventative approach is taken to work-related injuries and that casino workplace safety is maximized?		3	MGC will require applicants to discuss their workplace safety strategies as part of workforce development plans they tender as part of their license applications. MGC will also look at NIGC checklists and work with other agencies to ensure compliance with whatever safety programs the applicants say they will employ.
53 Should the Commission consider a rule or policy that prohibits public entities from either becoming applicants or financing an applicant for a gaming license?		3	No public entities have submitted a Phase 1 application and, as a consequence, this question is moot.