



**MASSACHUSETTS GAMING COMMISSION
PUBLIC MEETING#324**

October 22, 2020
10:00 a.m.

**VIA CONFERENCE CALL NUMBER: 1-646-741-5292
PARTICIPANT CODE: 111 332 2046**



Massachusetts Gaming Commission



NOTICE OF MEETING and AGENDA
October 22, 2020 – 10:00 a.m.

PLEASE NOTE: Given the unprecedented circumstances resulting from the global Coronavirus pandemic, Governor Charles Baker issued an order to provide limited relief from certain provisions of the Open Meeting Law to protect the health and safety of individuals interested in attending public meetings. In keeping with the guidance provided, the Commission will conduct a public meeting utilizing remote collaboration technology. If there is any technical problem with our remote connection, an alternative conference line will be noticed immediately on our website: MassGaming.com.

Pursuant to the Massachusetts Open Meeting Law, G.L. c. 30A, §§ 18-25, notice is hereby given of a meeting of the Massachusetts Gaming Commission. The meeting will take place:

Thursday, October 22, 2020
10:00 a.m.

Massachusetts Gaming Commission
VIA CONFERENCE CALL NUMBER: 1-646-741-5292
PARTICIPANT CODE: 111 332 2046

All documents and presentations related to this agenda will be available for your review on the morning of October 22, 2020 by [clicking here](#).

PUBLIC MEETING - #324

1. Call to order
2. Approval of Minutes
 - a. July 30, 2020
3. Administrative Update – Karen Wells, Executive Director
 - a. Update on Casino Covid Compliance – Karen Wells; Loretta Lillios, Interim Director of IEB; Bruce Band, Assistant Director, Gaming Agents Division Chief
 - b. Host Community Update – Joe Delaney, Division of Community Affairs Chief
4. Legal Division – Todd Grossman, General Counsel
 - a. 205 CMR 153.00: Community Mitigation Fund – developed to codify administration of the Fund and to provide express authority and a clear process for assessing administrative costs to the Fund, and Small Business Impact



Massachusetts Gaming Commission

Statement – Carrie Torrissi, Associate General Counsel **VOTE** to begin the formal promulgation process

- b. 205 CMR 133.00: Voluntary Self-Exclusion – To ensure uniformity in the process of managing and maintaining the Voluntary Self-Exclusion list, and Small Business Impact Statement – Carrie Torrissi, Associate General Counsel; Mark Vander Linden, Director of Research and Responsible Gaming; Teresa Fiore, Program Manager of Research and Responsible Gaming **VOTE** to begin the formal promulgation process

- 5. Racing Division – Dr. Alex Lightbown, Director of Racing
 - a. Racing – Quarterly Aid Payments – Chad Bourque, Financial Analyst **VOTE**
 - b. Plainridge Park Casino Request for Fill-in Judge – Dr. Alex Lightbown, Director of Racing **VOTE**

- 6. Division of Community Affairs – Joseph Delaney, Division of Community Affairs Chief
 - a. Community Mitigation Fund Policy and Initial Draft Guidelines 2021 Discussion – Joseph Delaney; Mary Thurlow, Program Manager

- 7. Commissioner Updates
 - a. Annual Report Review Questions for Discussion – Commissioner Enrique Zuniga

- 8. Other business – reserved for matters the Chair did not reasonably anticipate at the time of posting.

I certify that on this date, this Notice was posted as “Massachusetts Gaming Commission Meeting” at www.massgaming.com and emailed to: regs@sec.state.ma.us, melissa.andrade@state.ma.us.

October 20, 2020

Cathy Judd-Stein, Chair

Date Posted to Website: October 20, 2020 at 10:00 a.m.



Massachusetts Gaming Commission



Massachusetts Gaming Commission Meeting Minutes

Date/Time: July 30, 2020 – 10:00 a.m.

Place: Massachusetts Gaming Commission
VIA CONFERENCE CALL NUMBER: 1-646-741-5292
MEETING ID: 112 074 4154

Present: Chair Cathy Judd-Stein
Commissioner Gayle Cameron
Commissioner Enrique Zuniga
Commissioner Bruce Stebbins
Commissioner Eileen O'Brien

Given the unprecedented circumstances, Governor Charles Baker issued an order to provide limited relief from certain provisions of the Open Meeting Law to protect the health and safety of the public and individuals interested in attending public meetings during the global Coronavirus pandemic. In keeping with the guidance provided, the Commission conducted this public meeting utilizing remote collaboration technology.

Call to Order

10:00 a.m. Chair Cathy Judd-Stein called to order public meeting #314 of the Massachusetts Gaming Commission (Commission).

The Chair confirmed a quorum for the meeting with a Roll-Call.

Commissioner Cameron: Aye.

Commissioner O'Brien: Aye.

Commissioner Zuniga: Aye.

Commissioner Stebbins: Aye.

Chair Judd-Stein: Aye.

Approval of Meeting Minutes

10:04 a.m. *Commissioner Stebbins moved to approve the minutes from the Commission meeting of June 18, 2020, subject to correction for typographical errors and other nonmaterial matters. Commissioner O'Brien and Commissioner Zuniga*

recommended edits. Commissioner Cameron seconded the motion with the amendment.

Roll Call Vote:

Commissioner Cameron: Aye.

Commissioner O'Brien: Aye.

Commissioner Zuniga: Aye.

Commissioner Stebbins: Aye.

Chair Judd-Stein: Aye.

The motion passed unanimously.

Administrative Update

10:05 a.m. Current Casino and Racing Update

Loretta Lillios, Chief Enforcement Counsel/Deputy Director, provided an update to the Commission on casino operations since their reopening. She reviewed incident reports and reported actions taken by casino management to quell any disturbances. Dr. Alex Lightbown, Director of Racing, was present to answer any questions from the commissioners concerning racing.

Commissioner Zuniga changed to call-in from video participation due to a connectivity issue.

10:13 a.m.

The Investigations and Enforcement Bureau (IEB) is currently working on licensee's requests to add Roulette and Craps' dice games. The bureau is presently considering the approach of other jurisdictions with their introduction of those games.

10:15 a.m.

The Chair noted that Penn National CEO and Director Jay Snowden and PPC President Lance George are present. She and the commissioners thanked the three licensees, their lead gaming agents, the horsemen, and the staff for the extensive work performed to achieve a safe and sustainable reopening of the casinos.

10:20 a.m. Legislative Development Update

Todd Grossman, Interim General Counsel, first updated the Commission on the status of Bill [H.4817](#), an Act extending simulcasting and horse racing authorization, that was enacted on June 30. The bill extends all applicable horse racing laws to July 31, 2021. It allows Raynham Park, Wonderland, and Suffolk Downs to remain racing meeting licensees, enabling them to continue simulcasting; however, it precludes these entities from live racing without Commission approval. Mr. Grossman noted that the bill allows Suffolk Downs to remain licenses as a running horse racing meeting licensee.

Mr. Grossman also reported on Bill [H.13](#) and Bill [S.101](#), which are Acts relative to horse racing and wagering, and the regulation of horse racing and wagering. Both bills proposed to create a new G.L. c. 128D that would provide the

Commission with clear and comprehensive authority over horse racing and simulcasting. He stated that on June 7, the Joint Committee on Consumer Protection and Professional Licensure had reported that these two bills would not pass.

Next, Mr. Grossman updated the Commission on the status of Bill [H.386](#), an Act relative to the Community Preservation Trust Fund. The proposed bill would have adjusted the nine percent assessment on PPC's Gross Gaming Revenue under section 55, directing 4.5 percent to the Race Horse Development Fund (RDF) and 4.5 percent to the Community Preservation and Trust Fund (CPTF). The Joint Committee of Economic Development and Emerging Technologies held a hearing in October 2019, and a study order was placed on the bill in February.

Bill [H.387](#), an Act relative to the Race Horse Development Fund, is proposed to require the comptroller transfer up to \$10M each fiscal year at the request of the Secretary for Administration and Finance from the RDF to the CPTF. The Joint Committee of Economic Development and Emerging Technologies held a hearing in July 2019, and a study order was placed on this bill in February as well.

Mr. Grossman also reported on the status of Bill [H.4879](#), an Act enabling partnerships for growth, and Amendment [S.2842](#). Bill H.4879 notably includes a section that would legalize sports wagering and place its regulation under the Commission. The bill would also require that the Commission submit a status report to the legislature regarding Region C. The bill passed on Tuesday, when it became Bill [H.4887](#) and went before the Senate, where it was amended to exclude any language on sports wagering, including a required report on Region C. He noted that there had been several additional amendments made that he is reviewing and will continue to monitor this rapidly evolving matter.

[10:25 a.m.](#) Lastly, Mr. Grossman stated that the U.S. House of Representatives agreed to Amendment [H.R.7608](#) that would prohibit funds from being used by the Department of the Interior to rescind the decision to take lands of the Mashpee-Wampanoag Tribe into Federal trust or to revoke other associated actions.

Investigations and Enforcement Bureau (IEB)

[10:29 a.m.](#) **Plainridge Park Casino Licensure, Suitability Determinations**
Loretta Lillios, Chief Enforcement Counsel/Deputy Director, described the status of the ongoing suitability investigation of PPC's casino license renewal. Massachusetts State Police Trooper Thomas Roger, Financial Investigator Supervisor Monica Chang, Financial Investigator Zong Fei Zou, and Senior Supervising Gaming Agent, Andrew Steffen joined Ms. Lillios in her presentation.

Ms. Lillios directed the Commission to the memorandum in the [Commissioners' Packet](#) entitled, "Summary of Suitability Investigation of Plainridge Park Casino,

Applicant for Renewal of Category 2 Gaming License". They reviewed the Qualifiers that were investigated with the Commission.

- [10:41 a.m.](#) Trooper Rodger described the background investigations he conducted on Todd George, Executive Vice President of Operations, Erin Chamberlin, Vice President of Regional Operations, and Chris Rogers, Senior Vice President & Chief Strategy Officer.
- [10:45 a.m.](#) It was noted for the record that the suitability reports for David Williams, Chief Financial Officer for Penn National, and Chris Soriano, Vice President of Regulatory Affairs for Penn National, are still pending ordinary course.
- [10:50 a.m.](#) Ms. Chang provided the Commission with a summary of the IEB's financial review of PPC and Penn National. She stated that overall, the IEB's review of PPC and Penn National's financial operating results from 2015 – 2019 did not uncover any derogatory information. She added that since the start of the pandemic, Penn National had implemented multiple strategies to reduce costs, maintain lease and debt requirements, and preserve and even increase its liquidity levels.
- [10:54 a.m.](#) Commissioner Zuniga asked Mr. Snowden if he would comment on how he sees the next few months in dealing with the COVID-19 situation. Mr. Snowden noted the measures already taken that Ms. Chang presented. He also pointed out that the reopening of their properties has gone well. Visitation has not fully recovered yet, but their primary focus has been on compliance with public safety requirements by jurisdiction. Mr. Snowden will continue to update the Commission with his observations of their portfolio of properties across the country. Lastly, he stated that Penn National has extended benefits to furloughed employees through August. He added that Boston (their Massachusetts license) is critical to our business.
- [11:06 a.m.](#) Next, Ms. Lillios introduced the compliance piece of the investigation on PPC. She noted several specific compliance issues that were remedied during the course of their five-year license.
- [11:08 a.m.](#) Mr. Steffen commented on PPC's compliance history, starting from their opening in 2015. He explained the reporting process for any compliance issues and reported that within the last 18 – 24 months, there had been minimal non-compliance incidents. Mr. Steffen noted that there were 43 underage patrons identified over five years, and only eight found gaming. He added that the IEB has a stable professional working relationship with PPC and their entire team.
- [11:14 a.m.](#) Commissioner Cameron remarked that PPC's compliance record is exemplary. She thanked both the IEB and PPC for working collaboratively to ensure compliance is achieved fairly.

11:16 a.m. Concerning incidents of underage individuals being identified on the casino floor, Commissioner O'Brien requested a breakdown of those individuals' ages. Mr. Steffen will provide this information to the Commission. Ms. Lillios recalled that the ages were a range mostly of 18 – 21. The Chair requested that Commissioner O'Brien follow-up.

11:21 a.m., Ms. Lillios stated that considering the entirety of the investigation and PPC's compliance history over the initial five-year term of the category 2 license, the IEB recommends that the Commission issue positive determinations of suitability to PPC and the qualifiers that comprise this application. She suggested that the Commission find PPC suitable under the criteria listed in the gaming law and regulations.

11:22 a.m. *Commissioner O'Brien moved that the Commission issue a positive determination of suitability to the category 2 licensee, Plainville Gaming and Redevelopment, LLC, Doing Business As the Plainridge Park Casino (PPC), as well as the following qualifiers:*

*Jay Snowden, Chief Executive Officer, and Director;
David Handler, Chairman of the Board;
Todd George, Executive Vice President of Operations;
Chris Rogers, Senior Vice President & Chief Strategy Officer;
Erin Chamberlin, Vice President of Regional Operations;
Jane Scaccetti, Director;
Ronald Naples, Director;
John Jacquemin, Director;
Barbara Shattuck Kohn, Director
Steven Snyder, Senior Vice President, Chief Financial Officer - GLPI;
Saul Reibstein, Director - GLPI;
E. Scott Urdang, Outside Director - GLPI;
Joseph Marshall III, Outside Director – GLPI
Earl Shanks, Outside Director - GLPI;
James Perry, Outside Director - GLPI;
Carol Lynton, Outside Director - GLPI.
Penn National Gaming, Inc. (“PNGI”) suitable as an Entity Qualifier for the category 2 licensee.*

Commissioner Zuniga seconded the motion.

Roll Call Vote:

*Commissioner Cameron: Aye.
Commissioner O'Brien: Aye.
Commissioner Zuniga: Aye.
Commissioner Stebbins: Aye.
Chair Judd-Stein: Aye.*

The motion passed unanimously.

11:24 a.m. Mr. Snowden made additional remarks. He noted that he is proud to have been the first casino that opened in the Commonwealth and stated that they endeavor to

continue to work with the Commission closely to ensure the integrity of the gaming industry in Massachusetts. He also noted financial contributions made to the Commonwealth. He added that a world record was established for trotters in the Spirit of MassTrot.

Mr. Snowden also assured the Commission that PPC will continue to put their team members' health and safety first and strictly adhere to their testing and contact tracing procedures in partnership with the Commission.

Penn National plans to launch a sports betting application in early September in Pennsylvania. It will then be made available in Indiana, Iowa, Michigan, New Jersey, Colorado, and others.

[11:32 a.m.](#) Lance George remarked that the current plan is that PPC will provide a more detailed presentation in September, with operational highlights from the first five years, and will include thoughts on the next five years. Topics will include the continuation of racing, the potential for sports betting, operating in a COVID-19 environment, and hopefully a post-COVID-19 environment.

Research and Responsible Gaming

[11:40 a.m.](#) **MAGIC Waves 1 – 4**
Director of Research and Responsible Gaming, Mark Vander Linden introduced the researched areas and discussed them in the MAGIC cohort studies. With him was Research Analyst Dr. Robert Williams and Research Analyst Dr. Rachel Volberg.

Mr. Vander Linden noted that this study has been conducted since 2013, and this is the fourth wave of examining participants over time. A considerable amount has changed in gambling and gambling availability since 2013 that has added an “extra layer” of interest for their study. The study is instrumental in developing effective treatment so that the Commission can develop effective prevention activities, specifically through GameSense.

[11:44 a.m.](#) Dr. Williams described that the research team is amid a comprehensive analysis of all five waves of this study. There will be a very substantial presentation that will provide a snapshot of the transitions of the four different categories of gamblers over the waves and the changes in problem gambling related to the introduction of casinos in Massachusetts.

[11:46 a.m.](#) Dr. Williams and Dr. Volberg led the Commission through a slide presentation that described the MAGIC study as the first major cohort study of gambling in the United States. He identified the four primary research goals and described them. He detailed the timeline of activity for the four waves of the study to date for the Commission.

[12:11 p.m.](#) In the context of the conducted study, Commissioner Cameron asked Dr. Williams if he knew whether at-risk gamblers change their behavior, moving back to recreational gambling, in other jurisdictions. He answered that this is a universal finding.

[12:16 p.m.](#) There was a discussion around identifying the number of people transitioning from at-risk gambling status to recreational gambling. Specifically, there is a 16.4 percent at-risk rate with those gamblers appear to transition back to recreational gambling, and female gamblers have a higher trajectory to problem gambler than men. Mr. Williams noted that their upcoming report will contain variables that predict onset, what differentiates chronicity vs. remission, and to what extent formal treatments play a role vs. at-home treatment.

Community Mitigation Fund

[12:25 p.m.](#) **West Springfield, Massachusetts Application Discussion**
Construction Project Oversight Manager Joseph Delaney reviewed the application with the Commission. Program Manager Mary Thurlow joined Mr. Delaney in the presentation.

Mr. Delaney reminded the Commission that the Commission discussed this item on June 25, and it had not resolved at that point. In the meantime, the Review Team gathered more information, and it is in the Commissioners' Packet for review today. He stated that the remaining items to be addressed were whether the Commission would consider the funds to supplement or supplant existing funds. The second item was whether the amount of the request is appropriate considering the cost of the impact.

Next, Mr. Delaney addressed the first item concerning supplementation vs. supplantation. He stated that after further consideration, the team considers the funds as supplementing rather than supplanting in this application.

[12:32 p.m.](#) The Review Team recommends that the Commission issue a one-time-only grant in the amount of \$200,000 to West Springfield to assist them in absorbing the loss of grant funds in the short term. The team also recommends that no additional funding be provided for these uses unless the completed Look-Back study identifies impact costs above the surrounding community payments received by West Springfield.

[12:35 p.m.](#) Mr. Delaney confirmed for Commissioner Stebbins that all the money goes toward public safety. The Commissioners agreed with the team's recommendation, with consideration to the Look-Back study.

[12:37 p.m.](#) *Commissioner Cameron moved that the Commission issue a one-time-only grant in the amount of \$200,000 to West Springfield for public safety operating costs as discussed here today, and in accordance with the recommendations outlined in*

*the July 27, 2020 memorandum included in the Commissioners' Packet.
Commissioner Stebbins seconded the motion.*

Roll Call Vote:

Commissioner Cameron: Aye.

Commissioner O'Brien: Aye.

Commissioner Zuniga: Aye.

Commissioner Stebbins: Aye.

Chair Judd-Stein: Aye.

The motion passed unanimously.

12:39 p.m.

With no further business, Commissioner Stebbins moved to adjourn.

Commissioner Cameron seconded the motion.

Roll Call Vote:

Commissioner Cameron: Aye.

Commissioner O'Brien: Aye.

Commissioner Zuniga: Aye.

Commissioner Stebbins: Aye.

Chair Judd-Stein: Aye.

The motion passed unanimously.

List of Documents and Other Items Used

1. Notice of Meeting and Agenda dated July 30, 2020
2. Draft Commission Meeting Minutes dated June 18, 2020
3. Letter to MGC re: Summary of Suitability Investigation of Plainridge Park Casino, Applicant for Renewal of Category 2 Gaming License, dated July 17, 2020
4. PowerPoint Presentation: MAGIC Across Four Waves
5. MAGIC Waves 1 – 4 Transition Report dated May 22, 2020
6. Memorandum Re: West Springfield Police and Fire Community Mitigation Fund Application dated July 27, 2020
7. Letter to MGC re: Review Question Responses, dated July 17, 2020
8. Application Number EMW-2016-FH-00135

/s/ Bruce Stebbins
Secretary



TO: Cathy Judd-Stein, Chair
Gayle Cameron, Commissioner
Eileen O'Brien, Commissioner
Bruce Stebbins, Commissioner
Enrique Zuniga, Commissioner

FROM: Carrie Torrisi, Associate General Counsel

DATE: October 20, 2020

RE: Community Mitigation Fund Regulations, 205 CMR 153.00

G.L. c. 23K, § 61 establishes the Community Mitigation Fund and delegates the authority to administer that fund to the Commission. Currently, the Commission reviews and approves guidelines annually relative to the administration of the fund, but there are no regulations codifying this procedure or the guidelines themselves.

In addition, G.L. 23K, § 4(38) grants the Commission the power to “act as trustees for any gaming-related trust fund.” Where the Community Mitigation Fund is a gaming-related trust fund, the Commission, as trustee, may assess administrative costs to the Fund. However, there is currently no such express authority in statute or regulation.

The following are regulatory provisions which we propose adopting as a new regulation, 205 CMR 153.00: *Community Mitigation Fund*, to codify administration of the Fund and to provide express authority and a clear process for assessing administrative costs to the Fund.

a. Guidelines for Distribution of Funds

This section codifies an annual review of guidelines for the administration and distribution of funds from the Community Mitigation Fund. In addition, it outlines what shall be included in the guidelines, including the types of grants available, who may apply, the types of projects that may be funded and any limitations, the availability and allocation of funding, the process and criteria for Commission review, a timeframe within which funds must be expended before reverting back to the Fund, the use of surplus funds, and a procedure for providing a waiver or variance from a provision of the guidelines.

b. Emergency Procedure

This section establishes an emergency procedure by which parties seeking appropriations from the Fund may submit requests on an emergency basis. The draft regulation defines what might constitute an “emergency” as “a serious and unexpected situation requiring immediate action to



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avoid significant harm to the community or to prevent threats to the health, welfare or safety of individuals or serious damage to property.”

G.L. c. 23K, § 61 states that all requests for appropriations from the Fund must be submitted before February 1st of each year. The draft regulation further defines “each year” as running from February 1st through January 31st, and states that the Commission shall establish a procedure for the request and allocation of funds on an emergency basis, which shall be outlined in the guidelines. To align with G.L. c. 23K, § 61, the regulation requires that emergency appropriations from the Fund for applications received on or after February 1st be funded from the following fiscal year’s Community Mitigation Fund allocation.

c. Commission Review and Execution of Grant

This section codifies the minimum requirements of the grant instrument executed following an award of funds from the Commission, including but not limited to: a detailed scope of the grant; the person responsible for management of the grant on the applicant’s behalf; a timeline and breakdown for disbursement of the funds; reporting requirements; a requirement that the funds be returned to the Commission in the event of noncompliance with the terms of the grant; and indemnification provisions for the Commission and its staff.

d. Expenses Related to Administration of the Community Mitigation Fund

This section establishes that the Commission may assess to the Community Mitigation Fund reasonable administrative costs incurred by the Commission on behalf of and in furtherance of the administration of the Fund. In addition, it sets a maximum percentage of the funds available in the Community Mitigation Fund for the fiscal year that may be assessed as administrative costs. Finally, it outlines the types of administrative costs that may be assessed to the Fund, including staff salaries, technology, software, and office supplies, provided that the costs must be directly related to administration of the Fund.



Legal Division

SMALL BUSINESS IMPACT STATEMENT

The Massachusetts Gaming Commission (“Commission”) hereby files this Small Business Impact Statement in accordance with G.L. c.30A, §2 relative to the proposed new regulation 205 CMR 153.00: Community Mitigation Fund.

This regulation was developed as part of promulgating regulations governing the operation of gaming establishments in the Commonwealth and is primarily governed by G.L. c.23K, §§2, 4(37) 5. 205 CMR 153.00 would govern the manner in which the Commission exercises its authority established pursuant to G.L. 23K, § 61 to administer the Community Mitigation Fund and expend funds to assist the host and surrounding communities, or any other communities identified in G.L. 23K, § 61, in offsetting costs related to the construction and operation of the gaming establishments.

Applicants for this program are government entities, therefore this regulation will not have an effect on small businesses. Under G.L. c.30A, §2, the Commission offers the following responses:

1. Estimate of the number of small businesses subject to the proposed regulation.

As applicants for this program are government entities, this regulation will not have an effect on small businesses.

2. State the projected reporting, recordkeeping, and other administrative costs required for compliance with the proposed amendments to this regulation:

There are no further projected reporting, recordkeeping, or administrative costs created by these amendments that would affect small businesses.

3. State the appropriateness of performance standards versus design standards:

This regulation was developed to codify administration of the Fund and to provide express authority and a clear process for assessing administrative costs to the Fund, therefore imparting elements of both performance and design standards.

4. Identify regulations of the promulgating agency, or of another agency or department of the Commonwealth, which may duplicate or conflict with the proposed amendments to this regulation:



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There are no conflicting regulations in 205 CMR, and the Commission is unaware of any conflicting or duplicating regulations of any other agency or department of the Commonwealth.

5. State whether the proposed amendments to this regulation are likely to deter or encourage the formation of new businesses in the Commonwealth:

As this regulation is directed at government entities, it is unlikely that they will deter or encourage the formation of new businesses in the Commonwealth.

Massachusetts Gaming Commission
By:

Shara Bedard
Paralegal/Legal Division

Dated: _____



Massachusetts Gaming Commission

Regulation Review Checklist

Agency Contacts for This Specific Regulation		
Name	Email	Phone
Carrie Torrisi		
Overview		
CMR Number	205 CMR 153.00	
Regulation Title	Community Mitigation Fund	
& Draft Regulation	& Final Regulation	
Type of Proposed Action		
Ü Please check all that apply		
& Retain the regulation in current form.		
& New regulation (Please provide statutory cite requiring regulation): G.L. c. 23K, § 61		
& Emergency regulation (Please indicate the date regulation must be adopted):		
& Amended regulation (Please indicate the date regulation was last revised):		
& Technical correction		
& Other Explain:		

Summary of Proposed Action
The proposed regulation would govern the manner in which the Commission exercises its authority established pursuant to G.L. 23K, § 61 to administer the Community Mitigation Fund and expend funds to assist the host and surrounding communities, or any other communities identified in G.L. 23K, § 61, in offsetting costs related to the construction and operation of the gaming establishments.
Nature of and Reason for the Proposed Action
This regulation was developed to codify administration of the Fund and to provide express authority and a clear process for assessing administrative costs to the Fund.

Additional Comments or Issues Not Earlier Addressed by this Review
Required Attachments

Regulation Review Checklist

ü Please check all that apply	
& Redlined version of proposed amendment to regulation, including repeals	& Clean copy of the regulation if it is a new chapter or if there is a recommendation to retain as is
& Text of statute or other legal basis for regulation	
& Small Business Impact Statement (SBIS)	& Amended SBIS

205 CMR: MASSACHUSETTS GAMING COMMISSION

205 CMR 153.00: COMMUNITY MITIGATION FUND

153.01: Scope and Purpose

- (1) 205 CMR 153.00 shall govern the manner in which the Commission exercises its authority established pursuant to G.L. 23K, § 61 to administer the Community Mitigation Fund and expend funds to assist the host and surrounding communities, or any other communities or entities identified in G.L. 23K, § 61, in offsetting costs related to the construction and operation of the gaming establishments.

153.02: Guidelines for Distribution of Funds

- (1) For purposes of administration of the Fund in accordance with G.L. c. 23K, § 61, the Commission, with recommendation from the Gaming Policy Advisory Committee and its subcommittees established pursuant to G.L. c. 23K, § 68, shall review and approve guidelines annually for the administration and distribution of monies in the Fund. Such guidelines shall include, at a minimum:
 - (a) The types of grants that will be available;
 - (b) Who may apply;
 - (c) What types of projects may be funded, including any limitations;
 - (d) The form, process, and timeline for application and review, including the application deadline;
 - (e) The availability and allocation of funding;
 - (f) The process and criteria for Commission review;
 - (g) A timeframe within which funds must be expended before reverting back to the Fund;
 - (h) The use of surplus funds; and
 - (i) A procedure providing for waiver or variance from a provision of the guidelines.

153.03: Emergency Procedure

- (1) In accordance with G.L. c. 23K, § 61, parties seeking appropriations from the Fund must submit written requests before February 1st of each year. For purposes of this requirement, each year shall run from February 1st through January 31st.
- (2) The Commission may accept a request for an emergency appropriation from the Fund at any time. An emergency shall be defined as a serious and unexpected situation requiring immediate action to avoid significant harm to the community or to prevent threats to the health, welfare or safety of individuals or serious damage to property. For purposes of 205 CMR 153.03, an emergency shall include but not be limited to situations related to

infrastructure, technology, and/or public safety, that were not known or could not have been known at the time requests for allocations from the Fund were due.

- (3) The Commission shall establish a procedure for the request and allocation of funds on an emergency basis, which shall be outlined in the guidelines. Emergency appropriations from the Fund for applications received on or after February 1st shall be funded from the next Community Mitigation Fund fiscal year allocation.

153.04: Commission Review and Execution of Grant

- (1) The Commission shall review all requests for appropriations from the Fund and shall make a determination as to whether to award funds and the amount of that award.
- (2) Following an award from the Commission, the successful requestor shall execute a grant instrument with the Commission outlining the scope and terms of the award. The grant instrument shall include, at a minimum:
 - (a) A detailed scope of the grant;
 - (b) The person responsible for managing the grant on the applicant's behalf;
 - (c) A timeline, breakdown, and requirements to be met for disbursement of the funds;
 - (d) Reporting requirements;
 - (e) A requirement that the funds be returned to the Commission in the event of noncompliance with the terms of the grant;
 - (f) Indemnification provisions for the Commission and its staff; and
 - (g) Any other provisions deemed appropriate by the Commission and its staff.

153.05: Expenses Related to Administration of the Community Mitigation Fund

- (1) The Commission is the trustee of the Community Mitigation Fund in accordance with G.L. c. 23K, § 4(38).
- (2) The Commission finds that administration of the Fund by its staff, including but not limited to development of guidelines for approval by the Commission pursuant to 205 CMR 153.02 and oversight of the grant program, is directly related to and essential to assisting the host and surrounding communities and any other communities or entities identified in G.L. 23K, § 61 in receiving funds and offsetting costs related to the construction and operation of the gaming establishments. Accordingly, reasonable administrative costs incurred by the Commission on behalf of and in furtherance of the administration of the Fund may be assessed to the Fund.

- (3) The administrative costs shall not exceed 10% of the funds available in the Community Mitigation Fund for the fiscal year. The precise assessment to the Fund shall be set annually by the Commission at a public meeting as part of its budgetary process.
- (4) Reasonable administrative costs which may be assessed to the Fund may include, but not be limited to, Commission staff salaries (in full or on a pro-rata basis), technology, software, and office supplies, provided that any such costs shall be directly related to administration of the Fund.

DRAFT



TO: Chair Judd-Stein, Commissioners Cameron, O'Brien, Stebbins, and Zuniga

FROM: Mark Vander Linden, Director of Research and Responsible Gaming,
Teresa Fiore, Program Manager, Research and Responsible Gaming,
Carrie Torrisi, Associate General Counsel

DATE: October 22, 2020

RE: Proposed revisions to 205 CMR 133, Voluntary Self-Exclusion

The Voluntary Self-Exclusion (VSE) Program provides patrons one means of addressing problem gambling behavior by prohibiting their entrance to the gaming area of the gaming establishment or any area in which pari-mutuel or simulcasting wagers are placed. The requirements of the program are outlined in 205 CMR 133 and G.L. c 23K, § 45(f). To date, over 800 people have enrolled in the program and an additional 165 have removed themselves from the list at the conclusion of their term.

We request that the Commission consider the proposed revisions to the VSE regulation to align the program with the current needs.

133.02(2): Applications shall be submitted ~~on a form in a format~~ approved by the commission.

Rationale: This change will allow the designated agents to conduct remote enrollments.

133.03(3) The course of training shall include, at a minimum, instruction on completion of the application, ~~instruction on maintaining confidentiality of personal protected information~~, information relative to problem gambling and resources, and an understanding of 205 CMR 133.00.

Rationale: This revision emphasizes the importance of designated agents protecting personal information collected during enrollment.

133.02(3): A designated agent ~~is any individual authorized by the commission for the purpose of administering the voluntary self-exclusion program including but not limited to a GameSense advisor; must be a licensed, certified, or registered~~ a health or mental health professional ~~or employee thereof;~~ or an employee of a gaming licensee, the commission, ~~a gaming licensee~~, or other government entity.

Rationale: This revision now expressly includes GameSense Advisors as designated agents. It further broadens the pool of potential designated agents who are authorized to enroll individuals into the VSE



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program by removing a requirement that they are licensed, certified, or registered as a health or mental health professional.

133.03(1) Name, home address, email address, or telephone number, date of birth, and last four digits of social security number of the applicant;

Rationale: These changes were made to reflect the minimum amount of personal information that is required to administer the VSE program, which at times have been a barrier to individuals enrolling into the program.

133.03(2) A passport style photo of the applicant without headwear, unless worn daily for religious purposes and provided that the applicant's facial features are not obscured;

Rationale: While a clear, unobstructed photo is necessary for the enforcement of the regulation, this change is meant to protect persons with headwear worn for religious reasons.

133.03(8): An offer by the commission or the designated agent completing the self-exclusion application to assist the applicant to access information about gambling disorders, self-guided help, peer-support, or counseling services with a clinician approved by the Massachusetts Department of Public Health or otherwise licensed or certified through a process or program approved by the Commission;

Rationale: This change recognizes peer support services, including those offered by the VSE Resource Liaison, and more broadly defines counseling services.

133.03(9) An acknowledgment of understanding by the applicant that by placing their name on the voluntary self-exclusion list the prohibitions identified in 205 CMR 133.02(1) apply to all gaming establishments licensed by the commission in Massachusetts, any affiliates of the gaming licensee, whether within Massachusetts or another jurisdiction, and that the commission may share the list with other domestic or international gaming jurisdictions resulting in placement on those lists and may share such portion of the list with designated agents as may be necessary for the purpose of administering the voluntary self-exclusion program;

133.05(1) The commission shall maintain an up-to-date database of the Voluntary Self-exclusion list. Gaming licensees shall be afforded access to the Voluntary Self-exclusion list. The Voluntary Self-exclusion list may only be accessed by individuals authorized by the commission for the purpose of administering the voluntary self-exclusion program.

Rationale: These changes were made to reflect the need for designated agents who facilitate reinstatement sessions and for gaming licensee staff to have access to the VSE list for the administration of the program.



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133.05(2) The list of Voluntary Self-exclusion is exempt from disclosure under M.G.L. c. 66 and shall not be publicly disclosed by a gaming licensee. However, a gaming licensee may share the list with ~~other gaming licensees in Massachusetts or~~ its affiliates in other jurisdictions for the purpose of assisting in the proper administration of responsible gaming programs operated by affiliated gaming establishments.

Rationale: The MGC provides an up-to-date list to licensees twice per week. Therefore, there is no reason for them to share with one another.



Massachusetts Gaming Commission



SMALL BUSINESS IMPACT STATEMENT

The Massachusetts Gaming Commission (“Commission”) hereby files this Small Business Impact Statement in accordance with G.L. c.30A, §2 relative to the proposed amendment to 205 CMR 133.00: Voluntary Self-Exclusion.

This regulation was developed as part of promulgating regulations governing the operation of gaming establishments in the Commonwealth and is primarily governed by G.L. c.23K, §§2, 4(37) 5. The proposed amendment to 205 CMR 133.00 contains administrative changes that ensure uniformity in the process of managing and maintaining the Voluntary Self-Exclusion list, specify who is deemed a “designated agent” and has access to such list, clarify the application’s contents, and refine the qualification requirements for providers of services offered by the Voluntary Self-Exclusion program.

This amendment applies to a number of individuals and entities that are not small businesses. Accordingly, it is unlikely to have an impact on small businesses. Under G.L. c.30A, §2, the Commission offers the following responses:

1. Estimate of the number of small businesses subject to the proposed amendments to this regulation:

As the amendment applies to individuals and entities that are not small businesses, no small business will be subject to any impact.

2. State the projected reporting, recordkeeping, and other administrative costs required for compliance with the proposed amendments to this regulation:

There are no further projected reporting, recordkeeping, or administrative costs created by these amendments that would affect small businesses.

3. State the appropriateness of performance standards versus design standards:

This amendment imposes a design standard, as it specifies who designated agents are that will have access to the Voluntary Self-Exclusion list.

4. Identify regulations of the promulgating agency, or of another agency or department of the Commonwealth, which may duplicate or conflict with the proposed amendments to this regulation:



Massachusetts Gaming Commission

There are no conflicting regulations in 205 CMR, and the Commission is unaware of any conflicting or duplicating regulations of any other agency or department of the Commonwealth.

5. State whether the proposed amendments to this regulation are likely to deter or encourage the formation of new businesses in the Commonwealth:

This amendment updates the Voluntary Self-Exclusion regulation to conform to best practices within the industry and therefore is not likely to deter or encourage the formation of new businesses in the Commonwealth.

Massachusetts Gaming Commission
By:

Shara Bedard
Paralegal/Legal Division

Dated: _____



Massachusetts Gaming Commission

Regulation Review Checklist

Agency Contacts for This Specific Regulation		
Name	Email	Phone
Carrie Torrisi		
Mark Vander Linden		
Teresa Fiore		
Overview		
CMR Number	205 CMR 133.00	
Regulation Title	Voluntary Self-Exclusion	
& Draft Regulation	& Final Regulation	
Type of Proposed Action		
ü Please check all that apply		
& Retain the regulation in current form.		
& New regulation (Please provide statutory cite requiring regulation):		
& Emergency regulation (Please indicate the date regulation must be adopted):		
& Amended regulation (Please indicate the date regulation was last revised): 5/29/2020		
& Technical correction		
& Other Explain:		

Summary of Proposed Action
The proposed amendment to 205 CMR 133.00 contains administrative changes that ensure uniformity in the process of managing and maintaining the Voluntary Self-Exclusion list, specify who is deemed a “designated agent” and has access to such list, clarify the application’s contents, and refine the qualification requirements for providers of services offered by the Voluntary Self-Exclusion program.
Nature of and Reason for the Proposed Action
The proposed action is to ensure uniformity in the process of managing and maintaining the Voluntary Self-Exclusion list.

Additional Comments or Issues Not Earlier Addressed by this Review

Regulation Review Checklist

Required Attachments	
ü Please check all that apply	
& Redlined version of proposed amendment to regulation, including repeals	& Clean copy of the regulation if it is a new chapter or if there is a recommendation to retain as is
& Text of statute or other legal basis for regulation	
& Small Business Impact Statement (SBIS)	& Amended SBIS

205 CMR: MASSACHUSETTS GAMING COMMISSION

205 CMR 133.00: VOLUNTARY SELF-EXCLUSION

133.01: Scope and Purpose

In accordance with M.G.L. c. 23K, § 45(f), 205 CMR 133.00 shall govern the procedures and protocols relative to the list of self-excluded persons from entering the gaming area of a gaming establishment or any area in which pari-mutuel or simulcasting wagers are placed. The voluntary self-exclusion list shall consist of the names and information relative to those individuals who have complied with the requirement of 205 CMR 133.00 and have been placed on the list by the commission. Placement of one's name on the voluntary self-exclusion list is intended to offer individuals one means to help address problem gambling behavior or deter an individual with family, religious, or other personal concerns from entering the gaming area of a gaming establishment or any area in which pari-mutuel or simulcasting wagers are placed.

For purposes of 205 CMR 133.00, the term 'problem gambler' shall mean an individual who believes their gambling behavior is currently, or may in the future without intervention, cause problems in their life or on the lives of the their family, friends, and/or co-workers.

133.02: Placement on the Self-exclusion List

(1) An individual whose name is placed on the voluntary self-exclusion list shall be prohibited from entering the gaming area of a gaming establishment or any area in which pari-mutuel or simulcasting wagers are placed for the duration of the exclusion period, and shall not collect any winnings or recover any losses resulting from any gaming activity at a gaming establishment. Provided, however, that an employee of a gaming licensee or vendor who is licensed or registered as a key gaming employee, gaming employee, or gaming service employee in accordance with 205 CMR 134.00: Licensing and Registration of Employees, Vendors, Junket Enterprises and Representatives, and Labor Organizations and who is on the voluntary self exclusion list may be in the gaming area of a gaming establishment or an area in which pari-mutuel or simulcasting wagers are placed solely for purposes of performing their job functions.

(2) An individual may request to have their name placed on the voluntary self-exclusion list by completing the application and procedure outlined in 205 CMR 133.02. Applications shall be submitted ~~on a form~~ **in a format** approved by the commission and shall be available on the commission's website and at designated locations on and off the premises of the gaming establishments as determined by the commission.

(3) An application for placement on the voluntary self-exclusion list may only be accepted, and an intake performed, by an available designated agent. An individual may only become a designated agent by successfully completing a course of training approved and administered by the commission or its designee. The course of training shall include, at a minimum, instruction on completion of the application, **instruction on maintaining confidentiality of personal protected**

information, information relative to problem gambling and resources, and an understanding of 205 CMR 133.00. A designated agent is any individual authorized by the commission for the purpose of administering the voluntary self-exclusion program including but not limited to a GameSense advisor; ~~must be a licensed, certified, or registered~~ a health or mental health professional ~~or employee thereof~~; or an employee of a gaming licensee, the commission, a gaming licensee, or other government entity. The commission may refuse to offer training to any individual whose service as a designated agent it determines would be contrary to the aims of 205 CMR 133.00.

(4) Upon submission of an application, a designated agent shall review with the applicant the contents and statements contained in the application, as provided by 205 CMR 133.03. If the application is complete, the designated agent shall sign the application indicating that the review has been performed and the application has been accepted.

(5) A designated agent may not sign an application if (a) any required information is not provided or (b) they are of the belief that the applicant is not capable of understanding the responsibilities and consequences of being placed on the self-exclusion list.

(6) The designated agent shall forward the signed application for voluntary self-exclusion to the commission within 48 hours of completion in a manner directed by the commission.

(7) Upon receipt of an application, the commission, or its designee, shall review it for completeness. If the application meets all requirements of 205 CMR 133.02 the application shall be approved and the individual's name shall be added to the voluntary self-exclusion list. If the application is incomplete, the commission, or its designee, may deny the application and make efforts to contact the applicant advising them of such.

(8) If the gaming licensee utilizes an internal management system to track individuals on the self-exclusion list, they shall update that system at least every 72 hours with names of individuals being added or removed from the self-exclusion list.

(9) The commission, or its designee, shall add to the list of voluntarily self-excluded persons the name of any individual provided from a gaming jurisdiction outside of Massachusetts, with which the commission has entered into an interstate compact, upon a determination that the individual voluntarily requested that their name be added to the list of the referring jurisdiction and that they were notified, either directly or by operation of law, that their name may be placed on similar lists in other jurisdictions.

(10) If the applicant has elected the services identified in 205 CMR 133.03(8) the commission, or its designee, shall contact the designated coordinating organization for the provision of requested services.

133.03: Contents of the Application

The application for voluntary self-exclusion shall require provision of, at a minimum, the following content:

- (1) Name, home address, email address; or telephone number, date of birth, and last four digits of social security number of the applicant;
- (2) A passport style photo of the applicant without headwear, unless worn daily for religious purposes and provided that the applicant's facial features are not obscured;
- (3) A statement from the applicant that one or more of the following apply:
 - (a) they identify as a problem gambler as defined in 205 CMR 133.01;
 - (b) they feel that their gambling behavior is currently causing problems in their life or may, without intervention, cause problems in their life; or
 - (c) there is some other reason why they wish to add their name to the list.
- (4) Election of the duration of the exclusion in accordance with 205 CMR 133.04;
- (5) An acknowledgement by the applicant that the individual will not enter the gaming area of a gaming establishment or any area in which pari-mutuel or simulcasting wagers are placed for the duration of the exclusion period (except as provided by 205 CMR 133.02(1)) and that it is their sole responsibility to refrain from doing so;
- (6) An acknowledgment by the applicant that the individual shall not collect any winnings or recover any losses resulting from any gaming activity at a gaming establishment for the duration of the exclusion period;
- (7) An acknowledgment by the applicant that he or she will forfeit all rewards or points earned through a player reward card program;
- (8) An offer by the commission or the designated agent completing the self-exclusion application to assist the applicant to access information about gambling disorders, self-guided help, peer-support, or counseling services with a clinician approved by the Massachusetts Department of Public Health or otherwise licensed or certified through a process or program approved by the Commission;
- (9) An acknowledgment of understanding by the applicant that by placing their name on the voluntary self-exclusion list the prohibitions identified in 205 CMR 133.02(1) apply to all gaming establishments licensed by the commission in Massachusetts, any affiliates of the gaming licensee, whether within Massachusetts or another jurisdiction, and that the commission may share the list with other domestic or international gaming jurisdictions resulting in placement on those lists and may share such portion of the list with designated agents as may be necessary for the purpose of administering the voluntary self-exclusion program;
- (10) An acknowledgment by the applicant that he or she is submitting the application freely, knowingly, and voluntarily;
- (11) A statement that the individual is not under the influence of a substance or suffering from a health or mental health condition that would impair their ability to make an informed decision;

(12) An acknowledgment by the applicant that if they violate their agreement to refrain from entering a gaming area of a gaming establishment or any area in which pari-mutuel or simulcasting wagers are placed during the exclusion period, the applicant shall notify the commission of such violation within 24 hours of their presence within the gaming area of the gaming establishment or any area in which pari-mutuel or simulcasting wagers are placed; and releasing the Commonwealth of Massachusetts, the commission, the licensee, and all affiliated employees from any claims associated with their breach of the agreement; and

(13) An acknowledgment by the applicant that once their name is placed on the self-exclusion list they may be refused entry and/or ejected from the gaming area of a gaming establishment by the gaming licensee, an agent of the commission, or law enforcement personnel

133.04: Duration of Exclusion and Removal from the List

(1) As part of the request for voluntary self-exclusion, the individual must select the duration for which they wish to be voluntarily excluded. An individual may select any of the following time periods as a minimum length of exclusion:

(a) One year;

(b) Three years;

(c) Five years; or

(d) Lifetime (An individual may only select the lifetime duration if their name has previously appeared on the voluntary self-exclusion list for at least six months.)

(2) An individual on the Voluntary Self-exclusion list may not apply to decrease the duration of exclusion. An individual who is on the list may submit a request to increase the minimum length of exclusion.

(3) Upon expiration of the selected duration of exclusion, individuals may request that their name be removed from the list or petition for exclusion for a new duration. Individuals shall remain on the list after the expiration of the selected duration of exclusion until such time as they submit a petition for removal in accordance with 205 CMR 133.04(4) and it is approved by the commission or its designee.

(4) At any time after the expiration of the selected duration of exclusion, an individual may request that their name be removed from the Voluntary Self-exclusion list by submitting a petition for removal to a designated agent. The petition shall include confirmation from a designated agent that the individual completed a reinstatement session in accordance with 205 CMR 133.04

(5). Any petition for removal received by a designated agent prior to the expiration of the duration of the selected exclusion period shall be denied. The commission shall approve a completed petition for removal. An individual who has selected a lifetime duration in accordance with 205 CMR 133.04(1)(e) may not submit a petition for removal of their name from the list. An incomplete application, including one that fails to demonstrate completion of a reinstatement

session in accordance with 205 CMR 133.04(5), shall be denied until such time as the application is completed. (5) To be eligible for removal from the Voluntary Self-exclusion list, the petitioner shall participate in a reinstatement session with a designated agent. The reinstatement session shall include a review of the risks and responsibilities of gambling, budget setting and a review of problem gambling resources should the petitioner wish to seek them. Upon completion of the reinstatement session, the designated agent shall sign the individual's petition for removal from the list attesting to the fact that the reinstatement session was conducted.

(6) Upon approval of a petition for removal from the Voluntary Self-exclusion list, a written notice of removal from the list shall be forwarded by the commission, or its designee, to each gaming licensee. The petitioner shall be deemed to be removed from the Voluntary Self-exclusion list immediately upon completion of the reinstatement session, at which point the petitioner shall be given a receipt verifying said completion and confirming their removal from the Voluntary Self-exclusion list. A petitioner may be asked to present said confirmation of Voluntary Self-exclusion list removal receipt while gaming for seven days following their reinstatement. Failure to do so may result in administrative difficulties in confirming Voluntary Self-exclusion status during that time-period.

(7) If a petitioner does not meet the eligibility requirements for removal from the list provided in 205 CMR 133.04(4), the petition shall be denied. The petitioner shall be notified of the denial by email or first class mail to the email address or home address provided by the petitioner in the petition. In the event of a denial of a petition, the individual shall remain on the Voluntary Self-exclusion list until such time as the eligibility requirements have been satisfied.

(8) An individual whose name has been removed from the Voluntary Self-exclusion list may reapply for placement on the list at any time by submitting an application in accordance with 205 CMR 133.02.

(9) An individual whose name was added to the Voluntary Self-exclusion list in Massachusetts in accordance with 205 CMR 133.02(9) shall be removed from the list notwithstanding 205 CMR 133.04(4) through (6) upon receipt of written notice from the referring jurisdiction that the individual's name has been removed from that jurisdiction's list.

133.05 Maintenance and Custody of the List

(1) The commission shall maintain an up-to-date database of the Voluntary Self-exclusion list. Gaming licensees shall be afforded access to the Voluntary Self-exclusion list. The Voluntary Self-exclusion list may only be accessed by individuals authorized **by the commission for the purpose of administering the voluntary self-exclusion program. This shall include positions identified** in accordance with the gaming licensee's approved system of internal controls in accordance with 205 CMR 133.00. All information contained in approved applications for voluntary exclusion may be disclosed to a gaming licensee.

(2) The list of Voluntary Self-exclusion is exempt from disclosure under M.G.L. c. 66 and shall not be publicly disclosed by a gaming licensee. However, a gaming licensee may share the list with ~~other gaming licensees in Massachusetts or~~ its affiliates in other jurisdictions for the purpose of assisting in the proper administration of responsible gaming programs operated by affiliated gaming establishments. Additionally, a gaming licensee shall include the names and contact information of individuals on the Voluntary Self-exclusion list in its aggregated no marketing list to be shared with junket enterprises and junket representatives in accordance with 205 CMR 134.06(5)(b) for the purpose of effectuating the intent of the Voluntary Self-exclusion program. Such disclosure shall not be a violation of M.G.L. c. 23K, § 45. (3) The commission may disclose de-identified information from the Self-exclusion list to one or more research entities selected by the commission for the purpose of evaluating the effectiveness and ensuring the proper administration of the Self-exclusion process.

133.06: Responsibilities of the Gaming Licensees

A gaming licensee shall have the following responsibilities relative to the administration of the Voluntary Self-exclusion list:

- (1) A gaming licensee shall eject from or refuse entry into the gaming area of a gaming establishment or any area in which pari-mutuel or simulcasting wagers are placed any individual whose name appears on the Voluntary Self-exclusion list;
- (2) A gaming licensee shall promptly notify the commission, or its designee, if an individual on the Voluntary Self-exclusion list is found in the gaming area of a gaming establishment or any area in which pari-mutuel or simulcasting wagers are placed;
- (3) A gaming licensee shall not market to individuals on the Voluntary Self-exclusion list;
- (4) A gaming licensee shall deny access to complimentary services or items, check cashing privileges, player reward programs, and other similar benefits to persons on the list;
- (5) Individuals on the Voluntary Self-exclusion list shall not be permitted to participate in a cashless wagering system. A gaming licensee shall take steps to ensure that it denies entry into and terminates all access and privileges associated with its cashless wagering program to individuals on the voluntary list of self-excluded persons;
- (6) A gaming licensee shall not extend credit to an individual on the Voluntary Self-exclusion list;
- (7) (a) A gaming licensee shall not pay any winnings derived from gaming to an individual who is prohibited from gaming in a gaming establishment by virtue of having placed their name on the Voluntary Self-exclusion list in accordance with 205 CMR 133.00. Winnings derived from gaming shall include, but not be limited to, such things as proceeds derived from play on a slot machine/electronic gaming device and a wager, or series of wagers, placed at a table game. Where reasonably possible, the gaming licensee shall confiscate from the individual in a lawful manner, or shall notify a commission agent who shall confiscate, or shall refuse to pay any such winnings derived from gaming

or any money or thing of value that the individual has converted or attempted to convert into a wagering instrument whether actually wagered or not. A wagering instrument shall include, but not be limited to, chips, tokens, prizes, non-complimentary pay vouchers, electronic credits on a slot machine/electronic gaming device, and vouchers representing electronic credits/TITO slips. The monetary value of the confiscated winnings and/or wagering instrument shall be paid to the commission for deposit into the Gaming Revenue Fund within 45 days;

(b) If an individual wishes to contest the forfeiture of winnings or things of value, the individual may request a hearing in writing with the commission within 15 days of the date of the forfeiture. The request shall identify the reason why the winnings or things of value should not be forfeited. A hearing shall be conducted in accordance with 205 CMR 101.00: M.G.L. c. 23K Adjudicatory Proceedings to determine whether the subject funds were properly forfeited in accordance with 205 CMR 133.06(7)(a); and

(8) In cooperation with the commission, and where reasonably possible, the gaming licensee shall determine the amount wagered and lost by an individual who is prohibited from gaming. The monetary value of the losses shall be paid to the commission for deposit into the Gaming Revenue Fund within 45 days.

(9) A gaming licensee shall submit a written policy for compliance with the Voluntary Self Exclusion program for commission approval at least 60 days before the gaming establishment opening. The commission shall review the plan for compliance with 205 CMR 133.00. If approved, the plan shall be implemented and followed by the gaming licensee. The plan for compliance with the Voluntary Self-exclusion program shall include, at a minimum, procedures to:

- (a) Prevent employees from permitting an individual on the voluntary exclusion list from engaging in gambling activities at the gaming establishment;
- (b) Identify and remove self-excluded individuals from the gaming area of a gaming establishment or any area in which pari-mutuel or simulcasting wagers are placed;
- (c) Remove individuals on the Self-exclusion list from marketing lists and refrain from sending or transmitting to them any advertisement, promotion, or other direct marketing mailing from the gaming establishment more than 30 days after receiving notice from commission that the individual has been placed on the Voluntary Self-exclusion list;
- (d) Prevent an individual on the voluntary self-exclusion list from having access to credit, cashless wagering program access, or from receiving complimentary services, check-cashing services, junket participation and other benefits from the gaming establishment;
- (e) Ensure the confidentiality of the identity and personal information of the voluntarily self-excluded individual; and
- (f) Training of employees relative to the Voluntary Self-exclusion program to be provided in conjunction with its problem gambling training program.

(10) A gaming licensee shall notify the commission within ten days if an employee or agent fails to exclude or eject from its premises any individual on the list of self-excluded persons, or otherwise fails to perform a responsibility of the gaming establishment identified in 205 CMR 133.06, including any provision of its approved written policy for compliance with the voluntary self-exclusion program.

133.07: Sanctions against a Gaming Licensee

(1) Grounds for Action. A gaming license may be conditioned, suspended, or revoked, and/or the gaming licensee assessed a civil administrative penalty if it is determined that a gaming licensee has:

(a) knowingly or recklessly failed to exclude or eject from its premises any individual placed on the list of Self-excluded persons. Provided, it shall not be deemed a knowing or reckless failure if an individual on the Voluntary Self-exclusion list shielded their identity or otherwise attempted to avoid identification while present at a gaming establishment; or

(b) failed to abide by any provision of 205 CMR 133.00, M.G.L. c. 23K, § 45, the gaming licensee's approved written policy for compliance with the Voluntary self-exclusion program pursuant to 205 CMR 133.06(9), or any law related to the Voluntary Self-exclusion of patrons in a gaming establishment. Provided, a gaming licensee shall be deemed to have marketed to an individual on the self-exclusion list only if marketing materials are sent directly to an address, email address, telephone number, or other contact identified by the individual on their application.

(2) Finding and Decision. If the bureau finds that a gaming licensee has violated a provision of 205 CMR 133.07(1), it may issue a written notice of decision recommending that the commission suspend, revoke, and or condition said gaming licensee. Either in conjunction with or in lieu of such a recommendation, the bureau may issue a written notice assessing a civil administrative penalty upon said licensee. Such notices shall be provided in writing and contain a factual basis and the reasoning in support the decision, including citation to the applicable statute(s) or regulation(s) that supports the decision.

(3) Civil Administrative Penalties. The bureau may assess a civil administrative penalty on a gaming licensee in accordance with M.G.L. c. 23K, § 36 for a violation of 205 CMR 133.07(1).

(4) Review of Decision. A recommendation made by the bureau to the commission that a gaming license be suspended or revoked shall proceed directly to the commission for review in accordance with 205 CMR 101.01: Hearings before the Commission. If the gaming licensee is aggrieved by a decision made by the bureau to assess a civil administrative penalty in accordance with 205 CMR 133.07(2) and (3), it may request review of said decision in accordance with 205 CMR 101.00: M.G.L. c. 23K Adjudicatory Proceedings.

133.08: Collection of Debts

(1) An individual who is prohibited from gaming in a gaming establishment under 205 CMR 133.00 shall not be entitled to recover losses as a result of prohibited gaming based solely on their inclusion on the list.

(2) Nothing in 205 CMR 133.00 shall be construed so as to prohibit a gaming licensee from seeking payment of a debt from an individual whose name is on the Voluntary Self-exclusion list if the debt was accrued by the individual before their name was placed on the list.

DRAFT



MEMORANDUM

TO: Massachusetts Gaming Commission
FROM: Chad Bourque, Financial Analyst
SUBJECT: Local Aid Quarterly Distribution for Q3 CY 2020
DATE: October 13, 2020

In accordance with the Commonwealth of Massachusetts Budget and appropriation 1050-0140, local aid is payable to each city and town within which racing activities are conducted. Amounts are computed at .35 percent times amounts wagered during the quarter ended six months prior to the payment.

- Local aid quarterly payment | September 30, 2020 \$167,562.59

With the Commission's authorization payments will be made to the appropriate cities and towns.

Encl. localaid_q3_cy_2020

Cdb



Massachusetts Gaming Commission

Computation of Local Aid Distributions Qtrr Ending 09/30/2020

	<u>Jan, Feb, March</u>	<u>Local Aid .0035</u>	<u>Payable to City / Town</u>
<u>Plainridge :</u>			
On track	4,936,715		
Exports	0		
Hollywood Bets	863,870		
Total	<u>5,800,585</u>	<u>\$20,302.05</u>	Plainville
<u>Raynham:</u>			
On track	4,739,399		
Total	<u>4,739,399</u>	<u>\$16,587.90</u>	Raynham
<u>Suffolk Downs:</u>			
On track	7,302,639		
Exports	0		
TVG	16,456,799		
Twin Spires	6,930,387		
Xpress Bets	3,486,828		
NYRA Bets	3,052,485		
Total	<u>37,229,138</u>	<u>\$130,301.98</u>	Boston 2/3 Revere 1/3
<u>Wonderland</u>			
On track	105,905		
Total	<u>105,905</u>	<u>\$370.67</u>	Boston 2/3 Revere 1/3
Grand Total	47,875,027	\$167,562.59	

<u>Distributions:</u>		
Town of Plainville	On Plainridge	\$20,302.05
Town of Raynham	On Raynham	\$16,587.90
City of Boston (line 1)	On Suffolk	\$86,868.42
City of Revere (line 1)	On Suffolk	\$43,433.56
City of Boston (line 2)	On Wonderland	\$247.11
City of Revere (line 2)	On Wonderland	\$123.55
Total		<u>\$167,562.59</u>

Payments should be made to the above communities for the amounts indicated.



Massachusetts Gaming Commission

2020 Q1 HANDLES	JAN	FEB	MARCH	TOTALS
PLAINRIDGE ON TRACK	1,941,766	2,177,059	817,890	4,936,715
EXPORTS	-	-	-	-
WINLINE	321,286	306,399	236,185	863,870
TOTALS	2,263,052	2,483,458	1,054,076	5,800,585
RAYNHAM ON TRACK	1,903,438	1,934,112	901,849	4,739,399
TOTALS	1,903,438	1,934,112	901,849	4,739,399
SUFFOLK ON TRACK	2,972,972	3,023,831	1,305,837	7,302,639
EXPORTS	-	-	-	-
TVG	4,505,865	4,733,353	7,217,581	16,456,799
TWS	2,013,049	2,187,124	2,730,215	6,930,387
XPRESS BETS	1,065,811	1,121,313	1,299,704	3,486,828
NYRA	909,705	911,511	1,231,270	3,052,485
TOTALS	11,467,401	11,977,130	13,784,606	37,229,138
WONDERLAND ON TRACK	50,323	40,170	15,412	105,905
TOTALS	50,323	40,170	15,412	105,905
TOTALS	15,684,214	16,434,871	15,755,943	47,875,027

Amounts are computed at .35 percent times amounts wagered during the quarter ended six months prior to the payment.



Massachusetts Gaming Commission



Division of Racing

TO: Cathy Judd-Stein, Chair
Gayle Cameron, Commissioner
Eileen O'Brien, Commissioner
Bruce Stebbins, Commissioner
Enrique Zuniga, Commissioner

FROM: Alexandra Lightbown, Director of Racing

CC: Karen Wells, Executive Director
Todd Grossman, General Counsel

DATE: October 22, 2020

RE: Plainridge Request for Racing Official

Dear Commissioners:

Plainridge Park Casino Director of Racing Steve O'Toole has submitted a request for approval of Paul Verrette for the position of back up Judge. He has already been licensed this year as the Racing Secretary for Plainridge.

Recommendation: That the Commission approve the request of Plainridge Park Casino to approve Paul Verrette as back up Judge, pending satisfactory completion of licensure by the Massachusetts Gaming Commission Division of Racing and satisfactory completion of their background checks by the Massachusetts State Police.



Massachusetts Gaming Commission



PLAINRIDGE PARK
CASINO

October 16, 2020

Alexandra Lightbown
Director of Racing
Massachusetts Gaming Commission
101 Federal St.
Boston, MA 02110

Dear Director Lightbown,

Plainridge Park Casino respectfully requests approval of Paul Verrette as back up Judge for the remainder of the 2020 racing season;

Sincerely,

Steve O'Toole

Steve O'Toole
Director of Racing
Plainridge Park Casino
Plainville Gaming and Redevelopment, LLC



TO: MGC Commissioners

FROM: Joe Delaney
Mary Thurlow

CC: Karen Wells, Executive Director

DATE: October 20, 2021

RE: Draft 2021 Community Mitigation Fund Guidelines

Attached please find a draft of the 2021 Community Mitigation Fund Guidelines. Before beginning any final review of the draft, the MGC seeks input from the general public. The purpose of the draft is to receive substantial recommendations from parties to enable the Commission to evaluate the concepts in this draft.

In addition to a request for comments on the massgaming.com website the Commission is seeking input from the Gaming Policy Advisory subcommittees, governmental agencies, regional planning agencies and the general public.

This draft includes a few key changes from the 2020 Guidelines.

1. Change in name only of the Non-Transportation Planning Grant to Community Planning Grant.
2. Establishes a target award amount of \$6 million for Region A, \$6 million for Region B and \$0.5 million for the Category 2 facility.
3. The Hampden County Sheriff's Department Grant has concluded.
4. Possibility of an emergency reserve for unexpected impacts that arise after the CMF application deadline.
5. Percentage of matching dollars by applicant for Transportation Construction grants, and possibly increasing the maximum value of grants in this category.
6. Termination of the Reserve category of grants for unused funds to be returned into the general Community Mitigation Fund.
7. Rescission of older grants that have not executed a grant or expended funding.



Massachusetts Gaming Commission



Review of Policy Questions discussed by the Local Community Mitigation Advisory Committees and the Subcommittee on Community Mitigation Relative to the 2021 Community Mitigation Fund (“CMF”) Guidelines

1. Should the Commission place an overall limit on grants for the 2021 CMF?

Background: Each year the Commission has placed an overall limit on grants based on the amount of money estimated to be available in the fund at the end of each calendar year.

2020 Results: The Commission authorized no more than \$11.5 million out of the 2020 CMF. The Commission awarded a total of \$6.7 million of new grant funding.

2. Should the Commission continue to place a per grant limit for 2021 CMF awards?

Background: Each year, the Commission has placed a per grant limit on CMF awards, with any of the limits being waivable by the Commission.

2020 Results: The Guidelines set specific limits for grant requests \$500,000 for Specific Impact Grants; \$200,000 for Transportation Planning Grants; \$300,000 for each Region A and B for Workforce Development with incentive payment of up to \$100,000; \$100,000 Non-Transportation Planning and \$200,000 for Tribal Technical Assistance and \$1,000,000 for Transportation Construction Projects. However, the Commission reserved its ability to authorize funding beyond the amounts.

3. Should the Commission continue to place a limit on grants in each gaming region based on the projected tax revenues generated for the CMF by the gaming facility in that region?

Background: For the last two years, the Commission has placed a limit on grants in each region based on the CMF funds generated by each casino. Based on the regional amounts rolled over from 2020, and a preliminary estimate of revenue through December 31, 2020, approximately \$8 million will be available for Region A and \$5 million will be available for Region B. For the Category 2 facility, which does not generate mitigation funds, a cap of \$500,000 has been placed for impacts associated with that facility. This number will be refined before finalizing the guidelines.

2020 Results: The 2020 CMF Guidelines stated that: “[t]he Commission intends to allocate 2020 CMF funding based on need in the regions that reflects the proportion of funds paid into the Community Mitigation Fund from the taxes generated by the MGM Springfield or Encore Boston Harbor facilities. This allocation takes into account mitigation needs outside Region A and Region B and includes a method to utilize unspent allocations.



Massachusetts Gaming Commission

The Commission intends to allocate 2020 CMF funding based on needs in the regions that reflect the proportion of funds paid into the Community Mitigation Fund from the taxes and fine revenue generated by the MGM Springfield and Encore Boston Harbor facilities.¹

For the 2020 year, the Commission plans to allocate the \$11.5 million target spending amount almost equally between the two regions, \$6 million for Region A and \$5 million for Region B, after accounting for grants that will be made for Category 2 impacts. Targeted spending is \$1 million higher in Region A than Region B reflecting the higher amount of funds expected to be generated by Region A in 2019. If the Commission awards \$500,000 for Category 2 impacts in 2020, \$11 million would be available to be split between Region A and Region B (i.e. \$6 million for Region A and \$5 million for Region B). Please note that these Guidelines establish a maximum target of \$500K for Category 2 impacts. In the event that \$500K is not necessary for Category 2 impacts, more target spending would be available for Region A and Region B.

It is the Commission's further intention that any unused funds allocated to each Category 1 Region will be set aside for that Region for a period of three years. After the three-year period, the funds shall be allocated back into a combined general fund for all regions and for Category 2 impacts. Because Encore Boston Harbor opened in 2019, Encore Boston Harbor did not generate any 2018 funds for use in the 2019 program. Therefore, no funds are rolled over into 2020. Approximately \$1.65 million of funds generated by MGM Springfield in 2018 are rolled over into 2020. If these funds are not utilized by 2022, they would be allocated back into the combined general fund for all regions and Category 2 impacts during the 2023 CMF program. It is the intention of the Commission to count any allocated regional balances first toward 2020 spending targets."

4. Should the 2021 CMF continue to be used to support and leverage resources to help residents of the Springfield or Everett areas obtain their high school or work readiness credentials to be eligible for employment? If so, at what level. Should the scope of these grants be limited due to the effects of Covid-19 on the hospitality industry?

Background: The Expanded Gaming Act places a priority on the hiring of the unemployed, underemployed, minority individuals, women and veterans at the gaming facilities. It had been estimated that 21,000 individuals were on wait lists in Massachusetts seeking admission into Adult Basic Education Classes and English Learning language programs, with significant needs for resources in MA Gateway Cities like Springfield and Everett. All casino operational jobs require a high school diploma or equivalency. The 2020 CMF Guidelines did include a specific allocation for funding work readiness programs related to the gaming facilities.

For the past couple of years, the focus of these grants has been on adult basic education in addition to culinary and other hospitality related training programs. Covid-19 has had a

¹ 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.

dramatic effect on the food and beverage and hotel businesses resulting in a glut of unemployed personnel in these areas. Because these workforce grants must target an impact of the casinos, careful consideration needs to be made regarding the scope of the grants.

2020 Results: Workforce grant applications were received for both Region A and Region B. Both of these applications included adult basic education as well as hospitality related training. Once the pandemic hit and the casinos were closed, the Commission decided to only fund the adult basic education portions of these grants, which resulted in a significant lowering of the value of the grants. One workforce program in Region A (totaling \$172,000.00) and one in Region B (totaling \$199,000.00) were awarded.

5. Should the Commission continue to allow funding to pay for a portion of the construction costs of transportation projects? Should the Guidelines require collaboration with MassDOT in transportation planning grants or any construction? Should the statewide target and per project cost be increased?

Background: The 2020 Guidelines for the first time allowed funding for transportation construction projects. The guidelines established a \$3,000,000 statewide target with no project receiving more than \$1,000,000.

2020 Results: MGC received seven applications for transportation construction funds totaling over \$6.25 million. The Commission funded all or a portion of five of these totaling \$3.2 million. MassDOT assisted in the review of these projects.

6. Should the Commission cap the percentage of construction costs that the CMF will fund?

Background: The 2020 Guidelines state that "(t)he Commission anticipates that any CMF assistance provided will only be for a percentage of the costs of any such project and that significant other federal, state, local, private or other funding will be available to pay for the costs of any such project. The 2020 guidelines did not place a hard cap on the percentage of project costs that the CMF would fund.

2020 Results: In the 2020 Grant round, MGC received seven applications for transportation construction projects with the proposed local match ranging from about 90% to 0%. There were two projects that proposed no local match (100% CMF funding). All the projects appeared to have benefits to the community in excess of the mitigation of impacts caused by the casino. Therefore, the CMF review team had a difficult time justifying the expense of some of these projects compared to the casino related impact. The Commission funded five projects and in two of these cases reduced the funding on the project to better align with the mitigation of casino impacts. The maximum funding provided by CMF funds was about 1/3 of the project cost.

7. Should the Commission authorize the use of funds for large transportation projects or economic development projects? If so, what would be the limit per application and per region? Should such grants require a dollar for dollar match (waivable by the Commission)? There are several funding streams for gaming related needs of

communities including, but not limited to, the Community Mitigation Fund and the Gaming Economic Development Fund.

Background: See the language for these two funds attached.

8. Should the Commission consider the creation of an emergency reserve within the Community Mitigation Fund for unknown impacts that arise after February 1, 2021?

Background: The Commission has discussed the possibility of an emergency reserve in the past but has not moved forward with it. Given what has transpired in the last year with respect to Covid-19, this idea has been raised again. If this reserve were to be established it would only be for unexpected impacts that arise after the CMF application deadline of February 1, 2021. If it were to be implemented, we expect that it would be a relatively small amount of money (\$200,000?) that expires each year if not used.

9. Should the Commission continue to authorize partial reimbursement or reimbursement for public safety operational costs as part of the 2021 Guidelines?

Background: The 2020 Guidelines allowed public safety operational costs to be considered under the specific impact category up to a maximum of \$200,000. These funds can only be used to supplement, not supplant, historic funding, and cannot be used to pay for Gaming Enforcement Unit costs.

2020 Results: MGC received four applications for public safety operational funding. Two of these applications were approved, one was approved with a reduced level of funding and one was denied.

10. How should the Commission use the information received from the annual look back studies, traffic studies, housing studies and research studies that have not been conducted by the Commission in any determination of mitigation requests?

Background: Many studies and reports relative to Plainridge Park, MGM Springfield, and Encore Boston Harbor will be completed by the Commission's research team in the near term. More information on the status of the Commission's research can be found at <https://massgaming.com/about/research-agenda/>. In addition to the Commission's research, other research mandated under surrounding community agreements will also soon be completed. Further research mandated under applicable MEPA reviews will also be completed in the near term. Individual communities and entities have also commissioned their own gaming related research.

11. How should the status of Region C and current litigation involving the potential tribal casino impact the 2021 CMF Guidelines?

Background: It may be unlikely that communities in Region C will experience significant construction or operational impacts by February 1, 2021, the statutory CMF deadline. Communities have expressed the need for technical assistance funding to help evaluate potential impacts.

2020 Results: \$200,000 of funding was set aside for use in Fiscal Year 2020 if there is a more clear determination on Region C / Tribal Casino status.

12. Should the Commission require a dollar for dollar match for its CMF grants?

Background: The following are the match requirements for the various CMF categories:

- Specific Impact Grant – No match required
- Non-Transportation Planning – Application must include detail on what the applicant will contribute to the project such as in-kind services etc.
- Transportation Planning Grant – No match required. The CMF will not pay the full cost of any municipal employee. For non-personnel costs, application must include detail on what the applicant will contribute to the project such as in-kind services, etc.
- Transportation Construction Grants – Discussed under No. 6 above.
- Workforce Development Grant – Each governmental entity applying for workforce development funds needs to provide detail on what it will contribute to the project such as in-kind services or workforce development funds.

2020 Results: During the 2020 CMF review process, a number of applications were identified where the benefit to the community seemed to significantly outweigh addressing a casino impact.

13. Should the Commission place a time limit for the use of previously authorized reserves for the 2021 Community Mitigation Fund program?

Background: Some communities have expended some or all of their reserves. In Region A, 9 communities have allocated their entire reserve and 2 have not requested funding. In Region B, currently 6 have allocated their entire reserve, 1 has used a portion and 4 have not requested funding. For Category 2 communities, 3 have allocated their reserve, 2 have used a portion of their reserve and 1 has not requested any funding.

The intent of these reserves was to allow the communities to have funds available to plan for the casino's openings. Considering that the all of the casinos are open, the Commission expected that these funds would have been utilized by this point.

2020 Results: No communities have applied to use their reserves in the 2020 grant round.

14. Should the Commission continue to authorize funding for non-transportation related planning for those communities that have expended their reserves?

Background: In 2017, communities could apply for transportation planning. However, no general planning application (except for uses of reserve funds for planning) was authorized under the Guidelines. In 2018 and 2019, the Commission authorized funding for non-transportation planning. Some communities have fully utilized their reserves and thus cannot use reserves for additional planning.

2020 Results: The Commission awarded three communities Non-transportation Planning Grants totaling \$250,000.00.

15. The Commission determined that communities are not eligible for reimbursement of administrative costs related to the preparation of Community Mitigation Fund applications. Workforce Program applications, due to the nature of the programs, are eligible for such costs.

Background: Administrative costs for all of the grant categories except workforce development are not eligible for reimbursement.

2020 Results: In the 2020 Guidelines, administrative costs were allowed for Workforce Development Programs applications only and were capped at 7.5% of total grant allocation.

16. Should the Commission revisit its guideline regarding grants involving private parties?

Background: The 2020 Guidelines stated that “[p]rivate non-governmental parties may not apply for Community Mitigation Funds.” Any governmental entity seeking funding for mitigation is required to ensure that any planned use of funding is in conformance with the provisions of the Massachusetts Constitution.

17. Should the Commission continue to expressly authorize joint applications by communities?

Background: In 2020 the Commission authorized Joint Transportation Planning and Joint Non-Transportation Planning applications.

2020 Results: During the CMF Review of applications by the Commission, it was requested that a similar incentive program be evaluated for Joint Workforce Development Applications. The Commission mentioned the benefit of one integrated whole workforce development program for each region and creating joint applications may ensure that there is no duplicity in the use of resources. In the 2020 round the transportation, non-transportation planning, and workforce grants could be joint application and receive an incentive payment.

18. Should communities be limited to only one (1) Specific Impact Grant?

Background: The 2020 Guidelines specified that Specific Impact Grants were limited to \$500,000 and specified that only one application was allowed, subject to a waiver. There was no prohibition against requesting funding for multiple areas within the \$500,000 limit.

19. Should the Commission consider additional funding for the Hampden County Sheriff’s Office for lease assistance.

Background: In 2016 the Commission awarded the Hampden County Sheriff’s Department (“HCSD”) funds to offset increased rent for the Western Massachusetts Correctional Alcohol Center (“WMCAC”). In providing assistance, the Commission stated that the amount of assistance shall not exceed \$2,000,000 in total for five years or \$400,000 per fiscal year. A

provision in the grant required HCSD to reapply each year. Each grant application may not exceed \$400,000 per year. Any such lease assistance shall be included in the Region B allocation of funds.

The Hampden County Sheriff's Department has requested that the Commission consider extending this lease assistance.

2020 Results: 2020 was the last of the \$400,000 grants that was established in 2016.

20. Should the Commission look to rescind older grants that have not expended money yet?

Background: Several grants have been awarded since the beginning of the program in which no funds have been expended. These grants tie up some of the capacity of the program.

21. Should communities be allowed to apply to more than one category of grant for the same project?

Background: The Guidelines did not envision applying for a single project under two different categories, but that did happen in 2020. Each of the grant categories has limits placed on the maximum value of the grant, however, all of those limits are waivable by the Commission.

22. Are the same general analysis factors used in 2020 going to be used for 2021 evaluation?

Background: Factors used by the Commission to evaluate grant applications may include but not be limited to:

- Ø A demonstration that the impact is being caused by the proposed gaming facility;
- Ø The significance of the impact to be remedied;
- Ø The potential for the proposed mitigation measure to address the impact;
- Ø The feasibility and reasonableness of the proposed mitigation measure;
- Ø A 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;
- Ø The significance of any matching funds for workforce development pilot program activities or planning efforts, including but not limited to the ability to compete for state or federal workforce, transportation or other funds;
- Ø Any demonstration of regional benefits from a mitigation award;
- Ø A demonstration that other funds from host or surrounding community agreements are not available to fund the proposed mitigation measure;
- Ø 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; and
- Ø The inclusion of a detailed scope, budget, and timetable for each mitigation request.

Supplemental Guidelines Used To Evaluate Workforce Development Applications

- ✓ Does the application develop a workforce development program that seeks to address any claimed impacts?
- ✓ Does the proposal include a program in Region A or Region B that structures intentional connections among adult basic education, occupational training, and post-secondary education programs?
- ✓ Does the proposal seek to assist low-skilled adults in obtaining education and career training to enable them to join the regional labor market?
- ✓ Does the proposal seek to address the anticipated goals of the program (see pages ____ and ____ of these Guidelines)?
- ✓ Will the participants receive industry-recognized or academic credentials needed to work in the most in-demand casino –related occupations within the region?
- ✓ A governmental entity applying for workforce development funds will also need to provide detail on what it will contribute to the workforce development project such as in-kind services or workforce development funds.
- ✓ Is the Applicant collaborating with others to provide a regional approach?
- ✓ Does the Applicant address issues related to a gaming facility?

Background: The factors used in 2021 may need further refinement.

Section 59: Gaming Economic Development Fund

Section 2DDDD. There shall be established and set up on the books of the commonwealth a separate fund to be known as the Gaming Economic Development Fund. The fund shall be credited with revenues transferred to it from the Gaming Revenue Fund established in section 59 of chapter 23K. Amounts credited to the fund shall be expended, subject to appropriation, to support economic development and job growth including, but not limited to: (1) workforce training, including transfers to the Workforce Competitiveness Trust Fund established in section 2WWW of chapter 29; (2) tourism promotion, including regional tourism promotion agencies and cultural and recreational attraction promotion; (3) summer jobs; (4) the Massachusetts marketing partnership established in section 13A of chapter 23A; (5) higher education scholarships; (6) regional economic development initiatives; (7) support for small businesses, including small business lending; (8) green jobs promotion; (9) science, technology, engineering and mathematics career pipeline initiatives; and (10) agricultural development programs, including youth agricultural education.

Section 61: Community Mitigation Fund

Section 61. (a) There shall be established and set up on the books of the commonwealth a separate fund to be known as the Community Mitigation Fund. The fund shall consist of monies transferred under section 59 and all other monies credited or transferred to the fund from any other fund or source.

(b) The commission shall administer the fund and, without further appropriation, shall expend monies in the fund to assist the host community and surrounding communities in offsetting costs related to the construction and operation of a gaming establishment 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, at its discretion, distribute funds to a governmental entity or district other than a single municipality in order to implement a mitigation measure that affects more than 1 municipality; provided, however, that such entity or district shall submit a written request for funding in the same manner as a municipality would be required to submit such a request under subsection (c).

(c) Parties requesting appropriations from the fund shall submit a written request for funding to the commission before February 1 of each year. The commission may hold a public hearing in the region of a gaming establishment to provide parties with the opportunity to provide further information about their request for funds and shall distribute funds to requesting parties based on demonstrated need.



2021 COMMUNITY MITIGATION FUND GUIDELINES

BD-21-1068-1068C-1068L-_____

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21 | COMMUNITY MITIGATION FUND

2021 COMMUNITY MITIGATION FUND GUIDELINES BD-21-1068-1068C-1068L-_____

1.0 Community Mitigation Fund Grant Program

The Expanded Gaming Act created the Community Mitigation Fund (“CMF”) to help communities and other entities offset costs related to the construction and operation of a gaming establishment. For 2021, the following grant categories are available for communities:

- 2015/2016 Reserve Grant;
- Specific Impact Grant;
- Community Planning Grant;
- Transportation Planning Grant;
- Transportation Construction Grant;
- Workforce Development Grant;
- Tribal Gaming Technical Assistance Grant; and
- Emergency Mitigation Grant.

Each of these categories is further described in Section 2.0 of these Guidelines.

1.1 When Is the Application Deadline?

January 31, 2021

1.2 Who Can Apply?

M.G.L. c. 23K, § 61 and the Commission’s regulations identify a range of eligible entities including, but not limited to:

- communities in the vicinity of the gaming establishment including: host and surrounding communities; each community that entered into a nearby community agreement; any community that petitioned to be a surrounding community; and each community that is geographically adjacent to a host community;
- water and sewer districts in the vicinity of a gaming establishment;
- local and regional agencies involved in education, transportation, infrastructure, housing and environmental issues; and
- public safety agencies, including the office of the county district attorney, police, fire, and emergency services.



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The Commission's regulations do not limit use of Community Mitigation Funds to only host or surrounding communities.

Applications involving a mitigation measure impacting only one community shall only be submitted by the authorized representatives of the community itself. Governmental entities within communities such as redevelopment authorities or non-regional school districts shall submit applications through such community rather than submitting applications independent of the community.

Private non-governmental parties may not apply for Community Mitigation Funds. Governmental entities may apply to the Commission for funds to mitigate impacts provided that the funding is used for a "public purpose" and not the direct benefit or maintenance of a private party or private parties. The Commission strongly encourages applicants to ensure that the impacts are directly related to the gaming facility and that the public purpose of such mitigation is readily apparent. The Commission will not fund any applications for assistance for non-governmental entities.

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 governmental entity seeking funding for mitigation is required to ensure that any planned use of funding is in conformity with the provisions of the Massachusetts Constitution and with all applicable laws and regulations, including but not limited to, Municipal Finance Law and public procurement requirements.

1.3 What Cannot Be Funded?

2021 Community Mitigation Fund may not be used for the mitigation of:

- impacts that are projected or predicted but that are not occurring or have not occurred by January 31, 2021;
- impacts that are the responsibility (e.g. contractual, statutory, regulatory) of parties involved in the construction and operation of gaming establishments;
- the cost of the preparation of a grant application;
- requests related to utility outages, such as the mitigation of business interruptions; and
- other impacts determined by the Commission.

Please note that the Commission may determine to expand the eligible uses of funds for the 2021 program or other future programs when impacts are more clearly identifiable. The

Commission will also consult with mitigation advisory committees established in M.G.L. c. 23K in determining such uses.

1.4 How Much Funding Will Be Available?

The Commission has determined a target spending amount of \$12.5 million for fiscal year 2021. If the 2021 target is met, the CMF would still have an estimated unallocated balance of over \$1.7 Million from funds generated by December 31, 2020.

Allocation by Region

The Commission intends to allocate 2021 CMF funding based on the proportion of funds paid into the CMF from the taxes and fines generated by the MGM Springfield and Encore Boston Harbor facilities.² These include revenues generated during calendar year 2020 as well as unspent monies from previous years.

For the 2021 year, the Commission plans to allocate \$12.5 million between the two regions and the Category 2 facility as follows:

- Region A \$6 million
- Region B \$6 million
- Category 2 \$0.5 million

Category 2 grants will be split equally between Region A and Region B. If the \$0.5 million is not necessary for Category 2 grants, more spending would be available for Region A and Region B.

The Commission determined in grant year 2020, that any unused funds allocated to each Category 1 Region will be set aside for that Region for a period of three years. After the three-year period, the funds shall be allocated back into a combined fund for all regions and for Category 2 impacts. It is the intention of the Commission to count any allocated regional balances first toward 2021 spending targets. The following is the status of the unused funds by calendar year:

CMF Funds Rolled Over from Previous Years

	Region A	Region B
2018		\$ 780,618
2019	\$ 1,192,133	\$ 4,126,688
Total	\$ 1,192,133	\$ 4,907,306

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.

1.5 Joint Applications

The Commission continues to support regional approaches to mitigation needs and recognizes that some mitigation requires the commitment of more than one community. The 2021 Guidelines allow multiple communities to submit a joint application. If any of the applicant communities has not expended its 2015/2016 Reserve, the application must detail how the reserves will be allocated between the applicant communities to meet any reserve expenditure requirement. For example, transportation planning grants require that reserves be used prior to the receipt of new planning funds. In the event of a joint application for a \$200,000 planning grant, the joint application shall specify how the applicant communities will allocate/use a total of \$100,000 in reserves between the communities. The application must specify which community will be the fiscal agent for the grant funds. All communities will be held responsible for compliance with the terms contained in the grant.

To further regional cooperation, the applications for Transportation Planning Grants and Community Planning Grants that involve more than one community for the same planning projects may request grant assistance that exceeds the limits specified in these Guidelines. The additional funding may be requested only for the costs of a joint project being proposed by more than one community, not similar projects. Eligible communities may request additional funding for joint projects based on the below table.

	Base Funding	Regional Planning Incentive Award	Total Allowable Request
Community Planning Projects Involving Two (2) Communities	\$100,000 for each community	\$10,000	\$100,000 X <u>2 communities</u> <u>\$200,000+\$10,000=</u> <u>\$210,000</u>
Community Planning Project Involving Three (3) or More Communities	\$100,000 for each community	\$15,000*	\$100,000 X <u>3 communities</u> <u>\$300,000+\$15,000=</u> <u>\$315,000</u>
Transportation Planning Projects Two (2) Communities	\$200,000 for each community	\$25,000	\$200,000 X <u>2 communities</u> <u>\$400,000+\$25,000=</u> <u>\$425,000</u>
Transportation Planning Projects Three (3) or more Communities	\$200,000 for each community	\$50,000*	\$200,000 X <u>3 communities</u> <u>\$600,000+\$50,000=</u> <u>\$650,000</u>

*The maximum Community Planning Regional Incentive is \$15,000 and the maximum Transportation Planning Regional Incentive is \$50,000 regardless of the number of communities participating.

Please note that communities can apply for a portion of the planning grants for single community applications while allocating a portion for joint projects. For example, a community could apply for one \$100,000 base Transportation Planning Grant leaving \$100,000 for a joint application involving another community. In this example the community could be eligible for \$100,000 for the single community project, \$100,000 for a joint project, and a \$25,000 Regional Planning Incentive Award amount shared with a second community.

Applications seeking a Regional Planning Incentive Award amount shall allocate at least fifty percent (50%) of the base funding level towards a joint project. For example, at least \$100,000 of a \$200,000 Transportation Planning Grant seeking an additional Regional Planning Incentive Award amount shall be for the joint project with another community. No community is eligible for more than one Transportation Regional Planning Incentive Award. No community is eligible for more than one Community Regional Planning Incentive Award.

1.6 Limitations/Specific Requirements on Reserve and Planning Applications

The Commission will fund no application for any municipal employee for more than two years. The CMF will not pay the full cost of any municipal employee. The municipality would need to provide the remaining amount of any employee cost and certify that all such expenses are casino related. For non-personnel costs, each community applying for planning funds must also provide detail on what it will contribute to the planning project such as in-kind services or planning funds.

The Commission will evaluate requests for planning 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. Applicants should provide detail regarding consultations with nearby communities to determine the potential for cooperative regional efforts regarding planning activities.

2.0 Grant Categories

The following are the grant categories for the 2021 CMF. Applicants may apply for grants in more than one category; however, any individual project may only be included under one grant category.

2.1 2015/2016 Reserve Grants

In 2015 and 2016, a \$100,000 Reserve was established for communities near the gaming establishments.

Communities may continue to access whatever portion of the original \$100,000 that remains unexpended. This Reserve can be used to cover impacts that either have occurred or are

occurring in 2021. 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; applications will be accepted on a rolling basis. Communities that utilize the Reserve are not prohibited from applying for funding for any specific mitigation request.

There are still several communities that have not fully expended their Reserves. Since these Grants are at least five years old, the Commission urges communities to consider whether there are any casino related impacts that need to be addressed. The Commission will give these communities until the end of Calendar Year 2021 to commit these funds. Any funding not committed to a project by that time will be rolled back into the CMF and allocated equally between the Regions.

There are some special requirements around the use of the Reserve as follows:

- If a community is applying for a Transportation Planning Grant, Reserve funds must be expended before accessing Transportation Planning Grant funds; and
- If a community is applying for a Specific Impact Grant and has Reserve funds available, 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) assuming the specific impact request is at least that amount.

2.2 Specific Impact Grants

Specific impact Grants may be used only to mitigate impacts that either have occurred or are occurring as of the January 31, 2021 application deadline.

No application for a Specific Impact Grant shall exceed \$500,000 unless a waiver has been granted by the Commission as outlined in Section 3 of these Guidelines. No community is eligible for more than one Specific Impact Grant, however, communities may apply for multiple purposes in one application.

The Commission has determined that the funding of unanticipated impacts will be a priority. Thus, the Commission will review funding requests in the context of any host or surrounding community agreement to help determine funding eligibility. The CMF is not intended to fund the mitigation of impacts already being funded in a Host or Surrounding Community Agreement.

Allowable impacts for funding are as follows:

- **Operational Impacts of Gaming Facilities:** The Commission will make funding available to mitigate gaming facility operational impacts that are being experienced or were experienced by the January 31, 2021 application deadline.

Operational impacts include: 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.

- **Public Safety Operational Costs:** Grants for public safety operational costs shall not exceed \$200,000 per community, unless a waiver is granted by the Commission in accordance with the waiver requirements outlined in Section 3. All applications for public safety personnel or other public safety operational costs, including relevant training, must demonstrate that CMF funds will supplement and not supplant historical operations funding. Grant funds shall not be used to pay for Gaming Enforcement Unit personnel or operations costs specified or anticipated in the memoranda of understanding between the Massachusetts State Police and host communities' police departments.

Applicants must include detailed hourly estimates for the costs of any public safety personnel costs. Applicants should include the most relevant information describing historical service or staffing levels ("baseline information") in order to demonstrate that all funds will be used to supplement existing efforts. For example, if a community requests funding for additional staffing for a specific time period, the application should include information about the staffing levels that have been used for that same time period during the license term of the gaming facility. In describing any historical service levels, applicants should identify any time limited or "pilot" type operations which may have a bearing upon any determination of how the baseline service levels should be calculated. Applicants are requested to provide as much detailed baseline information as practicable to help the Commission in its review.

Please note that any 2021 public safety grants shall have a duration of only one year, unless otherwise determined by the Commission. Any grant awards issued in **2021 SHOULD NOT** be considered to provide any guarantee or indication of future funding.

Hampden County Sheriff's Department: In 2016 the Commission awarded the Hampden County Sheriff's Department ("HCSD") funds to offset increased rent for the Western Massachusetts Correctional Alcohol Center ("WMCAC"). In providing assistance, the Commission stated that the amount of assistance shall not exceed \$2,000,000 in total for five years or \$400,000 per fiscal year. Any such lease assistance was included in the Region B allocation of funds. This Specific Impact Grant has now concluded and all funding disbursed. The Hampden County Sheriff's Department may reapply for this assistance.

2.3 **Community Planning Grants**

Community Planning Grants are available for all communities that received Reserve Grants and have already allocated and received Commission approval of the use of its reserve. No application for a Community Planning Grant shall exceed \$100,000. Applications involving transportation planning or design are not eligible for the 2021 Community Planning Grant. Communities requesting transportation planning should instead apply for Transportation Planning Grant funds.

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. The planning project must be clearly related to addressing 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. Each community will also need to provide detail on what it will contribute to the project such as in-kind services or planning funds. Planning projects may include programs created by communities to provide technical assistance and promotion for groups of area businesses.

Communities that utilize this 2021 Community Planning Grant are not prohibited from applying for funding for any specific mitigation request.

2.4 **Transportation Planning Grants**

The Commission will make funding available for certain transportation planning activities for all communities eligible to receive funding from the CMF.

The total funding available for Transportation Planning Grants will likely not exceed \$1,000,000. No application for a Transportation Planning Grant shall exceed \$200,000.

Eligible transportation 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 transportation 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 transportation planning effort prior to funding being awarded.

Communities that received the 2015/2016 Reserve Grant 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 to compete for state or federal transportation funds.

Applicants may, but are not required, to include a description of how the project meets the evaluation standards for the Fiscal Year 2022 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.

2.5 Transportation Construction Grants

The Commission will make funding available for certain transportation construction costs in the 2021 CMF. Since most of these projects will have an ancillary benefit to the community that likely outweighs the mitigation of a casino impact, the Commission anticipates that any CMF assistance provided will only be for a maximum of (25%) of the total project cost, and that significant other federal, state, local, private or other funding will be available to pay for the remaining costs of any such project. The Commission will consider waiving this requirement if the applicant can affirmatively demonstrate that the cost associated with mitigating the impact exceeds the limit.

Applicants are not prohibited from applying for transportation construction funds in future years for a project included in a 2021 application. However, any 2021 transportation construction project may not rely upon contributions from the CMF in future rounds. Applicants should demonstrate that the financing for the project does not depend upon any future year awards by the Commission. Given the likely complexity of any such transportation construction applications, applicants may consult with Commission staff before and during the CMF review on such projects.

The Commission anticipates authorizing no more than \$3,000,000 in grants for Transportation Construction Grants. The Commission does not anticipate authorizing more than \$1,000,000 for any one award. The Commission may adjust all target spending amounts, including the amounts in this section. Applicants may include a request to use funding from previously awarded CMF Reserves in any description of significant other federal, state, local, or private contributions. There is no minimum application amount.

Applicants must demonstrate that the project will begin construction no later than June 30, 2022. In addition to the criteria for determining grants stated later in these Guidelines, the Commission will evaluate a project’s readiness to proceed, the significance of additional funds from other sources, and the potential transportation benefits associated with such projects.

Although the Commission will not authorize any multi-year grants for transportation projects in 2021, the Commission plans to issue request for Statements of Interest in 2021 for transportation construction projects that would require multi-year grants. Such Statement of

Interest would help the Commission determine the needs for multi-year grants in preparation for the 2022 CMF funding round. The Statement of Interest would also be utilized to allow for a greater understanding of projects that may be the subject of a future application.

Applicants may, but are not required, to include a description of how the project meets the evaluation standards for the Fiscal Year 2022 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.

Applicants are strongly encouraged to include a letter of support from the MassDOT with any application.

Transportation Construction Grants are not available for transportation operations costs.

2.6 Workforce Development Grants

The advent of the Covid-19 pandemic in March of 2020 and its impact on the hospitality sector caused the Commission to re-think how workforce grants would be applied. As such, in 2020 the proposals for occupational training in hospitality and culinary were not funded. The Commission did fund portions of the proposals focused on adult basic education programs. Given the uncertainties entering 2021, we encourage applicants to be creative in their grant applications, keeping in mind that training programs must have a direct correlation to impacts from the casino. Applicants must be able to demonstrate that the education and skills training programs proposed are in response to an identified need at the casinos or as a means to provide a sufficient supply of workers to backfill jobs being lost to the casinos. In reviewing these applications, the Commission will need to consider the state of affairs at the time of the review including the condition of the labor market and the general state of the economy.

For fiscal year 2022, the Commission will make available funding for workforce development programs in Regions A and B for service to residents of communities of such Regions. CMF Workforce grant applicants should focus on areas highly impacted by casino operations, while taking into consideration the impacts of the pandemic.

Goals include:

- To mitigate a strain in existing resources and a potential impact to the regional labor market.
- To identify and alleviate gaps and/or challenges regarding equitable access to casino or industry-related jobs.
- 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 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 align and accelerate ABE, GED, and developmental programs and provide nontraditional students the supports they need to complete postsecondary credentials of value in the regional labor market.

The total funding available for workforce grants will likely not exceed \$800,000. The Commission anticipates a base award of no more than \$300,000 in each Region (not including additional funding for regional cooperation significant regional needs). These additional award descriptions are as follows:

- In an effort to promote administrative efficiencies and greater regional cooperation, applicants that demonstrate regional cooperation between a significant number of workforce agencies may be eligible for \$50,000 in additional regional cooperation funding. One grant is anticipated to be considered for each Region.
- The Commission may authorize an award of up to \$100,000 for significant regional needs.

Each governmental entity applying for workforce development funds will also need to provide details on what it will contribute to the workforce development project such as in-kind services or workforce development funds.

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.

Proposals may include programming elements such as gaming school scholarships, culinary, hospitality skills, banking, or general customer service training or vocational programs focused on English language/adult basic education, while taking into consideration the impacts of the pandemic.

A consortium application is required. Eligible workforce development proposals must include a regional consortium approach to improve the skills, knowledge, and credential attainment for Region A and Region B residents interested in a casino or casino-related 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

needed by the regional business community impacted as a result of casino hiring. The proposal must also include regional labor market information and evidence of employer partnerships.

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. The Commission shall evaluate the use of host community agreement funds in evaluating funding requests for workforce development program grant funds. Applicants should consider leveraging other funding resources.

The Commission has determined that administrative costs (including but not limited to all indirect and other administrative funding) shall not exceed 7.5% of the total grant allocation. Administrative costs include activities related to management, oversight, reporting and record keeping, and monitoring of the grant program.

2.7 Tribal Gaming Technical Assistance Grants

The Commission may 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"), 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 2021. Any such application 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.

2.8 Emergency Mitigation Grants

The Commission may make available no more than \$200,000 in grant funds to mitigate unanticipated casino related impacts that arise after the January 31, 2021 application date. Any impact must be newly identified and be of an emergency nature that would cause significant harm to the community if it were not remedied in an expeditious fashion. The intent of this grant is to allow the Commission to be more responsive in addressing significant casino related issues that do not fall within the normal CMF timelines. This grant is not intended to circumvent the normal CMF processes. Any applicant for this grant should contact the Community Affairs Division to discuss the impact and the proper way to proceed.

3.0 Application Requirements

3.1 What Should Be Included in the Applications?

Applicants are required to complete the appropriate grant application:

- 2021 Specific Impact Grant Application;
- 2021 Community Planning Grant Application;
- 2021 Transportation Planning Grant Application;
- 2021 Workforce Development Grant Application;
- 2021 Transportation Construction Grant Application; or
- 2021 Reserve/Tribal Gaming Technical Assistance Grant Application.

Applicants may also submit additional supporting materials of a reasonable length.

Applicants will need to fully identify the impact being caused by the casino and describe how the project request will address any claimed impacts and provide justification of any funds requested.

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.

3.2 How Will the Commission Decide on Applications?

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. Commission Staff may consider information from the report issued by the Lower Mystic Regional Workforce Group in its evaluation of transportation planning grants.

The Commission will evaluate any funding requests in the context of any host or surrounding community agreements. Factors used by the Commission to evaluate grant applications may include but not be limited to:

- A demonstration that the impact is being caused by the gaming facility;
- The significance of the impact to be remedied;
- The potential for the proposed mitigation measure to address the impact;
- The feasibility and reasonableness of the proposed mitigation measure;
- A 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;

- The significance of any matching funds including but not limited to the ability to compete for state or federal workforce, transportation or other funds;
- Any demonstration of regional benefits from a grant award;
- A demonstration that other funds from host or surrounding community agreements are not available to fund the proposed mitigation measure;
- 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; and
- The inclusion of a detailed scope, budget, and timetable for each mitigation request.

Supplemental Guidelines Used to Evaluate Workforce Development Applications

- Does the application develop a workforce development program that seeks to address any claimed impacts?
- Does the proposal include a program in Region A or Region B that structures intentional connections among adult basic education, occupational training, and post-secondary education programs?
- Does the proposal seek to assist low-skilled adults in obtaining education and career training to enable them to join the regional labor market?
- Does the proposal seek to address the anticipated goals of the program (see pages 12 and 13 of these Guidelines)?
- Will the participants receive industry-recognized or academic credentials needed to work in the most in-demand casino-related occupations within the region?
- A governmental entity applying for workforce development funds will also need to provide detail on what it will contribute to the workforce development project such as in-kind services or workforce development funds
- Is the Applicant collaborating with others to provide a regional approach?
- Does the Applicant address issues related to a gaming facility?

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 the Local Community Mitigation Advisory Committees.

The Commission reserves the ability to determine a funding limit above or below what is detailed in these Guidelines. The Commission notes that it plans to target its funding decisions based on the regional allocations described earlier. However, the Commission reserves the right to make determinations that do not strictly adhere or adhere to such targets. In the event the Commission awards are not in such adherence, the Commission may make appropriate adjustments in future guidelines to bring regional allocations into more congruity with such targets.

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.

3.3 When Will the Commission Make Decisions?

The Commission anticipates making funding decisions on any requests for grant assistance before July 2021.

3.4 Authorization to Approve Requests for Changes to Components of Grant Awards

The Commission authorized staff to approve requests for changes to components of grant awards provided that staff provides notice of such changes to all Commission members and provided further that such changes shall not exceed 10% of the grant award or \$10,000, whichever is smaller.

3.5 Waivers and Variances

The Commission may in its discretion waive or grant a variance from any provision or requirement contained in these Guidelines, not specifically required by law, where the Commission finds that:

- a) Granting the waiver or variance is consistent with the purposes of M.G.L. c. 23K;
- b) Granting the waiver or variance will not interfere with the ability of the Commission to fulfill its duties;
- c) Granting the waiver or variance will not adversely affect the public interest; and
- d) Not granting the waiver or variance would cause a substantial hardship to the community, governmental entity, or person requesting the waiver or variance.

All requests for waivers or variances shall be in writing, shall set forth the specific provision of the Guidelines to which a waiver or variance is sought, and shall state the basis for the proposed waiver or variance.

The Commission may grant a waiver or variance, deny a waiver or variance, or grant a waiver or variance subject to such terms, conditions and limitations as the commission may determine.

3.6 Rescission of Grants

If a Grantee does not expend the funds in a timely manner or does so in a manner that is inconsistent with the grant, the Commission may rescind all or a portion of the grant and make those funds available in the next grant round for the Region in which the grant originated. Before any grant is rescinded, Commission staff will notify the Grantee that the expenditures on the grant are not timely and establish a timeline for the Grantee to either expend the funds or have the grant rescinded.

3.7 Who Should be Contacted for Questions?

CMF applicants are encouraged to contact the Commission's staff with any questions or concerns. The Commission's Chief of the Division of Community Affairs, Joseph Delaney, can be reached at (617) 721-9198 or via e-mail at joseph.delaney@massgaming.gov. The Commission's address is 101 Federal Street, 12th Floor, Boston, MA 02110.

3.8 Where Should the Application be Sent?

Applications **must be sent to** www.commbuys.com. An application received by COMMBUYS by January 31, 2021 will meet the application deadline. Applicants that are not part of the COMMBUYS system should contact Mary Thurlow, Program Manager of the Community Mitigation Fund well in advance of the January 31, 2021 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@massgaming.gov.

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.