



NOTICE OF MEETING AND AGENDA

Pursuant to the Massachusetts Open Meeting Law, G.L. c. 30A, §§ 18-25, and Chapter 107 of the Session Acts of 2022, notice is hereby given of a public meeting of the **Massachusetts Gaming Commission**. The meeting will take place:

Thursday | October 20, 2022 | 10:00 a.m.
VIA REMOTE ACCESS: 1-646-741-5292
MEETING ID/ PARTICIPANT CODE: 111 722 8016

Please note that the Commission will conduct this public meeting remotely utilizing collaboration technology. Use of this technology is intended to ensure an adequate, alternative means of public access to the Commission's deliberations for any interested member of the public. If there is any technical problem with the Commission's remote connection, an alternative conference line will be noticed immediately on www.massgaming.com.

All documents and presentations related to this agenda will be available for your review on the morning of the meeting date by visiting our website and clicking on the News header, under the Meeting Archives drop-down.

PUBLIC MEETING - #398

1. Call to Order
2. Approval of the Meeting Minutes
 - a. March 31, 2022 **VOTE**
3. Administrative Update – Karen Wells, Executive Director
 - a. Casino Update –Bruce Band, Assistant Director, IEB and Gaming Agents Divisions Chief
4. Sports Wagering Process Updates- Karen Wells, Executive Director
 - a. Gaming Labs International (GLI) Presentation – Kevin Mullaly, GLI
 - b. Sports Wagering Vendor Regulation, Penalties Analysis – Loretta Lillios, Director of Investigations and Enforcement Bureau; Todd Grossman, General Counsel
 - c. Divisional Updates
5. Community Affairs – Joe Delaney, Chief
 - a. Community Mitigation Fund Draft Guidelines – Mary Thurlow, Senior Program Manager; Lily Wallace; Program Assistant



Massachusetts Gaming Commission

- b. Member Reappointment Request for Gaming Policy Advisory Committee
Community Mitigation Subcommittee - Mary Thurlow, Senior Program
Manager; Lily Wallace; Program Assistant **VOTE**

6. Sports Wagering License Evaluation Process Discussion – Chair Judd-Stein; Commissioners
O’ Brien, Hill, Skinner and Maynard

- a. Draft 205 CMR 218: General Sports Wagering Application Requirements,
Standards, and Procedures; and small business impact statement for initial
review for possible emergency adoption and to begin the promulgation
process. **VOTE**

7. Commissioner Updates

8. Other Business - Reserved for matters the Chair did not reasonably anticipate at the time of
posting.

I certify that this Notice was posted as “Massachusetts Gaming Commission Meeting” at www.massgaming.com
and emailed to regs@sec.state.ma.us. Posted to Website: October 18, 2022 | 10:00 a.m.

October 17, 2022

Cathy Judd-Stein

Cathy Judd-Stein, Chair

*This meeting is open to all interested individuals for viewing.
If there are any questions pertaining to accessibility and/or further assistance is needed, please email
crystal.beauchemin@massgaming.gov.*



Massachusetts Gaming Commission



Massachusetts Gaming Commission

Meeting Minutes

Date/Time: March 31, 2022, 10:00 a.m.
Place: Massachusetts Gaming Commission

VIA CONFERENCE CALL NUMBER: 1-646-741-5292
PARTICIPANT CODE: 111 076 8444

The Commission conducted this public meeting remotely utilizing collaboration technology. Use of this technology was intended to ensure an adequate, alternative means of public access to the Commission's deliberations for any interested member of the public.

Commissioners Present:

Chair Cathy Judd-Stein
Commissioner Gayle Cameron
Commissioner Bradford Hill
Commissioner Eileen O'Brien
Commissioner Nakisha Skinner

1. [Call to Order](#) (00:40)

Chair Judd-Stein called to order the 375th Public Meeting of the Massachusetts Gaming Commission ("Commission"). Roll call attendance was conducted, and all five commissioners were present for the meeting.

2. [Approval of Meeting Minutes](#) (2:00)

Commissioner O'Brien stated that there were five sets of minutes in the Commissioner's packet for review. She explained that the minutes were from meetings prior to Commissioner Hill and Commissioner Skinner's appointments to the Commission. Commissioner O'Brien also stated that the minutes from August 19, 2021, meeting could not be voted upon as a quorum of the Commission was unavailable, given former Commissioner Zuniga's departure from the Commission and Commissioner O'Brien's absence from the meeting. She explained that the minutes would be preserved in draft format, but were presented in order to receive comments and ensure accuracy.

a. May 26, 2021

Commissioner O'Brien moved that the Commission approve the Public Meeting minutes from May 26, 2021, subject to any necessary changes for typographical errors or other non-material matters. The motion was seconded by Commissioner Cameron.

Roll call vote:

Commissioner Cameron: Aye.

Commissioner O'Brien: Aye.

Commissioner Hill: Abstain.

Commissioner Skinner: Abstain.

Chair Judd-Stein: Aye.

The motion passed unanimously 3-0, with two abstentions.

b. July 15, 2021

Commissioner O'Brien moved that the Commission approve the Public Meeting minutes from July 15, 2021, subject to any necessary corrections for typographical errors or other non-material matters. The motion was seconded by Commissioner Cameron.

Roll call vote:

Commissioner Cameron: Aye.

Commissioner O'Brien: Aye.

Commissioner Hill: Abstain.

Commissioner Skinner: Abstain.

Chair Judd-Stein: Aye.

The motion passed unanimously 3-0, with two abstentions.

c. July 29, 2021

Commissioner O'Brien moved that the Commission approve the Public Meeting minutes from July 29, 2021, subject to any needed changes for typographical errors or other non-material matters. The motion was seconded by Commissioner Cameron.

Roll call vote:

Commissioner Cameron: Aye.

Commissioner O'Brien: Aye.

Commissioner Hill: Abstain.

Commissioner Skinner: Abstain.

Chair Judd-Stein: Aye.

The motion passed unanimously 3-0, with two abstentions.

d. August 19, 2021

The Commissioners had no comments regarding the August 19, 2021 minutes as drafted.

e. August 26, 2021

Commissioner O'Brien moved that the Commission approve the Public Meeting minutes from August 26, 2021, also subject to any changes for typographical errors or other non-material matters. The motion was seconded by Commissioner Cameron.

Roll call vote:

Commissioner Cameron: Aye.

Commissioner O'Brien: Aye.

Commissioner Hill: Abstain.

Commissioner Skinner: Abstain.

Chair Judd-Stein: Aye.

The motion passed unanimously 3-0, with two abstentions.

3. [Administrative Update](#) (7:40)

Chair Judd Stein introduced Karen Wells, Executive Director, to present the Administrative Update.

a. On-site Casino Updates

Executive Director Wells introduced Bruce Band, Assistant Director, Gaming Agents Division Chief to present on on-site casino updates. Plainridge Park Casino ("PPC") started live-racing on April 7, 2022. On April 23, 2022, PPC sponsored a comedian, Greg Fitzsimmons. PPC hosted live bands in their lounge on Friday and Saturday nights. On May 7th, 2022, Kentucky Derby Day, PPC will host music and race-betting. Encore Boston Harbor ("EBH") continued their successful sports jacket giveaway promotion. MGM Springfield ("MGM") benefitted local police and fire departments with free meals and bowling at their TAP restaurant location.

b. Recognition of Scott Helwig's Departure

Executive Director Wells and Commissioners recognized the departure of Scott Helwig, the Commission's Gaming Compliance Manager. Ms. Wells introduced Katrina Jagroop-Gomes, Chief Information Officer, who detailed Mr. Helwig's history working for the Commission.

c. Pacesetters Update

Executive Director introduced Crystal Beauchemin, Chief Administrative Officer to the Chair and Special Projects Manager to present the Commission's role in the Pacesetters program. The Boston Chamber of Commerce created Pacesetters and define a Pacesetter as a company using their procurement purchasing power to close the racial wealth gap by intentionally increasing spending with businesses of color. Ms. Beauchemin stated that the Commission signed on with Pacesetters in August of 2021, and that EBH is also a partner with Pacesetters.

The goal of the partnership with Pacesetters is to increase spending with Minority Business Enterprises ("MBEs") over the next five years, and it requires the Commission share one contract opportunity with an MBE per quarter. The Commission is on track to do so. The Commission receives training on supplier and vendor diversity from the Pacesetters program. The Commission has entered the end of the first year in this partnership and has entered the data collection and submission phase.

Commissioner Skinner sought clarification on the commitments required for the Pacesetter program. Special Project Manager Beauchemin explained that the Commission must share one

contract opportunity per quarter with an MBE, and that it can be a vendor the Commission has previously used, provided that the vendor is an MBE. Special Project Manager Beauchemin further explained that there are reporting requirements with the program, to ensure compliance and share that the Commission is committed to the program. Chair Judd-Stein commented that this program implements the Commission's equity, diversity, and inclusion statement of purpose as procurement is one of the five action items.

d. Organizational Chart and Major Policymaking Position Designation

Under M.G.L. Chapter 23K, the Executive Director is required to keep an organizational chart on file with the Secretary of the Commonwealth. Executive Director Wells presented the Commission's updated organizational chart to the Commission. Ms. Beauchemin was given new position, Chief Administrative Officer to the Chair and Special Projects Manager. Maryann Dooley, the Executive Assistant to the Executive Director, had her position modified to include the title of Office Operations Manager. The Commission also hired a new employee, Chief People and Diversity Officer, David Muldrew, as the lead of the HR Division.

Positions designated to be major policymaking decisions within the agency must file a yearly statement of financial interest. General Counsel Todd Grossman stated he would notify those in major policymaking positions that they must file a statement of financial interest.

Chair Judd-Stein noted to those present, that while she will be departing the Commission soon, Commissioner Cameron will file a statement of financial interest for this year. Chair Judd-Stein then asked General Counsel Grossman what the deadline for submission of the statement of financial interest was. General Counsel Grossman replied that the deadline was the first of May every year. Commissioner Skinner commented that the Commissioners would rely on the advice from General Counsel Grossman and Executive Director Wells. The Commissioners agreed that no vote was necessary for this item.

e. Office Lease Discussion

Executive Director Wells stated that the Commission office lease expires at end of next calendar year. Office Operations Manager, Maryann Dooley, and the Chief Finance and Accounting Officer, Derek Lennon, are coordinating efforts in evaluating this issue. Executive Director Wells noted that an issue concerns whether hybrid work will continue, and if the amount of office space needed could potentially be reduced. Executive Director Wells suggested the option of potentially moving locations, with the caveat that there would be additional costs and disruption of work if that occurs.

Commissioner O'Brien requested an evaluation of what the bare minimum space requirements for IT servers and the Investigations and Enforcement Bureau. Executive Director Wells replied that this was an issue on Office Operations Manager Dooley's list of considerations. Commissioner O'Brien inquired whether the Division of Capital Asset Management and Maintenance ("DCAMM") would need to be involved in the decision. CFAO Lennon stated that DCAMM is the leasing agent, as the Commission is a state agency. CFAO Lennon further noted that the current lease does not give a timeline for renewal, only that DCAMM and the landlord

may meet to discuss renewing the lease. On the issue of space, CFAO Lennon remarked that DCAMM calculates an average square footage required per employee type, and that DCAMM would provide the Commission with a recommendation.

Commissioner Hill inquired if consideration was being given to relocating outside of Boston. CFAO Lennon noted that during previous leasing decisions, leaving Boston was considered. He deferred to Commissioner Cameron who was present at those prior meetings, prior to the appointment of her fellow Commissioners. Commissioner Cameron noted that the Commission has changed significantly since those prior discussions, and that all options should be on the table for the benefit of the Commission.

Commissioner O'Brien noted that other agencies had satellite offices. Executive Director Wells responded that satellite offices were considered for the gaming lab, but it raised potential issues with oversight and integration. CFAO Lennon noted that while considerations of satellite offices thus far were limited to the gaming lab, he agreed with Commissioner Cameron that all options were on the table.

Commissioner Hill asked about the potential savings from relocating outside of Boston, and how it may affect employee commutes. CFAO Lennon stated that licensees have raised similar concerns about their commute to Boston during past budget meetings. Commissioner O'Brien highlighted the benefits to a Boston presence, including the ease of access to communicate with the Legislature and the Attorney General's Office. Commissioner O'Brien commented that if public meetings return to being held in-person, that they should be accessible by public transportation. Commissioner Cameron stated that the Cannabis Control Commission moved their main headquarters to Worcester but maintain a Boston satellite office. She added, however, the Cannabis Commission differs from the Gaming Commission in that their jurisdiction is statewide, while the Commission is predominantly based in eastern Massachusetts, given the location of casinos.

Commissioner Skinner requested to discuss the future of work, and whether the agency is remaining hybrid or returning to in-person. Commissioner Skinner noted that no meaningful search for office space could effectively occur without knowing who is expected to be in the office. Commissioner Skinner voiced support for a large enough space to accommodate all staff being present in-office on selected days.

Chair Judd-Stein expressed an interest in returning to an in-person office environment. Chair Judd-Stein suggested that Massachusetts Lottery's approach should also be taken into consideration. She stated that they moved their office from Braintree to Dorchester for increased access to public transportation. Chair Judd-Stein requested a future executive session to talk about leasing in order to preserve strategy considerations. The Commission requested regular reports from Executive Director Wells, and Ms. Dooley regarding this topic.

f. Play My Way Launch at MGM

Executive Director Wells added that the Play My Way program successfully launched at MGM, at the close of problem gambling awareness month. Director of Research and Responsible

Gaming, Mark Vander Linden, was onsite at MGM for the launch. Play My Way is a voluntary budgeting tool used to track how much is spent across games and helped sustain budget and eliminate regret at the casino. Executive Director Wells noted that the casino contributed funds to the Play My Way program.

4. [Business Technical Assistance Grantee Presentation](#) (1:05:23)

Special Projects Manager Beauchemin introduced Amine Benali, Managing Director of Strategy and Development at Local Enterprise Assistance Fund (“LEAF”). LEAF recently executed a \$150,000 contract with the Commission’s procurement team. LEAF also developed and launched a portal aiding and advancing supplier diversity goals across Massachusetts.

LEAF supported potential vendors for licensees with the goal of expanding local MBE, Women Business Enterprise (“WBE”) and Veteran Business Enterprise (“VBE”) suppliers. LEAF worked with MBE, WBE, and VBE business owners to help maintain certifications and developed “Capability Statements,” which reported the businesses’ product, capabilities, and previous institutional buyers. The capability statements were uploaded to LEAF’s pilot program database, where licensees can intuitively search and filter through the statements.

Chair Judd-Stein inquired what the biggest challenge for augmenting the list of businesses would be. Mr. Benali responded that currently LEAF needed to expand to increase its resources and staff. Mr. Benali added that while technology is important, the human interaction, such as gaining the trust of businesses they work with was more integral to the work. Commissioners thanked Mr. Benali for his presentation.

5. [Racing Division](#) (1:41:28)

a. Plainridge Park Racecourse Request for Approval of Racing Officials and Key Operating Personnel

Chair Judd-Stein introduced Dr. Alex Lightbown, Chief Veterinarian and Director of Racing. Dr. Lightbown explained that Plainridge Park Racecourse sought approval of racing officials and key operating personnel from the Commission. She added that all individuals proposed by Plainridge Park were formerly approved by the Commission, except for the presiding Racing Judge Charles Eaton, III, and Clerk of the Course, James Tomaso. She clarified that Eaton and Tommaso hold USTA licenses in their fields, and they have worked at Plainridge before. With that, Dr. Lightbown recommended the approval of racing officials and key operating personnel, pending licensure and completion of their background checks.

Commissioner Cameron moved that in accordance with 205 CMR 3.18, the Commission approve the racing officials as requested and discussed here today subject to licensure by the Commission’s Racing Division. The motion was seconded by Commissioner Hill.

Roll call vote:

Commissioner Cameron: Aye.

Commissioner O'Brien: Aye.

Commissioner Hill: Aye.

Commissioner Skinner: Aye.

Chair Judd-Stein: Aye.

The motion passed unanimously.

b. Plainridge Park Racecourse Request for Waiver of 205 CMR 3.12(7) Qualifying Race Requirement

Dr. Lightbown presents Plainridge Park Racecourse's request for waiver pursuant to 205 CMR 3.12(7). She explained that since 2018, Plainridge Park has requested a waiver of this requirement, extending the time requirement from 30 days to 45 days. Dr. Lightbown stated this waiver would ensure the horses are sound to race and would provide the horse men an additional fifteen days to prepare. Dr. Lightbown recommended the Commission grant this waiver.

Commissioner Cameron commented that previously approving the waiver was a good decision, and that she saw no reason to discontinue the waiver.

Commissioner Hill moved that the Commission waive the requirements set out in 205 CMR 3.12 (7), that all horses not showing a satisfactory racing line during the previous 30 days go a qualifying mile in a race before the judges and change the 30-day period to 45 days for the reasons discussed here today. The motion was seconded by Commissioner O'Brien.

Roll call vote:

Commissioner Cameron: Aye.

Commissioner O'Brien: Aye.

Commissioner Hill: Aye.

Commissioner Skinner: Aye.

Chair Judd-Stein: Aye.

The motion passed unanimously.

c. Racing Annual Report

Dr. Lightbown introduced Financial Analyst Chad Bourque to help present the 2021 Annual Racing Report. Dr. Lightbown reported that Parkridge was able to race a full meet in 2021, and a successful Spirit of Massachusetts Day with a Clara Barton Pace. Dr. Lightbown also remarked that licensing and drug testing rates have returned to similar level to those seen prior to the pandemic. She explained to Commissioners that if a trainer had an adverse drug sample from their horse, they were entitled to split sample, where a sample would be sent off for testing at a lab. Dr. Lightbown added that two requests for a split sample were presented this year, and that both adverse results were confirmed by the split lab. Additionally, she stated that there were no appeals of judging staff decisions in 2021. Dr. Lightbown reported that \$14 million in purses were distributed in 2021. Dr. Lightbown confirmed that she would work with Commissioner Skinner to correct typos she had found in the report.

Mr. Bourque reported the total amount collected in 2021 was \$2,215,932, a 7% increase for the year, and that he hopes to see similar results for 2022. He noted that the handle had increased from \$213 million in 2019, to \$278 million in 2021, a 30% increase. Mr. Bourque added to Commissioners that \$16 million was distributed from the Racehorse Development Fund.

6. Community Affairs Division (2:17:05)

a. Ludlow Reserve Application

Chair Judd-Stein introduced Joe Delaney, Chief of the Community Affairs Division to discuss the reserve application from the Town of Ludlow. Chief Delaney explained that Ludlow is located northeast of Springfield and was designated a “surrounding community” of the gaming establishment in Springfield. In 2015, Ludlow received a \$100,000 reserve grant, and the Commission requested a proposal for fund usage by the end of 2021. In their proposal, Ludlow has requested traffic safety equipment for their police department and training for officers.

Chief Delaney noted that the presence of the Springfield casino has traffic impacts, and the Ludlow Police Department are reasonably be expected to interact with and assist patrons and employees of the casino. Chief Delaney stated that this type of use for these funds is appropriate. Chief Delaney recommended the Commission approve the \$100,000 as outlined in the application, and if approved, staff will execute the necessary grant agreement with Ludlow.

Commissioner Cameron moved that the Commission approve the town of Ludlow’s request to use its \$100,000 of reserve funds to purchase general traffic safety equipment and training for police officers as described in the memo in the Commissioner’s Packet and as discussed here today, and further that Commission staff be authorized to execute a grant instrument commemorating this award in accordance with 205 CMR 153.04. The motion was seconded by Commissioner Skinner.

Roll call vote:

Commissioner Cameron: Aye.

Commissioner O’Brien: Aye.

Commissioner Hill: Aye.

Commissioner Skinner: Aye.

Chair Judd-Stein: Aye.

The motion passed unanimously.

b. Community Mitigation Fund Workforce Development Grants

Chief Delaney presented the 2022 Workforce Applications for the Commission’s consideration. He stated there was one work for application from western Massachusetts from Holyoke Community College and their Work Ready program. The Commission funded Holyoke Community College and their partners Springfield Technical Community College and Springfield Public Schools. The program focused on advancing adult basic education as all employees of MGM and Encore Boston Harbor require a high school diploma or GED. The

Springfield Public Schools culinary program also partnered with MGM to train restaurant employees. Chief Delaney recommended full funding for this program.

An application was also received from the Metro Boston Regional Gaming and Hospitality Consortium in eastern Massachusetts. The applicant is partnered with the City of Boston, Boston Education Skills and Training (BEST), Community Work Services, and the Greater Boston YMCA culinary program. Chief Delaney recommended full \$500,000 funding for this application.

Commissioner Hill inquired, as the Commission has given both entities money in the past, whether the program had been successful in terms of workers engaged in the program being hired at the Casino. Chief Delaney noted that while the program was successful in filling casino jobs, it also backfilled jobs that would be lost to the casino. Ms. Beauchemin noted that this statistic would be part of the program's ongoing report to the Commission, and that she would compile the data once it is received. Chair Judd-Stein expressed interest in having the applicants present at a public meeting to see how COVID impacted their work. Ms. Beauchemin remarked that while site-visits have not occurred due to the pandemic, they are likely to resume soon.

Commissioner Hill moved that the Commission approve the Holyoke Community College's request for \$500,000 from the community mitigation fund to continue the previously funded Work Ready program which is intended to job skill the local workforce and close educational gaps and further, that the Commission staff be authorized to execute a grant instrument commemorating this award in accordance with 205 CMR 153.04. The motion was seconded by Commissioner O'Brien.

Roll call vote:

Commissioner Cameron: Aye.

Commissioner O'Brien: Aye.

Commissioner Hill: Aye.

Commissioner Skinner: Aye.

Chair Judd-Stein: Aye.

The motion passed unanimously.

Commissioner O'Brien moved that the Commission approve MassHire Metro North and the City of Boston's request for \$500,000 from the community mitigation fund to continue the Metro Boston Regional Gaming and Hospitality Consortium grant program which is designed to assist local unemployed and underemployed individuals with an interconnected pipeline of several community partners in greater Boston and further, that the Commission staff be authorized to execute a grant instrument commemorating this award in accordance with 205 CMR 153.04. The motion was seconded by Commissioner Cameron.

Roll call vote:

Commissioner Cameron: Aye.

Commissioner O'Brien: Aye.

Commissioner Hill: Aye.

Commissioner Skinner: Aye.

Chair Judd-Stein: *Aye.*
The motion passed unanimously.

7. [Commissioner Updates](#) (2:39:00)

a. Annual Report Update

Chair Judd-Stein explained to meeting participants that this copy of the Annual Report was not in public meeting packet, so that edits could be made before the final release. Ms. Beauchemin stated that other than some edits for grammar, the report was nearly ready for finalization pending any recommendations from the Commissioners or MGC Staff members. Commissioner Cameron agreed that the report looked excellent. Commissioner Hill echoed her sentiments, and thanked Ms. Beauchemin for implementing his suggestions.

Chair Judd-Stein remarked to General Counsel Grossman that it seemed appropriate to approve the annual report as it was statutorily required. General Counsel Grossman agreed.

Commissioner Skinner stated to her fellow Commissioners that she planned to abstain from the vote.

Commissioner O'Brien moved that the Commission approve the Annual Report of the Commission's activities presented and discussed here today with any agreed upon amendments and further, authorize Commission staff to submit the report to the officials identified in G.L. Chapter 23K, §70. The motion was seconded by Commissioner Cameron.

Roll call vote:

Commissioner Cameron: *Aye.*

Commissioner O'Brien: *Aye.*

Commissioner Hill: *Aye.*

Commissioner Skinner: *Abstain.*

Chair Judd-Stein: *Aye.*

The motion passed unanimously, 4-0 with one abstention.

b. Farewell to Commissioner Gayle Cameron

Chair Judd-Stein noted that today's public meeting marks the departure of Commissioner Cameron. Commissioner Cameron was one of the five original commissioners, and first woman Commissioner and the longest serving Commissioner, attending 375 public meetings. Chair Judd-Stein remarked that Commissioner Cameron helped shape and build the gaming industry in Massachusetts and was instrumental in critical reforms in horse-racing. Chair Judd-Stein noted that she often looked to Commissioner Cameron for insights on past practices and institutional knowledge.

Commissioner O'Brien stated that Commissioner Cameron was the first commissioner to reach out when Commissioner O'Brien first started working for the Commission. Commissioner Hill remarked that Commissioner Cameron's longevity proves dedication and love for the agency. He

also noted that Commissioner Cameron's experience in New Jersey was invaluable in creating a strong commission within the Commonwealth. Commissioner Skinner remarked that she was struck by Commissioner Cameron's patience and kindness, and thanked Commissioner Cameron for her long list of accomplishments in the commission and gaming industry.

Executive Director Wells praised Commissioner Cameron as a leader with loyalty and dedication to people in her office. Ms. Wells complimented Commissioner Cameron for the building of a sustainable public agency while simultaneously implementing expanded gaming law.

Commissioner Cameron commended Chair Judd-Stein's commitment to diversity and equity and inclusion. Commissioner Cameron expressed appreciation for the dedication shown by Commissioner O'Brien and appreciated having her perspective. Commissioner Cameron noted that Commissioner Hill shows great enthusiasm and willingness to learn. Commissioner Cameron noted that she admires Commissioner Skinner's courage and willingness to compete. She extended her gratitude to the incredible staff within the Commission and thanked everyone for their heartfelt comments.

8. [Executive Sessions](#) (3:45:41)

a. Litigation Strategy pursuant to G.L. c. 30A, §21(a)(3) to review *City of Revere, and Mohegan Sun Massachusetts, LLC v. Massachusetts Gaming Commission*

Chair Judd-Stein read into the following into the record "the Commission anticipates it will meet in executive session in accordance with G.L. c. 30A, §21(a)(3) to review the status of and discuss strategy with respect to City of Revere, and Mohegan Sun Massachusetts, LLC v. Massachusetts Gaming Commission as discussion at an open meeting may have a detrimental effect on the litigating position of the Commission"

Commissioner O'Brien moved that the Commission go into executive session for the reasons stated on the record by Chair Judd-Stein. The motion was seconded by Commissioner Cameron.

Roll call vote:

Commissioner Cameron: Aye.

Commissioner O'Brien: Aye.

Commissioner Hill: Aye.

Commissioner Skinner: Aye.

Chair Judd-Stein: Aye.

The motion passed unanimously.

b. Litigation Strategy pursuant to G.L. c. 30A, §21(a)(3) to review *FBT Everett Realty, LLC v. Massachusetts Gaming Commission*

Chair Judd-Stein read the following into the record, "the Commission anticipates it will meet in executive session in accordance with G.L. c. 30A, §21(a)(3) to review the status of and discuss strategy with respect to FBT Everett Realty, LLC v. MGC v. Wynn MA, LLC as discussion at an open meeting may have a detrimental effect on the litigating position of the Commission."

Commissioner O'Brien moved that the Commission go into executive session for the reasons stated on the record by Chair Judd-Stein. The motion was seconded by Commissioner Hill.

Roll call vote:

Commissioner Cameron: Aye.

Commissioner O'Brien: Aye.

Commissioner Hill: Aye.

Commissioner Skinner: Aye.

Chair Judd-Stein: Aye.

The motion passed unanimously.

c. Review of Prior Executive Session Minutes

Chair Judd-Stein read the following into the record, "the Commission anticipates it will meet in executive session for purposes of reviewing and approving draft minutes of previously held executive sessions, as conducting such review in public would contravene the intended purpose of convening the executive sessions."

Commissioner O'Brien moved that the Commission enter executive session for the purposes just delineated relative to executive session minutes. The motion was seconded by Commissioner Hill.

Roll call vote:

Commissioner Cameron: Aye.

Commissioner O'Brien: Aye.

Commissioner Hill: Aye.

Commissioner Skinner: Aye.

Chair Judd-Stein: Aye.

The motion passed unanimously.

Chair Judd-Stein read added that the public session of the Commission meeting would not reconvene at the conclusion of the executive sessions. Chair Judd-Stein said that the executive session would commence after a thirty-minute break for lunch.

List of Documents and Other Items Used

1. Notice of Meeting and Agenda dated March 28, 2022
2. [Commissioners' Packet](#) from the March 31, 2022, meeting (posted on massgaming.com)



TO: Chair Cathy Judd-Stein and Commissioners Eileen O'Brien, Bradford Hill, Nakisha Skinner and Jordan Maynard

FROM: Joe Delaney, Mary Thurlow, Lily Wallace

CC: Karen Wells, Executive Director

DATE: October 4, 2023

RE: 2023 CMF Draft Guidelines

Highlights of the Proposed Draft Guidelines for the 2023 Community Mitigation Fund:

The following memo reflects the changes to the 2023 Draft Guidelines including the expansion of grant categories and increased funding opportunities. If approved these draft Guidelines will be posted for public comment. After the public comment period the draft Guidelines will come back before the Commission for a final vote. If approved, the Guidelines will become the guiding document for all 2023 CMF Applicants and will be publicly posted through COMMBUYS for all eligible entities. Changes to the Guidelines are highlighted in yellow.

I. Grant Budgets by Region

- **Region A** **\$20 million**
- **Region B** **\$7 million**
- **Category 2** **\$1 million**

II. New Categories

A. Gambling Harm Reduction

The Commission seeks to study and mitigate gambling related harms through a new pilot program. The pilot program will provide funding for a limited number of community-engaged research projects. The objective of community-engaged research is to more deeply understand specific negative or unintended impacts of casino gambling at a community level. The specific research topic or question should be developed through a community driven process.

B. Projects of Regional Significance Grant

Projects of Regional Significance are designed to mitigate identified gaming impacts that effect multiple communities. To be considered under this category, the Applicant must demonstrate that the project will have regional benefits. The Applicant must also demonstrate that the project is in the general vicinity of the gaming establishment and will address an identified impact of that establishment.

III. Increase in funding of Grant Categories

In 2022 the CMF increased the caps on Transportation Construction and Workforce Grants. Last year communities vocalized challenges to successfully completing planning projects with the current funding cap. Due to rising cost the CMF Team felt these two categories could use an increase to their caps.

- Community Planning Grants \$200,000 (Previously \$100,000)
- Transportation Planning Grant \$250,000 (Previously \$200,000)

The CMF Team is also proposing an increase the Regional Incentive Award as more outlined in the Guidelines on page 8.

IV. Compliance with EOPSS

Applicants that are applying for radio or other communication equipment that engages with the statewide interoperability system must submit the ICIP (Interoperable Communications Investment Proposal) form and Special Conditions form with their Public Safety Application.



Massachusetts Gaming Commission



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COMMUNITY
MITIGATION
FUND

2023 COMMUNITY MITIGATION FUND GUIDELINES

BD-23-1068-1068C-1068L-_____

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Massachusetts Gaming Commission



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COMMUNITY MITIGATION FUND

2023 COMMUNITY MITIGATION FUND GUIDELINES

BD-23-1068-1068C-1068L-_____

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. The applications are due **January 31, 2023**. The Massachusetts Gaming Commission (“Commission”) anticipates making funding decisions on any requests for grant assistance before July 2023.

The Commission intends to allocate 2023 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.¹ These include revenues generated during calendar year (CY) 2022 as well as unspent monies from previous years.

For Calendar Year 2023, the Commission plans to allocate to the regions up to the following amounts:

- Region A \$20 million
- Region B \$7 million
- Category 2 \$1 million

1.1 Eligibility Requirements

Any governmental entity seeking funding for mitigation is required to ensure that any planned use of funding complies 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.

The Massachusetts Gaming Commission’s regulations identify a range of eligible entities including, but not limited to:

- The host communities and surrounding communities; communities that entered into a nearby community agreement; any communities that petitioned to be a surrounding community; and any communities that are 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; governmental entities within communities such as redevelopment authorities or non-regional school districts must submit applications through a municipal administrator in its service area.

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.



Massachusetts Gaming Commission

- the county district attorney, police, fire, and emergency services.

The Commission will not directly fund any applications for assistance for non-governmental entities. Private non-governmental parties may not apply for Community Mitigation Funds. Governmental entities may apply to the Commission for funds on behalf of a private party to mitigate impacts provided that the funding is used for a “public purpose” and not the direct benefit or maintenance of a private party in line with the State’s “Anti-Aid Amendment”.

The 2023 Guidelines allow multiple communities to submit a joint application to support regional approaches to mitigation needs. Joint Applications will be eligible for a Regional Incentive Award. All communities will be held responsible for compliance with the terms contained in the grant. The application must specify which community will serve as the grant manager.

1.2 Application Requirements

- Applicants are required to fully complete the grant application and select the appropriate category for their project. Applicant’s whose projects exceed the grant category caps may apply for a waiver requesting funds over the funding limits.
- Applicants will identify an impact associated with the casino, describe how the project will address it, and provide justification of any funds requested.
- First priority of funding will be given to projects that mitigate unanticipated impacts.**
- Applicants will need to describe if and how such impacts were addressed or not addressed in any host or surrounding community agreements. Impacts that were addressed under a host or surrounding community agreement are not eligible for funding.
- Applicants should demonstrate that the financing for the project does not depend upon any future year awards by the Commission.
- Applicants may submit additional supporting materials. The application shall be no more than 20 pages in length including the supplemental materials.
- In the budget proposal Applicants must round-up dollar values to the nearest hundred dollars.

File Naming Conventions

Applications submitted must follow the file naming convention specified below. Each file is identified by Entity Name, Year, Type and Project name. The Application should be one PDF with all attachments.

	Description	File Name Assign when creating files
RFR Submission	ENTITY_YEAR_TYPE_PROJECTNAME	EVERETT_22_SI_BROADWAY (limit 20 characters)

TYPE	ABBREVIATION
Community Planning	CP
Public Safety Grant	PS
Transportation Construction	TC
Projects of Regional Significance	RS
Gambling Harm Reduction	HR
Transportation Planning	TP
Workforce Development	WD
Specific Impact	SI

1.3 Ineligible Expenses

The CMF will not fund the mitigation of impacts already being addressed in a Host or Surrounding Community Agreement.

All applications must demonstrate that CMF funds will supplement and not supplant historical operations funding.

2023 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, 2023;
- impacts that are the responsibility (e.g. contractual, statutory, regulatory) of parties involved in the construction and operation of gaming establishments;
- other impacts determined by the Commission; and
- the cost of the preparation and administration of a grant application.

2.0 Grant Categories

The following grant categories are available for 2023:

- Community Planning Grant
- Gambling Harm Reduction **NEW**
- Projects of Regional Significance Grant **NEW**
- Public Safety Grant
- Transportation Planning Grant
- Transportation Construction Grant
- Workforce Development Grant
- Specific Impact Grant

Should an applicant file under the incorrect category, the Commission reserves the right to re-categorize the grant application.

2.1 Community Planning Grants - \$200,000

Community Planning Grants may include programs for:

- providing technical assistance and promotion for groups of area businesses;
- marketing and outreach efforts to identify local opportunities for casino patrons;
- tourism plans to attract casino patrons to nearby attractions;

- and other community planning efforts designed to either take advantage of the proximity to the casino and the large influx of patrons to the area or allow a community to better compete with gaming establishments for customers.

The Application must identify an impact associated with the casino. The proposed planning project must be designed to mitigate the identified impact.

For the purposes of the Community Planning Grant, the Commission has determined that the presence of a gaming establishment likely has some negative impact on local businesses. The Commission also determined that the gaming establishments can provide benefits to local communities and certain businesses. These benefits present opportunities for communities to leverage the presence of casinos, their employees and patrons to: (i) increase business opportunities to provide goods and services; (ii) attract casino patrons to increase tourism; (iii) attract casino employees to live in local communities; (iv) provide economic development opportunities; and (v) other ancillary benefits. The Commission understands that the lack of local funds to pursue these types of efforts hinders communities' ability to take advantage of casino related benefits. These Community Planning Grants are designed, in part, to address these "lost opportunity costs."

Limitations/Requirements on Community Planning Applications

The Commission will not fund applications for any municipal employee for more than two years and 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.

Applicant should provide details about the Applicant's consultation with the Regional Planning Agency (RPA) or any such interested parties. Applicants should provide details regarding consultations with nearby communities to determine the potential for cooperative regional efforts regarding planning activities.

2.2 Public Safety Grants – \$200,000 Operational Costs

Public safety operational grants are intended to supplement existing departmental budgets impacted by the operation of a gaming facility. Eligible entities include Police, Fire, EMS and other public safety agencies. Examples of eligible items could include officer training; overtime of public safety personnel; public safety equipment and/or public safety supplies, and equipment upgrades.

Applicants are requested to provide as much detailed baseline information as practicable to help the Commission in its review. 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. Please 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 must include detailed hourly estimates for the costs of any public safety personnel. For ongoing grant requests the Applicant must demonstrate a continuing impact associated with the gaming facility.

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.

NEW - Interoperability of Communication Equipment Form

Applicants that are applying for radio or other communication equipment that engages with the statewide interoperability system must submit the ICIP (Interoperable Communications Investment Proposal) form and Special Conditions form with their Public Safety Application.

The [Statewide Interoperability Executive Committee](#) ("SIEC") reviews all public safety agency interoperability/communications requests for funding under state grant programs, to confirm that agencies are investing in equipment that is compliant with established state standards, and consistent with the [Statewide Interoperability Communications Plan](#) ("SCIP").

Community Mitigation Grant Applicants are required to submit their proof of ICIP Submission to EOPSS with their Application. The Application will not be reviewed until MGC receives the approved form. The email address is: icb@mass.gov

2.3 Transportation Planning Grants – \$250,000

The transportation planning projects must be clearly related to addressing transportation issues or impacts directly related to the gaming facility. 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. Transportation planning grants are intended to assist communities with gathering data, hiring planning consultants, performing engineering review/surveys, conducting public meetings, preparing final reports, and preparing analysis or design.

Applicants may include a description of how the project meets the evaluation standards for the Fiscal Year 2023 Transportation Improvement Program (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.

The Commission will also consider whether the Applicant demonstrates the potential for such transportation project to compete for state or federal transportation funds.

2.4 Transportation Construction Grants – \$1,500,000

Transportation Construction Grants provide funding for the construction of transportation related improvements. These projects may include roadway capacity enhancements, pedestrian and bicycle improvements, traffic signal improvements or other transportation related projects. Most of these projects will have an ancillary benefit to the community that likely exceeds the mitigation of a casino impact, therefore, the Commission anticipates that any CMF assistance provided will only be for a **maximum of 33% of the total project construction cost**.

Transportation Construction Grants are not available for transportation operations costs. The Transportation Construction Grants do not cover design, those are covered under Transportation Planning. Applicants must demonstrate that the project will begin construction no later than June 30, 2024. Applicants may apply for transportation construction funds in

future years for a project included in a 2023 application. However, any 2023 transportation construction project may not rely upon contributions from the CMF in future rounds.

Applicants must identify an impact attributable to a gaming establishment and must demonstrate that the construction project will mitigate that impact. Applicants may include a description of how the project meets the evaluation standards for the Fiscal Year 2023 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.

2.5 Workforce Development Grants – \$500,000 per Region

CMF Workforce Development Grant Applicants should focus on areas highly impacted by casino operations to mitigate a strain in existing resources and a potential impact to the regional labor market. 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. 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. The Gaming Commission encourages new and innovative program ideas that align with the grant program's intention.

Eligible activities include (but may not be limited to):

- a program that structures intentional connections among adult basic education, occupational training, and post-secondary education programs designed to meet the needs of both adult learners and employers;
- post-secondary vocational programs;
- registered apprenticeships;
- courses leading to college credits or industry-recognized certificates;
- Adult Basic Education ("ABE") and vocationally based English for Speakers of Other Languages ("ESOL") training programs; contextualized learning;
- Integrated Education & Training; and industry-recognized credentials.

A consortium application is required. Eligible workforce development proposals must include a regional consortium approach to improve the skills, knowledge, and credential attainment for residents. The proposal must also include regional labor market information and evidence of employer partnerships.

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. 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.

2.6 Specific Impact Grants – \$500,000

Specific Impact Grant are only for projects that do not fit within the categories of the other CMF Grants. Communities may apply for more than one Specific Impact Grant, but the total of all Specific Impact Grants may not exceed \$500,000 per community.

The community must provide a thorough description of an identified impact of the gaming facility and a proposed mitigation measures to address the impact.

2.7 Projects of Regional Significance

Projects of Regional Significance are designed to mitigate identified gaming impacts that affect multiple communities. To be considered under this category, the Applicant must demonstrate that the project will have regional benefits. The Applicant must also demonstrate that the project is in the general vicinity of the gaming establishment and will address an identified impact of that establishment. For instance, if a large transportation construction project is designed to reduce congestion along a nearby stretch of highway that affects multiple communities, while also mitigating traffic related impacts associated with the gaming establishment, that project would likely be eligible for funding. Eligible projects may include those related to transportation issues, economic development, housing, public health, or other infrastructure needs. For the first year of this program, the Commission will consider this to be a pilot program that will be evaluated for continued use in later years.

The following are eligible communities who may apply for these funds:

Region A- Everett, Boston, Cambridge, Chelsea, Lynn, Malden, Medford, Melrose, Revere, Somerville and Saugus

Region B- Springfield, Agawam, Chicopee, Holyoke, East Longmeadow, Hampden, Longmeadow, Ludlow, Northampton, West Springfield and Wilbraham

State and Local Agencies may also apply for these funds on their own behalf or on behalf of eligible communities as long as the project is within the boundaries of these communities.

Applicants should provide detail regarding consultations with nearby communities to determine the potential for cooperative regional efforts regarding these projects. The application must specify which community will be the fiscal agent for the grant.

Depending on the impact identified and the expected cost of the project, the Commission intends that any CMF assistance provided will only be for a percentage of the costs and that significant other federal, state, local, private or other funding will be available to pay for the costs of any such project. The Commission will cover up to 15% of the total cost capped at \$5 million in Region A and \$3 million in Region B.

Due to the increased level of complexity in these types of projects, any project funded under this category must be under contract for construction by June 30, 2025. Readiness to proceed

will be a key consideration in the evaluation of these applications. Applicants must submit a scope, budget and detailed schedule outlining the key project milestones.

2.8 Gambling Harm Reduction – \$20,000 - \$200,000

The Commission seeks to study and mitigate gambling related harms through a new pilot program. The pilot program will provide funding for a limited number of community-engaged research projects. The objective of community-engaged research is to more deeply understand specific negative or unintended impacts of casino gambling at a community level. The specific research topic or question should be developed through a community driven process. Examples of topics include but are not limited to the relationship of casino gambling with social determinants of health, such as poverty, education, economic development, housing, and employment. Outputs include but are not limited to community assessment, evaluation, community awareness, and community engagement.

If findings derived from the community engaged research project warrant mitigation efforts, recommendations should focus on specific activities and/or measures which may be supported by the Community Mitigation Fund in subsequent funding cycles. Examples of mitigation activities include culturally specific projects to prevent, address, and treat problem gambling. Projects should be contextual to their city, town, and neighborhood, and should highlight unique aspects of the community.

Where demonstrable gambling related harms exist or have been identified in previous research studies, the Applicant may wish to apply for Community Mitigation Funding under the Specific Impact Category. If an Applicant is considering filing under the Specific Impact Category the Applicant should contact the Community Affairs Division to discuss in advance of the submission.

The funding for this grant is for two levels of assistance. Type 1 is for the development or planning of a study or project and Type 2 is for the implementation of a project.

Type 1: \$20,000 community engagement, vision and planning. Applicants may apply to develop a plan to engage the community to identify a casino or gambling related topic or issue which warrants further investigation. The product of this process should be a research strategy which may be considered for Type 2 funding in subsequent funding cycles. We expect these types of grants to be a one-year term.

Type 2: \$200,000 is for Applicants that have a specific research topic and/or question and are prepared to propose a research strategy. For this type of proposal, applicants must organize their proposal in the following order.

1. **Specific Aims:** State concisely the goals of the proposed research. Summarize the gambling related harms and potential impacts that the results of the proposed project will exert on Massachusetts and the research field(s) involved.
2. **Research Strategy**
Provide a detailed research strategy, including the following:
 - **Approach:** Describe the overall strategy, methodology, and analyses to be used to accomplish the specific aims of the project.

- **Significance**: Explain the importance of the topic or question that the proposed project addresses.
 - **Innovation**: Describe any new or novel theoretical concepts, approaches or methodologies to be used.
 - **Protection of Human Subjects**: If applicable, summarize you plan to protect human subjects and obtain IRB approval.
3. **Collaboration and Knowledge of the Community**: Describe the organizations relationship and understanding of the community with whom the study will take place.
4. **Knowledge Translation and Exchange**: Describe how an answer to the question or insight on the topic may mitigate gambling related harms in the community. Identify specific activities and/or measures which may be supported by the Community Mitigation Fund in subsequent funding cycles. Describe a plan to share information with the community and or use it to inform policy or practice.

Some examples of MGC General Research Agenda and Community Engaged Research can be found: <https://massgaming.com/about/research-agenda/> or <https://massgaming.com/about/research-agenda-search/?cat=community-engaged-research>

2.9 Funding Set Aside to Mitigate other Impacts:

The following two Grant categories are for very specific uses. As a result, the Commission has set aside the funds in the event a community needs access to these specific grants.

- **Tribal Gaming Technical Assistance Grants**. The Commission set aside \$200,000 of 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. Such funding will only be made available, after approval of any application by SRPEDD or a comparable regional entity.
- **Emergency Mitigation Grants**. The 2022 Guidelines proposed a \$200,000 set aside to cover newly identified impacts of an emergency nature that would cause significant harm to a 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.

3.0 Waivers and Variances

Applicants may request a waiver of a condition set forth in the application for the Commission's consideration. All requests for waivers or variances shall be submitted with the Application. MGC encourages the use of a waiver to ensure that Applicants are applying in the correct category of grants.

The Commission may in its discretion waive or grant a variance from any provision or requirement contained in these Guidelines 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 adversely affect the public interest; and
- c) Not granting the waiver or variance would cause a substantial hardship to the community, governmental entity, or person requesting the waiver or variance.

The waiver shall set forth the specific provision of the Guidelines to which the waiver or variance is sought. The Waiver Form can be found at: _____ hyperlink. Applicant may contact Mary Thurlow at mary.thurlow@massgaming.gov with any questions.

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.

3.1 Regional Incentive Award

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 Incentive Award	Total Allowable Request
Community Planning Projects Involving Two (2) Communities	\$200,000 for each community	\$20,000	$\$400,000 + \$20,000 = \$420,000$
Community Planning Project Involving Three (3) or More Communities	\$200,000 for each community	\$30,000	$\$600,000 + \$30,000 = \$630,000$
Transportation Planning Projects Two (2) Communities	\$250,000 for each community	\$50,000	$\$500,000 + \$50,000 = \$550,000$
Transportation Planning Projects Three (3) or more Communities	\$250,000 for each community	\$75,000	$\$750,000 + \$75,000 = \$825,000$

The maximum Community Planning Regional Incentive is \$30,000 and the maximum Transportation Planning Regional Incentive is \$75,000 regardless of the number of communities participating. 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.

3.2 How Will the Commission Decide on Applications?

Members of the MGC staff meet weekly over the course of five months to review, analyze and develop recommendations on the applications for the Commission's oversight. 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. Depending on the content of the application Commission Staff may consult with outside agencies with expertise in various

areas to assist the review process. Staff provides detailed memoranda of considerations for the Commissioner's to review in a public meeting.

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.

The Commission 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.

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.
- The inclusion of information detailing diversity in vendor/supplier spending practices relative to Minority Business Enterprises ("MBE"), Veteran's Business Enterprises ("VBE") and Women's Business Enterprises ("WBE").

3.3 Guidelines Used to Evaluate Workforce Development Applications

- Does the application develop a workforce development program that seeks to address any claimed impacts? Is that impact related to an identified needs of the casinos or the existence of the casino?
- Does the proposal include elements of the eligible activities identified? If not, are the included program elements and outcomes applicable to the goals of the grant?"
- Does the proposal seek to address the anticipated goals of the program? Do those goals correlate to the casino/hospitality industry and benefit the surrounding workforce?
- Will the participants receive industry-recognized or academic credentials needed to work in the most in-demand casino-related occupations within the region?

- If the Applicant is a governmental entity applying for workforce development funds, did Applicant 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/consortium approach?

3.4 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 or MGCcommunitymitigationfund@massgaming.gov. The Commission's address is 101 Federal Street, 12th Floor, Boston, MA 02110.

New Procedure for submitting 2023 Community Mitigation Fund Applications

This year the Community Mitigation Fund applications will be sent directly to an email address for the Massachusetts Gaming Commission. Applications must be sent to the MGC email address:

MGCcommunitymitigationfund@massgaming.gov.

When an application is received MGC Staff will send a receipt back to the Applicant acknowledging receipt. Please note that the applications will not be opened for review until after January 31, 2023.

An application received by the Massachusetts Gaming Commission by January 31, 2023 will meet the application deadline. Any Applicant experiencing difficulty in submitting their application should contact the MGC well in advance of the January 31, 2023 deadline to make arrangements for submission of the application by the deadline.

Joseph Delaney	617 721-9198	Joseph.Delaney@massgaming.gov
Mary Thurlow	617 979-8420	Mary.Thurlow@massgaming.gov
Lily Wallace	617 533-9715	Lily.Wallace@massgaming.gov



TO: Chair Cathy Judd-Stein and Commissioners Eileen O'Brien, Bradford Hill, Nakisha Skinner and Jordan Maynard

FROM: Joe Delaney, Mary Thurlow and Lily Wallace

CC: Karen Wells, Executive Director

DATE: October 7, 2022

RE: Reappointment of Richard Sullivan as Region B Regional Economic Development Representative

Pursuant to M.G.L. c. 23K, Section 68, the Commission is required to make appointments to several committees under the Gaming Policy Advisory Committee ("GPAC"). This appointment is for the Regional Economic Development Representative on the Region B Local Community Mitigation Advisory Committee ("LCMAC").

Richard Sullivan has served in this role for the last several years and has expressed interest in continuing to serve on the Region B LCMAC. Mr. Sullivan was the chair of the Region B LCMAC for the last year and has provided valuable input on a range of topics that affect Region B. We recommend that the Commission re-appoint Mr. Sullivan for this position.

MGC staff is pleased to present for your consideration Mr. Sullivan's summary of experience and expertise.

Richard K. Sullivan, Jr. – Region B LCMAC – Regional Economic Development Organization

Richard K. Sullivan, Jr. is the President & Chief Executive Officer of the Economic Development Council of Western Massachusetts, a private non-profit corporation that provides resources and information to businesses operating in or entering the region by aiding in expansion, relocation and networking.

Before he became President & CEO of the EDC he was Governor Deval Patrick's Chief of Staff and worked with all members of the Cabinet to advance the Administration's agenda.

Prior to being named Patrick's Chief of Staff, Rick served as Secretary of the Executive Office of Energy and Environmental Affairs, overseeing the Commonwealth's six environmental, natural resource and energy regulatory agencies: the Departments of Environmental Protection, Public Utilities, Energy Resources, Conservation & Recreation, Agriculture, and Fish & Game. He also served as Chairman of the Massachusetts Water Resources Authority, the Energy Facilities Siting Board, and the Massachusetts Clean Energy Center.



Massachusetts Gaming Commission

101 Federal Street, 23rd Floor, Boston, Massachusetts 02110 | TEL 617.979.8400 | FAX 617.725.0258 | www.massgaming.com

Under his leadership, Massachusetts is the first state in the nation to combine energy and environmental agencies under one Cabinet secretary with the shared mission of bringing clean energy technology to market, curbing greenhouse gas emissions and cutting energy costs. Governor Patrick's land conservation initiative is the largest in the Commonwealth's history, with protection of more than 75,000 acres of land from 2007 to 2010.

Prior to his appointment to the cabinet post at Energy and Environmental Affairs, Secretary Sullivan served as the commissioner of the Department of Conservation and Recreation (DCR). Appointed in June 2007, he ushered in a new era of transparency and accountability at DCR, with posted maintenance schedules for DCR properties and public meetings for all significant DCR initiatives and policies. Under his leadership, DCR completed several large-scale capital improvements in parks statewide, including a two-year, \$21.3 million project at Mt. Greylock State Reservation in Lanes borough that featured rehabilitation of the 13.5-mile Mt. Greylock Road, and a \$9 million renovation of the visitor center at Georges Island in Boston, a facility that includes a concession area, children's playground and a state-of-the-art solar-powered maintenance building. DCR also conducted a Forest Futures Visioning Process to engage residents across the Commonwealth in a discussion of forestry practices in state forests, leading to dramatic expansion of forest reserves that are protected from commercial logging.

Secretary Sullivan served as the mayor of Westfield from 1994 to 2007 and, in that capacity, chairman of the Westfield School Committee. In 2005, Sullivan was recognized by the New England Association of School Superintendents with its annual President Award for Exemplary Contributions to Education.

He is a past president of the Massachusetts Mayors Association, past chairman of the Turnpike Advisory Board, and a past member of the Governor's Local Advisory Committee. He also served as founding president of the Winding River Land Conservancy, which has protected 1,700 acres in western Hampden County.

Sullivan graduated from Westfield High School and holds degrees from Bates College, and Western New England School of Law.



TO: Cathy Judd-Stein, Chair
Eileen O'Brien, Commissioner
Brad Hill, Commissioner
Nakisha Skinner, Commissioner
Jordan Maynard, Commissioner

FROM: Todd Grossman, General Counsel
Mina S. Makarious, Anderson & Krieger LLP
Paul Kominers, Anderson & Krieger LLP
Lon F. Povich, Anderson & Krieger, LLP

DATE: October 17, 2022

RE: 205 CMR 218: Sports Wagering Operator Application Regulation

Enclosed for the Commission's review is a proposed 205 CMR 218.00, governing the application process for Sports Wagering Operators. The enclosed 205 CMR 218.00 reflects the Commission's input on an earlier draft of these regulations at its October 12, 2022 meeting.

The proposed 205 CMR 218 is modeled on 205 CMR 118 and 119, which together covered the "RFA-2" process for gaming establishment licensing under G.L. c. 23K. The key distinction between 205 CMR 118 and 119 and 205 CMR 218 is that, consistent with the Commission's input, the sports wagering license process will proceed in one phase, without separating out suitability review into a gating "RFA-1" phase.

The proposed 205 CMR 218 largely proceeds chronologically through the application process and consists of the following sections:

- **218.01** contemplates a pre-application consultation process. In accordance with feedback at the October 12 Commission meeting, there is also language included contemplating other methods of disseminating information to applicants such as publishing questions and answers, or information sessions.
- **218.02** sets out the basic application requirements for all Applicants and refers back to 205 CMR 211, previously adopted by the Commission. It provides that the Commission may choose to review applications received only after an applicable application deadline has passed (as has been discussed with respect to Category 3 license applications) or on a rolling basis (which may be appropriate for other categories of applications). It also makes clear that Applicants must comply with deadlines while preserving flexibility for the Commission to allow an extension of time in the manner provided in 205 CMR 211.



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- **218.03** mirrors 118.03 and provides for a purely administrative review of an application to make sure all required questions have been answered. This provision makes clear that review for completeness is in no way intended to substitute for the Commission’s review of the merits of an application.
- **218.04** governs the initial procedures for the Commission’s review of applications, including giving the Commission the option of referring further study of an application to the Bureau, Commission staff, or consultants. However, as the subsequent sections make clear, the Commission would retain its review authority and only receive recommendations, not final findings, from these entities.
- **218.05** provides a simplified provision to permit the holding of public meetings regarding applications.
- **218.06** governs how the Commission will actually review applications, providing flexibility in process (e.g., preserving the ability to utilize weighted or unweighted scoring, hear applicant presentations, request further information, etc.). It also identifies the Commission’s stated criteria for evaluation, consistent with the Commission’s approved application forms.

In recognition of the potential “competitive” process for untethered Category 3 licenses, 218.06(6) allows for a comparative evaluation of applications, not simply an application-by-application consideration. It also provides for a potential competitive process for untethered Category 3 licenses, including the potential for multiple rounds of review. We are recommending that the Commission preserve maximum flexibility in this process, as explained at the Commission’s October 12 meeting.

- **218.07** provides the determinations the Commission may make with respect to each application. Because the current drafts of 205 CMR 215 (governing suitability) and 219 (governing temporary licensing) contemplate the possibility of temporary licensing prior to the completion of a full suitability review, 205 CMR 218.07 provides the Commission the option to make a preliminary suitability finding which would enable the applicant to request a temporary license.
- **218.08** sets out a few general provisions governing the application process including a requirement that the Commission issue a written decision with respect to each successful application, including specific findings of fact, and noting any conditions of licensure imposed under 205 CMR 220. It also provides that the award of a license is to be deemed to happen immediately upon the Commission’s decision *unless the Commission* specifies otherwise. This is intended to trigger the Commission’s ability to require

payment of licensing fees and capital investments under G.L. c. 23N, but preserve flexibility for unique circumstances.

205 CMR 218: GENERAL SPORTS WAGERING APPLICATION REQUIREMENTS, STANDARDS, AND PROCEDURES

- 218.01 Pre-application Consultation
- 218.02 Application Requirements
- 218.03 Administrative Completeness Review
- 218.04 Review Procedures
- 218.05 Public ~~Hearings~~ Meetings Regarding Sports Wagering Applications
- 218.06** License Determinations
- ~~218.07 Administrative Proceedings – Legislative Not Adjudicatory~~
- ~~218.08~~ Evaluation of the Application by the Commission
- ~~218.07~~ Sports Wagering License Determinations
- ~~218.08~~ Provisions Applicable to All Sports Wagering Licensing Determinations

218.01 Pre-application Consultation

The Commission or its designees may conduct one or more consultation meetings or information sessions with Sports Wagering License Applicants to provide guidance on application procedures, including the requirements of this 205 CMR ~~118.00-218.00~~. In addition, the Commission may use other methods to respond to inquiries regarding the application process, such as publishing responses to questions submitted by Applicants.

218.02 Application Requirements

- ~~(1)~~ In accordance with 205 CMR 211.00, aA Sports Wagering License Application must be filed on or before any applicable deadline established by the Commission, if any, and pursuant to the any instructions and process posted by the Commission on its website and/or in the application.
 - ~~(a)~~ The Commission may establish different deadlines for applications for different categories or groups of sports wagering licenses.
 - ~~(b)~~ After an application deadline for any category or group of applicants has passed, the Commission may establish a new application deadline for such applications.
 - ~~(+)(c)~~ For any application submitted after a given deadline has passed, the Commission may decline to take any action or particular actions on that application until it has made determinations in accordance with 205 CMR 218.08 on all applications of the same category received by the prior deadline.
- (2) The Commission shall have no obligation to accept or review an incomplete application submitted by an established deadline or an application submitted after an established deadline except where permitted pursuant to 205 CMR 211.01(~~8~~10) and ~~this~~ 205 CMR 218.03(b).

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218.03 Administrative Completeness Review

- (1) The Executive Director or their designee will ~~conduct an administrative completeness~~ review of each Sports Wagering License Application for administrative completeness, as described in 205 CMR 218.03(2), and will send either a positive determination of administrative completeness or a negative determination of administrative completeness to the Applicant and to the Commission.
- (a) Upon the issuance of a positive determination of administrative completeness, the Applicant may proceed to further review under 205 CMR 218.
- (b) Upon issuance of a negative determination of administrative completeness, the Executive Director or their designee will notify the Applicant of the negative determination by email and the application shall not proceed to further review, provided that:
 - (i) If the deadline established by the Commission under 205 CMR 218.02(1) has not passed, or if the Commission did not establish a deadline under 205 CMR 218.02(1), the Executive Director may allow the Applicant to cure the deficiency.
 - (ii) If the deadline established by the Commission under 205 CMR 218.02(1) has passed, the Applicant may request an extension in accordance with 205 CMR 211.01(410).
- (2) A positive determination of administrative completeness shall not constitute a finding with respect to the technical suitability, adequacy or accuracy of the information submitted, and shall not bar a request for further information by the Commission, the Bureau or their agents and employees with respect to the application.

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218.04 Review Procedures

- (1) Upon a determination that a Sports Wagering License Application is administratively complete, the Commission will review the merits of the request. In doing so, the Commission may, at such times and in such order as the Commission deems appropriate, take some or all of the following actions:
 - (a) Refer the application, or any parts thereof, for advice and recommendations, to any or all of the following:
 - (i) The Executive Director;
 - (ii) The Bureau;

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- (iii) Any office, agency, board, council, commission, authority, department, instrumentality or division of the commonwealth;
 - (iv) Commission staff; and
 - (v) Any consultant retained by the Commission to aid in the review of the application;
- (b) Retain, or authorize the Executive Director or the Executive Director's designee to retain, using the initial licensing fee application fee and investigation reimbursements described in 205 CMR 214.00, such professional consultants (including without limitation financial and accounting experts, legal experts, Sports Wagering experts, contractor investigators, and other qualified professionals) as the Commission in its discretion deems necessary and appropriate to review the request and make recommendations; and
- (c) Require or permit in the Commission's discretion, the Applicant to provide additional information and documents.

218.05 Public Hearings

(2) For each administratively complete Meetings Regarding Sports Wagering License Application, the commission may conduct a public hearing on the application at an open meeting of the commission pursuant to M.G.L. c. 30A, § 20. The commission will send written notice of the public hearing to the Applicant and, if the application is for a Category 1 Sports Wagering License to the city or town clerk of each host community as defined in G.L. c. 23K, at least 30 days before the public hearing. The Commission will post the notice of the public hearing on its website. Applications

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- (1) The chair Commission may conduct one or his or her designee shall preside over the more meetings to:
- (a) receive public hearing. The feedback on sports wagering license applications;
 - (b) allow any Applicant shall attend the public hearing, may to make a presentation; and
 - (c) allow any Applicant to respond to questions or public comments as directed by the chair or his or her designee. If the application is for a Category 1 Sports Wagering License or Category 2 Sports Wagering license. Others may attend the public hearing and may make a presentation in the discretion of the commission. Prior to the hearing their designee.

(3)(2) Prior to any meeting held in accordance with this 205 CMR 218.05, the commission will prescribe the manner in which it will receive comments from members of the public. The chair or their designee shall preside over the meeting.

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~~(4) For each application, the Commission may in its discretion complete the public hearing in one meeting or continue the public hearing over two or more meetings. If the Commission adjourns the public hearing, the Commission will provide notice of the continued hearing either:~~

~~(a) by announcing before adjourning the date, time and place of the continued public hearing and thereafter posting notice of the continued public hearing on the Commission's website; or~~

~~(b) by sending and posting notice in the manner prescribed in 205 CMR 218.05(1).~~

218.06

~~License Determinations~~

~~(5) Applications for Category 1, Category 2, and Tethered Category 3 licenses. For each Sports Wagering License Application, not sooner than 30 days nor later than 90 days after the Commission votes to close the public hearing on the application, the Commission shall take action on the application. After evaluating the application in accordance with 205 CMR 218.08(2), the commission may:~~

~~(i) Grant the application with appropriate conditions in accordance with M.G.L. c. 23N and 205 CMR;~~

~~(ii) Deny the application for any of the reasons set out in M.G.L. c. 23N §§ 6(e), 9, or in 205 CMR; or~~

~~(iii) Extend the period for issuing a decision in order to obtain any additional information deemed necessary by the Commission for a complete evaluation of the application.~~

~~(6) Applications for Untethered Category 3 licenses. For all applications for Untethered Category 3 Licenses, not sooner than 30 days nor later than 90 days after the Commission votes to close the public hearing on the last application received by the deadline established under 205 CMR 218.02(1), the Commission shall take action on each application after evaluating the applications in accordance with 205 CMR 218.08(3). For each application, the Commission may:~~

~~(i) Grant the application with appropriate conditions in accordance with M.G.L. c. 23N and 205 CMR;~~

~~(ii) Deny the application for any of the reasons set out in M.G.L. c. 23N §§ 6(e), 9, or in 205 CMR; or~~

~~(iii) Extend the period for issuing a decision in order to obtain any additional information deemed necessary by the Commission for a complete evaluation of the application or to conduct a process for~~

selection of Untethered Category 3 Licenses in accordance with 205-CMR-218.08(C).

~~(7) General provisions~~

- ~~(a) Upon granting an application, the Commission shall prepare and file its decision, and shall issue a statement of the reasons for the grant, including specific findings of fact.~~
- ~~(b) Upon denial of an application, the Commission shall prepare and file its decision and, if requested by the Applicant, shall further prepare and file a statement of the reasons for the denial, including specific findings of fact.~~
- ~~(c) For purposes of 205-CMR and M.G.L. c. 23N, notwithstanding any license conditions, the award of a Sports Wagering License shall be deemed to have occurred immediately upon a majority vote by the Commission to issue the license.~~

~~218.07 Administrative Proceedings—Legislative Not Adjudicatory~~

- ~~(8) The Commission's proceedings pursuant to 205-CMR-218 are administrative and legislative in nature, not adjudicatory.~~
- ~~(9) Each Applicant must present all information required by the Commission for a Sports Wagering License Application truthfully, fully and under oath; however, unless otherwise required by the Commission, administrative proceedings pursuant to 205-CMR-218 shall:~~
 - ~~(a) involve public hearings that are not adversarial in nature;~~
 - ~~(b) involve no specific charges, legal right or privilege;~~
 - ~~(c) provide no opportunity for cross-examination of witnesses under oath in a hearing;~~
 - ~~(d) afford the opportunity for public comments including unsworn statements and letters of support, opposition or concern by persons advocating for or against the application; and~~
 - ~~(e) involve a final decision to grant or deny a gaming license that rests at all times within the discretion of the Commission.~~

~~218.08 Evaluation of the Application by the Commission~~

~~(10) General Provisions~~

- ~~(a)(1) Once a submitted Sports Wagering License Application is deemed administratively complete, the Commission shall commence a substantive~~

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evaluation of its contents. The Commission may utilize any technical assistance it deems necessary to aid in its review.

~~(b)(2)~~ The Commission shall analyze the factors and considerations set out in 205 CMR 218.08(206(5)) and ~~205 CMR-218.08(306(6))~~ in no particular order, and giving any particular weights, or no weight, to any factor.

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~~(e)(3)~~ In reviewing any application, the Commission may also utilize any of the following methods, without limitation:

~~(i)(a)~~ Public ~~hearings~~meetings and presentations; or

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~~(ii)(b)~~ Requests for additional information, modified proposals or applications from Applicants, including requesting the ~~Applicant's~~Applicants' "best and final" proposals.

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~~(4)~~ The Commission shall deliberate on license applications in a public meeting, and shall not be required to use the procedures set out in 205 CMR 101.00.

~~(11)(5)~~ In determining whether any Applicant will be awarded a Sports Wagering License or Temporary License, the Commission will evaluate the Sports Wagering License Application to determine ~~whether a license award would benefit the Commonwealth, and consider the following factors:~~

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(a) The Applicant's experience and expertise related to Sports Wagering, including:

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~~(i)~~ The Applicant's background in Sports Wagering;

~~(ii)~~ The Applicant's experience and licensure in other jurisdictions with Sports Wagering;

~~(iii)~~ A description of the Applicant's proposed Sports Wagering operation, or description, technical features, and operation of Sports Wagering platform, as applicable; and

(b) The economic impact and other benefits to the Commonwealth if the Applicant is awarded a License, including:

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~~(i)~~ Employment opportunities within the Commonwealth;

~~(ii)~~ The projected revenue from wagering operations, and tax revenue to the Commonwealth;

~~(iii)~~ For Category 1 and 2 Sports Wagering License Applicants, the Applicant's proposed plans for construction and capital investments associated with the license award; and

- (iv) Community engagement; and
- (c) The Applicant's proposed measures related to responsible gaming;
including:
 - (i) The Applicant's responsible gaming policies;
 - (ii) The Applicant's advertising and promotional plans; and
 - (iii) The Applicant's history of demonstrated commitment to responsible gaming; and
- (d) A description of the Applicant's willingness to foster racial, ethnic, and gender diversity, equity, and inclusion~~within their workforce;~~ including:
 - (i) Within the Applicant's workforce;
 - (ii) Through the Applicant's supplier spend; and
 - (iii) In the Applicant's corporate structure; and
- (e) The technology that the Applicant intends to use in its operation;~~and,~~ including:
 - (i) Geofencing;
 - (ii) Know-your-customer measures; and
 - (iii) Technological expertise and reliability; and
- (f) The suitability of the Applicant and its qualifiers;~~and,~~ including:
 - (i) Whether the Applicant can be or has been determined suitable in accordance with 205 CMR 215;
 - (ii) The Applicant's and all parties in interest to the license's integrity, honesty, good character, and reputation;
 - (iii) The Applicant's financial stability, integrity, and background;
 - (iv) The Applicant's business practices and business ability to establish and maintain a successful sports wagering operation;
 - (v) The Applicant's history of compliance with gaming or sports wagering licensing requirements in other jurisdictions; and
 - (vi) Whether the Applicant is a defendant in litigation involving its business practices; and

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(g) Any other appropriate factor, in the Commission's discretion.

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(h)(6) Additional considerations for applications for untethered Category 3 licenses

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(a) In determining whether a particular Applicant will be awarded an ~~untethered~~ Untethered Category 3 ~~License~~ License, the Commission shall take into consideration the variations between the Applicants as they relate to any other Sports Wagering License Applicants or licensees, and how granting any particular combination of Applications would maximize ~~benefits~~ overall benefits and minimize overall harms or the risk of harms to the Commonwealth.

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(b) The Commission may, in its discretion, implement competitive processes for awarding Untethered Category 3 Licenses, and may, without limitation:

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(i) Utilize scored or unscored selection systems; ~~or~~

(ii) Grant or deny one or more particular applications, while reserving action on other applications for future deliberation; ~~or~~

(iii) Review applications in multiple phases or rounds, and use different review methodologies in each phase or round.

(i)(7) Supplemental suitability determinations

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(a) At any time after deeming an Applicant eligible to request a Temporary License in accordance with 205 CMR 218.07, the Commission may make a supplemental determination of suitability according to the standard set out in 205 CMR 215.01(1).

(a) ~~If the Commission awards a license to an Applicant that it determines is suitable in accordance with the burden of proof set out in 205 CMR 215.01(2) but not 205 CMR 215.01(1), it shall impose a license condition permitting the Commission to revoke the license if the Commission does not determine that the Applicant is suitable in accordance with 205 CMR 215.01(1) within one year of the issuance of the license.~~

(b) ~~Within one year of awarding, it shall award the Applicant a license as described~~ Sports Wagering License in accordance with 205 CMR 218.08(4)(a)-07. Otherwise, the Commission shall make a supplemental determination as to whether deny the Applicant is suitable under a Sports Wagering License in accordance with 205 CMR 215.01(1)-218.07.

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The-218.07 Sports Wagering License Determinations

(1) After evaluating each Sports Wagering License application in accordance with 205 CMR 218.06, the Commission may:

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- (a) ~~Determine that~~ Find the ~~applicant is~~ Applicant suitable in accordance with 205 CMR 215.01(4);2), and deem the Applicant eligible to request a Temporary License;
- (b) ~~Determine that~~ Find the Applicant suitable in accordance with 205 CMR 215.01(1), and award the ~~applicant is unsuitable and revoke the license~~ Applicant a Sports Wagering License, subject to conditions in accordance with M.G.L. c. 23N §§ 6(e), 9, and 205 CMR 220; or
- (c) ~~Extend the period for issuing a~~ Deny the application for any of the reasons set out in M.G.L. c. 23N §§ 6(e), 9, or in 205 CMR.

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- (2) The Commission shall not take make a determination in accordance with 205 CMR 218.07(1) on any Untethered Category 3 License Application until the deadline applicable to Untethered Category 3 License Applications has passed, and the Commission has provided an opportunity for public feedback at one or more public meetings held in accordance with 205 CMR 218.05.

218.08 Provisions Applicable to All Sports Wagering Licensing Determinations

- (e) ~~Upon granting an application, the Commission shall prepare and file its decision in order to obtain any additional information deemed necessary by the Commission for a complete evaluation of the application.~~

- (1) ~~The Commission, and~~ shall issue a statement of the reasons for its ~~determination~~the grant, including specific findings of fact, and noting any conditions of licensure imposed under 205 CMR 220.
- (2) Upon denial of an application, the Commission shall prepare and file its decision and, if requested by the Applicant, shall further prepare and file a statement of the reasons for the denial, including specific findings of fact.
- ~~(3)~~ (3) For purposes of 205 CMR and M.G.L. c. 23N, the award of a Sports Wagering License shall be deemed to have occurred immediately upon a majority vote by the Commission to issue the license, unless otherwise determined by the Commission.

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205 CMR 218: GENERAL SPORTS WAGERING APPLICATION REQUIREMENTS, STANDARDS, AND PROCEDURES

218.01	Pre-application Consultation
218.02	Application Requirements
218.03	Administrative Completeness Review
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218.06	Evaluation of the Application by the Commission
218.07	Sports Wagering License Determinations
218.08	Provisions Applicable to All Sports Wagering Licensing Determinations

218.01 Pre-application Consultation

The Commission or its designees may conduct one or more consultation meetings or information sessions with Sports Wagering License Applicants to provide guidance on application procedures, including the requirements of this 205 CMR 218.00. In addition, the Commission may use other methods to respond to inquiries regarding the application process, such as publishing responses to questions submitted by Applicants.

218.02 Application Requirements

- (1) A Sports Wagering License Application must be filed on or before any applicable deadline established by the Commission, if any, and pursuant to any instructions and process posted by the Commission on its website or in the application.
 - (a) The Commission may establish different deadlines for applications for different categories or groups of sports wagering licenses.
 - (b) After an application deadline for any category or group of applicants has passed, the Commission may establish a new application deadline for such applications.
 - (c) For any application submitted after a given deadline has passed, the Commission may decline to take any action or particular actions on that application until it has made determinations in accordance with 205 CMR 218.08 on all applications of the same category received by the prior deadline.
- (2) The Commission shall have no obligation to accept or review an incomplete application submitted by an established deadline or an application submitted after an established deadline except where permitted pursuant to 205 CMR 211.01(10) and 205 CMR 218.03(b).

218.03 Administrative Completeness Review

- (1) The Executive Director or their designee will review each Sports Wagering License Application for administrative completeness, as described in 205 CMR 218.03(2), and will send either a positive determination of administrative completeness or a negative determination of administrative completeness to the Applicant and to the Commission.
 - (a) Upon the issuance of a positive determination of administrative completeness, the Applicant may proceed to further review under 205 CMR 218.
 - (b) Upon issuance of a negative determination of administrative completeness, the Executive Director or their designee will notify the Applicant of the negative determination by email and the application shall not proceed to further review, provided that:
 - (i) If the deadline established by the Commission under 205 CMR 218.02(1) has not passed, or if the Commission did not establish a deadline under 205 CMR 218.02(1), the Executive Director may allow the Applicant to cure the deficiency.
 - (ii) If the deadline established by the Commission under 205 CMR 218.02(1) has passed, the Applicant may request an extension in accordance with 205 CMR 211.01(10).
- (2) A positive determination of administrative completeness shall not constitute a finding with respect to the technical suitability, adequacy or accuracy of the information submitted, and shall not bar a request for further information by the Commission, the Bureau or their agents and employees with respect to the application.

218.04 Review Procedures

- (1) Upon a determination that a Sports Wagering License Application is administratively complete, the Commission will review the merits of the request. In doing so, the Commission may, at such times and in such order as the Commission deems appropriate, take some or all of the following actions:
 - (a) Refer the application, or any parts thereof, for advice and recommendations, to any or all of the following:
 - (i) The Executive Director;
 - (ii) The Bureau;
 - (iii) Any office, agency, board, council, commission, authority, department, instrumentality or division of the commonwealth;
 - (iv) Commission staff; and

- (v) Any consultant retained by the Commission to aid in the review of the application;
- (b) Retain, or authorize the Executive Director or the Executive Director's designee to retain, using the application fee and investigation reimbursements described in 205 CMR 214.00, such professional consultants (including without limitation financial and accounting experts, legal experts, Sports Wagering experts, contractor investigators, and other qualified professionals) as the Commission in its discretion deems necessary and appropriate to review the request and make recommendations; and
- (c) Require or permit, in the Commission's discretion, the Applicant to provide additional information and documents.

218.05 Public Meetings Regarding Sports Wagering Applications

- (1) The Commission may conduct one or more meetings to:
 - (a) receive public feedback on sports wagering license applications;
 - (b) allow any Applicant to make a presentation; and
 - (c) allow any Applicant to respond to questions or public comments as directed by the chair or their designee.
- (2) Prior to any meeting held in accordance with this 205 CMR 218.05, the commission will prescribe the manner in which it will receive comments from members of the public. The chair or their designee shall preside over the meeting.

218.06 Evaluation of the Application by the Commission

- (1) Once a submitted Sports Wagering License Application is deemed administratively complete, the Commission shall commence a substantive evaluation of its contents. The Commission may utilize any technical assistance it deems necessary to aid in its review.
- (2) The Commission shall analyze the factors and considerations set out in 205 CMR 218.06(5) and 218.06(6) in no particular order, and giving any particular weights, or no weight, to any factor.
- (3) In reviewing any application, the Commission may also utilize any of the following methods, without limitation:
 - (a) Public meetings and presentations; or

- (b) Requests for additional information, modified proposals or applications from Applicants, including requesting the Applicants' "best and final" proposals.
- (4) The Commission shall deliberate on license applications in a public meeting, and shall not be required to use the procedures set out in 205 CMR 101.00.
- (5) In determining whether any Applicant will be awarded a Sports Wagering License, the Commission will evaluate the Sports Wagering License Application to determine whether a license award would benefit the Commonwealth, and consider the following factors:
 - (a) The Applicant's experience and expertise related to Sports Wagering, including:
 - (i) The Applicant's background in Sports Wagering;
 - (ii) The Applicant's experience and licensure in other jurisdictions with Sports Wagering;
 - (iii) A description of the Applicant's proposed Sports Wagering operation, or description, technical features, and operation of Sports Wagering platform, as applicable; and
 - (b) The economic impact and other benefits to the Commonwealth if the Applicant is awarded a License, including:
 - (i) Employment opportunities within the Commonwealth;
 - (ii) The projected revenue from wagering operations, and tax revenue to the Commonwealth;
 - (iii) For Category 1 and 2 Sports Wagering License Applicants, the Applicant's proposed plans for construction and capital investments associated with the license award; and
 - (iv) Community engagement; and
 - (c) The Applicant's proposed measures related to responsible gaming, including:
 - (i) The Applicant's responsible gaming policies;
 - (ii) The Applicant's advertising and promotional plans; and
 - (iii) The Applicant's history of demonstrated commitment to responsible gaming; and

- (d) A description of the Applicant's willingness to foster racial, ethnic, and gender diversity, equity, and inclusion, including:
 - (i) Within the Applicant's workforce;
 - (ii) Through the Applicant's supplier spend; and
 - (iii) In the Applicant's corporate structure; and
 - (e) The technology that the Applicant intends to use in its operation, including:
 - (i) Geofencing;
 - (ii) Know-your-customer measures; and
 - (iii) Technological expertise and reliability; and
 - (f) The suitability of the Applicant and its qualifiers, including:
 - (i) Whether the Applicant can be or has been determined suitable in accordance with 205 CMR 215;
 - (ii) The Applicant's and all parties in interest to the license's integrity, honesty, good character, and reputation;
 - (iii) The Applicant's financial stability, integrity, and background;
 - (iv) The Applicant's business practices and business ability to establish and maintain a successful sports wagering operation;
 - (v) The Applicant's history of compliance with gaming or sports wagering licensing requirements in other jurisdictions; and
 - (vi) Whether the Applicant is a defendant in litigation involving its business practices; and
 - (g) Any other appropriate factor, in the Commission's discretion.
- (6) Additional considerations for applications for untethered Category 3 licenses
- (a) In determining whether a particular Applicant will be awarded an Untethered Category 3 License, the Commission shall take into consideration the variations between the Applicants as they relate to any other Sports Wagering License Applicants or licensees, and how granting any particular combination of Applications would maximize overall benefits and minimize overall harms or the risk of harms to the Commonwealth.

- (b) The Commission may, in its discretion, implement competitive processes for awarding Untethered Category 3 Licenses, and may, without limitation:
 - (i) Utilize scored or unscored selection systems;
 - (ii) Grant or deny one or more particular applications, while reserving action on other applications for future deliberation; or
 - (iii) Review applications in multiple phases or rounds, and use different review methodologies in each phase or round.

(7) Supplemental suitability determinations

- (a) At any time after deeming an Applicant eligible to request a Temporary License in accordance with 205 CMR 218.07, the Commission may make a supplemental determination of suitability according to the standard set out in 205 CMR 215.01(1).
- (b) If the Commission determines that the Applicant is suitable, it shall award the Applicant a Sports Wagering License in accordance with 205 CMR 218.07. Otherwise, the Commission shall deny the Applicant a Sports Wagering License in accordance with 205 CMR 218.07.

218.07 Sports Wagering License Determinations

- (1) After evaluating each Sports Wagering License application in accordance with 205 CMR 218.06, the Commission may:
 - (a) Find the Applicant suitable in accordance with 205 CMR 215.01(2), and deem the Applicant eligible to request a Temporary License;
 - (b) Find the Applicant suitable in accordance with 205 CMR 215.01(1), and award the Applicant a Sports Wagering License, subject to conditions in accordance with M.G.L. c. 23N and 205 CMR 220; or
 - (c) Deny the application for any of the reasons set out in M.G.L. c. 23N §§ 6(e), 9, or in 205 CMR.
- (2) The Commission shall not take make a determination in accordance with 205 CMR 218.07(1) on any Untethered Category 3 License Application until the deadline applicable to Untethered Category 3 License Applications has passed, and the Commission has provided an opportunity for public feedback at one or more public meetings held in accordance with 205 CMR 218.05.

218.08 Provisions Applicable to All Sports Wagering Licensing Determinations

- (1) Upon granting an application, the Commission shall prepare and file its decision, and shall issue a statement of the reasons for the grant, including specific findings of fact, and noting any conditions of licensure imposed under 205 CMR 220.
- (2) Upon denial of an application, the Commission shall prepare and file its decision and, if requested by the Applicant, shall further prepare and file a statement of the reasons for the denial, including specific findings of fact.
- (3) For purposes of 205 CMR and M.G.L. c. 23N, the award of a Sports Wagering License shall be deemed to have occurred immediately upon a majority vote by the Commission to issue the license, unless otherwise determined by the 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 adoption of **205 CMR 218 GENERAL APPLICATION REQUIREMENTS, STANDARDS, AND PROCEDURES**.

This regulation was developed as part of the process of promulgating regulations governing sports wagering in the Commonwealth, and is primarily governed by G.L. c. 23N, §4.

The adoption of 205 CMR 218 applies to potential sports wagering operators and the Commission. Accordingly, this regulation is unlikely to have an impact on small businesses. Under G.L. c.30A, §2, the Commission offers the following responses to the statutory questions:

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

This regulation is unlikely to have an impact on small businesses.

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

There are no projected reporting, recordkeeping, or other administrative costs required for small businesses to comply with this regulation.

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

No standards applicable to small businesses are set forth. Provided standards are performance 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 regulation:

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 regulation is likely to deter or encourage the formation of new businesses in the Commonwealth:



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This amendment is unlikely to have any impact on the formation of new businesses in the Commonwealth.

Massachusetts Gaming Commission
By:

/s/ Todd M. Grossman
Todd M. Grossman, General Counsel

Dated: October 18, 2022

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Massachusetts Gaming Commission