



Gaming Policy Advisory Committee

Pursuant to the Massachusetts Open Meeting Law, G.L. c. 30A, §§ 18-25, notice is hereby given of a meeting of the *Gaming Policy Advisory Committee* established pursuant to M.G.L. c. 23K § 68.

The meeting will take place: Tuesday, November 12, 2019 @ 2:00 p.m.
Massachusetts State House
24 Beacon Street, Room 437
Boston, Massachusetts

Public Meeting #10:

1. Welcome/Opening Comments
2. Minutes from: July 11, 2019 - **Vote**
3. Sports Gambling Update
4. Administrative Update
 - a. Status of Region C
 - b. Racing - deadline of January 15, 2020
5. Community Mitigation Fund Guideline Review
6. Next steps
7. Other Business – reserved for matters not reasonably anticipated at the time of posting.

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

November 7, 2019
(date)

John S. Ziemba, Ombudsman

Date Posted to Website: November 7, 2019



Massachusetts Gaming Commission



Gaming Policy Advisory Committee Meeting Minutes

Date/Time: July 11, 2019 @ 10:00 a.m.
Place: State House Room 222, Boston, Massachusetts
Present: Karen Sawyer Conard, Chair Victor Ortiz
 Cathy Judd-Stein Louise A. Zawodny
 Dean Tran Rep. Ann-Margaret Ferrante
 Rep. Angelo L. D'Emilia Paul Picknelly
 Jill McCarthy-Payne Helen Caulton Harris
 Brian Lang

10:00 a.m. Karen Sawyer Conard, Chair, spoke to the members and mentioned that a quorum had not yet been achieved. It was stated that although a quorum had not yet been achieved, the Committee could hear presentations until a quorum is achieved.

Chair Sawyer Conard thanked Louise Zawodny, Representative for Encore Boston Harbor, for her contribution to the GPAC, and stated that Ms. Zawodny would no longer be part of the GPAC.

Chair Sawyer Conard then welcomed new members. She introduced Senator Dean Tran, who is a resident of Fitchburg and represents the Worcester and Middlesex District. She then introduced Commissioner Helen Caulton-Harris, who was appointed by the Governor and is the Director of the City of Springfield's Department of Health & Human Services. Lastly, she introduced the Massachusetts Gaming Commission's (MGC) new Chair, Cathy Judd-Stein, who recently served as deputy chief legal counsel for the Office of the Governor, and as the general counsel of the state treasury in several legal, policy and management roles at the state lottery. She also served as an instructor of "Ethics and Public Policy for UMass Boston's John W. McCormack Graduate School of Policy and Global Studies.

Ms. Judd-Stein stated that she is excited to be here at her first GPAC meeting. She also stated that she is looking forward to having members serve a greater role in advising the Commission on many of the complex issues that are before the Gaming Commission. She noted that Gaming Commission members agree that hearing different viewpoints regarding these issues is very important. It is her hope that the GPAC will play an integral part in providing guidance to the MGC.

Next, the Chair Sawyer Conard stated that the main items on the agenda for today's meeting are first, a presentation on Encore Boston Harbor's opening. Second, there will be a discussion on the status of the Region C gaming region and horse racing. Last, the committee will hear about the proposed FY 2020 Gaming Research Agenda and a Gaming Research

update by Mark Vander Linden, the Commission's Director of Research and Responsible Gaming.

The Chair acknowledged that members have some time constraints this morning and that she would work to make sure that the meeting concludes no later than 11:30.

Approval of Minutes

The Chair noted that she has been advised that the Committee would not be able to approve the minutes from the meetings on March 27, 2018, and June 5, 2018. Those minutes will be posted as a draft, due to lack of quorum at this time to approve those minutes.

Encore Boston Harbor Opening

Jacqui Krum reported on the activities on opening day for Encore Boston Harbor. She noted that the company spent \$68M on the clean up associated with this parcel on the Mystic River, stating that the crews pulled out 840 tons of contaminated soil. She also thanked the Gaming Commission in all of their efforts to ensure that Encore Boston Harbor was able to prepare for the opening. She described the traffic mitigation efforts, stating that they spent over \$1M on transportation advertising. She also thanked the women and men of the trades who built the building. She reported on diversity statistics where the commitments were met. She also thanked Encore's 5,000 employees, who started by June 23rd, 2019. She described the training that they went through. She also asked for patience as casino operations ramp up in the next few months.

John Ziemba, MGC Ombudsman, gave credit to Wynn Resorts for spending \$1M on the transportation campaign to promote transit options and to keep opening traffic impacts to a minimum.

Status of Region C Gaming Region/Horse Racing

Ed Bedrosian, MGC Executive Director, discussed the status of Region C and the request for reconsideration of the denial of the license application in Region C. With him was Catherine Blue, MGC General Counsel, and Dr. Alex Lightbown, Director of the MGC's Racing Division, who would comment on horse racing.

With regard to Region C, Mr. Bedrosian first offered his condolences on behalf of the MGC regarding the passing of the Brockton Mayor Bill Carpenter, who passed on July 2, 2019. He stated that Mr. Carpenter is being honored today by lying in state in Brockton City Hall.

Mr. Bedrosian then outlined the framework for the MGC's consideration of the request to open Region C. He summarized that in 2016 the MGC evaluated Mass Gaming and Entertainment (MGE)'s application for a Category 1 license, culminating in a vote of 4-1 to deny the application. The MGC followed an established protocol in reviewing MGE's application.

He explained that in 2018, the MGC received a letter from attorneys representing MGE, requesting that the MGC reconsider MGE's original license application without reopening the RFA 2 application process.

He stated that now in 2019, many of the factors that figured into the MGC's decision to open Region C have changed. He noted the staff's recommendation that the Commission engage the appropriate resources for a review and report to the MGC on these factors as they stand now.

Mr. Bedrosian stated that first the Commission would resolve the legal issue on the Brockton applicant's motion for reconsideration and whether that is appropriate in front of the Commission or not. Then the Commission could move on to reconsider the public comments from before, would potentially solicit updated public comments and would learn about the present status of the Mashpee Wampanoag land in trust litigation and associated Congressional legislative efforts.

Next, Ms. Blue provided an update on the legislation that allows horse racing and simulcasting, stating that it is set to expire on July 31, 2019. If it is not renewed, live racing and simulcasting will stop. She added that there are racing bills drafted that require input from the stakeholders and further review by the MGC and that it is very important to obtain the Legislature's extension so the MGC can consider options.

10:34 a.m. The Committee now has a quorum, as Senator Tran has arrived at the meeting.

Research Agenda for 2020

Mark Vander Linden, Director of Research and Responsible Gaming, reviewed the MGC's proposed FY20 gaming research agenda with the Committee. He described the type of analysis that would be conducted and described the other projects that complement and build upon this work. Specifically, he reviewed the MA Gaming Impact Cohort (MAGIC) study by the UMass Amherst research team.

Mr. Vander Linden reviewed the summary of deliverables that are on the immediate horizon and referenced a memo entitled, "Gaming Research Update" that is included in the Committee's meeting packet.

He commented that this type of research has not been done in the United States before and that the legislature is interested in it. His research agenda was approved by the Public Health Trust Fund (PHTF) executive committee. He advised the Committee that any advice that comes from GPAC should go to the PHTF committee who will meet in two weeks.

The research agenda is driven by the gaming research strategic plan. Mr. Vander Linden described studies on the social and economic impacts of gaming in Massachusetts, and stated that the second six months of research in 2020 will be focused on the procurement process of the Social and Economic Impacts of Gambling in Massachusetts (SEIGMA) project, to see who else may be interested in participating in this study from UMass.

The Chair asked about a license plate survey for MGM Springfield. She specifically asked if it will extend beyond the parking lots. Mr. Vander Linden described the challenges of gathering data to analyze patron behavior at each casino.

Representative Ferrante asked the Research Team if it looks at where and how the employees are spending their money when the team looks at the economic analysis. Mr. Vander Linden answered that they do use a Regional Economic Model (REMI) that looks at any impacts of the dollars of those workers are receiving, and what impacts are to the communities.

Ms. Harris thanked Mr. Vander Linden for his work and asked how the Springfield participants are chosen as far as the survey is concerned. Mr. Vander Linden answered that general population surveys are address based only. They are random samples based on individuals' addresses in a specific region. He then described some additional research efforts on related topics that have received grant funding this past year. He said the baseline study of the general population is complete, and the targeted follow-up is also complete for Plainville and will be in Springfield in August.

Mr. Vander Linden described three community-driven research initiatives that were recently funded regarding compulsive gambling, gambling in older adults, and gambling in Hispanic communities. The objective of this community-driven research is to more deeply understand and address the impact of the introduction of casino gambling in Massachusetts's communities.

Mr. Picknelly asked when results are expected from the Springfield survey in July, August, and September. Mr. Vander Linden stated that it will be roughly a year until the final report is received.

Next, Mr. Vander Linden highlighted a youth health survey that analyzes youth gambling. In order to better understand gambling behavior and risk, the MGC provided funding to the Public Health Institute of Western MA to extend questions on the 2019 survey. The survey was administered in Springfield Public Schools in February of 2019, and results are expected in the fall of 2019.

Massachusetts Gaming Impact Cohort (MAGIC) was also highlighted. Mr. Vander Linden provided an overview of the study to the Committee members. He stated that in the next fiscal year, the research team will conduct Wave Six of this study. He then explained the concept of waves in the study.

Lastly, Mr. Vander Linden noted research being conducted regarding public safety to the Committee members, describing it as assessing the impact of gambling on public safety in Massachusetts cities and towns.

Status of Region C Gaming Region/Horse Racing, continued

Representative Ferrante asked for clarification on the steps of the process regarding the status of Region C. Mr. Bedrosian stated that a Motion for Reconsideration is filed, which is a contemplative motion to initiate the process so that it may be deemed appropriate to move forward.

Representative D’Emilia asked if there are any other groups looking at Region C if the answer to the motion for reconsideration is still “no.” Representative D’Emilia stated that he would like Region C to have the opportunity to have other applicants considered or a final decision on the Brockton application.

Senator Tran asked if there is any part in the process would that require the Legislature to become involved if the application is denied. Mr. Bedrosian stated that on the issue of the motion to reconsider, he does not believe so. Senator Tran then asked if there is a possibility to allow the license of Region C to be available for other regions, or the possibility to redraw the boundaries with some of the regions. Mr. Bedrosian said that redrawing the boundaries would be a legislative question.

Research Agenda for 2020, continued

Mr. Vander Linden reviewed with the Committee a study on public safety impacts of the expanded gaming act. He proposed that the Commission continue working with crime analyst Christopher Bruce. He described the work that Mr. Bruce conducts and stated that this research will go through December 2020.

Commissioner Harris asked about the ability to capture data on human trafficking and the impact of this on communities since the casino opened. Mr. Vander Linden stated that he is starting to organize a group to focus a spotlight on this now.

Mr. Picknelly asked about the 18-month timeframe for the Springfield study, specifically, when the Committee would see the Public Safety report. Mr. Vander Linden answered that the baseline and three-month report is on the MGC website. The nine-month report is underway. Therefore, the nine-month report will be to the Committee by one year after the opening of MGM.

Representative Ferrante asked if sports betting could be folded into the research if it is allowed. Mr. Vander Linden replied that research will be done regardless, in order to respond to the individual s experience.

Representative Ferrante then stated that there are stereotypes of gamblers, and asked if there is any analysis on which type/group is affected, and how. Mr. Vander Linden stated that yes, he is working on gathering data that will then be analyzed. The goal is to make the research as useful to the community as possible.

The Chair then asked if anyone has any questions for the MGC.

Representative D’Emilia commented on the urgency of extending the deadline of July 31 regarding horse racing and simulcasting and noted that he would inquire personally on the status of the racing and simulcasting extension.

Representative Ferrante stated that she is looking for guidance and feedback regarding sports betting.

Paul Picknelly asked to be updated on revenues from current licensees. Mr. Ziemba stated that revenue figures are posted every month and offered greater efforts to distribute revenue information to the Committee.

Next Steps

It was noted that the MGC plans to meet again in September and start to meet with regularity so the Committee can provide useful advice to the MGC on current matters.

The Chair asked that the Conflict of Interest certifications in the packet be brought up to date and that Mary Thurlow be provided with them.

11:30 a.m. Having no further business, the meeting was adjourned by Chair Conard.

/s/ Shara N. Bedard
Secretary

List of Documents and Other Items Used

1. Notice of meeting and agenda
2. List of Members
3. Memo Re: Framework for Consideration of Request to Open Region C
4. Memo Re: Status of Region C
5. MGC Research Strategy for Gaming in Massachusetts, dated May 2019
6. MGL c. 23K §71
7. Memo Re: Proposed FY2020 Gaming Research Agenda
8. Memo Re: Gaming Research Update

MASSACHUSETTS SPORTS BETTING: UPDATE FALL 2019

Justin Stempeck, Associate General Counsel, MGC



The State of the States

- 19 States have now legalized Sports Betting
 - **NV, NJ, PA, DE, RI, WV, MS, NM, NY, AL, OR, IA, IN, MT, TN, IL, NH, NC, and CO**
- 13 States have legalized online sports betting of some kind
 - **NV, NJ, PA, RI, WV, OR, IA, IN, MT, TN, IL, NH and CO**
- 6 of the legalized states have not yet fully launched their sports betting offerings
 - **MT, TN, IL, NH, NC and CO**
- Tax rates range from 6.75% to 51% (on Gross Gaming Revenue)
- Varied approaches to hot button issues like collegiate betting and number of skins allowed for online operators

Evolution of Professional Sports Leagues' Strategy

- Previously asked for integrity fee;
- Evolved into efforts to legislatively mandate official league data usage by sports book operators
- Now pushing that official league data only be required for “in-play” betting
- Meanwhile, NBA has been making numerous commercial deals for the official use of its data with sports book operators
- Pushback regarding legislating a monopoly when this can all be handled through commercial agreements
- Sportsbooks and Leagues all have same interest: the best, fastest and most reliable data
- “official data” is a misnomer – some experts have said that ‘official’ data is not high quality, while some ‘unofficial’ data can be completely reliable

Sports Betting Revenues

- Reported Revenues June 2018 to Present:

<u>State</u>	<u>Handle</u>	<u>Revenue</u>	<u>Hold</u>	<u>Tax/State share</u>
Total	\$12,399,357,488	\$858,011,479	6.9%	\$103,338,539
Delaware	\$156,406,988	\$19,069,053	12.2%	\$8,342,711
Indiana	\$35,215,416	\$8,558,974	24.3%	\$813,103
Iowa	\$47,105,167	\$7,118,035	15.1%	\$480,467
Mississippi	\$372,848,295	\$40,068,693	10.7%	\$4,808,243
Nevada	\$6,611,525,650	\$407,741,000	6.2%	\$27,522,518
New Jersey	\$4,221,819,662	\$284,634,664	6.7%	\$37,052,659
New Mexico	\$ -	\$ -	--	\$ -
New York	\$ -	\$3,461,485	--	\$346,149
Pennsylvania	\$607,540,067	\$57,101,861	9.4%	\$16,411,010
Rhode Island	\$168,165,611	\$11,063,195	6.6%	\$5,642,229
West Virginia	\$178,730,633	\$19,194,524	10.7%	\$1,919,452

Sports Betting Revenues Cont'd

- **The most widespread online sports betting was in NV and NJ, the two states with the highest revenues**
- **>80% of sports betting revenues in NJ comes from online operations**
- **PA revenue is also expected to rise significantly as more online operators get involved in the market**
- **Rhode Island has had an increase in revenue after adding an online component but online play requires an in-person sign up at the casino and only 45% of those with the sports betting app have completed the sign up**
- **NH recently legalized and will allow anyone over 18 to register remotely and play online as long as they are in-state**

Ongoing Mergers and Acquisitions

- Recent months have seen a number of high profile mergers and acquisitions that suggest the industry is consolidating
 - Flutter Entertainment (parent of Paddy Power Betfair, SportsBet and Fanduel) purchased The Stars Group (Pokerstars, Betstars, FullTilt, and joint venture with FoxSports) to create company worth more than \$11 billion
 - DraftKings reportedly in talks with potential 'blank check company' which would allow it go public without an IPO (A special purpose acquisition company (SPAC) is a publicly traded company that raises a blind pool capital through an initial public offering for the purpose of acquiring an existing company.)
- Significant horse trading when it comes to access to particular markets
 - Penn National recently made deals with four sportsbook operators to trade skins in various jurisdictions for a percentage of revenue share
 - Penn National maintains the primary skin in each jurisdiction
 - Penn National leveraged its presence in 19 states to make deals with DraftKings, PointsBet, TheScore and The Stars Group
 - DraftKings gets access to 7 states, PointsBet gets access to 5 states, TheScore gets access to 11 states and The Stars Group gets access to 9 states



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

FROM: Executive Director Edward Bedrosian Jr.

CC: General Counsel Catherine Blue

DATE: October 24, 2019

RE: Region C - Possible Next Steps

Background

On September 12, 2019, the Commission received presentations from the Commission's legal department and counsel for Mass Gaming & Entertainment ("MGE") as well as testimony from MG&E's Chairman, on whether the Commission had the authority to reconsider its 2016 decision to deny MG&E's application for a gaming license in Region C and, if the Commission had the authority to reconsider its decision, whether there were sufficient grounds for the Commission to do so. After hearing the presentations, posing questions to the Commission's legal department and MG&E attorneys, and discussion by the Commissioners, the Commission determined that it did have the authority to reconsider its 2016 decision and further determined that sufficient grounds did not exist to support a reconsideration of the Commission's 2016 decision to deny MG&E's application for a gaming license in Region C.

The Commission acknowledged as part of its discussion that a decision to deny reconsideration of MG&E's application did not foreclose further action by the Commission regarding the issuance of a license in Region C. The Commission further agreed that it would continue its discussion regarding Region C at a future date. On September 20, 2019 the Commission received a letter from MG&E counsel requesting that the Commission immediately initiate a new RFA process in Region C and advise counsel for MG&E whether and when that process would begin. (A copy of that letter is attached.) In conjunction with the MG&E request for reconsideration, the Commission also received public opposition comments.

Possible Next Steps

The Commission has multiple ways to advance its discussion regarding Region C:

1. The Commission could review the September 20, 2019 letter from MG&E and decide to open up Region C for a new application process;



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2. The Commission could review and reevaluate the public comments it received in November 2018 and between August 8 and September 13, 2019 regarding the grant of a license in Region C. (Comments received between August 8 and September 13, 2019 are included in the Commission packet.)

3. The Commission could issue a request for information (“RFI”) requesting more particular feedback or information on what issues the Commission should consider when thinking about issuing a gaming license in Region C and how the Commission could structure a competitive evaluation process in Region C. A RFI traditionally precedes a request for response (“RFR”) or a request for a proposal (“RFP”) and can help inform what is in the RFR or RFP. Issues which could be assisted by an RFI include but are not be limited to: (a) whether the Commission’s application or evaluation format should request additional or different types of information; (b) the necessity or not of commissioning studies regarding the market capacity and how to assess regional and Commonwealth wide impact; (c) jobs or other impacts arising from the issuance of a license in Region C and (d) whether the Commission needs to make changes in its regulations regarding the licensing process.

4. The Commission could hold a public hearing in one or more venues in Region C to solicit information and feedback from interested parties.

Aside from option 1, none of the options are exclusive. The Commission could decide to do all or part of the other options using a hybrid approach.

Along with any steps the Commission decides to take, Commission staff will continue to follow the status of any legislation or litigation that would impact the Commission’s licensing process and in particular any legislation or litigation that specifically impacts Region C and advise the Commission thereon. At a minimum this would include an update on tribal litigation and corresponding federal legislative efforts.



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TO: **MGC Commissioners**

FROM: **John Ziemba
Joseph Delaney
Mary Thurlow**

CC: **Ed Bedrosian
Catherine Blue**

DATE: **October 22, 2019**

RE: **2020 Community Mitigation Fund Draft Guidelines**

Earlier this month, the Commission received its first set of policy questions regarding the establishment of the 2020 Community Mitigation Fund (“CMF”). These policy questions were reviewed by the Region A Local Community Mitigation Advisory Committee (“LCMAC”) members and the Subcommittee on Community Mitigation. Both Regions are scheduled for LCMAC meetings in the middle of November subject to quorum. In addition to these meetings, we recommend, consistent with past practice, that the Commission ask for public comments on these draft Guidelines after they are reviewed by the Commission.

Consistent with the statements the Commission made in the 2019 CMF Guidelines, for the 2020 year, staff recommends that the Commission allocate CMF funds based upon the amount of funds generated in 2019 by the regions, Region A and Region B, after accounting for grants that will be made for Category 2 impacts. We are recommending a \$11.5 million target spending amount for the 2020 program, with \$6 million targeted for spending in Region A, \$5 million in Region B, and not more than \$500,000 targeted for Category 2 impacts.

There is approximately \$1.5 million in unallocated funds remaining from the \$17.5 million placed into the CMF from the original license fees. In addition, now that MGM Springfield and Encore Boston Harbor are both open, they are each generating new tax revenues and fine revenues that are being placed into the CMF fund. We have made projections on what could be placed into the CMF by MGM Springfield and Encore Boston Harbor by the end of the year. **PLEASE NOTE THAT THESE**



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PROJECTIONS ARE BASED SOLELY ON AVERAGE DAILY CONTRIBUTIONS TO THE FUND TO DATE AND DO NOT ACCOUNT FOR SEASONAL VARIATIONS OR IMPACTS CAUSED BY MARKETING EFFORTS. When the Commission finalizes the Guidelines in December, it will have additional information on revenues. Further, the Guidelines state that the Commission can adjust targeted spending. By the time of the February 1, 2020 application deadline, the Commission will know how much was placed into the CMF by Encore Boston Harbor and MGM Springfield by the end of calendar year 2019.

Below please find recommendations and options based on the Commission staff review and the input received to date.

Recommendations and Options for the 2019 Discussion Draft Guidelines

Grant Type	Proposed 2020 Per Grant Amounts	Per Grant Amounts in 2019 Guidelines
Specific Impact Grants	\$500,000	\$500,000
Workforce Development Pilot Program	\$300,000 per region plus a \$50,000 regional incentive (for a total \$700,000 program)	\$300,000 per region
Transportation Planning	\$200,000	\$200,000
Transportation Construction Projects	\$3,000,000 statewide	n/a
Joint Transportation Grants	\$200,000 each community plus regional incentive	\$200,000 each community plus regional incentive
Tribal Impact Grant	\$200,000	\$200,000
Non-Transportation Planning Grants	\$100,000 plus incentive	\$50,000 plus incentive

In addition to the eligible purposes we recommend in the Guidelines from prior years, we recommend that the Commission solicit comments on a proposal to create a new category of transportation grant, the 2020 Transportation Construction Project grant. **This grant, if included in the final Guidelines, would be available for only one year grants for construction projects that begin by June 30, 2021.** The Guidelines state that applicants should not expect any future awards for any transportation construction project if awarded a grant in 2020. In an effort to better understand the number and specifics of potential multi-year transportation

construction projects, the Guidelines state that the Commission may issue a request for statements of interest sometime in 2020. It is the staff recommendation that any CMF assistance provided would only be for a percentage of the costs of any such project and that significant other federal, state, local and other funding would need to be available to pay for the costs of any such projects.

In addition to the new category, we recommend that the Commission:

- Continue a target limit of \$200,000 per Transportation Planning Grant with a total allocation target of no more than \$1M, a target of \$500,000 per Specific Impact Grant, limited to one per community; and a target of \$300,000 per Workforce Development Pilot Program region (Region A & Region B) for a total allocation target of \$700,000 statewide (including a \$50,000 regional incentive).
- Continue the use of the Community Mitigation Fund to mitigate operational impacts relating to the Plainridge Park facility with a limit of \$500,000.
- Use Community Mitigation Fund to mitigate Specific Impacts related to the operations of all gaming facilities, now that both MGM Springfield and Encore Boston Harbor have been constructed.
- Establish spending criteria for public safety grants recognizing the value of public safety grants but also recognizing the various sources of existing funding for public safety purposes.
- Automatically preserve unused 2015/2016 One-Time Reserve Fund grant for those communities awarded Reserves in 2015 or 2016.
- Continue to support regional approaches to mitigation needs in recognition that that some mitigation requires the commitment of more than one community.
- Expand funding for Non-Transportation Planning Grants in 2020.
- Require certain limitations and specific requirements on planning applications. For example, applicants should provide detail regarding consultations with nearby communities to determine the potential for cooperative regional efforts regarding planning activities; and
- Stipulate that the Commission may in its discretion waive or grant a variance from any provision or requirement contained in these Guidelines.



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COMMUNITY
MITIGATION
FUND

2020 COMMUNITY MITIGATION FUND GUIDELINES
BD-20-1068-1068C-1068L-_____

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COMMUNITY MITIGATION FUND

2020 COMMUNITY MITIGATION FUND GUIDELINES BD-20-1068-1068C-1068L-_____

What is the Community Mitigation Fund?

The Expanded Gaming Act, M.G.L. c. 23K, created the Community Mitigation Fund (“CMF”) to help entities offset costs related to the construction and operation of a gaming establishment.

When Is the Application Deadline?

February 1, 2020. M.G.L. c. 23K, § 61 states that “parties requesting appropriations from the fund shall submit a written request for funding to the Commission by February 1.”

Who Can Apply?

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

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

Private non-governmental parties may not apply for Community Mitigation Funds. Governmental entities may apply to the Commission for funds to mitigate impacts provided that the funding is used for a “public purpose” and not the direct benefit or maintenance of a private party or private parties.

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



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

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

What Cannot Be Funded?

2020 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 February 1, 2020;**
- impacts that are the responsibility (e.g. contractual, statutory, regulatory) of parties involved in the construction of gaming facilities (such as damage caused to adjoining buildings by construction equipment, spills of construction-related materials outside of work zones, personal injury claims caused by construction equipment or vehicles);
- the cost of the preparation of a grant application;
- requests related to utility outages, such as the mitigation of business interruptions;
- police training costs; and
- other impacts determined by the Commission

**These limitations do not apply to transportation planning grants, non-transportation planning grants, workforce development program grants, transit project(s) of regional significance grants, tribal gaming technical assistance grants, and grants for police training costs.

Please note that the Commission may determine to expand the eligible uses of funds for the 2020 program or other future programs when impacts are more clearly identifiable. The Commission will also consult with mitigation advisory committees established in M.G.L. c. 23K in determining such uses.

Guidance to Ensure Funding is Used for Public Purposes Related to Gaming Facility Impacts

The Commission strongly encourages applicants to ensure that the impacts are directly related to the gaming facility and that the public purpose of such mitigation is readily apparent. The Commission will not fund any applications for assistance for non-governmental entities.

Please note that as stated by the Commonwealth’s Comptroller’s Office: “The Anti-Aid Amendment of the Massachusetts Constitution prohibits ‘public money or property’ from aiding non-public institutions.... Article 46 has been interpreted to allow the expenditure of public funds to non-public recipients solely for the provision of a ‘public purposes’ [sic] and not for the direct benefit or maintenance of the non-public entity.”

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

How Much Funding Will Be Available?

The Commission has determined a target spending amount of \$11.5 million for 2020. This represents a significant increase in the potential amount of grants awarded compared to prior years (\$2 million in 2015 (all reserve awards), \$2.7 million in 2016 (including some new reserve awards), \$2.4 million in 2017, \$5.9 million in 2018 (including one-time police training costs), and \$3.96 million in 2019).¹ Despite this funding increase, significant funds are estimated to remain in the Community Mitigation Fund for impacts and priorities in future years, as such impacts and priorities become more evident. If all target spending is made in 2020, the CMF could still have an estimated unallocated balance of over \$3 million from funds generated by December 31, 2019, including \$1.25 million reserved for future Region A use, \$590,000 for future Region B use, and \$1.5 million from the original license fees). Additional funds will be placed into the CMF from MGM Springfield and Encore Boston Harbor funds generated in 2020.

Now that both the Encore Boston Harbor and MGM Springfield facilities are operational, 6.5% of the revenues from the tax on gross gaming revenues from these facilities are being placed into the Community Mitigation Fund. Based upon an analysis of revenues generated to date, more than \$10 million may be placed into the fund in 2020 for awards in future years.

Allocation by Region

The Commission intends to allocate 2020 CMF funding based on needs in the regions that reflect the proportion of funds paid into the Community Mitigation Fund from the taxes and fine revenue generated by the MGM Springfield and Encore Boston Harbor facilities.² This allocation takes into account mitigation needs outside Region A and Region B, and includes a

¹ These yearly grant awards amounts include both the amounts of reserve grants (which by their nature were designed to be spent in future years) and the full value of non-reserve grants that were reduced (because of the requirement that outstanding reserves had to be spent prior to the use of new grant funding). Thus, the amounts of awards for prior years should not be totaled in any effort to understand the total amount of funds granted over the course of the CMF program. For example, a new \$250,000 transportation planning award in 2018 is counted in the 2018 totals here even though that \$250,000 total grant was made from \$150,000 in 2018 funds and \$100,000 from a reserve grant that was made in 2015 or 2016).

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

method to utilize unspent allocations.

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

Although Encore Boston Harbor opened mid-year (June 23) and will place only about a half year’s worth of revenues into the CMF by December 31, 2019 (compared to a full year’s worth of MGM Springfield revenues), an Encore Boston Harbor fine issued in 2019 resulted in approximately \$2.3 million being placed into the Community Mitigation Fund. Encore Boston Harbor is also expected to generate more funds into the CMF in 2019 than MGM Springfield. However, funding that was not allocated in 2019 for Region B can be made available to Region B in 2020. Approximately \$1.65 million that was generated by MGM Springfield in 2018 can be made available in 2020 for Region B.³

Below is a chart showing the anticipated contributions from each Region, compared to projected target spending levels for Region A and Region B.

FOR ILLUSTRATION PURPOSES ONLY (SEE NOTE BELOW)

	<u>Region A</u>	<u>Region B</u>
Unutilized 2018 Gaming Tax Contributions	n/a	\$1.65 million⁴
Projected 2019 Gaming Tax Contributions	\$5.20 million	\$4.18 million
2019 Fines	<u>\$2.30 million</u>	<u>\$0.01 million</u>
<u>Total:</u>	<u>\$7.5 million</u>	<u>\$5.84 million</u>
<i>2020 Target Spending Amount⁵</i>	<i>\$6.0 million</i>	<i>\$5.0 million</i>
<i>Plus \$500,000 for Category 2 Spending (split equally).</i>	<i>\$.25 million</i>	<i>\$.25 million</i>

³ For the 2019 CMF program, the Commission set a spending target of \$4.1 million for Region B, which included the use of approximately \$1.5 million from “new” funds generated by MGM Springfield in 2018 and \$2.6 million remaining from the original license fees. Only \$1.1 million was awarded to Region B in 2019, leaving the \$1.5 million in “new funds” and approximately \$1.5 million from the original license fees.

⁴ In the 2019 Guidelines, the Commission included a conservative estimate of \$1.5 million estimate for 2018 MGM Springfield contributions to the CMF. MGM Springfield placed \$1,649,098.02 into the fund in 2018.

⁵ Assumes \$500,000 of Category 2 spending (i.e. \$11.5 million in total spending - \$500k category 2 = \$11 million split between the Regions \$6M and \$5M).

PLEASE NOTE THAT THIS CURRENT ESTIMATE FOR PROJECTED 2019 GAMING TAX CONTRIBUTIONS IS PROVIDED ONLY FOR ILLUSTRATION PURPOSES. THE ESTIMATE IS CALCULATED SOLELY BY USING THE AVERAGE DAILY TAX REVENUES CONTRIBUTED TO DATE MULTIPLIED BY THE NUMBER OF REMAINING DAYS IN 2019. THIS ANALYSIS DOES NOT ACCOUNT FOR SEASONAL IMPACTS (SUCH AS SOME POST-SUMMER REVENUE DECLINES EXPERIENCED TO DATE). IT ALSO DOES NOT ACCOUNT FOR OTHER FACTORS SUCH AS THE IMPACT OF MARKETING BY THESE FACILITIES OR IMPACTS OF REGIONAL COMPETITION. BY THE TIME OF THE ANTICIPATED FINALIZATION OF THE GUIDELINES, THE COMMISSION WILL HAVE THE BENEFIT OF REVENUE NUMBERS THROUGH OCTOBER (AND PERHAPS NOVEMBER). THE BEST AVAILABLE ESTIMATES WILL BE USED AT THAT TIME.

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

Joint Applications

The Commission continues to support regional approaches to mitigation needs and recognizes that some mitigation requires the commitment of more than one community. The 2020 Guidelines for the Community Mitigation Fund allow multiple communities to submit a joint application. In the event that any of the applicant communities has not expended its One-Time 2015/2016 Reserve ("reserve" or "reserves"), the application must detail how the reserves will be allocated between the applicant communities to meet any reserve expenditure requirement. For example, transportation planning grants require that reserves be used prior to the receipt of new planning funds. In the event of a joint application for a \$200,000 planning grant, the joint application shall specify how the applicant communities will allocate/use a total of \$100,000 in reserves between the communities. The application must specify which community will be the fiscal agent for the grant funds. All communities will be held responsible for compliance with the terms contained in the grant.

In order to further regional cooperation the applications for transportation planning grants and non-transportation 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 (\$200,000 for transportation planning grants and \$50,000 for non-transportation planning grants). The additional funding may be requested only for the costs of a joint project being proposed by more than one community, not similar projects. Eligible communities may request additional funding for joint projects based on the below table.

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

*Although the base amount for such grants would increase with applications involving four or more communities (e.g. \$200,000 Transportation Planning Grant per community X 4 communities = \$800,000) the amount of the Regional Planning Incentive Award will not exceed \$50,000 (e.g. 4 community transportation planning grants would not exceed \$850,000 = 4 x \$200,000 base award plus \$50,000 Regional Planning Incentive Award).

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

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

Limitations

No application for a Specific Impact Grant shall exceed \$500,000, unless a waiver has been granted by the Commission. No community is eligible for more than one Specific Impact Grant,

unless a waiver has been granted by the Commission. However, communities may apply for multiple purposes in one application.

Of that amount, for 2020, no more than \$500,000 may be expended for operational impacts related to the Category 2 gaming facility, unless otherwise determined by the Commission.

One-Time 2015/2016 Reserves

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

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

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

Category 2 – Slots: Attleboro, Foxboro, Mansfield, North Attleboro, Plainridge, Wrentham

In many cases, communities may not be in a position to access their 2015/2016 Reserves by the February 1, 2020 deadline. Therefore, the Commission has extended such Reserves for the 2020 Community Mitigation Fund Program. Communities may continue to access whatever portion of the original \$100,000 that remains unexpended. **The above communities do not need to submit any new application to keep their Reserves. These reserves have automatically been extended by action of the Commission.**

The criteria for the use of the Reserves remain the same. This Reserve can be used to cover impacts that may arise in 2020 or thereafter. It may also be used for planning, either to determine how to achieve further benefits from a facility or to avoid or minimize any adverse impacts.

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

What are the Reserve Amounts?

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

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

Specific Impact Grants - What Specific Impacts Can Be Funded?

The 2020 Community Mitigation Fund for mitigation of specific impacts may be used only to mitigate impacts that either have occurred or are occurring as of the February 1, 2020 application date. Although the definition in the Commission's regulations (for the purpose of determining which communities are surrounding communities) references predicted impacts, the 2020 program is limited to only those impacts that are being experienced or were experienced by the time of the February 1, 2020 application date.

The Commission has determined that the funding of unanticipated impacts will be a priority under the annual Community Mitigation Fund. Thus the Commission will review funding requests in the context of any host or surrounding community agreement to help determine funding eligibility.⁶ The Community Mitigation Fund is not intended to fund the mitigation of specific impacts already being funded in a Host or Surrounding Community Agreement.

No application for the mitigation of a specific impact shall exceed \$500,000. However, communities and governmental entities may ask the Commission to waive this funding cap. Any community and governmental entity seeking a waiver should include a statement in its application specifying the reason for its waiver request, in accordance with the waiver guidance included in these Guidelines.

Allowable impacts for funding are as follows:

Operational Impacts for All Gaming Facilities: In recognition that the Category 2 gaming facility in Plainville opened during calendar year 2015, the MGM Springfield Category 1 facility opened during calendar year 2018, and Encore Boston Harbor opened during calendar year 2019, the Commission will make available funding to mitigate operational related impacts that are being experienced or were experienced from that facility by the February 1, 2020 date. The Commission will make available up to \$500,000 in total for applications for the mitigation of operational impacts relating to the Plainridge facility.

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

"The community will be significantly and adversely affected by the operation of the gaming establishment after its opening taking into account such factors as potential public safety impacts on the community; increased demand on community and regional water and sewer systems; impacts on the community from storm water run-off, associated pollutants, and changes in drainage patterns; stresses on the community's housing stock including any projected negative impacts on the appraised value of housing stock due to a gaming establishment; any negative impact on local, retail, entertainment, and service establishments in the community; increased social

⁶ The Commission is aware of the difference in bargaining power between host and surrounding communities in negotiating agreements and will take this into account when evaluating funding applications.

service needs including, but not limited to, those related to problem gambling; and demonstrated impact on public education in the community.”

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

All applications for public safety personnel or other public safety operation costs must demonstrate that CMF funds will supplement and not supplant historical operations funding. Grants for public safety personnel or operations costs may not exceed \$ [REDACTED] per community. Grant funds shall not be used to pay for Gaming Enforcement Unit personnel or operations costs specified or anticipated in the memoranda of understanding between the Massachusetts State Police and host communities’ police departments.

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

Please note that any 2020 public safety grants shall have a duration of only one year, unless otherwise determined by the Commission. Any grant awards issued in **2020 SHOULD NOT** be considered to provide any guarantee or indication of future funding.

Hampden County Sheriff’s Department – Specific Impact Grant

In 2016 the Commission awarded the Hampden County Sheriff’s Department (“HCSD”) funds to offset increased rent for the Western Massachusetts Correctional Alcohol Center (“WMCAC”). In providing assistance, the Commission stated that the amount of assistance shall not exceed \$2,000,000 in total for five years or \$400,000 per fiscal year. A provision in the grant required HCSD to reapply each year. Each grant application may not exceed \$400,000 per year. Any such lease assistance shall be included in the Region B allocation of funds.

2020 Non-Transportation Planning Grant

The Commission will make available funding for certain planning activities for all communities that previously qualified to receive funding from the One-Time 2015/2016 Reserve Fund, and have already allocated and received Commission approval of the use of its reserve. No application for this 2020 Non-Transportation Planning Grant shall exceed One Hundred Thousand Dollars (\$100,000). Applications involving transportation planning or design are not eligible for the 2020 Non-Transportation Planning Grant. Communities requesting transportation planning should instead apply for Transportation Planning Grant funds.

Eligible planning projects must have a defined area or issue that will be investigated as well as a clear plan for implementation of the results. The planning project must be clearly related to addressing issues or impacts directly related to the gaming facility. Applicants will be required to submit a detailed scope, budget, and timetable for the planning effort prior to funding being awarded. Each community applying for a 2020 Non-Transportation Planning Grant will also need to provide detail on what it will contribute to the project such as in-kind services or planning funds. Planning projects may include programs created by communities to provide technical assistance and promotion for groups of area businesses.

Communities that utilize this 2020 Non-Transportation Planning Grant are not prohibited from applying for funding for any specific mitigation request.

Transportation Planning Grants

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

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

Eligible transportation planning projects must have a defined area or issue that will be investigated as well as a clear plan for implementation of the results. Transportation Planning Grant funds may be sought to expand a planning project begun with reserve funds or to fund an additional project once the reserves have been exhausted.

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

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

- Planning consultants/staff
- Data gathering/surveys
- Data analysis
- Design
- Engineering review/surveys
- Public meetings/hearings
- Final report preparation

The transportation planning projects must be clearly related to addressing transportation issues or impacts directly related to the gaming facility. Applicants will be required to submit a detailed scope, budget, and timetable for the transportation planning effort prior to funding being awarded.

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

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

Applicants may, but are not required, to include a description of how the project meets the evaluation standards for the Fiscal Year 2020 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.

Transportation Project Construction Costs

In addition to grants for transportation planning and design through its transportation planning grants, the Commission has determined to expand these grants to include the cost of the construction of transportation projects in the 2020 CMF. The Commission intends that any CMF assistance provided will only be for a percentage of the costs [no more than __X__ percent] of any such project and that significant other federal, state, local, private or other funding will be available to pay for the costs of any such project.

Applicants are not prohibited from applying for transportation construction funds in future years for a project included in a 2020 application. However, any 2020 transportation project may not rely upon contributions from the CMF in future rounds. Applicants should demonstrate that the financing for the project does not depend upon any future year awards by the Commission. Given the likely complexity of any such transportation construction applications, applicants may consult with Commission staff before and during the CMF review on such projects. The Commission anticipates authorizing no more than \$3,000,000 in grants for transportation construction projects. The Commission does not anticipate authorizing more than \$1,000,000 for any one award. Applicants may include a request to use funding from previously awarded CMF Reserves in any description of significant other federal, state, local, or private contributions. Similarly, applicants may include contributions from gaming licenses and private contributions.

Applicants must demonstrate that any transportation construction project will begin construction no later than June 30, 2021.

Although the Commission will not authorize any multi-year grants for transportation projects in 2020, the Commission plans to issue request for Statements of Interest in 2020 for transportation construction projects that would require multi-year grants. Such Statement of Interest would help the Commission determine the needs for multi-year grants in preparation

for the 2021 CMF funding round. The Statement of Interest would also be utilized to allow for a greater understanding of projects that may be the subject of a future application.

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

Limitations/Specific Requirements on Planning Applications

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

Pursuant to the Guidelines, the Commission will evaluate requests for planning funds (including the use of One-Time 2015-2016 Reserve, Non-Transportation Planning Grant, Transportation Planning Grant and Transit Project(s) of Regional Significance) after taking into consideration input the applicant has received from the local Regional Planning Agency ("RPA") or any such interested parties. Although there is no prerequisite for using RPA's for planning projects, consultation with RPA's is required to enable the Commission to better understand how planning funds are being used efficiently across the region of the facility. Please provide details about the applicant's consultation with the RPA or any such interested parties. Applicants should provide detail regarding consultations with nearby communities to determine the potential for cooperative regional efforts regarding planning activities.

Tribal Gaming Technical Assistance Grant

The Commission may make available no more than \$200,000 in technical assistance funding to assist in the determination of potential impacts that may be experienced by communities in geographic proximity to the potential Tribal Gaming facility in Taunton. Said technical assistance funding may be made through Southeastern Regional Planning and Economic Development District ("SRPEDD"), the regional planning agency that services such communities or a comparable regional entity. Such funding will only be made available, after approval of any application by SRPEDD or a comparable regional entity, if it is determined by the Commission that construction of such gaming facility will likely commence prior to or during Fiscal Year 2020. Any such application by SRPEDD or a comparable regional entity must demonstrate that any studies of impacts will address the technical assistance needs of the region which may include but not be limited to the communities that are geographically adjacent to Taunton. Such funding shall not be used to study impacts on or provide technical assistance to Taunton, as funding has been provided in the Intergovernmental Agreement By and Between the Mashpee Wampanoag Tribe and the City of Taunton. Any such program of technical assistance may be provided by SRPEDD itself or through a contract with SRPEDD.

Workforce Development Pilot Program Grant

For fiscal year 2020, the Commission will make available funding for certain career pathways workforce development pilot programs in Regions A and B for service to residents of communities of such Regions, including each Category 1 host community and each designated surrounding community, each community which entered into a nearby community agreement with a licensee, any community that petitioned to be a surrounding community to a gaming licensee, and each community that is geographically adjacent to a host community. CMF Workforce grant applicants should focus on areas highly impacted by casino development, including gaming school scholarships, culinary, hospitality skills training or vocational focused English language/adult basic education.

The total funding available for grants will likely not exceed \$700,000. No application for a grant in each Region shall exceed \$300,000 unless otherwise determined by the Commission. In an effort to promote administrative efficiencies and greater regional cooperation, applicants that demonstrate cooperation of a significant number of workforce agencies in each region may be eligible for \$50,000 in additional funding. One grant is anticipated to be considered for each Region. Each governmental entity applying for workforce development funds will also need to provide detail on what it will contribute to the workforce development project such as in-kind services or workforce development funds.

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

Goals include:

- To help low-skilled adults earn occupational credentials, obtain well-paying jobs, and sustain rewarding careers in sectors related to hospitality and casino careers.
- To get students with low basic skills into for-credit career and technical education courses to improve their educational and employment outcomes.
- To deliver education and career training programs that can be completed in two years or less and prepare program participants for employment in high-wage, high-skill occupations related to the casino.
- To align and accelerate ABE, GED, and developmental programs and provide nontraditional students the supports they need to complete postsecondary credentials of value in the regional labor market.

- To mitigate a strain in existing resources and a potential impact to the regional labor market.

Eligible activities include:

- a program in Region A or Region B that structures intentional connections among adult basic education, occupational training, and post-secondary education programs designed to meet the needs of both adult learners and employers;
- a program in Region A or Region B that provides 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 and training, and industry-recognized credentials.

A consortium application is required. However, governmental entities eligible to receive funds would include but not be limited to: host communities, communities which were each either a designated surrounding community, a community which entered into a nearby community agreement with a licensee, a community that is geographically adjacent to the host community of a gaming licensee, a community that petitioned to be a surrounding community to a gaming licensee state agencies, state agencies, and regional employment boards. The Commission shall evaluate the use of host community agreement funds in evaluating funding requests for workforce development pilot program grant funds. Applicants should consider leveraging other funding resources.

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

What Should Be Included in the Applications?

- ★ Applicants are required to complete the 2020 Specific Impact Grant Application, the 2020 Transportation Planning Grant Application, the 2020 Workforce Development Pilot Program Grant Application, the 2020 Non-Transportation Planning Grant Application, 2020 Transportation Project Construction Costs Grant Application, or 2020 Reserve Planning Grant Application/Tribal Gaming Technical Assistance Grant Application, and may also submit additional supporting materials of a reasonable length.
- ★ Applicants will need to describe how the specific mitigation, planning, workforce development pilot program or regional transit project request will address any claimed impacts and provide justification of any funds requested. Unlike existing surrounding community agreements which were based on anticipated impacts, any Specific Impact Grant will be based on impacts that have occurred or are occurring, as described previously.

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

How Will the Commission Decide on Applications?

Similar to the Commission’s surrounding community review process, the Commission will ask each licensee to review and comment on any requests for funding.

The Commission will evaluate the submittal by the community, any input received from the community and interested parties (such as regional planning agencies), the responses of the licensee, Commission consultant reviews, and any other sources determined by the Commission. Commission Staff may consider information from the report issued by the Lower Mystic Regional Workforce Group in its evaluation of transportation planning grants.

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

- A demonstration that the impact is being caused by the proposed 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 for workforce development pilot program activities or planning efforts, including but not limited to the ability to compete for state or federal workforce, transportation or other funds;
- Any demonstration of regional benefits from a mitigation award;
- A demonstration that other funds from host or surrounding community agreements are not available to fund the proposed mitigation measure;
- A demonstration that such mitigation measure is not already required to be completed by the licensee pursuant to any regulatory requirements or pursuant to any agreements between such licensee and applicant; and
- The inclusion of a detailed scope, budget, and timetable for each mitigation request.

Supplemental Guidelines Used To Evaluate Workforce Development Applications

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

The Commission may ask Applicants for supplementary materials, may request a meeting with Applicants, and reserves the ability to host a hearing or hearings on any application.

The Commission’s deliberations on Community Mitigation Fund policies will also be aided through input from the Gaming Policy Advisory Committee, the Community Mitigation Subcommittee, and any Local Community Mitigation Advisory Committees as established pursuant to M.G.L. c. 23K.

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

The Commission reserves the ability to fund only portions of requested projects and to fund only a percentage of amounts requested. The Commission also reserves the ability to place conditions on any award.

There is limited funding available. The Commission therefore reserves the right to determine which requests to fund based on its assessment of a broad range of factors including the extent of public benefit each grant is likely to produce.

When Will the Commission Make Decisions?

The Commission anticipates making funding decisions on any requests for grant assistance before July 2020, after a comprehensive review and any additional information requests.

Authorization to Approve Requests for Changes to Components of Grant Awards

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

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

There is no deadline. Funds may be used on a rolling basis when specific impacts are determined or the specific planning activity is determined. Once known, communities should contact the Ombudsman's Office, which will assist the community in providing the needed information. Communities with specific impacts will, at the time the impacts are known, complete the Specific Impact Grant Application or the Planning Project Grant Application in its entirety. Communities with requests for planning funds will provide similar information to the Commission: a description of the planning activity, how the planning activity relates to the development or operation of the gaming facility, how the planning funds are proposed to be used, consultation with the Regional Planning Agency, other funds being used, and how planning will help the community determine how to achieve further benefits from a facility or to avoid or minimize any adverse impacts. The Commission will fund no application for more than two years for any municipal employee. The CMF will not pay the full cost of any municipal employee. The municipality would need to provide the remaining amount of any employee cost and certify that all such expenses are casino related. Each Community applying for planning funds will also need to provide detail on what it will contribute to the planning project such as in-kind services or planning funds. Please note that such details do not need to be determined by the February 1, 2020 application date. Commission approvals of the use of the One-Time 2015/2016 Reserve will also be on a rolling basis corresponding to the rolling determinations of use by communities.

Waivers and Variances

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

1. Granting the waiver or variance is consistent with the purposes of M.G.L. c. 23K;
2. Granting the waiver or variance will not interfere with the ability of the Commission to fulfill its duties;
3. Granting the waiver or variance will not adversely affect the public interest; and

4. Not granting the waiver or variance would cause a substantial hardship to the community, governmental entity, or person requesting the waiver or variance.

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

(c) Determination. 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.

Who Should Be Contacted for Any Questions?

As the 2020 Community Mitigation Fund program is just in the fifth year of the program for the Commission, communities and other parties may have a number of questions. They are encouraged to contact the Commission's Ombudsman with any questions or concerns. The Commission's Ombudsman will regularly brief the Commission regarding the development of Community Mitigation Fund policies.

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

Where Should the Application Be Sent?

Applications **must be sent to** www.commbuys.com. An application received by COMMBUYS by February 1, 2020 will meet the application deadline. Applicants that are not part of the COMMBUYS system should contact Mary Thurlow of the Commission's Ombudsman's Office well in advance of the February 1, 2020 deadline to make arrangements for submission of the application by the deadline. Mary Thurlow can be contacted at (617) 979-8420 or at mary.thurlow@state.ma.us.

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