



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:

Monday | September 19, 2022 | 10:00 a.m.
VIA REMOTE ACCESS: 1-646-741-5292
MEETING ID/ PARTICIPANT CODE: 111 880 8899

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 - #394

1. Call to Order

2. Administrative Update – Karen Wells, Executive Director
 - a. Casino Updates – Bruce Band, Assistant Director, IEB and Gaming Agents Divisions Chief

3. Legal Division – Carrie Torrisi, Deputy General Counsel
 - a. 205 CMR 103: Access to and Confidentiality of Commission Records and Amended Small Business Impact Statement to finalize the promulgation process. **VOTE**
 - b. 205 CMR 102.02: Definitions, and Amended Small Business Impact Statement to finalize the promulgation process. **VOTE**
 - c. 205 CMR 115.04: Phase 1 and New Qualifier Proceedings by the Commission, and Amended Small Business Impact Statement to finalize the promulgation process. **VOTE**
 - d. Policy Governing Information Provided in Response to Request for Applications – Phase 1 & Phase 2 **VOTE**
 - e. Security Protocols and Restricted Access Policy **VOTE**
 - f. Approval of Certified Independent Testing Laboratories for Sports Wagering **VOTE**



Massachusetts Gaming Commission

4. Community Affairs Division – Joe Delaney, Chief
 - a. Community Mitigation Fund Policy Questions– Mary Thurlow, Senior Program Manager; Lily Wallace, Program Assistant **VOTE**
 - b. Community Mitigation Fund Subcommittee Renewal and Commission Representative **VOTE**
5. Commissioner Updates
6. 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: September 15, 2022 9:30 a.m.

September 14, 2022



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

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

FROM: Carrie Torrisi, Deputy General Counsel

DATE: September 13, 2022

RE: Repeal of 205 CMR 103: *Access to and Confidentiality of Commission Records* – Final Vote for Promulgation

On June 22, 2022, the Commission reviewed at length the proposed rescission of 205 CMR 103: *Access to and Confidentiality of Commission Records* and voted to begin the formal promulgation process to rescind the regulation in its entirety as doing so would eliminate redundancy and streamline the process to which it relates. By way of background, 205 CMR 103 creates a process by which information or records can be deemed by the Commission to constitute “confidential information” and therefore exempt from public disclosure. “Confidential information” is defined separately in 205 CMR 102:.02 *Definitions* as

all records which are, and those portions of records which contain: (a) trade secrets, competitively-sensitive information and other proprietary information provided to the commission, the bureau, and their agents and employees in the course of an application or an investigation; and (b) trade secrets and other information protected from public disclosure by a nondisclosure agreement between the gaming licensee and the commission pursuant to M.G.L. c. 23K, § 21(a)(7).

Ultimately, 205 CMR 103 consists of language that is either unnecessary or duplicative of other laws, better suited for policies and procedures as opposed to regulatory language, or inconsistent with the Massachusetts Public Records Law where it creates a redundant or duplicative process for deeming records exempt from public disclosure.

In addition, the legal department identified two regulations that include cross-references to 205 CMR 103. First, 205 CMR 102.02: *Definitions*, which includes several defined terms that only exist within 205 CMR 103. Second, 205 CMR 115.04: *Phase 1 and New Qualifier Proceedings by the Commission*, which includes a citation to 205 CMR 103. At its meeting on July 26, 2022, the Commission voted to begin the promulgation process to amend each of those regulations to remove references to 205 CMR 103.

Finally, at its meeting on June 22, 2022, the Commission agreed that three sections within 205 CMR 103 included language better suited for policy language versus regulatory language, and voted at its meeting on July 12, 2022, to adopt the following three policies:

- Official Custodians Policy: Individuals Responsible for Personal Data Systems (relocated from 205 CMR 103.03);
- Policy Governing Information Provided in Response to Request for Applications – Phase 1 & Phase 2 (relocated from 205 CMR 103.09); and
- Security Protocols and Restricted Access Policy (relocated from 205 CMR 103.14).

Given that two of these policies include citations to 205 CMR 103, they are included herewith for amendments to remove those citations in conjunction with the final rescission of the regulation.

~~205 CMR 103:00: ACCESS TO AND CONFIDENTIALITY OF COMMISSION RECORDS~~

~~103.01: PURPOSE, AUTHORITY AND APPLICABILITY~~

~~103.02: AVAILABILITY OF PUBLIC RECORDS~~

~~103.03: OFFICIAL CUSTODIANS: INDIVIDUAL RESPONSIBLE FOR PERSONAL DATA SYSTEM~~

~~103.04: DETERMINATIONS BY THE OFFICIAL CUSTODIAN, THE GENERAL COUNSEL AND THE COMMISSION~~

~~103.05: EFFECT OF REQUESTS FOR CONFIDENTIALITY~~

~~103.06: POSTPONING DENIAL OF CONFIDENTIALITY REQUEST PENDING APPEAL~~

~~103.07: WHEN CONFIDENTIAL OR EXEMPT INFORMATION MAY BE DISCLOSED BY THE COMMISSION~~

~~103.08: CONFIDENTIAL INFORMATION SUBJECT TO PROMISE OF CONFIDENTIALITY~~

~~103.09: INFORMATION PROVIDED IN RESPONSE TO REQUEST FOR APPLICATIONS - PHASE I & PHASE II~~

~~103.10: REQUEST FOR PROTECTING CONFIDENTIAL INFORMATION~~

~~103.11: PROCEDURE FOR ACTING ON REQUESTS FOR PROTECTING CONFIDENTIAL INFORMATION~~

~~103.12: RECONSIDERING CONFIDENTIALITY DETERMINATIONS~~

~~103.13: EXECUTIVE SESSION CONSIDERATION OF CONFIDENTIAL OR EXEMPT INFORMATION~~

~~103.14: SECURITY PROTOCOLS; RESTRICTED ACCESS~~

~~103.15: RECORDS RETENTION~~

103.01: Purpose, Authority and Applicability

~~205 CMR 103.00 is promulgated pursuant to M.G.L. c. 23K, §§ 4(37), and 5. 205 CMR 103.00 is intended to assure that public access to, and the confidentiality of, records made or received by the commission and the bureau are in conformity with M.G.L. c. 23K, § 9(b) and § 21(a)(7); M.G.L. c. 66, § 10; M.G.L. c. 4, § 7, cl. 26; and 950 CMR 32.00: *Public Records Access*.~~

103.02: Availability of Public Records

~~All records made or received by the commission or the bureau shall be public records and shall be available for disclosure on request pursuant to 205 CMR 103.00 and 950 CMR 32.00: *Public Records Access*, except the following, which shall be exempt from disclosure to the extent permitted by law:~~

~~(1) all records, including without limitation investigatory materials, specifically excluded from the definition of “public record” pursuant to M.G.L. c. 4, § 7, cl. 26;~~

~~(2) all confidential information as defined in 205 CMR 102.02: *Definitions*;~~

~~(3) all records which are or which contain “criminal offender record information”, “evaluative information”, or “intelligence information” pursuant to M.G.L. c. 6, § 167, the disclosure of which would not be in compliance with M.G.L. c. 6, §§ 167 through 178Q;~~

~~(4) all records which are or which contain “personal data” pursuant to M.G.L. c. 66A, § 1, the disclosure of which would not be in compliance with M.G.L. c. 66A; or which are or which contain “personal information” pursuant to M.G.L. c. 93H, § 1, the disclosure of which would not be in compliance with M.G.L. c. 93H; and~~

~~(5) all records specifically or by necessary implication exempted from disclosure by statute including, but not limited to, the exemption statutes listed by the supervisor of public records in the official *Guide to the Massachusetts Public Records Law: Appendix*.~~

~~103.03: Official Custodians: Individual Responsible for Personal Data System~~

~~(1) Pursuant to M.G.L. c. 66, § 6, and M.G.L. c. 23K § 3(f) and (i), subject to the oversight of the chair, the secretary shall be the official custodian of all books, documents and papers filed by the commission and of its minute book; the chief financial and accounting officer shall be the official custodian of its books of account and accounting records; the deputy director shall be the official custodian of all records of the bureau; and the executive director shall be the official custodian of all other records of the commission. In the case of an absence or vacancy in the office of an official custodian or in the case of disability as determined by the commission, the chair may designate an acting custodian to serve until the vacancy is filled or the absence or disability ceases. Each official custodian may, with the permission of the chair, delegate to another commissioner, employee or employees of the commission or the bureau responsibility for the custody of some or all public records under his or her jurisdiction.~~

~~(2) Pursuant to M.G.L. c. 66A, § 2, subject to the oversight of the chair, the executive director shall be the individual immediately responsible for any personal data system maintained by the commission; the deputy director shall be the individual immediately responsible for any personal data system maintained by the bureau; and each shall conform to the requirements of M.G.L. c. 66A and 801 CMR 3.00: *Privacy and Confidentiality* for preventing unauthorized access to or dissemination of personal data under his or her jurisdiction. In the case of an absence or vacancy in the office of an individual immediately responsible for any personal data system, or in the case of disability as determined by the commission, the chair may designate an acting person to serve as the individual immediately responsible for any personal data system until the vacancy is filled or the absence or disability ceases. The executive director or the deputy director may, with the permission of the chair, delegate to another commissioner or employee of the commission or the bureau immediate responsibility for any personal data system under his or her jurisdiction.~~

~~103.04: Determinations by the Official Custodian, the General Counsel and the Commission~~

~~No information which is exempt from disclosure under 205 CMR 103.02 or which a confidentiality claimant asserts to be confidential information defined in 205 CMR 102.02: Definitions shall be disclosed in response to any request for public records unless the Commission has expressly so authorized in accordance with 205 CMR 103.00.~~

~~103.05: Effect of Requests for Confidentiality~~

~~Whenever a confidentiality claimant requests in writing that particular records be deemed to be or to contain confidential information as defined in 205 CMR 102.02: Definitions, such records or information shall be treated as confidential and may not be disclosed until the confidentiality request has been approved or denied pursuant to 205 CMR 103.04, 103.10 and 103.11.~~

~~103.06: Postponing Denial of Confidentiality Pending Appeal~~

~~Whenever the commission denies a request to deem records to be or to contain confidential information as defined in 205 CMR 102.02: Definitions or exempt from disclosure as described in 205 CMR 103.02(1) through (5), such denial shall take effect 14 days after the date thereof so that any person aggrieved by said denial may appeal to a court of competent jurisdiction. During this 14-day period, the records in question shall be treated as confidential and accordingly exempt from public disclosure in accordance with M.G.L. c. 4, § 7(26)(a). This 14-day period may be extended by the commission in extraordinary situations. Any extension shall be in writing and signed by the general counsel.~~

~~103.07: When Confidential or Exempt Information May be Disclosed by the Commission~~

~~(1) Notwithstanding any provision of 205 CMR 103.00 to the contrary, information otherwise exempt from disclosure as described in 205 CMR 103.02(1) through (5) shall be subject to disclosure by the commission only:~~

- ~~(a) to the extent necessary to comply with Federal Law;~~
- ~~(b) to the extent necessary to comply with or carry out the responsibilities contained in M.G.L. c. 23K or other state law;~~
- ~~(c) to the extent necessary for any enforcement action, whether criminal or civil, judicial or administrative;~~
- ~~(d) upon presentation of proper identification, to the person who furnished the specific information to the commission or the bureau; or~~
- ~~(e) upon presentation of a timely and duly executed and notarized authorization by the person who furnished the specific information to the commission or the bureau, to any other person making a written request for the specifically identified information.~~

~~(2) If information otherwise exempt from disclosure as described in 205 CMR 103.02(1) through (5) is released or otherwise disclosed to any person under any circumstances other than those identified in 205 CMR 103.07(1)(d) and (e), written notice of such release or disclosure shall be provided to the last known address the commission has in its records for the person who~~

furnished the confidential information to the commission or the bureau, unless such notice may prejudice the possibility of effective law enforcement or otherwise imperil the integrity of the commission's or the bureau's operations. To the extent known, the notice shall include:

- (a) ~~The name and address of the person to whom the information was released or disclosed;~~
- (b) ~~A description of the information released or disclosed; and~~
- (c) ~~The date of the release or disclosure.~~

(3) ~~Subject to 205 CMR 103.07(2) any such notice of confidential information to be released or disclosed will be given prior to the release or disclosure to provide an opportunity for review.~~

~~103.08: Confidential Information Subject to Promise of Confidentiality~~

~~For confidential information to be protected from public disclosure by a nondisclosure agreement pursuant to M.G.L. c. 23K, § 21(a)(7) or by other promise of confidentiality pursuant to M.G.L. c. 4, § 7, cl. 26(g), the nondisclosure agreement or other promise of confidentiality must be made in writing and signed by the chair, the secretary or a person designated by the commission.~~

~~103.09: Information Provided in Response to Request for Applications—Phase 1 & Phase 2~~

(1) ~~In accordance with M.G.L. c. 23K, § 9(b), an application for a license in response to the commission's Request for Applications—Phase 1, 205 CMR 110.00: *Issuance of Request for Category 1 and Category 2 License Applications*, and an RFA-2 application submitted in accordance with 205 CMR 118.00: *Phase 2—Applying for a License* shall be a public record except those portions of the application containing information otherwise exempt from disclosure pursuant to 205 CMR 103.02(1) through (5).~~

(2) ~~As guidance to applicants and the public, the commission shall issue a set of specimen annotated application forms and distribute such forms together with, or incorporated as part thereof, the Request for Applications—Phase 1 pursuant to 205 CMR 111.00: *Phase 1 Application Requirements* and with or part of the Request for Applications—Phase 2 pursuant to 205 CMR 118.00: *Phase 2—Applying For a License*. These specimen annotated application forms shall designate as “Exempt/Redact” or otherwise identify all information or categories of information which, at a minimum, the commission considers to be exempt from disclosure in accordance with 205 CMR 103.02(1) through (5).~~

(3) ~~To assist the commission in protecting from inadvertent disclosure information subject to 205 CMR 103.02(1) through (5), applicants shall follow the procedures in 205 CMR 103.10(1) in completing and submitting the required forms pursuant to 205 CMR 111.00: *Phase 1 Application Requirements* and 205 CMR 118.00: *Phase 2—Applying For a License*.~~

(4) ~~All information submitted by an applicant in the RFA Phase 1 or Phase 2 application, other than that described as “Exempt/Redact” or otherwise so identified in 205 CMR 103.09(2), shall be presumed to be available for public disclosure on request unless a confidentiality claimant demonstrates or the commission otherwise finds that a separable portion of the information is exempt from disclosure pursuant to 205 CMR 103.02(1) through (5). Confidentiality claimants~~

shall make such a demonstration in accordance with the provisions of 205 CMR 103.10 through 103.12.

103.10: Requests for Protecting Confidential Information

Except as set forth in 205 CMR 103.09, no record shall be deemed to be or to contain confidential information as defined in 205 CMR 102.02: *Definitions* unless a person submits a written request to the commission to deem the information confidential information and accordingly exempt from public disclosure in accordance with M.G.L. c. 4, § 7(26)(a). The request shall be made and substantiated as follows:

(1) Each record containing information that is the subject of a confidentiality request shall be clearly marked “CONFIDENTIAL”. To assist the commission in complying with 205 CMR 103.02, persons shall separately submit confidential portions of otherwise non-confidential records. If submitted separately, the record that is the subject of a confidentiality request shall be clearly marked “CONFIDENTIAL” and the record from which confidential information has been redacted shall be clearly marked “REDACTED”.

(2) The request for confidentiality shall be supported with the following information, which shall be treated as a public record:

(a) The time period for which confidential treatment is desired.

(b) The reason the record was provided to the commission or the bureau, and the date of submittal.

(c) The basis for the claim that the record contains confidential information and, if applicable, the basis for believing that the criteria in 205 CMR 103.11 are satisfied.

(d) The extent to which the person requesting that the record be kept confidential has disclosed the contents of that record to other persons without a restriction as to confidentiality imposed by agreement or by law.

(e) A statement whether, to the best of the provider's knowledge, the information has previously been provided to a governmental entity that does not treat the information as confidential or that has denied a request for confidential treatment.

(f) A statement that the information is not required to be disclosed or otherwise made available to the public under any other Federal or state law.

(g) How making the record a public record would place the applicant at a competitive disadvantage pursuant to M.G.L. c. 23K, § 9(b), or would be detrimental to a gaming licensee if it were made public pursuant to M.G.L. c. 23K, § 21(a)(7).

(h) If the record was submitted voluntarily for use in developing governmental policy and upon a promise of confidentiality pursuant to M.G.L. c. 4, § 7, cl. 26(g), and not in compliance with a regulation or order of the commission or a court, whether and if so why making the record a public record would tend to lessen the availability to the commission or the bureau of similar records in the future.

103.11: Procedure for Acting on Requests for Protecting Confidential Information

The commission shall act on a confidentiality request made pursuant to 205 CMR 103.10 subject to the following provisions:

- (1) If the commission has received a request to inspect or copy a record which is the subject of a confidentiality request on which the commission has not made a final decision, the commission shall notify the person who made the request to inspect or copy the record that the record in question is the subject of a pending confidentiality request and a final decision will be made when the commission determines whether the record in question is entitled to confidentiality protection and shall notify the confidentiality claimant of the request to inspect or copy the record.
- (2) The commission shall determine whether the record is confidential information as defined in 205 CMR 102.02: *Definitions*. The Commission shall give notice of its determination(s) to the confidentiality claimant and all persons who requested to inspect or copy the record.
- (3) If the commission determines that a record is confidential information as defined in 205 CMR 102.02: *Definitions*, the record in question, or portion thereof, shall be exempt from public disclosure in accordance with M.G. L. c. 4, § 7(26)(a) for such length of time, and subject to such terms, conditions and limitations, as the commission may include in the determination. The commission shall so notify the person who submitted the record to the commission or the bureau, the confidentiality claimant, and all persons making a request to inspect or copy the record in question.
- (4) All notices given pursuant to 205 CMR 103.11(2) and (3) shall be in writing, shall be delivered by hand, by first class mail, or by electronic mail, and shall include:
 - (a) the reasons for the determination,
 - (b) notice that the determination constitutes a final decision of the commission,
 - (c) notice that the determination may be subject to review by the supervisor of records of the Office of the Secretary of the Commonwealth or by the courts, as applicable.
 - (d) if the determination is that the record in question, or portion thereof is not confidential information as defined in 205 CMR 102.02: *Definitions*, notice that the record in question shall become a public record 14 days after the date of the commission's determination unless, a person aggrieved by said determination appeals the determination to a court of competent jurisdiction. This 14-day period may be extended only in extraordinary situations, and any such extension must be in writing and signed by the commission's general counsel.
- (5) If pursuant to 205 CMR 103.11, the commission denies a request to protect confidential information made pursuant to 205 CMR 103.10, the confidentiality claimant may, within ten days from the date of the commission's notice of such determination, submit to the commission one request to reconsider such determination, which request to reconsider shall set forth any and all supplemental information supporting the claim of confidentiality and further addressing the criteria of 205 CMR 103.10(2). The commission shall act on the request to reconsider following

~~the procedures in 205 CMR 103.11(1) through (4). The request for reconsideration shall stay the effect of the commission's original denial and the 14 day period set forth in 205 CMR 103.11(4) shall run from the date of the commission's notice of its ruling on the request for reconsideration.~~

~~(6) If pursuant to 205 CMR 103.11, the commission denies a request to protect confidential information made pursuant to 205 CMR 103.10, the confidentiality claimant may, at any time before the expiration of the applicable 14 day period set forth in 205 CMR 103.11(4), submit a written request to the commission pursuant to 205 CMR 111.05: Withdrawal of Application, to withdraw with prejudice the application to which the information relates and to order the information permanently sealed or returned to the applicant. If the commission allows the request to withdraw the application with prejudice, the commission may order the information permanently sealed or returned to the applicant to the extent permitted by M.G.L. c. 4, § 7, cl. 26, and M.G.L. c. 23K.~~

103.12: Reconsidering Confidentiality Determinations

~~If the commission determines that newly discovered information or changed circumstances make it appropriate for the commission to reconsider and possibly modify a prior grant of confidentiality, the commission shall so notify the person who submitted the record to the commission or the bureau, and the confidentiality claimant. The notice shall give the person and the confidentiality claimant a reasonable period of time to substantiate, pursuant to 205 CMR 103.10, keeping the record in question confidential. The amount of time originally established in the notice maybe reasonably extended by the commission. After this time has passed, or after the commission has received a written response from the confidentiality claimant, whichever occurs first, the commission shall make a new determination whether the record in question shall be deemed either confidential or a public record.~~

103.13: Executive Session Consideration of Confidential or Exempt Information

~~Pursuant to M.G.L. c 30A, § 21(a)(7), the commission may meet in executive session to review information which is exempt from disclosure as described in 205 CMR 103.02(1) through (5); or to conduct an in camera inspection of records to enable the commission to resolve matters as to confidentiality or exemption pursuant to 205 CMR 103.04(1) or (2), to act on requests for protecting confidential information pursuant to 205 CMR 103.11, or to reconsider confidentiality determinations pursuant to 205 CMR 103.12.~~

103.14: Security Protocols; Restricted Access

~~(1) The executive director, subject to the direction of the commission, shall establish and maintain secure storage areas, methodologies and procedures to protect tangible and electronic information exempt from disclosure as described in 205 CMR 103.02(1) through (5) contained in the records of the commission or the bureau. Records containing such information shall be kept, managed, accessed and used in accordance with the security protocols.~~

~~(2) Records for which confidential information claims have been made and related supporting materials, and information for which such claims have been finally adjudicated in favor of the confidentiality claimant, shall be kept, managed, accessed and used in accordance with the~~

~~security protocols. Materials and information for which such claims have been finally adjudicated against the confidentiality claimant may be permanently removed from the protection of the security protocols.~~

~~(3) The executive director the deputy director and the official custodians shall be responsible for implementing the security protocols for records under their respective custody.~~

~~(4) Personnel and authorized agents of the commission or the bureau who require information contained within the secure tangible and electronic storage areas for the effective performance of their duties may, upon request to its official custodian, examine documents containing such information in accordance with the security protocols.~~

~~(5) The commission and the bureau shall keep the number of tangible and electronic copies of information exempt from disclosure as described in 205 CMR 103.02(1) through (5) to a minimum and shall ensure that all copies of such information are maintained in a manner consistent with the requirements of the security protocols. No copies of such documents or information may be made or transmitted except in accordance with the security protocols; where necessary to the authorized duties and operations of the commission, the bureau, or their employees and authorized agents; or where release of the confidential information is authorized pursuant to 205 CMR 103.00. Any notes concerning such information made by commission or bureau employees or agents shall be treated as confidential pursuant to 205 CMR 103.00.~~

~~(6) Commission or bureau employees or authorized agents who violate the procedures required by 205 CMR 103.00 or the security protocols established pursuant thereto shall be subject to disciplinary action.~~

~~103.15: Records Retention~~

~~The commission shall follow the records retention schedule set forth in the *Massachusetts Statewide Records Retention Schedule* (2011 Edition) published by the Records Conservation Board in conjunction with the Massachusetts Archives and the supervisor of public records; which records retention schedule shall apply to all records within the commission's possession including all records containing information exempt from disclosure as described in 205 CMR 103.02(1) through (5).~~

AMENDED SMALL BUSINESS IMPACT STATEMENT

The Massachusetts Gaming Commission (“Commission”) hereby files this Amended Small Business Impact Statement in accordance with G.L. c.30A, § 5 relative to the proposed amendments to **205 CMR 103: Access to and Confidentiality of Commission Records**, for which a public hearing was held on September 15, 2022.

205 CMR 103 was developed as part of the process of promulgating regulations governing the operation of gaming establishments in the Commonwealth. The proposed amendments will repeal 205 CMR 103 in its entirety.

The amendment to 205 CMR 103 apply to entities submitting financial and other corporate information to the Commission. Accordingly, this regulation is unlikely to have an impact on small businesses.

In accordance with G.L. c.30A, §5, the Commission offers the following responses on whether any of the following methods of reducing the impact of the proposed regulation on small businesses would hinder achievement of the purpose of the proposed regulation:

1. Establishing less stringent compliance or reporting requirements for small businesses:

As a general matter, no small businesses will be negatively impacted by this amendment. Accordingly, there are no less stringent compliance or reporting requirements for small businesses.

2. Establishing less stringent schedules or deadlines for compliance or reporting requirements for small businesses:

There are no schedules or deadlines for compliance or reporting requirements by this amendment.

3. Consolidating or simplifying compliance or reporting requirements for small businesses:

This amendment does not impose any reporting requirements.

4. Establishing performance standards for small businesses to replace design or operational standards required in the proposed regulation:

There are no design or operational standards required in the proposed amendment.

5. An analysis of whether the proposed regulation is likely to deter or encourage the formation of new businesses in the Commonwealth:

This amendment is not likely to deter or encourage the formation of new businesses in the Commonwealth as it is limited in its likely impact on the business community.

6. Minimizing adverse impact on small businesses by using alternative regulatory methods:

This amendment does not create any adverse impact on small businesses.

Massachusetts Gaming Commission

By:

/s/ Carrie Torrasi
Carrie Torrasi
Associate General Counsel
Legal Division

Dated: September 13, 2022

205 CMR 102: CONSTRUCTION AND APPLICATION

102.02: Definitions

As used in 205 CMR 101.00 ~~et seq. through 131.00~~, the following words and phrases shall have the following meaning, unless the context clearly requires otherwise:

Affiliate ~~is~~ **as** defined in M.G.L. c. 23K, § 2.

Applicant ~~is~~ **as** defined in M.G.L. c. 23K, § 2.

Application ~~is~~ **as** defined in M.G.L. c. 23K, § 2.

Bureau ~~is~~ **as** defined in M.G.L. c. 23K, § 2.

Bureau Decision ~~is defined as described~~ in 205 CMR 115.03: *Phase 1 Investigation and Recommendations by the Bureau* and 205 CMR 101.00: *M.G.L. c. 23K Adjudicatory Proceedings*.

Bureau Hearing ~~is defined as described~~ in 205 CMR 101.02: *Hearings Before the Bureau*.

Business ~~is~~ **as** defined in M.G.L. c. 23K, § 2.

Business Entity Disclosure Form (BED) ~~is defined as described~~ in 205 CMR 111.02: *Business Entity Disclosure Form Category 1 and Category 2 Entity Applicants and Holding/Intermediary Companies*.

Candidate means a person seeking nomination or election to any local, county, or state public office in Massachusetts, but shall not include a person seeking nomination or election to any ~~f~~ederal public office.

Capital Expenditure ~~is~~ **as** defined in M.G.L. c. 23K, § 2.

Cashless Wagering System ~~is~~ **as** defined in M.G.L. c. 23K, § 2.

Category 1 License ~~is~~ **as** defined in M.G.L. c. 23K, § 2.

Category 2 License ~~is~~ **as** defined in M.G.L. c. 23K, § 2.

Chair ~~is~~ **as** defined in M.G.L. c. 23K, § 2.

Change of Control means a transfer of interest which directly or indirectly results in a person obtaining greater than 50% ownership interest in a gaming licensee or which results in, or is likely to result in, significant change to the management or operation of a gaming licensee.

Cheat ~~is~~ **as** defined in M.G.L. c. 23K, § 2.

Cheating and Swindling Device or Cheating and Swindling Game ~~is as~~ defined in M.G.L. c. 23K, § 2.

Chief Executive Officer means:

(a) As to gaming licensees or applicants the natural person who is ultimately responsible for the daily conduct of the gaming establishment business of one or more affiliated gaming licensees or applicants, regardless of the form of business association of the gaming licensee or applicant or the particular title which that person or any other person holds; and

(b) As to gaming vendor licensees or applicants, the natural person who bears ultimate responsibility for the organization and business activities of the enterprise.

Chief Financial and Accounting Officer means the chief financial and accounting officer of the commission.

Close Associate ~~is as~~ defined in M.G.L. c. 23K, § 2.

Commission ~~is as~~ defined in M.G.L. c. 23K, § 2.

Commissioner ~~is as~~ defined in M.G.L. c. 23K, § 2.

Community Contribution means a political contribution or contribution in kind made by an applicant for a gaming license to a municipality or a municipal employee as allowed by M.G.L. c. 23K, § 47.

Competitively-sensitive Information means all records which are, and those portions of records which contain, confidential personal or business information which if made publicly available would have a reasonable likelihood of placing a person at a competitive disadvantage, or be detrimental to or otherwise cause substantial damage or irreparable harm, ~~to the person~~ such as identity theft, industrial espionage, unfair competition, or similar adverse consequences, ~~to the person~~. Competitively-sensitive information includes, without limitation, social security numbers, passport numbers and other unique identifying information, research and development information, financial records, banking or lending records, mortgage and credit history, lists of customers or business contacts, pricing information, marketing information, processes and methods, and any other unique information, methodology, technique, system, or feature which is restricted by appropriate security measures ~~in the ordinary course~~ to the individual or person or to top management, counsel, research and development staff, and expert consultants only ~~in the ordinary course~~.

Complimentary Service or Item ~~is as~~ defined in M.G.L. c. 23K, § 2.

~~Confidential Information means all records which are, and those portions of records which contain:~~

~~(a) trade secrets, competitively sensitive information and other proprietary information provided to the commission, the bureau, and their agents and employees in the course of an application or an investigation; and~~

~~(b) trade secrets and other information protected from public disclosure by a nondisclosure agreement between the gaming licensee and the commission pursuant to M.G.L. c. 23K, § 21(a)(7).~~

~~Confidentiality Claimant means any person who makes a claim that any records, material or information submitted to the commission, the bureau, or their agents and employees constitutes confidential information.~~

Conservator ~~is as~~ defined in M.G.L. c. 23K, § 2.

Contractor Investigator ~~is defined as described~~ in 205 CMR 105.10: *Authority to Retain and Utilize Contractor Investigators.*

Contribution means a payment, transfer or pledge of money or a thing of value to or for the benefit of a candidate or political organization.

Credit Card ~~is as~~ defined in M.G.L. c. 23K, § 2.

Credit Instrument ~~is as~~ defined in M.G.L. c. 23K, § 2.

Dependent Person means a person who is:

- (a) An employee or co-employee of a prohibited person;
- (b) An employee or co-employee of a person affiliated with a prohibited person;
- (c) An enterprise or firm, or an officer, director, partner, owner, or principal employee of an enterprise or firm, that is a party to any contract with, or is bidding for or seeking to enter any contract with, or regularly represents or provides services to, a prohibited person; or
- (d) A child residing with a prohibited person or who is claimed as a dependent by a prohibited person for Federal tax reporting purposes.

Deputy Director means the deputy director of the bureau.

Director of Gaming Enforcement means the assistant attorney general designated by the attorney general as the director of gaming enforcement pursuant to M.G.L. c. 12, § 11M(b).

Director of Security means an employee of a gaming establishment in charge of, and with overall supervisory responsibility for, security of the gaming establishment.

Director of Surveillance means an employee of a gaming establishment in charge of, and with overall supervisory responsibility for, surveillance at the gaming establishment.

Division **is as** defined in M.G.L. c. 23K, § 2.

Executive Director **is as** defined in M.G.L. c. 23K, § 2.

Financial Stability **is defined as described** in 205 CMR 117.00: *Phase I Determination of Financial Stability*.

Gambling **is as** defined in M.G.L. c. 23K, § 2.

Game **is as** defined in M.G.L. c. 23K, § 2.

Gaming **is as** defined in M.G.L. c. 23K, § 2.

Gaming Area **is as** defined in M.G.L. c. 23K, § 2.

Gaming Device or Gaming Equipment is defined in M.G.L. c. 23K, § 2.

Gaming Employee **is as** defined in M.G.L. c. 23K, § 2.

Gaming Enforcement Unit means the gaming enforcement unit established by the colonel of state police pursuant to M.G.L. c. 22C, § 70.

Gaming Establishment **is as** defined in M.G.L. c. 23K, § 2.

Gaming License **is as** defined in M.G.L. c. 23K, § 2.

Gaming Licensee **is as** defined in M.G.L. c. 23K, § 2.

Gaming Position **is as** defined in M.G.L. c. 23K, § 2.

Gaming Service Employee **is as** defined in M.G.L. c. 23K, § 2.

Gaming Vendor **is as** defined in M.G.L. c. 23K, § 2.

Gaming Vendor License **is as** defined in M.G.L. c. 23K, § 2.

General Counsel means the person designated by the commission as its general counsel or acting general counsel.

Governing Body **is as** defined in M.G.L. c. 23K, § 2.

Gross Revenue or Gross Gaming Revenue **is as** defined in M.G.L. c. 23K, § 2.

Holding Company ~~is~~ **as** defined in M.G.L. c. 23K, § 2.

Host Community ~~is~~ **as** defined in M.G.L. c. 23K, § 2.

Impacted Live Entertainment Venue is defined in M.G.L. c. 23K, § 2.

Institutional Investor ~~is~~ **as** defined in M.G.L. c. 23K, § 2.

Intermediary Company ~~is~~ **as** defined in M.G.L. c. 23K, § 2.

Investigatory Material means any document, record, transcript, complaint, evidentiary material of any nature, correspondence, memoranda, report, work product, or other information concerning any examination, any investigation (whether formal or informal), or any related litigation, which pertains to or may disclose:

(a) the possible violation by any person of any provision of any statute, rule, or regulation administered by the commission or the bureau, by any other ~~F~~ederal, state, local or foreign governmental authority, by any professional association, or by any securities industry self-regulatory organization as well as all written communications from, or to, any person complaining of or otherwise furnishing information ~~respecting with respect to~~ such possible violations;

(b) information relating to an ongoing ~~investigaton~~ **investigation** that could ~~potentially~~ **potentially alert** subjects to the activities of investigative officials;

(c) confidential investigative techniques, the disclosure of which would prejudice future law enforcement efforts;

(d) any details in witness statements, which if released create a grave risk of directly or indirectly identifying a private citizen who volunteers as a witness; and

(e) the background of any person the disclosure of which would constitute an unwarranted invasion of personal privacy.

Junket ~~is~~ **as** defined in M.G.L. c. 23K, § 2.

Junket Enterprise ~~is~~ **as** defined in M.G.L. c. 23K, § 2.

Junket Representative ~~is~~ **as** defined in M.G.L. c. 23K, § 2.

Key Gaming Employee ~~is~~ **as** defined in M.G.L. c. 23K, § 2.

License ~~is~~ **as** defined in M.G.L. c. 23K, § 2.

List of Excluded Persons ~~is~~ **as** defined in M.G.L. c. 23K, § 2.

Lottery ~~is as~~ defined in M.G.L. c. 23K § 2.

Major Policymaking Position ~~is as~~ defined in M.G.L. c. 23K, § 2.

Massachusetts Supplement Form (PHD-MA-SUPP) ~~is defined as described~~ in 205 CMR 111.04: *Massachusetts Supplemental Form*.

MEPA means the Massachusetts Environmental Policy Act.

Minority Business Enterprise (MBE) ~~A means~~ a minority-owned business that has been certified by either the Massachusetts Supplier Diversity Office within the Operational Services Division, the Greater New England Minority Supplier Development Council, or both.

Money means cash or instruments that are convertible to cash in any negotiable currency.

Multi-jurisdictional Personal History Disclosure Form (PHD-MA) ~~is defined as described~~ in 205 CMR 111.03: *Multi-jurisdictional Personal History Form*.

Non-gaming Vendor ~~is as~~ defined in M.G.L. c. 23K, § 2.

Operation Certificate ~~is as~~ defined in M.G.L. c. 23K, § 2.

Person ~~is as~~ defined in M.G.L. c. 23K, § 2.

Political Contribution means a contribution as defined in M.G.L. c. 55, § 1, except for a community contribution as defined in 205 CMR 102.02: Community Contribution.

Political Organization means any committee of any political party in the Commonwealth of Massachusetts, as structured and defined in accordance with M.G.L. c. 23K, §§ 46 and 47, or any group, committee, or association organized in support of such political party or any candidate. Political Organization shall not include a national party committee or the committee of a ~~F~~ federal candidate for the United States Senate or House of Representatives, unless such a committee contributes to a state candidate from its general receipts.

Prohibited Person means any officer, director, key gaming employee, qualifier, or principal employee of an applicant for a gaming license or of any holding, intermediary, or subsidiary company thereof.

Promotional Gaming Credit ~~is as~~ defined in M.G.L. c. 23K, § 2.

Proprietary Information means all records which are, and those portions of records which contain, personal or business information which, owing to its confidential nature, is in the ordinary course subjected to strict measures to preserve its confidentiality, including confidentiality agreements, non-competition agreements, encryption and password protection for electronic information, restriction of access to those with a need-to-know, and other policies,

procedures, security measures, or markings designed to protect the secrecy of information and to keep the information strictly confidential.

Publicly Traded Corporation means a person, other than an individual, which:

(a) has a class or series of securities registered under the Securities and Exchange Act of 1934 (48 Stat 881, 15 U.S.C. § 78a_ et seq.);

(b) is a registered management company under the Investment Company Act of 1940 (54 Stat. 789, 15 U.S.C. § 80a-1 et seq.); or

(c) is subject to the reporting obligations imposed by section 15(d) of the Securities and Exchange Act of 1934 by reason of having filed a registration statement which has become effective under the Securities Act of 1933 (48 Stat. 74, 15 U.S.C. § 77a_ et seq.) or by reason of an indenture entered into pursuant to an exemption from registration under the Securities Act of 1933.

Qualification or Qualified ~~is as~~ defined in M.G.L. c. 23K, § 2.

Qualifier ~~is as~~ defined as a person whose qualification must be established in evaluating the suitability of an applicant in accordance with the standards and criteria set forth in M.G.L. c. 23K, § 12(a), and 205 CMR 115.01: *Phase I Determination Standards* and 205 CMR 116.02: *Persons Required to be Qualified*.

~~Record means a book, paper, map, photograph, recorded tape, financial statement, statistical tabulation, or any other documentary material or data, regardless of physical form or characteristics.~~

Restricted Area means a part of the gaming establishment that is not open to the public as determined by the commission.

Rewards Card ~~is as~~ defined in M.G.L. c. 23K, § 2.

RFA-P1 or RFA-1 Process ~~is defined as described~~ in 205 CMR 110.00: *Issuance of Request for Category 1 and Category 2 License Applications*.

RFA-2 ~~is defined as described~~ in 205 CMR 110.00: *Issuance of Request for Category 1 and Category 2 License Applications*.

~~Secretary means the secretary of the commission.~~

Secretary of EOEEA means the Secretary of the Executive Office of Energy and Environmental Affairs.

~~Security Protocols means the system for securing and preserving the confidentiality of records in accordance with 205 CMR 103.14: *Security Protocols; Restricted Access*.~~

Slot Machine ~~is~~ as defined in M.G.L. c. 23K, § 2.

Solicitation means a request, suggestion or recommendation made to a particular person, by any means of communication, that the person make a contribution; provided, however, that a statement to a person expressing support for or opposition to the election of any candidate, or support for or opposition to any political organization, which is made without reference to a contribution or a statement intended for and given public dissemination encouraging all persons to make contributions to any candidate or political organization, is not a solicitation.

State Police ~~is~~ as defined in M.G.L. c. 23K, § 2.

Subsidiary ~~is~~ as defined in M.G.L. c. 23K, § 2.

Surrounding Communities ~~is~~ as defined in M.G.L. c. 23K, § 2.

Table Game ~~is~~ as defined in M.G.L. c. 23K, § 2.

Thing of Value means:

- (a) An item of real, personal or intellectual property that may be converted into money by selling it or pledging it as security for a loan or other advance of funds;
- (b) A loan of assets, property, personnel, or facilities for use by a candidate or political organization, such as, without limitation, office space, automobiles, telephones or telephone services, or the time and effort of employees or consultants who are paid by the person making the contribution;
- (c) A personal or professional service that is not incidental to the expression of a person's ideological beliefs or membership in a political organization, and that has a value to the candidate or political organization;
- (d) A non-reimbursed expense that is not incidental to the expression of a person's ideological beliefs or membership in a political organization, and is of the type normally incurred by the candidate or political organization; or
- (e) ~~Any~~ thing, service, expense, or other item of value similar to that identified in ~~205-CMR 102.02 this chapter, :-Thing of Value(a) through (d)-~~ which may be identified by the commission in an advisory ruling or other appropriate proceeding.

Trade Secret means all records which are, and those portions of records which contain, anything tangible or intangible or electronically kept or stored, which constitutes, represents, evidences, or records a secret scientific, technical, merchandising, production, manufacturing, or management information, design, process, procedure, formula, invention, method, or improvement which its owner considers to be and treats as confidential and which is not available to the public by any

other source. Trade Secret shall include anything which is a trade secret pursuant to M.G.L. c. 266, § 30(4).

Transfer ~~is~~ **as** defined in M.G.L. c. 23K, § 2.

Veteran Business Enterprise (VBE): ~~means a A Veteran Business Enterprise shall have the same meaning as~~ “Veteran-owned small business concern” as defined by 38 CFR 74.1, the status of which can be verified by Vendor Information Pages on the U.S. Department of Veterans Affairs Office of Small & Disadvantaged Business Utilization website or by the Licensing Division of the Massachusetts Gaming Commission. Veteran Business Enterprise is inclusive of the ~~S~~service-disabled veteran-owned business as defined in 15 USC § 632. Additionally, VBE shall include any entity certified as a VBE, as defined by M.G.L. c. 7, § 58, by the Massachusetts Supplier Diversity Office within the Operational Services Division pursuant to regulations promulgated in accordance with M.G.L. c. 7, §61(a).

Notwithstanding the foregoing, for purposes of 205 CMR 135.02(8) and 205 CMR 139.04(3), effective upon the issuance of an operation certificate to a gaming licensee, for vendors associated with that licensee, VBE shall only include those entities certified as such by the Supplier Diversity Office, or verified with the U.S. Department of Veterans Affairs. (Note: vendors previously verified by the Licensing Division will continue to be recognized until the end of their existing contract.)

Vulnerable Populations means groups of people that studies have shown to be more susceptible to gambling problems than others, including people with a history of alcohol or other drug abuse, people with a history of mental health issues, low income patrons of gaming establishments, and older adults.

Wager ~~is~~ **as** defined in M.G.L. c. 23K, § 2.

Women Business Enterprise (WBE): ~~means a A~~ women-owned business that has been certified by either the Massachusetts Supplier Diversity Office within the Operational Services Division, the Women's Business Enterprise National Council (or its local affiliate, Center for Women & Enterprise), or both.

AMENDED SMALL BUSINESS IMPACT STATEMENT

The Massachusetts Gaming Commission (“Commission”) hereby files this Amended Small Business Impact Statement in accordance with G.L. c.30A, § 5 relative to the proposed amendments to **205 CMR 102: Definitions**, for which a public hearing was held on September 15, 2022.

205 CMR 102 was developed as part of the process of promulgating regulations governing the operation of gaming establishments in the Commonwealth. The proposed amendments will remove cross-references to 205 CMR 103, which is being repealed, found within 205 CMR 102.

The amendment to 205 CMR 102 apply to entities submitting financial and other corporate information to the Commission. Accordingly, this regulation is unlikely to have an impact on small businesses.

In accordance with G.L. c.30A, §5, the Commission offers the following responses on whether any of the following methods of reducing the impact of the proposed regulation on small businesses would hinder achievement of the purpose of the proposed regulation:

1. Establishing less stringent compliance or reporting requirements for small businesses:

As a general matter, no small businesses will be negatively impacted by this amendment. Accordingly, there are no less stringent compliance or reporting requirements for small businesses.

2. Establishing less stringent schedules or deadlines for compliance or reporting requirements for small businesses:

There are no schedules or deadlines for compliance or reporting requirements by this amendment.

3. Consolidating or simplifying compliance or reporting requirements for small businesses:

This amendment does not impose any reporting requirements.

4. Establishing performance standards for small businesses to replace design or operational standards required in the proposed regulation:

There are no design or operational standards required in the proposed amendment.

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5. An analysis of whether the proposed regulation is likely to deter or encourage the formation of new businesses in the Commonwealth:

This amendment is not likely to deter or encourage the formation of new businesses in the Commonwealth as it is limited in its likely impact on the business community.

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6. Minimizing adverse impact on small businesses by using alternative regulatory methods:

This amendment does not create any adverse impact on small businesses.

Massachusetts Gaming Commission

By:

 /s/ Carrie Torrisi
Carrie Torrisi
Associate General Counsel
Legal Division

Dated: September 13, 2022

205 CMR 115: PHASE 1 AND NEW QUALIFIER SUITABILITY DETERMINATION,
STANDARDS, AND PROCEDURES

115.04: Phase 1 and New Qualifier Proceedings by the Commission

(1) After the Commission has received the bureau's report under 205 CMR 115.03(2), it shall provide a copy to the applicant or qualifier and the Commission shall determine whether to initiate a process for a public hearing or adjudicatory proceeding. However, the Commission may only utilize the public hearing process with the qualifier's consent.

(2) Adjudicatory Proceeding. If the Commission determines that an adjudicatory proceeding shall be held, the Commission shall conduct an adjudicatory proceeding pursuant to 205 CMR 101.00: *M.G.L. c. 23K Adjudicatory Proceedings* on the report by the bureau concerning the applicant or qualifier pursuant to 205 CMR 115.03(2).

(3) Public Hearing. If the Commission determines that a public hearing should be held, the Commission shall review the bureau's suitability report in a public hearing, subject to redaction in accordance with G.L. c. 4, § 7(26) ~~of confidential and exempt information described in 205 CMR 102.02(1) through (5)~~. The Commission will issue a notice in advance of the public hearing stating the date, time and place of the hearing and the form (oral or written) and conditions pursuant to which the Commission will receive public comments.

AMENDED SMALL BUSINESS IMPACT STATEMENT

The Massachusetts Gaming Commission (“Commission”) hereby files this Amended Small Business Impact Statement in accordance with G.L. c.30A, § 5 relative to the proposed amendments to **205 CMR 115.04: Phase 1 and New Qualifier Proceedings by the Commission**, for which a public hearing was held on September 15, 2022.

205 CMR 115.04 was developed as part of the process of promulgating regulations governing the operation of gaming establishments in the Commonwealth. The proposed amendments will and remove cross-references to 205 CMR 103, which is being repealed, found within 205 CMR 115.04.

The amendment to 205 CMR 115.04 apply to entities submitting financial and other corporate information to the Commission. Accordingly, this regulation is unlikely to have an impact on small businesses.

In accordance with G.L. c.30A, §5, the Commission offers the following responses on whether any of the following methods of reducing the impact of the proposed regulation on small businesses would hinder achievement of the purpose of the proposed regulation:

1. Establishing less stringent compliance or reporting requirements for small businesses:

As a general matter, no small businesses will be negatively impacted by this amendment. Accordingly, there are no less stringent compliance or reporting requirements for small businesses.

2. Establishing less stringent schedules or deadlines for compliance or reporting requirements for small businesses:

There are no schedules or deadlines for compliance or reporting requirements by this amendment.

3. Consolidating or simplifying compliance or reporting requirements for small businesses:

This amendment does not impose any reporting requirements.

4. Establishing performance standards for small businesses to replace design or operational standards required in the proposed regulation:

There are no design or operational standards required in the proposed amendment.

5. An analysis of whether the proposed regulation is likely to deter or encourage the formation of new businesses in the Commonwealth:

This amendment is not likely to deter or encourage the formation of new businesses in the Commonwealth as it is limited in its likely impact on the business community.

6. Minimizing adverse impact on small businesses by using alternative regulatory methods:

This amendment does not create any adverse impact on small businesses.

Massachusetts Gaming Commission

By:

/s/ Carrie Torrasi
Carrie Torrasi
Associate General Counsel
Legal Division

Dated: September 13, 2022

Policy Governing Information Provided in Response to Request for Applications – Phase 1 & Phase 2

1. In accordance with M.G.L. c. 23K, § 9(b), an application for a license in response to the commission's Request for Applications-Phase 1, 205 CMR 110.00: *Issuance of Request for Category 1 and Category 2 License Applications*, and an RFA-2 application submitted in accordance with 205 CMR 118.00: *Phase 2- Applying for a License* shall be a public record except those portions of the application containing information otherwise exempt from disclosure pursuant to ~~205 CMR 103.02(1) through (5)~~ the Massachusetts Public Records Law, G.L. c. 4, § 7(26).
2. As guidance to applicants and the public, the commission shall issue a set of specimen annotated application forms and distribute such forms together with, or incorporated as part thereof, the Request for Applications - Phase 1 pursuant to 205 CMR 111.00: *Phase 1 Application Requirements* and with or part of the Request for Applications- Phase 2 pursuant to 205 CMR 118.00: *Phase 2 - Applying For a License*. These specimen annotated application forms shall designate as “Exempt/Redact” or otherwise identify all information or categories of information which, at a minimum, the commission considers to be exempt from disclosure in accordance with ~~205 CMR 103.02(1) through (5)~~ the Massachusetts Public Records Law, G.L. c. 4, § 7(26).
3. To assist the commission in protecting from inadvertent disclosure information ~~subject to 205 CMR 103.02(1) through (5)~~ exempt from disclosure pursuant to the Massachusetts Public Records Law, G.L. c. 4, § 7(26), applicants shall ~~follow the procedures in 205 CMR 103.10(1)~~ clearly mark as confidential any documents covered by G.L. c. 23K, § 9(b) in completing and submitting the required forms pursuant to 205 CMR 111.00: *Phase 1 Application Requirements* and 205 CMR 118.00: *Phase 2-Applying For a License*.
4. All information submitted by an applicant in the RFA Phase 1 or Phase 2 application, other than that described as “Exempt/Redact” or otherwise so identified ~~in 205 CMR 103.09(2)~~ by the commission as information or categories of information it considers to be exempt from disclosure in accordance with the Massachusetts Public Records Law, G.L. c. 4, § 7(26), shall be presumed to be available for public disclosure on request unless ~~a confidentiality claimant~~ an applicant demonstrates or the commission otherwise finds that a separable portion of the information is exempt from disclosure pursuant to the Massachusetts Public Records Law, G.L. c. 4, § 7(26) ~~205 CMR 103.02(1) through (5)~~. ~~Confidentiality claimants shall make such a demonstration in accordance with the provisions of 205 CMR 103.10 through 103.12.~~

Approved by Commission: ~~July 12, 2022~~ September 19, 2022

Security Protocols and Restricted Access Policy

1. The executive director, subject to the direction of the commission, shall establish and maintain secure storage areas, methodologies and procedures to protect tangible and electronic information exempt from disclosure ~~as described in 205 CMR 103.02(1) through (5)~~ pursuant to the Massachusetts Public Records Law, G.L. c. 4, § 7(26) contained in the records of the commission or the bureau. Records containing such information shall be kept, managed, accessed and used in accordance with the security protocols.
2. ~~Records for which confidential information claims have been made and related supporting materials, and information for which such claims have been finally adjudicated in favor of the confidentiality claimant, shall be kept, managed, accessed and used in accordance with the security protocols. Materials and information for which such claims have been finally adjudicated against the confidentiality claimant may be permanently removed from the protection of the security protocols.~~
3. The executive director the deputy director and the official custodians shall be responsible for implementing the security protocols for records under their respective custody.
4. Personnel and authorized agents of the commission or the bureau who require information contained within the secure tangible and electronic storage areas for the effective performance of their duties may, upon request to its official custodian, examine documents containing such information in accordance with the security protocols.
5. The commission and the bureau shall keep the number of tangible and electronic copies of information exempt from disclosure ~~as described in 205 CMR 103.02(1) through (5)~~ pursuant to the Massachusetts Public Records Law, G.L. c. 4, § 7(26) to a minimum and shall ensure that all copies of such information are maintained in a manner consistent with the requirements of the security protocols. ~~No copies of such documents or information may be made or transmitted except in accordance with the security protocols; where necessary to the authorized duties and operations of the commission, the bureau, or their employees and authorized agents; or where release of the confidential information is authorized pursuant to 205 CMR 103.00. Any notes concerning such information made by commission or bureau employees or agents shall be treated as confidential pursuant to 205 CMR 103.00.~~

6. Commission or bureau employees or authorized agents who violate ~~the procedures required by 205 CMR 103.00 or the established~~ security protocols ~~established pursuant thereto~~ shall be subject to disciplinary action.

Approved by Commission: ~~July 12, 2022~~ September 19, 2022

VIA EMAIL: caroline.torrissi@massgaming.gov

Caroline Torrissi
Massachusetts Gaming Commission
101 Federal Street, 12th Floor
Boston, Massachusetts 02110

Re: Regulation Comment 205 CMR 103

Dear Attorney Torrissi:

Pursuant to the Notice of Public Hearing and request for Comment issue by the Massachusetts Gaming Commission (“Commission”) on the proposed amendments to 205 CMR 103.00, *Access to and Confidentiality of Commission Records* (“Section 103”), Wynn MA, LLC and Blue Tarp reDevelopment, LLC (collectively hereinafter “Licensees”) submit the following comments for the Commission’s consideration. For the reasons set forth below, the Licensees oppose the wholesale repeal of Section 103 and urge the Commission to update the Regulation to preserve its framework of protecting highly sensitive and confidential information while providing the public with access to information that is not otherwise protected under the law. Rather than just repeal Section 103, the Commission should replace the Regulation with a revised Regulation or Policy that governs confidential information and incorporates a review of the use of Chapter 23K, section 21(a)7’s nondisclosure agreement provision to ensure it provides a practical and efficient mechanism to ensure the free flow of information between the Licensees and the Commission, in particular the Investigations and Enforcement Bureau (“IEB”).

Background

The Commission is unique among Massachusetts public instrumentalities in that it has sweeping authority to compel applicants and the Licensees to produce almost any record. For an applicant, failure to do so can result in a negative finding of suitability and the Licensees are subject to discipline for failing to produce records as requested by the Commission including those requested by the IEB during an investigation or as part of an applicant’s ongoing duty to maintain suitability. G.L. c. 23K, sec. 13. The Commission has subpoena power and the Commission’s regulations provide for a unilateral right to inspect and seize any Licensee record on demand. *See* G.L. c. 23K, sec. 4(22), 4(23) and 4(31). The gaming license applications used by the Commission require the disclosure of highly personal information, in some cases going back 20 years, as well as detailed financial information and records, and the application contains a consent to search. Businesses likewise are required to disclose significant non-public information, including commercially sensitive and proprietary information. The IEB shares this authority and has the ability to obtain information pertaining to applicants and licensees from law enforcement entities or gaming authorities, foreign and domestic, including the Federal Bureau of Investigation. *See* G.L. c. 23K, sec. 6. Cooperating in a gaming-related investigations,

including to “make readily available all documents, materials, equipment, personnel and any other items requested during an investigation,” is a condition of licensure. G.L. c. 23K, sec. 21(a)(7).

Section 103 (and the relevant definitions contained in 205 CMR 102) were promulgated by the Commission in late 2012 in advance of the submission of the Category 1 and Category 2 RFA-1 applications. In promulgating Section 103, the Commission recognized that it was about to become the steward of a significant amount of highly personal information on individual qualifiers as well as highly sensitive and confidential business records of gaming license applicants. It recognized that “there should be an expectation that a significant portion of this information would be deemed confidential based on the nature of the inquiries we’re making as a result of these investigations.” See Transcript, MGC Public Meeting, May 16, 2013, at p. 137.

At the same time, the Commission recognized as a public agency that any record that it received is considered a public record unless protected by a statutory exemption to the public records law. G.L. c. 4, sec. 7 cls. 26 and G.L. c. 66. Section 103’s framework as applied to applications is entirely consistent with G.L. c. 23K, sec. 9(b) which recognizes applications as public records, but allows “trade secrets, competitively-sensitive or other proprietary information provided in the course of an application for a gaming license under this chapter, the disclosure of which would place the applicant at a competitive disadvantage, may be withheld from disclosure under chapter 66.” Section 103, while having some flaws, mostly having to do with the internal appeal process in connection with a public records request, provided a framework to address the competing interest of the Licensees in maintaining the confidentiality of their records (and that of their qualifiers) and the Commission’s obligations under the public records law.

Section 103 Framework

While Section 103 recognizes that all records made or received by the Commission or IEB are potentially public records, it specifically exempts from disclosure “to the maximum extent permitted by law”: (1) all records that are specifically excluded from the definition of “public record” pursuant to G.L. c. 4, § 7, cl. 26; (2) “all confidential information as defined in 205 CMR 102.02,”; (3) all records that include CORI or intelligence information pursuant to G.L. c. 6, § 167; (4) personal data pursuant to G.L. c. 66A; and (5) “all records specifically or by necessary implication exempted from disclosure by statute including, but not limited to, the exemption statutes listed by the supervisor of public records in the official *Guide to the Massachusetts Public Records Law: Appendix.*” 205 CMR 103.02. Subsection (1) includes records that are subject to the privacy exemption or the investigatory exemption to the public records law. G.L. c. 4, § 7, cl. 26(c) and (f).

Under Section 103, the Commission defines confidential information as:

(a) trade secrets, competitively sensitive information¹ and other proprietary information² provided to the commission, the bureau, and their agents and employees in the course of an application or an investigation; and

(b) trade secrets and other information protected from public disclosure by a nondisclosure agreement between the gaming licensee and the commission pursuant to M.G.L. c. 23K, § 21(a)(7).

205 CMR 102 “Definitions”

The categories of exempt records and information under 205 CMR 103.02 may only be disclosed as expressly authorized by the Access to and Confidentiality of Commission Records Regulation. Section 103.04 provides:

No information which is exempt from disclosure under 205 CMR 103.02 or which a confidentiality claimant asserts to be confidential information defined in 205 CMR 102.02: *Definitions* shall be disclosed in response to any request for public records unless the Commission has expressly so authorized in accordance with 205 CMR 103.00.

205 CMR 103.04.

If a record falls within the categories listed in section 103.02, it can only be released pursuant to section 103.07. Section 103.07, in turn, provides for the release in certain limited circumstances to comply with law or carry out functions under chapter 23K among others. 205 CMR 103.07(1). If disclosed outside of those limited exceptions, “written Notice *shall* be provided to “the person who furnished the confidential information to the commission or the bureau . . .” 205 CMR 103.07(2) (emphasis supplied). Further, “any such Notice of confidential information to be released or disclosed will be given *prior to the release or disclosure to provide an opportunity for review.*” *Id.* (emphasis supplied).

Therefore, under the current Regulation, records can only be released pursuant 205 CMR 103.07, which must include at least prior notice to a Licensee and an opportunity for review. Section 103.04 applies to such records regardless of whether a claim of confidentiality has been made or not: “No information which is exempt from disclosure under 205 CMR 103.02 *or* which a

¹ “Competitively-sensitive Information” means all records which are, and those portions of records which contain, confidential personal or business information which if made publicly available would have a reasonable likelihood of placing a person at a competitive disadvantage or be detrimental to or otherwise cause substantial damage or irreparable harm to the person such as identity theft, industrial espionage, unfair competition, or similar adverse consequences. 205 CMR 102.02.

² “Proprietary Information” means all records which are, and those portions of records which contain personal or business information which, owing to its confidential nature, is in the ordinary course subjected to strict measures to preserve its confidentiality, including confidentiality agreements, non-competition agreements, encryption and password protection for electronic information, restriction of access to those with a need-to-know, and other policies, procedures, security measures or markings designed to protect the secrecy of information and to keep the information strictly confidential. 205 CMR 102.02.

confidentiality claimant asserts to be confidential information defined in 205 CMR 102.02 . . .” (emphasis supplied).³

In fact, even after a public records request has been denied and the Commission “determines that a record is confidential information as defined in 205 CMR 102.02: *Definitions*, the record in question, or a portion thereof, shall be exempt from public disclosure. . . .” 205 CMR 103.11(3). In that instance, the Commission must still “notify the person who submitted the record to the commission or the bureau, the confidentiality claimant, and all persons making a request to inspect or copy the record in question.” *Id.* This regulation further prescribes that such notices must be in writing. 205 CMR 103.11(4).

When records are exempt under section 103.02, the Commission is required to provide Notice to the person who submitted the information allowing for an opportunity to review the materials and seek any further protection of their information than the Commission may provide prior to disclosure. Importantly, this process allows for input from the subject of the records providing a vantagepoint of the information or record that is critical to determining whether it may be confidential. As the Commission has recognized in the past,

“that personal information in some cases is not self-evident. So, some of the applicants have asked for additional information that on its face doesn't look like it's personal information, to be kept from disclosure because in fact when you examine the facts surrounding the information bit, it is personal information. It's just hard to tell, things like divorce records and the like.”

See, Transcript, MGC Public Meeting, March 23, 2013, at pp. 17-18. Such input as to what may be protected under an exemption to the Public Records law, or a non-disclosure agreement, is an important step for the Commission to make an informed decision in meeting its obligation to keep such information out of the public domain. Importantly, nothing under the Public Records law prevents the Commission from seeking such input, and in no way does it dilute the Commission's ultimate authority to determine what is or what is not subject to an exemption or a nondisclosure agreement. Section 103 not only ensures that a person's (including a corporation) rights are protected, but also avoids the Commission making judgments regarding confidentiality unilaterally. The elimination of Section 103 as proposed terminates the notice requirement, prejudicing the Licensees and placing the Commission in a less informed position to make judgments on what information may be subject to disclosure and what should be protected.

G.L. c. 23K, sec. 21(a)(7) Nondisclosure Agreement

In recognition of the Commission's largely unfettered right to obtain information in connection with an IEB investigation, the Legislature provided an equally powerful protection for company records and information making its disclosure subject to entering into a nondisclosure agreement.

³ Additional protections are provided under 205 CMR 103.10 to persons that make written request to deem designated information confidential. This section of the regulation provides a confidentiality claimant the ability to request Commission designation of additional information beyond what is *per se* exempt from disclosure, as well as notice of requests for such confidential materials.

Section 21(a)(7) provides a vital mechanism to protect information submitted to the IEB during the course of an investigation. Specifically, section 21(a)(7) provides in pertinent part:

“Each gaming licensee shall make readily available all documents, materials, equipment, personnel and any other items requested during an investigation; provided, however, that material that the gaming licensee considers a trade secret or detrimental to the gaming licensee if it were made public may, with the commission's approval, be protected from public disclosure and the gaming licensee may require nondisclosure agreements with the commission before disclosing such material”

G.L. c. 23K, sec. 21(a)(7). The Commission has a companion regulation that sets forth the process for obtaining a nondisclosure agreement and decrees certain types of records preemptively as covered by a nondisclosure agreement under section 21(a)(7). This section provides in pertinent part:

Pursuant to M.G.L. c. 23K or 205 CMR 139.00 the gaming licensee may request that the commission enter into a written nondisclosure agreement under the terms of which the commission agrees not to release the specified material or information publicly, in response to a request for public records or otherwise, and will assert the statutory exemption, M.G.L. c. 4, §7(26)(a), and/or any other applicable exemptions, and withhold the applicable materials in response to any request for such record or information. The agreement may provide for coverage for specific materials or information, or categories of materials or information, which will be, or are likely to be, submitted to or obtained by the commission on more than one occasion. A request for a non-disclosure agreement shall be on a form provided by the commission. Upon review of the gaming licensee's request, the commission may execute such an agreement in its discretion.

205 CMR 139.02. The Commission has relied on nondisclosure agreements in protecting Licensee information and the Supervisor of Public Records has upheld the Commission’s position to broadly protect records collected during the course of an IEB investigation.⁴

All of the Licensees have nondisclosure agreements in place, originally entered into around the time of each property’s opening. These agreements in their current form,

⁴ Specifically, the Supervisor of Public Records has found:

“The above cited regulation states that “[a]ll documents submitted by a gaming licensee or obtained by the [C]ommission in accordance with 205 CMR 139.00 shall be deemed to have been submitted pursuant to a gaming related investigation to ensure compliance with M.G.L. c. 23K . . .” The regulation also permits the Commission to enter into a nondisclosure agreement with the licensee in order to keep certain records confidential. Where the Commission deemed the requested records to have been submitted pursuant to a gaming related investigation and entered into a nondisclosure agreement to prevent the disclosure of certain records, including the three records stated above, the Commission has met its burden to withhold those records from disclosure.

however, may not cover all records and information sought by the IEB or the Commission on a case-by-case basis. It is common for the IEB to request records, information, or analysis regarding a matter that may not fit within the four corners of an existing nondisclosure agreement despite the only requirement for such protection being that the licensee considers the material “a trade secret or detrimental to the gaming licensee if it were made public.”⁵ Revising a nondisclosure agreement under the Commission’s current process takes time and may delay the flow of information between the IEB and a Licensee. While a Licensee has a statutory right to *require* a nondisclosure agreement *before* providing the requested records, Licensees have accommodated investigative requests with the understanding that such material will remain confidential under an exemption to the public records law. The repeal of Section 103 leaves only the formal nondisclosure agreement process to protect company records and information and, while such an agreement requires approval by the Commission, the failure to approve such a request may prevent a licensee from providing the requested material or providing it in a timely manner.

The elimination of Section 103 has additional impacts on documents protected by nondisclosure agreements. As set forth above, the current regulation provides notice to a Licensee if records were requested that are subject to a nondisclosure agreement, as these are recognized under the regulation as *per se* exempt as confidential. 205 CMR 103.02. As a party to these agreements, a Licensee may have rights to enforce in addition to the Commission’s authority. Absent the notice provision in 205 CMR 103.04, a Licensee would not know whether its records are being sought or fully protected under a nondisclosure agreement to which it is a party. To the extent, the Commission and a licensee disagree about the release of a record, there may be other avenues of relief including through the Courts. Judicial relief while an unlikely scenario nonetheless is also forfeited without a process that involves notice.

Recommendations

In 2012, prior to taking custody of highly personal and other sensitive information, the Commission sought to provide clarity regarding what information it collected through the

⁵ Notably, there is no balancing test or finding that the Commission must make for a record to be covered by a nondisclosure agreement. It is within the discretion of the licensee to determine what records may be a “trade secret or detrimental to the gaming licensee if it were made public.” G.L. c. 23K, sec. 21(a)(7). The lack of a balancing test or other burden makes section 21(a)(7) unique within exceptions to the public records law and other processes for seeking confidential treatment of records submitted to a regulator. *Cf.* G.L. c. 4, sec. 7 cls. 26(c) (“personnel and medical files or information and any other materials or data relating to a specifically named individual, *the disclosure of which may constitute an unwarranted invasion of personal privacy*”)(emphasis supplied); G.L. c. 4, sec. 7, cls. 26(f) (“investigatory materials necessarily compiled out of the public view by law enforcement or other investigatory officials *the disclosure of which materials would probably so prejudice the possibility of effective law enforcement that such disclosure would not be in the public interest*”)(emphasis supplied); G.L. c. 25, sec. 5D (“Notwithstanding the provisions of clause Twenty-sixth of section seven of chapter four and section ten of chapter sixty-six, the department [of Public Utilities] may protect from public disclosure, trade secrets, confidential, competitively sensitive or other proprietary information provided in the course of proceedings conducted pursuant to this chapter. *There shall be a presumption that the information for which such protection is sought is public information and the burden shall be upon the proponent of such protection to prove the need for such protection*”)(emphasis supplied).

application process and through its investigative powers would be considered confidential and what may be accessible to the public. This approach not only provided some certainty to applicants, but also helped set the public expectation that many of the Commission's records obtained from applicants and licensees were not going to be open to review. Section 103 was part of these efforts to balance these interests. The Commission also published a "specimen application" which showed which parts of the Multi Jurisdictional Personal History Disclosure and Business Entity Disclosure forms would be public. Commission staff and the Licensees spent considerable time reviewing IEB reports in connection with the RFA-1 process to create public versions of the reports, and the Commission specifically designed the RFA-2 applications to allow for confidential exhibits. All of these steps provided some level of certainty that the highly confidential information provided to the Commission would be protected from public disclosure. The repeal of Section 103, as well as a reluctance to provide applicants or Licensees any ability to review their own records before being disclosed, erodes this certainty. In addition to revising Section 103, the Licensees respectfully urge the Commission to use this opportunity to establish a comprehensive policy on confidential records in its place, one that balances access to public records with the reality of the Commission being in possession highly personal information pertaining to individuals and highly sensitive and proprietary information of businesses many of which are publicly traded.

Specifically, the Licensees request the Commission to consider:

- Expanding the categories of records recognized as presumptively exempt listed in 205 CMR 139 and in each Licensee's nondisclosure agreement to include additional records regularly submitted to the Commission
- Clarifying a process to provide notice to the Licensees that their records are subject to a request for disclosure that is consistent with the public records law
- Upon notice of such a request, providing an opportunity for comments and proposed redactions for the Commission's consideration prior to release of the records
- Providing a mechanism so that a Licensee can designate a record "NDA Request Pending" at the time of submission to allow for the timely production of records
- Providing a mechanism for limited review of sensitive records on a secure company FTP site without further production of such materials
- Establishing a specific process and presumption of approval of an NDA if the elements of that process and G.L. c. 23K, section 21(a)(7) are met
- Streamlining the NDA process and designating authority to a single commissioner for review and approval
- Reviving the application specimens for the MJPHD, BED and MA Supp
- Providing a mechanism for review of any IEB or other Commission Report to determine whether any information contained in the report should be redacted pursuant to an exemption under the public records law or a nondisclosure agreement
- Establishing a protocol for use of confidential information in connection with adjudicatory hearing

Thank you for your consideration of these comments. We look forward to working with the Commission and staff to establish a comprehensive policy and regulations pertaining to confidential records.

Sincerely,

/s/ Jacqui Krum

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

FROM: Carrie Torrisi, Deputy General Counsel

DATE: September 16, 2022

RE: Independent Test Laboratory Certification for Sports Wagering

On September 8, 2022, the Commission voted to promulgate by emergency 205 CMR 244.06: *Independent Testing Laboratory Certification*, which would allow the Commission to authorize an entity certified as an independent testing laboratory pursuant to 205 CMR 144 (with respect to gaming devices) to provide testing services of sports wagering devices in Massachusetts. To that end, the two existing Commission-certified independent testing laboratories, Gaming Laboratories International (GLI) and BMM Testlabs (BMM) have each submitted a petition for authorization to the Commission. Staff recommends that the Commission authorize GLI and BMM to provide testing of sports wagering devices in Massachusetts.



GLI

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www.gaminglabs.com

September 15, 2022

Katrina Jagroop-Gomes, Chief Information Officer
Massachusetts Gaming Commission
101 Federal Street, 12th Floor
Boston, MA 02110

RE: Massachusetts Sports Betting Independent Test Laboratory Approval

Dear Ms. Jagroop-Gomes,

Gaming Laboratories International, LLC (GLI) is seeking approval as an independent test laboratory for the State of Massachusetts' Sports Betting operations. Enclosed please find the required information to aid your team with the investigation to determine suitability of GLI.

For more than 33 years, GLI has been the world leader in providing independent compliance and certification testing, quality assurance and security assessment, and consulting services to the lottery, gaming, and wagering industries. What began as testing for a single jurisdiction has now grown to more than 480 jurisdictions worldwide. GLI has more than 1,300 highly skilled Information Technology (IT) professionals, security personnel, quality assurance test specialists, test engineers, mathematicians, and business services professionals spread across 24 office locations on 6 continents, all ready to serve our clients' individual needs.

GLI is identifying the contact person for the Massachusetts Gaming Commission's Sports Betting independent test laboratory approval as Gabriel Benedik, Client Solutions Executive, 954-319-4331, g.benedik@gaminglabs.com, and affirmatively states that GLI is capable of providing all information, services, and equipment testing required by the Commission.

Worldwide Locations

World Headquarters
Lakewood, New Jersey

U.S. Regional Offices
Colorado
Nevada

International Offices
GLI Africa
GLI Asia
GLI Australia Pty Ltd
GLI Austria GmbH
GLI Europe BV
GLI Italy
GLI South America

GLI appreciates the opportunity to continue to provide our services to the Massachusetts Gaming Commission and looks forward to continued engagements including serving as a Sports Betting independent test laboratory. Should you have any questions or need additional information, please feel free to contact our office at 732-942-3999.

Sincerely,

A handwritten signature in blue ink, appearing to read 'CMG', is positioned below the word 'Sincerely,'.

Christine M. Gallo,
Senior Vice President, Quality and Technical Compliance

Enclosures

GLI's Submission to:
Massachusetts Gaming Commission



**Requesting Approval as
Independent Test Lab
For Sports Betting**

Date:
September 15, 2022

Submitted by:
Gaming Laboratories International, LLC

GLI BACKGROUND AND SPORTS BETTING HISTORY

As a trusted advisor to over 480 regulators worldwide, GLI's expertise spans over 33 years across multiple disciplines including, but not limited to, advisory services on policy and regulatory development, technical compliance, cybersecurity, auditing and testing in the traditional land-based, online, and lottery space. We have been called upon to advise on a myriad of areas including, but not limited to, iGaming, iLottery, Sports and Event Wagering, new and emerging gaming technologies, and regulations around those technologies.

With over 1,300 highly skilled professionals, IT security personnel, quality assurance test specialists, test engineers, mathematicians, and business services professionals located across 24 office locations on 6 continents, GLI is ready to serve our clients' individual needs.

GLI was the first independent testing laboratory of its kind to retain U.S. and International accreditations for compliance with ISO/IEC 17025, ISO/IEC 17020, and ISO/IEC 17065 standards for technical competence in testing, inspection, and product certification services.

GLI was the first to write and set gaming and lottery standards which are considered the industry benchmark worldwide. **GLI developed the first independent event-wagering technical standard to ensure the integrity of the dramatically expanding sports betting market in the Americas - *GLI-33: Event Wagering Systems*.** Adopted in 30 U.S. Jurisdictions, GLI-33, and our other standards were generated using the best practices from across the globe. Similarly, GLI leverages GLI-20: Kiosks, the first-ever independent standard that can be used for evaluation of sports and event wagering terminals.

SPORTS BETTING EXPERIENCE

Regulatory Expertise

GLI has been involved in multiple engagements that cover the full spectrum of regulatory education, rule and regulation creation, licensing support, and testing compliance for interactive and sports wagering systems. As a global independent testing laboratory serving hundreds of regulatory agencies, GLI is in a unique position to consult with regulators worldwide. We offer sound advice and best practices derived from over 33 years of knowledge of regulated gaming markets. GLI's areas of expertise include knowledge of and experience with emerging trends in the gaming industry, including technological advances in gaming, lottery, sports betting systems, esports, and Fantasy Sports regulation and compliance.

Most Experienced Sports Betting Testing Lab

With more sports betting and event wagering testing experience and certifications than any other laboratory worldwide, we remain the market leader and clear choice lab for the growing interactive gaming space, including online and mobile sports betting versions. We work tirelessly to provide high-quality testing by maintaining world-class resources globally with requisite expertise and knowledge for every regulated iGaming market where independent lab services are permitted.

GLI has been involved in multiple engagements that cover the full spectrum of testing compliance for interactive gaming and sports betting systems. To date, GLI has provided testing services to all U.S. markets in the iGaming or sports wagering space ranging from certification testing to geolocation and/or network security evaluations.

SPORTS BETTING SAMPLE PROJECTS

GLI has been involved in multiple engagements that cover the full spectrum of regulatory education, rule and regulation creation and testing compliance for interactive and sports wagering systems.

Example projects that encompass GLI's unique experiences regarding sports wagering:

- Testing and/or certification of sports betting systems within Colombia, Province of Buenos Aires, Paraguay and the states of Arkansas, Indiana, Iowa, Michigan (State and Tribal), Mississippi (State and Tribal), Nevada, New Hampshire (Lottery), New York (State and Tribal), Oregon (Lottery and Tribal), Pennsylvania, Rhode Island (Lottery), West Virginia (Lottery) and the District of Columbia, which all include a mix of online, terrestrial, and/or remote mobile sportsbook offerings.
- On-site geolocation evaluations prior to market go live dates to ensure wagers are only taking place in warranted areas.
- Application of multiple operational audits across various states who maintain different audit requirements while offering a singular daily fantasy sports system.
- GLI is currently providing sports wagering advisory services to the **District of Columbia (D.C.) Lottery**. These consulting services include assisting with regulatory and licensing frameworks and procedures to support the launch of mobile based sports wagering in D.C. This consultancy project was the result of GLI winning a competitive bid.
- GLI is currently providing online gaming and sports betting advisory services to the **Jamaica Betting Gaming and Lotteries Commission**. These consulting services include assisting with regulatory and licensing frameworks and procedures to regulate the online gaming and sports betting industry in the jurisdiction. This engagement also included comprehensive training on these topics.
- GLI is currently providing consultancy to the **Ministry of Tourism of the Turks and Caicos Islands Government** to develop regulations related to land-based and online gaming and sports betting, lotteries and games of chance authorized in their legislation. The engagement also includes advisory on staffing, training, development on policies and manuals. This diverse spectrum also includes administrative and technical regulations for responsible gaming and money laundering prevention.
- GLI was chosen to provide services to the **City of Buenos Aires Lottery (LOTBA)** in regulatory drafting for online gaming and sports betting regulation as well as technical compliance and responsible gambling regulations for the opening of this new market.

- GLI's subject matter experts assisted the **Colombian regulatory body, Coljuegos**, with the development of iGaming and Event Wagering standards within the Latin America sector.
- GLI and multiple U.S. interactive markets (**Delaware and Nevada**) collaborated to deploy a system that was required to meet different sets of unique regulations while allowing shared liquidity of player pools across markets.
- GLI's consulting team worked closely with the **Wyoming Gaming Commission** to rapidly draft sports wagering regulations and provided guidance and recommendations to strengthen the overall regulatory framework, including adoption of the GLI-33 Standard. GLI also assisted in developing necessary protocols and procedures to support the launch of online sports wagering in Wyoming.

GLI iGaming & Sports Betting Jurisdictions (Sample List)



A sample list where GLI is approved to perform testing includes (but is not necessarily limited to) the following jurisdictions:



Jurisdiction	Associated Regulatory Body	Notes
Alderney	Alderney Gambling Control Commission	
Antigua & Barbuda	Financial Services Regulatory Commission	
Argentina – Misiones	Instituto Provincial de Lotería y Casinos Sociedad del Estado (IPLyC)	
Argentina – Chaco	Lotería Chaqueña	• iGaming Only
Argentina – City of Buenos Aires (Operators)	Lotería de la ciudad de Buenos Aires (LOTBA)	
Argentina – City of Buenos Aires (Casinos)	Lotería de la ciudad de Buenos Aires (LOTBA)	• iGaming Only
Argentina – Province of Buenos Aires	Instituto Provincial de Lotería y Casinos Sociedad del Estado (IPLyC)	
Argentina – Province of Cordoba	Lotería de la Provincia de Cordoba (LPCSE)	
Argentina – Province of Corrientes	Corrientes Lottery and Casino Institute (ILCC)	
Armenia	Upcoming Jurisdiction	• Upcoming Jurisdiction
Australia – Australian Capital Territory	ACT Gambling and Racing Commission	• Sports Betting and event wagering only
Australia – Northern Territory	Licensing NT	• Sports Betting and event wagering only
Australia – Tasmania	Tasmanian Gaming Commission	• Sports Betting and event wagering only
Bahamas	Bahamas Gaming Board	
Belarus	Ministry of Finance	
Belgium	Gambling Commission	• Pre-compliance testing • Balance performed by Regulator directly
Bosnia and Herzegovina	Ministry of Finance	
Bulgaria	State Gambling Commission	
Canada – New Brunswick, Newfoundland, Nova Scotia & Prince Edward Island	Atlantic Lottery Corporation, on behalf of: New Brunswick, Public Safety/Gaming Control, Nova Scotia Alcohol & Gaming Division, and Consumer Services (Environment, Labour and Justice)	
Canada – Alberta	Alberta Gaming and Lottery Commission (AGLC)	
Canada – British Columbia	Gaming Policy Enforcement Branch (GPEB)	
Canada – Manitoba	Liquor and Gaming Authority of Manitoba (LGA)	• Via Playnow.com in British Columbia
Canada – Saskatchewan	Saskatchewan Liquor and Gaming Authority (SLGA) Saskatchewan Indian Gaming Association (SIGA)	• Via Playnow.com in British Columbia. Upcoming Jurisdiction
Canada – Ontario	Alcohol and Gaming Commission of Ontario (AGCO)	
Canada – Québec	Loto-Québec	
Colombia (Latin America)	Coljuegos	
Croatia	Ministry of Finance, Tax Administration	
Czech Republic	Ministry of Finance Department 34	
Denmark	Danish Gambling Authority	
Estonia	Ministry of Finance of Estonia, Tax and Customs Board	
France	Autorité de régulation des jeux en ligne (ARJEL)	Audit after go-live only.
Georgia (Country)	Readom Systems (Appointed by Ministry of Finance)	iGaming, Sports Betting
Germany	All 16 States	• ISS auditing and RNG testing for remote gaming
Gibraltar	Gambling Division HM Government of Gibraltar	
Greece	Hellenic Gaming Commission (HGC)	

Hungary	National Tax and Customs Administration Central Gambling Control Department	Packet Page 49
IAGR – Multi-jurisdictional	IAGR	<ul style="list-style-type: none"> • RNG and Games only
India	All India Gaming Federation (AIGF)	<ul style="list-style-type: none"> • Self-regulatory model under the AIGF's Skill Games Charters
Isle of Man	Gambling Supervision Commission (GSC)	
Italy	Amministrazione Autonoma dei Monopoli di Stato (AAMS)	
Jersey	Jersey Gambling Commission	
Latvia	Latvian Lotteries & Gaming Supervisory Inspection	
Lithuania	Gaming Control Authority	
Malta	Malta Gaming Authority (MGA)	
Mexico	Normalización y Certificación Electrónica (NYCE)	
Netherlands	Kansspelautoriteit (KSA)	
Nigeria	Lagos State – Lagos State Lotteries Board	<ul style="list-style-type: none"> • GLI Standards
Norway	Lotteri- og stiftelsestilsynet > The Gaming Authority	<ul style="list-style-type: none"> • Testing per Operators request
Panama	Panama Gaming Board	
Paraguay (Latin America)	National Gaming Commission (CONAJZAR)	<ul style="list-style-type: none"> • Sports Betting only
Philippines	Philippine Amusement and Gaming Corporation (PAGCOR)	
Poland	Ministry of Finance	<ul style="list-style-type: none"> • Games testing at request of Monopoly operator
Philippines – First Cagayan	Cagayan Economic Zone Authority	
Portugal	Serviços de Regulação e Inspeção de Jogos (SRIJ)	
Romania	National Gambling Office (ONJN)	
Serbia	Ministry of Finance, Games of Chance Administration	
Slovakia	Upcoming Jurisdiction	<ul style="list-style-type: none"> • RNG testing only
Slovenia	Ministry of Finance	
South Africa	9 x Provinces + National Gambling Board <ul style="list-style-type: none"> • Gauteng Gambling Board • Western Cape Gambling Board • Eastern Cape Gambling • Northern Cape Gambling Board • Mpumalanga Gambling Board • Limpopo Gambling Board • Kwazulu Natal Gambling Board • Free State Gambling Board • North West Gambling Board 	<ul style="list-style-type: none"> • Sports Betting only • Contingency games for Western Cape and Mpumalanga forthcoming
Spain – Federal	La Dirección General de Ordenación del Juego (DGOJ)	
Spain – Madrid	Dirección General de Tributos y Ordenación y Gestión del Juego - Comunidad Autónoma de Madrid	
Spain land-based sports betting.	Each autonomous region in Spain has their own technical standards for Sports betting	<ul style="list-style-type: none"> • Sports Betting only
Sweden	Lotteriinspektionen & Swedish National Gaming Board	
Switzerland	Federal Gaming Board; Switzerland (ESBK)	
Uganda	Gaming Commission	<ul style="list-style-type: none"> • Estimated late 2022
United Kingdom (UK)	Gambling Commission	
USA – Arkansas	Arkansas Racing Commission	<ul style="list-style-type: none"> • Sports Betting only
USA – Arizona	Arizona Department of Gaming (AZDOG)	<ul style="list-style-type: none"> • Sports Betting only
USA – Colorado	Colorado Department of Gaming (CODOG)	<ul style="list-style-type: none"> • Sports Betting only
USA – Connecticut (State)	Connecticut Department of Consumer Protection (DCP)	<ul style="list-style-type: none"> • Sports Betting and iGaming and iLottery
USA – Connecticut (Tribal)	Tribal Gaming Regulatory Agency (TGRA)	<ul style="list-style-type: none"> • Sports Betting and iGaming
USA – Delaware	Delaware State Lottery	<ul style="list-style-type: none"> • iGaming • Retail Sports Betting only • Sports Betting currently does not require ITL
USA – Illinois	Illinois Gaming Board	<ul style="list-style-type: none"> • Sports Betting only
USA – Indiana (State)	Indiana Gaming Commission	<ul style="list-style-type: none"> • Sports Betting only

USA – Indiana (Tribal)	Tribal Gaming Regulatory Agency (TGRA)	<ul style="list-style-type: none"> • Retail, In-Venue Mobile Sports Betting only
USA – Iowa	Iowa Racing and Gaming Commission (IRGC)	<ul style="list-style-type: none"> • Sports Betting only
USA – Kansas (State)	Kansas Lottery Commission	<ul style="list-style-type: none"> • Sports Betting only • Emerging jurisdiction (regulations in draft)
USA – Kansas (Tribal)	Tribal Gaming Regulatory Agency (TGRA)	<ul style="list-style-type: none"> • Sports Betting only • Emerging jurisdiction (need compact update)
USA – Louisiana (Lottery)	Louisiana Lottery Corporation	<ul style="list-style-type: none"> • Sports Betting only
USA – Louisiana (State)	Louisiana State Police (LASP)	<ul style="list-style-type: none"> • Sports Betting only
USA – Louisiana (Tribal)	Tribal Gaming Regulatory Agency (TGRA)	<ul style="list-style-type: none"> • Retail, In-Venue Mobile Sports Betting only
USA – Maine	Maine Gambling Control Board	<ul style="list-style-type: none"> • Sports Betting only • Emerging jurisdiction (no regulations yet)
USA – Maryland	Maryland State Lottery & Gaming Control Agency	<ul style="list-style-type: none"> • Sports Betting only • Emerging jurisdiction (mobile launch soon)
USA – Michigan (State)	Michigan Gaming Control Board	<ul style="list-style-type: none"> • Sports Betting and iGaming
USA – Michigan (Tribal)	Tribal Gaming Regulatory Agency (TGRA)	<ul style="list-style-type: none"> • Sports Betting and iGaming
USA – Mississippi (State)	Mississippi Gaming Commission	<ul style="list-style-type: none"> • Retail, In-Venue Mobile Sports Betting only
USA – Mississippi (Tribal)	Tribal Gaming Regulatory Agency (TGRA)	<ul style="list-style-type: none"> • Retail, In-Venue Mobile Sports Betting only
USA – Montana	Montana State Lottery	<ul style="list-style-type: none"> • Retail, In-Venue Mobile Sports Betting only
USA – Nebraska	Nebraska Racing and Gaming Commission	<ul style="list-style-type: none"> • Retail Sports Betting only • Emerging jurisdiction (regulations in draft)
USA – Nevada	Nevada Gaming Control Board (NGCB)	<ul style="list-style-type: none"> • Poker iGaming and Sports Betting only
USA – New Hampshire	New Hampshire Lottery Commission	<ul style="list-style-type: none"> • Sports Betting only
USA – New Mexico (Tribal)	Tribal Gaming Regulatory Agency (TGRA)	<ul style="list-style-type: none"> • Retail, In-Venue Mobile Sports Betting only • Currently accepts NV certification, does not require ITL
USA – New Jersey	Division of Gaming Enforcement (DGE)	<ul style="list-style-type: none"> • Pre-compliance testing & Information Systems Security (ISS) Audits only • Balance of testing performed by State Lab directly
USA – New York (State)	New York Gaming Commission	<ul style="list-style-type: none"> • Sports Betting only
USA – New York (Tribal)	Tribal Gaming Regulatory Agency (TGRA)	<ul style="list-style-type: none"> • Retail, In-Venue Mobile Sports Betting only
USA – North Carolina	Tribal Gaming Regulatory Agency (TGRA)	<ul style="list-style-type: none"> • Retail, In-Venue Mobile Sports Betting only
USA – North Dakota	Tribal Gaming Regulatory Agency (TGRA)	<ul style="list-style-type: none"> • Retail, In-Venue Mobile Sports Betting only
USA – Ohio	Ohio Casino Control Commission	<ul style="list-style-type: none"> • Sports Betting only • Emerging jurisdiction (regulations in draft)
USA – Oregon (State)	Oregon State Lottery	<ul style="list-style-type: none"> • State-Wide Mobile Sports Betting only
USA – Oregon (Tribal)	Tribal Gaming Regulatory Agency (TGRA)	<ul style="list-style-type: none"> • Retail, In-Venue Mobile Sports Betting only
USA – Pennsylvania	Pennsylvania Gaming Control Board (PGCB)	<ul style="list-style-type: none"> • Sports Betting and iGaming
USA – Puerto Rico	Comisión de Juegos de Puerto Rico	<ul style="list-style-type: none"> • Sports Betting only
USA – Rhode Island	Rhode Island Lottery	<ul style="list-style-type: none"> • Sports Betting and iLottery only
USA – South Dakota	South Dakota Gaming Commission	<ul style="list-style-type: none"> • Retail, In-Venue Mobile Sports Betting only
USA – Tennessee	Tennessee Lottery Corporation Board	<ul style="list-style-type: none"> • State-Wide Mobile Sports Betting only
USA – Virginia	Virginia Lottery	<ul style="list-style-type: none"> • Sports Betting only
USA – Washington (Tribal)	Tribal Gaming Regulatory Agency (TGRA)	<ul style="list-style-type: none"> • Retail, In-Venue Mobile Sports Betting only
USA – Washington, DC	DC Lottery – Office of Lottery and Gaming	<ul style="list-style-type: none"> • Sports Betting and iLottery only
USA – West Virginia	West Virginia Lottery	<ul style="list-style-type: none"> • Sports Betting and iGaming
USA – Wisconsin	Tribal Gaming Regulatory Agency (TGRA)	<ul style="list-style-type: none"> • Retail, In-Venue Mobile Sports Betting only
USA – Wyoming	Wyoming Gaming Commission	<ul style="list-style-type: none"> • State-Wide Mobile Sports Betting only



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Katrina Jagroop-Gomes
Chief Information Officer
Massachusetts Gaming Commission
101 Federal Street 12th Floor
Boston, MA 02110

Via email to Katrina.Jagroop-Gomes@massgaming.gov

September 16, 2022

Dear Chief Jagroop-Gomes,

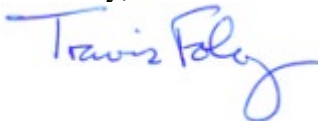
BMM North America Inc. (“BMM”) is requesting authorization, as a certified Non-Gaming Vendor (NGV002214), to perform certification testing for sports wagering products and systems intended for use in Massachusetts. In support of this request, please find below BMM’s qualifications related to performing this work.

BMM is an ISO 17020, 17025, and 17065 accredited organization and widely recognized independent test lab for casino, retail, mobile, and online sports wagering product compliance testing. We have been providing these testing services for more than a decade. BMM is licensed, registered, contracted, or otherwise recognized in several North American jurisdictions currently regulating sports wagering such as Arizona, Colorado, Connecticut, Nevada, Ontario, and Pennsylvania as well as many others. A full list of current North American jurisdiction recognitions can be found in the addendum to this letter.

BMM operates two teams based in Las Vegas, NV and Moncton, NB for performing this testing. We have previously certified products for multiple manufacturers including 888, Carousel Group, Stadium Technology Group and more for the aforementioned jurisdictions amongst others. Should examples be required, BMM can provide applicable information for one or more of these prior projects.

BMM has established and will continue to grow our competency for testing sports wagering products and systems. We welcome any questions or further dialogue that the Commission may find useful in consideration of our request. Please contact Derek Smith, Vice President Technical Compliance via email (Derek.Smith@bmm.com) or phone (702-407-2420) to facilitate additional discussion.

Sincerely,



Travis Foley
Executive Vice President and CTO
BMM North America Inc.

ADDENDUM – BMM North Americas sports wagering recognitions

Arizona (State and Tribal)

Arkansas

Bahamas

Colorado

Connecticut

Delaware

Illinois

Indiana

Iowa

Kentucky

Louisiana

Louisiana

Maryland

Michigan

Mississippi

Nebraska

Nevada

New Hampshire

New Mexico (Tribal)

New York

North Carolina

North Dakota

Ohio

Oregon

Ontario

Puerto Rico

Pennsylvania

South Dakota

Tennessee

Virginia

Virginia

Washington

Washington D.C.

West Virginia

Wisconsin

Wyoming



COMMUNITY MITIGATION FUND 2023 POLICY QUESTIONS

Review of Policy Questions to be discussed by the Local Community Mitigation Advisory Committees and the Subcommittee on Community Mitigation relative to the 2023 Community Mitigation Fund (“CMF”) Guidelines

The Community Mitigation Fund is covered under MGL c. 23K Section 61 which states: *“to assist the host community and surrounding communities in offsetting costs related to the construction and operation of a gaming establishment including, but not limited to, communities and water and sewer districts in the vicinity of a gaming establishment, local and regional education, transportation, infrastructure, housing, environmental issues and public safety, including the office of the county district attorney, police, fire and emergency services.”*

Policy Questions for 2023

1. NEW Should the Commission consider a new Gambling Harm Reduction Grant?

Background: In 2022 the Commission received a CMF application to develop a program to address problem gambling. This application was ultimately withdrawn, but it caused staff to consider whether the CMF should provide funds specifically for a community to study the impact of a gaming establishment within its community.

MGC staff has had several discussions with the MGC research team to help identify what a program like this might look like and how it could be implemented. Currently, MGC’s Research and Responsible Gaming Division conducts some limited Community Engaged Research through the Public Health Trust Fund. Since the broad parameters of this program are well established, staff felt that this type of program could be expanded to allow eligible communities to access funds specifically to help identify gaming related impacts and design programs that would help mitigate these impacts. We look at this as analogous to our transportation programs where a transportation planning grant often leads to a transportation construction grant. In this case, our hope is that conducting community-based research would lead to identifying solutions that could be implemented in future grant rounds.

If we move ahead with this program, staff recommends that it be done on a pilot basis with a maximum of one grant in each region and a cap of \$200,000 for each study.

In our discussions, we also realized that many of the eligible communities might not be ready to jump into a full-blown research project. In order to create a pipeline of projects in future years, staff felt that dedicating some resources towards development of a research plan might also be appropriate. These funds would be used to help communities identify issues and further develop the scope of these research projects. We expect these types of grants to be around



Massachusetts Gaming Commission

\$20,000. This could be done under the existing Community Planning Grant or as a subset of this new category.

2. **NEW** Should the Commission consider a new grant for Projects of Regional Significance?

Background: Over the last several years, the Community Affairs Division has become aware of a number of proposed large-scale construction projects in the vicinity of the gaming establishments that have the potential to further mitigate casino related impacts. These projects are typically associated with transportation related improvements that are intended to relieve congestion, improve safety, or provide alternative modes of transportation (e.g., transit projects, bike paths, etc.) to help remove traffic from the roads. These projects tend to be regional in nature, often crossing through multiple jurisdictions, and also tend to be very expensive. If constructed, these types of projects would generally provide benefits for a wide variety of users but would also further mitigate traffic related impacts generated by the gaming establishments. In a brief review of the draft 2023-2027 State Transportation Improvement Program (STIP), there are literally dozens of projects that might qualify as mitigating casino related impacts. In looking at this universe of projects, the costs ranged from around \$10 million to nearly \$200 million.

We have been working with MassDOT, the Metropolitan Area Planning Council, and the Pioneer Valley Planning Commission to help us identify the universe of projects that might be eligible for this type of program. We have asked them to think not only about transportation projects, but also the possibility of planning/design projects, housing related projects, or any other types of projects that would be eligible under the CMF. We are also reaching out to the local communities to help identify any other large-scale project that might not have been identified through the state transportation and planning agencies.

The intent of a program of this nature is not to attempt to pay for entire projects, but to provide a portion of the funding that is commensurate with the impact that is being mitigated. For our Transportation Construction Grants, we provide a maximum of 33% of the project funds. For something like this it might be on the order of 10-15% of the funds as these will have a much larger regional impact. All projects that appear on the STIP have funding sources identified. If this program were to move ahead, the funding provided by the CMF could offset some of these costs, thereby stretching the state's dollars further to allow additional projects to move ahead.

Instituting a program like this would allow the CMF to participate in more transformational projects while ensuring that CMF funds are targeted to mitigate casino related impacts.

Based on the amount of funding currently available a program of this nature could be funded at \$3M – \$5M per region for at least the next few years.

3. **Should the Guidelines be more prescriptive with respect to the types of projects that are eligible to be funded under any specific category?**

Background: In the 2022 grant round, several applicants applied for funds in what appeared to be the incorrect category. There were a couple of projects that on their face appeared to be

Transportation Construction but applied under the Public Safety category. MGC also received numerous Specific Impact Grants that should have been classified under Public Safety.

If we pursue these changes, we will modify the Guidelines to be more specific with what entities are eligible for each category and what types of projects would be eligible under the categories.

4. Should the Commission set a limit on repeat applications? Should there be a time limit by which the project needs to be self-sufficient or incorporated into the state or municipal budget?

Background: There have been several instances where eligible entities have submitted applications on an annual basis for essentially the same grant. These include Specific Impact Grants, Public Safety Grants, and Community Planning Grants. In all of these cases, the Commission has agreed that the applicant has identified a casino related impact and the grants were awarded. But the question remains, at what point is the impact mitigated? Arguments could certainly be made on both sides of this issue.

The options in this area are to continue to deal with each of these on a case-by-case basis, establish a policy for each of the categories that outlines how many grant rounds can be awarded, or develop some type of a phasing out of grants to allow the entities to establish alternative funding sources.

5. Should limitations on grant amounts be increased?

Current limits are:

Grant Type	2022 Funding	2023 Funding
Community Planning	\$100,000	\$200,000
Public Safety	\$200,000	\$200,000
Specific Impact	\$500,000	\$500,000
Transportation Construction	\$1,500,000	\$1,500,000
Transportation Planning	\$200,000	\$250,000
Workforce Development (one per Region)	\$500,000	\$500,000

Background: Limitations on grant amounts were established to give communities some guidelines on what types of things could be funded by the CMF. Given the current availability of funds, some of these caps could be raised to encourage further use of the CMF. Last year Transportation Construction and Workforce Grants were increased.

6. Should the Commission raise the Regional Incentive Awards to encourage more regional projects?

Background: Regional Incentive Awards are included in the Transportation Planning and Community Planning categories to encourage more regional solutions to problems. While we have had some successes with regional applications, additional incentives might encourage more multi-community applications.

The incentives in the Community Planning category are \$10,000 for two communities and \$15,000 for three or more communities. The Transportation Planning category has an incentive of \$25,000 for two communities and \$50,000 for three or more communities. These could easily be raised to \$25,000 and \$50,000 for Community Planning and \$50,000 and \$100,000 for the Transportation Planning category.

7. Should the Commission pursue an expansion of CMF eligibility via either a statute change or within the current framework?

Background: For the last several years, staff has been evaluating the ability to expand CMF eligibility within the existing framework of MGL c. 23K. We have had some success in this area in the revisions to the Community Planning category in 2022, which established that there were certain negative and positive impacts associated with the casinos. In doing this, communities no longer had to compile data or statistics that quantified certain impacts of the casino. Staff believes that there may be opportunities to do the same with other grant categories.

We are working with MassDOT to see if there might be opportunities to streamline the impact justification in the Transportation Planning category and are investigating possibilities in other categories as well. In addition, we are investigating adding new categories of Community-based Impact Research and Projects of Regional Significance as described above.

The recent changes to the CMF resulted in the Commission awarding approximately \$10.6 million in grants in 2022, which was the highest amount ever awarded. However, there are still significant opportunities to fund projects that engage in capitalizing on the presence of gaming facilities. If the Commission decides to pursue some of the changes proposed in this memo, staff believes that the CMF can award grants that come closer in line with the revenues generated.

While staff is looking for innovative programs and projects to distribute these revenues across Massachusetts, the current statute dictates specific eligibility requirements that limit what projects are able to receive funding. The Commission may want to consider a legislative amendment expanding the eligibility criteria of the Community Mitigation Fund.

Items Under Consideration Each Year

The following items are considered each year and are generally uncontroversial and agreed upon by the various parties that review these policy questions. If there are any particular concerns with any of these items, please comment as appropriate.

1. **Overall limit on Grants** – The overall limit on Grants is the amount of CMF funds generated from casino taxes through the end of 2022 plus any uncommitted funds from previous years. The early estimate for the 2023 Grant round is just over \$30 million.
2. **Should the Commission increase the Category 2 Spending?** The Commission has set aside on an annual basis \$500,000 to cover the Category 2 area of impacted communities. In 2022 MGC received applications totaling \$1,000,610 in Category 2. Given the availability of funds, this target could easily be raised to \$1,000,000. Since the Category 2 facility does not contribute to the CMF, any grant awards are charged equally to Region A and Region B.
3. **Should the Commission continue the following grant categories: Workforce Development; Transportation Construction; Community Planning; Emergency Mitigation; and Tribal Grants?**
4. **Should the Commission revisit its Guidelines regarding grants involving private parties?** The 2022 Guidelines stated that “private non-governmental parties may not apply for Community Mitigation Funds.” This was included in the Guidelines several years ago to address issues that arose with respect to the “Anti-Aid” amendment to the State Constitution.
5. **Should local match provisions be reconsidered?** Each of the grant categories, except Transportation Construction, does not have a specific local match requirement. Each application must detail what the applicant will contribute to the project such as in-kind services, etc. For Transportation Construction Grants, CMF funds can make up no more than 1/3 of the total cost of the project. The other 2/3 must come from other federal, state, local or private sources of funding.
6. **Should the Commission continue with its policy to require funds generated in each Region remain in that Region for at least 3 years?** This policy was set up a few years ago to ensure that each Region received its fair share of CMF grants.

TO: Chair Cathy Judd-Stein and Commissioners

FROM: Joe Delaney, Chief of Community Affairs
 Mary Thurlow, Senior Program Manager
 Lily Wallace, Program Assistant

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

DATE: September 19, 2022

RE: Reappointment Recommendations for Local Community Mitigation Advisory Committee and Subcommittee Members under the Gaming Policy Advisory Committee

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”). Last year the Commission made several one-year appointments to the Local Community Mitigation Advisory Committee which will expire on October 8, 2022. We are recommending that the Commission consider reappointing these members for an additional one-year term. We also recommend that these appointees continue to serve at the pleasure of the Commission.

Local Community Mitigation Advisory Committees (“LCMAC”)

The purpose of these advisory committees is to provide information and develop recommendations for the Community Mitigation Advisory Subcommittee on issues related to the gaming facilities in each region and present information to the Commission on any issues related to the gaming establishment located in each region. Below are the biographies of the members that were presented to the Commission last year.

Region A LCMAC

Vincent Panzini - Chamber of Commerce Representative

Mr. Panzini was born and raised in Everett and graduated Everett High school. He began working right out of high school in the banking and related technical areas and did so for 21 years. He was educated at Bentley University with a bachelor’s degree in Management.

In 1987 Mr. Panzini opened a Financial Advisor practice in Everett and began a 31-year career in that field while becoming very active in community organizations. He later moved his office to Danvers MA as his client base was moving north of Boston. He has been particularly active in the Everett Chamber of Commerce and this year he is the President.

Mr. Panzini has a keen interest in the Everett area and the effects of gaming and is interested in participating in activities that will make this a successful venture for the community.

David Bancroft - Regional Economic Development Organization

David Bancroft is the Senior Vice President of Community Development for MassDevelopment. In this position he works in the Agency's Greater Boston region. He is responsible for the Agency's Brownfields, Predevelopment, Co-Working and Transformative Development initiatives.

He joined MassDevelopment in July 1999. He has worked with many for-profit, non-profit and municipal agencies involved in economic and transformative development issues. This includes the development of affordable housing, environmental assessment and clean-up, re-development and expansion of many of cultural and tourism institutions as well as the local community and neighborhood-based projects in many of the gateway cities and neighborhoods in the region.

Prior to joining MassDevelopment, he was employed for eight years with the Massachusetts Department of Housing and Community Development where he managed the Housing Innovations Fund and Facilities Consolidation Fund. He was also a Financial Analyst for Bank of Boston.

He graduated from Northeastern University in Boston with a degree in Business Administration & Finance. In 1996, he was chosen for the Commonwealth Fellowship Award from Suffolk University and earned a Master's in Public Administration in 1998.

He has served in the past as the President of the Board of Victory Programs, a non-profit human service provider that provides housing and support services to homeless individuals and families impacted by substance abuse and chronic illnesses like HIV/AIDS. Victory Programs also operates one the largest urban farms in the City of Boston.

For the Region A LCMAC to be complete, it needs to fill two positions of a Human Service provider position. Commission staff is investigating potential members.

Region B LCMAC

Diana Szynal - Chamber of Commerce Representative

Diana brings over 20 years of state and local government experience, community outreach, a deep understanding of the legislative process, and workforce advocacy to her role. Prior to becoming Chamber President, Diana served as the Executive Director of the Franklin County Chamber of Commerce for over three years.

A lifelong Hampshire County resident, Diana spent her formative years in Hatfield and attended the University of Massachusetts Amherst. Her breadth of experience working with local governments and the state legislature began in Hampshire County where she served as the Municipal Specialist to the Hampshire Council of Governments. Diana went on to gain elected experience completing three full terms as a member of the Hatfield Select Board, including six years as Board Chair, and she was recently re-elected for her fourth three-year term. Like many elected officials serving in small towns, Diana also serves on other town boards such as the Capital Planning Committee and serves as the Selectboard liaison to the School Department, Police Department and Council on Aging.

Before joining the Franklin County Chamber of Commerce as Executive Director, Diana spent 16 years as the district director for the late state Representative Peter Kocot in the 1st Hampshire District. Having served in various legislative roles, Diana has developed a deep

passion for community and constituent services, helping to solidify her understanding of how the government works to benefit both large and small local businesses.

Diana has served on the Board of Directors for MassHIRE Franklin and Hampshire Counties, as well as the Opioid Task Force of Franklin County, the Franklin Regional Economic Development Initiative, and the Comprehensive Economic Development Strategy Committee which helped develop the Franklin County Recovery and Resiliency Plan. Much of her work impacted all areas of Western Massachusetts, providing Diana with a deep understanding of the strengths and challenges of the businesses, communities, and organizations in our tri-county area.

Diana resides in Hatfield with her husband, Jim. They have three children. Peter who is a farmer in Connecticut, Henry who is a recent graduate of UMass-Amherst, and teenage daughter, Hadley who is a senior at Smith Academy and a goalie on their field hockey team. Diana loves animals and has a black lab rescue named Emmitt and a kitten named Eleanor who was adopted during the pandemic. When Diana is not serving her community or spending time with her family, she enjoys cooking, baking, and the quiet living amidst the beautiful farm fields in Hatfield.

Ellen Patashnick – Human Service Provider (one opening)

Ellen received her undergraduate degree at Northeastern University and her master's degree in counseling from Suffolk University. Early in her career Ellen worked at the Department of Youth Services in Boston with delinquent and pre-delinquent youth and their families. Before moving out to the western part of the state, she worked as a social worker in Roxbury with the Department of Public Welfare and was then promoted to a supervisory position in the Division of Child Guardianship (now the Department of Children and Families). She has held several management positions including Director of the Holyoke and Robert Van Wart DCF offices.

Now retired, Ellen is a volunteer disaster responder and instructor for the American Red Cross for both local and national events. Her husband is a retired adoption supervisor.

There is an opening for a Regional Economic Development Organization representative and one opening for a Human Service Provider. Commission staff is investigating potential members.

Other GPAC Subcommittees

In addition to the appointment of non-commission members of the LCMACs, the Commission also made internal appointments to GPAC Subcommittees.

Community Mitigation Advisory Subcommittee

The Community Mitigation Advisory Subcommittee develops recommendations to address community mitigation issues. The Commission has the authority to choose one representative of the Commission to be on the Subcommittee. This representative could be a member of the Commission, the Executive Director, or a staff member. Last year, the Commission determined that it would designate Brad Hill for that Subcommittee. MGC staff has been working with the Boards of Commissions on filling the governor appointees.

Public Safety Subcommittee:

The Public Safety Subcommittee develops recommendations for regulations to be considered by the Commission to address public safety issues. Last year the Commission designated Commissioner O'Brien as its representative on the Public Safety Subcommittee.

Addiction Services Subcommittee:

The Addiction Services Subcommittee develops recommendations for regulations to be considered by the Commission to address issues related to addiction services. The members voted Mark Vander Linden, Director of Research and Responsible Gambling, as its representative to this Subcommittee.