

AGENDA

KANSAS RACING AND GAMING COMMISSION 10:00 a.m., Wednesday, February 18, 2009

CONFERENCE ROOM A AND VIA TELECONFERENCE
Dwight D. Eisenhower State Office Building
700 SW Harrison, Suite 500
Topeka, Kansas

A. CALL TO ORDER

B. APPROVAL OF THE AGENDA

C. APPROVAL OF MINUTES

1. [Minutes of January 23, 2009](#)

D. CONSENT AGENDA

Items listed on the consent agenda are a variety of contracts and matters that are routine in nature. If requested by a commissioner, an item may be removed from the consent agenda and placed under Commission Items for further discussion and consideration.

1. TRAK East - review and approve contracts
 - a. [McGladrey & Pullen, Certified Public Accountants](#), Kansas City, MO; Audit services

E. COMMISSION ITEMS

1. Approval of post-hearing changes to non-gaming supplier regulation

Commission Action: Commission review and discussion

Staff Presentation: Patrick Martin, Assistant Attorney General

Staff Recommendation: Staff recommends approval

- a. [Staff Memo](#)
- b. [Proposed Regulation 112-102-2](#)

F. PUBLIC COMMENTS

G. STAFF REPORTS

1. Executive Director
2. Assistant Attorney General
3. Calendar review
 - a. [Commission Meeting Calendar](#)

H. OTHER BUSINESS

I. ADJOURNMENT

CONFERENCE CALL INSTRUCTIONS

Dial the Phone Number: (877) 278-8686

Enter the PIN Number when prompted: 813463

NOTE: For members of the general public, please mute your phone to reduce noise on the line and to allow for an orderly meeting. If you are unsure of how to mute your personal phone, you may use one the functions below to mute, un-mute, or adjust the volume.

*7 – Mute your phone

*9 – Un-mute your phone

*2 – Increase volume

*8 – Decrease volume

KANSAS RACING AND GAMING COMMISSION

MINUTES – January 23, 2009

- CALL TO ORDER:
(A.)
- Chair Sader called the January 23, 2009 meeting to order at 10:10 am at 700 SW Harrison, Auditorium A, Suite 450, Topeka, Kansas. Commissioners Sader, Braun, Falstad, and McKechnie were present at the meeting. Others present included Executive Director Stephen Martino; Assistant Attorney General Patrick Martin; Director of Audit/Electronic Security Charles LaBoy; Director of Security Don Brownlee; Director of Communications/Responsible Gaming Mike Deines; Commission Recording Secretary Linda Pendarvis and other staff.
- MOTION, APPROVE AMENDED AGENDA:
(B.)
- The following amendments to the agenda were made:
- Section C.2. – add approval of the minutes of the January 16, 2009, conference call.
- Commissioner Falstad (Braun) moved to approve the amended agenda as presented. Motion passed unanimously.
- MOTION, APPROVE DECEMBER 4-5, 2008, MEETING MINUTES:
(C.1.)
- Commissioner Braun (McKechnie) moved to approve the minutes of the December 4-5, 2008, commission meeting as submitted. Motion passed unanimously.
- MOTION, APPROVE JANUARY 16, 2009, TELECONFERENCE MINUTES:
(C.2.)
- Commissioner Falstad (Braun) moved to approve the minutes of the January 16, 2009, teleconference as submitted. Motion passed unanimously.
- LOTTERY GAMING FACILITY REPORTS:
(D.1.)
- No report.
- DISCUSSION, ANTHONY DOWNS COMPLIANCE AUDIT 2008:
(E.1.)
- The commission heard Mr. LaBoy discuss the Anthony Downs compliance audit for 2008.
- MOTION, APPROVE 2008 ANTHONY DOWNS FINANCIAL REPORT:
(E.1.)
- Commissioner Braun (McKechnie) moved to approve the 2008 Anthony Downs compliance audit report as presented. Motion passed unanimously.
- CALL FOR PUBLIC COMMENTS:
(F.)
- Chair Sader called for public comments. There were none.
- STAFF REPORT, MARTINO:
(G.1.)
- The commission heard a staff report from Mr. Martino. One of the commissioners has a conflict with the February 19 meeting date; therefore, it was agreed to move the meeting to February 18.

January 23, 2009

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STAFF REPORT,
ASSISTANT ATTORNEY
GENERAL:
(G.2.)

The commission heard a staff report from Mr. Martin.

CALENDAR REVIEW:
(G.3.)

The commission reviewed upcoming meeting dates.

MOTION, EXECUTIVE
SESSION:
(H.1.)

Commissioner Braun (McKechnie) moved that the commission go into executive session for 30 minutes from 10:35 am until 11:05 am for the purpose of attorney client communication. In addition to the commission, those included in the executive session were Mr. Martino and Mr. Martin. No action is to be taken in executive session, and the subjects discussed are to be limited as previously described. A full record of this motion is to be maintained as a part of the permanent record of the Kansas Racing and Gaming Commission. At the conclusion of the executive session, the meeting is to be continued in open session. Motion passed unanimously.

RECONVENE:

The commission meeting reconvened at 11:07 am with all members present as previously noted.

FURTHER COMMISSION
ACTION:
(I.)

There was no further commission action.

OTHER MOTIONS:
(J.)

There were no other motions.

ADJOURN:

Commissioner Braun (McKechnie) moved to adjourn at 11:08 am. Motion passed unanimously.

SUBMITTED BY:

William Falstad
Secretary

APPROVED BY:

Carol H. Sader
Chair

Contract Review Cover Sheet

Contract Title: Audit Services for TRAK East

Licensee: TRAK East

Name/Address of McGladrey & Pullen, Certified Public Accountants

Other Party(s): 4801 Main St., Ste. 400

Kansas City, MO 64112

Subject Matter: Audit Services for the year ending December 31, 2008

Contract Date: December 23, 2008

Duration: As needed to complete 2008 audit

Renewal: Yes No

Changes: Yes (See Attached) No Changes

Modification of Existing Agreement: Yes (See Below)

Executed By: Jim Krezek-Stephen Rehm

Payment Terms/Changes: \$8,500.00 (This is a partial bill of an estimated final amount of \$17,000.00).

Date Submitted: February 2, 2009

Submitted By: Jayme LaRocca

69
2521 D.1.a

KANSAS RACING AND GAMING COMMISSION

STAFF AGENDA MEMORANDUM

DATE OF MEETING: February 18, 2009

AGENDA ITEM: Approval of post-hearing changes to the non-gaming supplier regulation

PRESENTER: Patrick D. Martin, Assistant Attorney General

ISSUE SUMMARY: Proposed regulation 112-102-2 provides that *all* “non-gaming suppliers” will be backgrounded and certified by the KRGC. The KRGC is not required under the Expanded Lottery Act to background and certify all non-gaming suppliers, though there are security and integrity reasons for investigating *some* non-gaming suppliers. Practical reasons counsel against backgrounding and certifying all non-gaming suppliers. Therefore, staff recommends the Commission clarify the scope of non-gaming suppliers that it intends to background.

COMMISSION ACTION REQUESTED:

The Commission has preliminarily approved 185 gaming regulations to date. All of those regulations have been approved with limited modifications by the Department of Administration and Attorney General’s offices, reviewed by the legislative Joint Committee on Administrative Rules and Regulations, and have received public comment and comment from the Commission’s regulated community. All regulations – but one – are ready for the Commission’s final approval. For logistical reasons, we will likely place the approval of those regulations on either the next or next two commission meetings.

The lone standout regulation that we do not believe is ready for final approval is K.A.R. 112-102-2, which defines the scope of gaming and non-gaming suppliers that the Commission intends to background and certify. In its current form, that regulation states broadly that:

Each person that is not a gaming supplier but otherwise provides goods or services to a gaming facility on an ongoing basis or for special events, including an ancillary lottery gaming facility operator, shall be considered a non-gaming supplier.

Proposed K.A.R. 112-102-2(b).

If that regulation is given its plain language reading, it could sweep in very small vendors, utility companies, grocery stores, etc. That was not staff’s intent. At the time staff proposed that regulation, it was supported by the general framework of the regulations and staff’s intent to have graduated levels of supplier licensing. The regulation was also similar to other jurisdictions’ rules. For example, the Indiana Gaming Commission employs similarly broad language, though they have a practice of not normally backgrounding non-gaming

suppliers. Their regulation states that “a person may not furnish any equipment, devices, or supplies to a riverboat gambling operation unless the person possesses a supplier's license.” IC 4-33-7-4. In addition to Indiana’s practice, other Midwestern jurisdictions do not usually background non-gaming suppliers.

Based on the other jurisdictions’ practices, a desire to be clear with the regulated community and an understanding that practical realities do not allow for backgrounding of every non-gaming supplier, staff is re-submitting this regulation for narrowing. The proposed language carves out several types of non-gaming suppliers that should be backgrounded, and leaves open other non-gaming suppliers that the executive director determines are either security or integrity risks. The proposed language is:

Each person that is not a gaming supplier but otherwise meets any of the following criteria may be considered a non-gaming supplier:

- (1) Acts as an ancillary lottery gaming facility manager or operator;
- (2) Is not a utility and conducts at least \$100,000 in business with the facility manager or ancillary facility in one-year’s time;
- (3) Is not a utility and has an ongoing presence within the gaming facility; or
- (4) May present a security or integrity issue to the gaming operations as determined by the executive director.

If the commission approves this change, the regulation will be resubmitted as if it were being preliminarily approved. It will be republished in the Kansas register for another 60-day public comment session. Staff does not believe that delay is problematic.

STAFF RECOMMENDATIONS: Staff recommends approval of the change in scope of K.A.R. 112-102-2(b).

112-102-2. Gaming supplier and non-gaming supplier defined. (a) Each person that performs one or more of the following shall be considered a gaming supplier:

(1) Manufactures, sells, leases, supplies, or distributes devices, machines, equipment, accessories, or items that meet at least one of the following conditions:

- (A) Are designed for use in a gaming facility;
- (B) are needed to carry out a lottery facility game;
- (C) have the capacity to affect the result of the play of a lottery facility game;

or

(D) have the capacity to affect the calculation, storage, collection, or control of the revenues from a lottery facility;

(2) provides maintenance services or repairs gaming equipment, including slot machines;

(3) provides services directly related to the management or administration of a gaming facility;

(4) provides junket ~~or tour group~~ services; or

(5) provides items or services that the commission has determined are used in or are incidental to gaming or to an activity of a gaming facility.

(b) Each person that is not a gaming supplier but otherwise ~~provides goods or services to a gaming facility on an ongoing basis or for special events, including an ancillary lottery gaming facility operator, shall~~ meets any of the following criteria may be considered a non-gaming supplier:

- (1) Acts as an ancillary lottery gaming facility manager or operator;
- (2) Is not a utility and conducts at least \$100,000 in business with the facility manager or ancillary facility in one-year's time;
- (3) Is not a utility and has an ongoing presence within the gaming facility; or
- (4) May present a security or integrity issue to the gaming operations as determined by the executive director. (Authorized by and implementing K.S.A. ~~2007~~ 2008 Supp. 74-8751 and 74-8772; effective P-_____.)

February 2009 - January 2010

Commission Planner

Feb 2009						
S	M	T	W	T	F	S
1	2	3	4	5	6	7
8	9	10	11	12	13	14
15	16	17	18	19	20	21
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FEBRUARY
18 Commission Meeting

Aug 2009						
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MARCH
13 Commission Meeting

Mar 2009						
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APRIL
16 Commission Meeting

Sep 2009						
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MAY
15 Commission Meeting

Apr 2009						
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JUNE
12 Commission Meeting

Oct 2009						
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JULY
17 Commission Meeting (tentative)

May 2009						
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AUGUST
14 Commission Meeting (tentative)

Nov 2009						
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SEPTEMBER
11 Commission Meeting (tentative)

Jun 2009						
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OCTOBER
16 Commission Meeting (tentative)

Dec 2009						
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NOVEMBER
13 Commission Meeting (tentative)

Jul 2009						
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DECEMBER
11 Commission Meeting (tentative)

Jan 2010						
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