



September 27, 2019

Chair McKamey and members of the State Administrative and Veteran's Affairs Committee,

RE: Sports Wagering, Montana Lottery RFP requirement

The Montana Coin Machine Operator's Association respectfully asks that this committee officially request that the Department of Administration follow the Procurement laws of the state of Montana when awarding the Lottery contract for sports betting.

The Lottery has maintained that this is somehow included in their existing contract. A thorough reading of the contract signed in February of 2015 has no mention of sports wagering. The contract recognizes that lottery and scratch ticket games are regularly changed by the Lottery Commission and includes those changes in the contract. The Statement of Work specifically mentions "other terminal generated ticket" games when referring to future games that are included in the contract. This is the term for random number generated games – such as "Lucky for Life". Nowhere does it entertain the notion that a form of gambling that was illegal at the time of the contract, would somehow be included.

It is interesting to note that when Montana Sports Action, a fantasy sports game, was legalized in Montana, the Lottery required an amendment to their contract, (#06-1051B) on August 18, 2008 to include this new form of gambling. This contract contained virtually the same "new game" language as the current contract.

The argument that sports betting is somehow a traditional Lottery game simply has no merit. If it were truly a lottery game, the commission would not have required legislative approval to adopt the game. They are legally allowed to change these games as the market and national games change. Instead, HB 725 (Section 5) MCA 23-7-103(7) adds extensive language to define sports wagering and deletes the language that referenced this gambling as illegal. On the Federal level, if "sports wagering" were indeed considered a 'Lottery' game, there would have been no need for the US Supreme Court to overturn the prohibition, as 'lotteries' were already considered legal gambling.

We would also like to point the committee to page two of the current Lottery/Intralot contract. Specifically read through 5.1 Payment Schedule. This contract provides that Intralot will receive 8.49% of net sales. Net sales are defined as terminal issued tickets plus scratch tickets sold, less credits to retailers for promotional tickets, coupons, free play and public relations adjustments. There is no mention of deducting what is paid out in winnings because that is not how a Lottery works. However, 8.49% of the total handle in sports wagering is unheard of and virtually unsustainable. There is no way that the payment structure in the existing contract can be used successfully with sports wagering.

The Department's own fiscal note indicates that this is a contract worth \$4.5 to \$6.1 million contract. Montana's Procurement Act (MCA 18-4-132) indicates that any Lottery contract valued at over \$250,000 must follow the procurement process.

The New Hampshire Lottery issued an RFP on August 7, 2019 and, by September 20th, had received 13 proposals. Rhode Island received their bids in May, 2019. Although, only one experienced company followed through, they had 18 interested parties. Following the procurement process to insure that Montana receives the best deal possible, will not unreasonably delay the implementation process.

The MCMOA is not asking that Intralot not be allowed the contract for Lottery Sports Wagering. We are simply asking that it first go thru a fair and transparent bidding process to determine which sports wagering contractor will provide the best opportunity for Montana.

Sincerely,

Ronda Wiggers

Ronda Wiggers Consulting

On behalf of the Montana Coin Machine Operator's Association

474 U.S. Hwy 89

Vaughn, MT 59487

Cell: 406-899-5659

rondakwiggers@gmail.com