



TAYLOR
LUTHER
GROUP PLLC

MEMORANDUM

To: Wendy McKamey, SAVA Interim Committee Chair
From: Mark Taylor & Pam Bucy *MB*
Date: September 17, 2019
Re: Montana Lottery's Sports Betting System

The purpose of this memorandum is to add additional perspective to the discussion around the passage of HB 725 and Montana Lottery's sports betting program. Up until now, Intralot US ("Intralot") has not engaged the legislative interim committees on this topic.

Intralot has been a leading lottery solutions supplier and operator in the United States since 2002. It currently performs these services for 12 lotteries within the United States, including Montana. Intralot's parent company has more than 5,000 FTE worldwide, handles an average of \$21B in wagers per year, and includes management of sports betting in 25 jurisdictions across the globe (almost \$6B in wagers per year), including many countries (as opposed to states or provinces). Intralot is the largest state-sponsored sports betting company in the world.

In 2014, the Montana Lottery went out for a Request For Proposal (RFP) for a new lottery system, including games to be played on that system. This exhaustive process allowed any willing, qualified vendor to respond. It is important to note that these are complicated, highly complex systems which are proprietary in nature in a very competitive marketplace. RFP responses take an incredible amount of time and resources to prepare as evidenced by the fact that it takes three binders to fully capture Intralot's submittal. Two bidders submitted responses. Intralot prevailed, having been both the technical score winner and the lowest price option.

It is important to note that Contract between the Montana Lottery and Intralot includes the RFP, Intralot's response, the Contract itself and any Amendments thereto. As such, Intralot's response which included sports betting is in fact part of the Contract. When the Lottery went out for its RFP, they asked for system capabilities. In 2014, sports betting was gaining significant traction in the United States as evidenced by involvement from the U.S. Department of Justice, federal legislation, and judicial challenges. Accordingly, both Intralot and its competitor included robust sports wagering capabilities in their offerings.

The Montana Lottery was upfront with the Montana Legislature about its desire to use the Lottery's existing system to support its sports betting program. The Montana Lottery was very clear that sports betting is in fact a lottery game to be played on a lottery gaming system. One need only to review the bill language and fiscal note for HB 725 to understand this to be true. I'm of the opinion that the Lottery Director was and would have been forthright with legislators about any question they might have had regarding the Lottery's intention to use the existing Lottery Contract with Intralot. Moreover, if a new RFP was required every time the Legislature changed the law where an existing system that went through a competitive bid process includes the functionality embodied in the legislative change, there would be a chilling effect on government procurement, whether quality vendors would respond, not to mention the antithesis of government efficiency and revenue that the state is trying to capture. The same holds true if the Lottery is attempting to implement/invent new games.

Requiring a new RFP for the Montana Lottery to roll-out sports betting is a 12-18 month delay at a minimum. If the SAVA Interim Committee wants to see millions in lost revenues for the State and retailers, not to mention an upset sports wagering constituency that is waiting for Lottery to roll-out the sports betting product, then that would be the net result of unnecessarily going out for an RFP. I defer to the Department of Administration Chief Legal Counsel's opinion on whether a new RFP is required or if the Legislature can require Lottery to undertake such an effort absent a specific statutory directive.

Intralot has nothing to hide from the SAVA Interim Committee. To that end, Intralot is willing to allow Committee Members an opportunity to conduct an in person review of Intralot's entire, unredacted RFP response at our office. Due to the highly proprietary nature of Intralot's proposal, we would be asking any Members taking Intralot up on this offer to not take pictures or use any recording or copying device.