



State of Vermont
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Wendy Knight, Commissioner

To: House Committee on Ways and Means
From: Wendy Knight, Commissioner
Date: May 8, 2024
Re: Additional Information on Sports Wagering

This memo is intended to provide additional information on the sports wagering RFP process, regulatory approach, and Vermont market. We would particularly like address any suggested lack of clarity or transparency around the RFP process that is organized by Department of Buildings and General Services under Bulletin 3.5.

Sports Wagering Study Committee, 2023 Legislative Session

The [fundamental tenants](#) agreed to by the Sports Wagering Study Committee, and those included in [Act 63](#) emphasized the importance of:

1. *Providing DLL maximum regulatory authority to create and regulate the sports wagering program.*
2. *Grant DLL the authority to negotiate between two, but not more than six qualified operators. No components exist in Act 63, or within the recommendations of the Study Committee that suggest six Operators is more advisable than two. JFO has testified that 2-3 made sense for Vermont.*
3. *Intent of Legislature for regulating sports wagering (as stated in Act 63):*
 - Maximize revenue to state
 - Protect Vermonters
 - Convert Illicit market to regulated market

Sports Wagering RFP, Implementation Timeline, and Selection Process

July 19, 2023 RFP Issue Date

July 31, 2023 at 4:00 PM EST Questions Due

August 15, 2023 Answers Posted

August 28, 2023 at 4:00 PM EST ORIGINAL Bid Due

September 6, 2023 at 4:00 PM EST AMENDED Bid Due Date

September 22, 2023 Best and Final Offers on the revenue share proposal due

September 28, 2023 Operators selected and notified of intent to contract

December 12, 2023 Contracts executed

January 11, 2024 Launch

In response to the RFP, five operators submitted bids prior to the close of the competitive bid process on September 6, 2023: *Betfair Interactive (FanDuel), BetMGM, Draft Kings, Fanatics Betting & Gaming, and Penn Sports Interactive.*

A sixth bid from *Caesars Entertainment* was not received before the deadline of 4pm EST and could not be accepted when the state ultimately received it at 6pm. ADS analysis determined it was Caesars' server that rejected their email submission. This is not a technicality. The front page of the RFP specified "Late bid will not be considered." Per state policy for procurement, "The state does not accept late proposals" and "a late bid may NOT be waived as technical non-compliance."

Of the five received bid proposals, one - *Penn Sports Interactive*, was deemed materially non-compliant and not considered because required documents were not included in the proposal. Those omitted required documents included: Litigation Bond, Sample House Rules, GLI-33 Certification. The four remaining received bids were evaluated by DLL using the [Evaluation Criteria approved by the Board](#) on June 14, 2023.

BetMGM's revenue share proposal offered the Department variable revenue share based on the number of operators selected, which the State had indicated was not an acceptable revenue share during the RFP Q+A period and which ultimately impacted the overall score of BetMGM's proposal. They resubmitted the same tiered revenue-share proposal during the Best and Final Offer process. (Note: the revenue share offered for three or more operators was significantly less than 31-35% we received from the selected operators.)

Based on that rigorous evaluation, the Department selected three operators and secured the following revenue share agreements:

- DraftKings 31%
- FanDuel 33%
- Fanatics Sportsbook 31%

Contract Terms

The operator contracts are for a minimum of six-year terms. We intentionally sought a waiver to extend the standard contract term from two to six years for key reasons:

- Lock in the high revenue shares. The State benefits by keeping these in place for as long as possible.
- Considerable time to negotiate the three contracts consistent terms.
- Direct our resources to monitoring and regulating the program, not renewing and re-negotiating contracts through time-consuming and administratively heavy processes.
- A longer-term contract is customary in the gaming industry. The Department's contract with Scientific Games is ten years.

(Note: In December, the State updated 3.5 bulletin to reflect a new standard contract term of five years, up from two years.)

Fees

Much discussion has occurred around the notion of fees as a mechanism of revenue generation for the State. It remains a longstanding approach by the Department that fees are employed for administrative costs only. If instances occur where fee receipts are far more than administrative costs for the regulated activity, the Department will consider adjusting fee amounts. This approach ensures that businesses regulated by the State are not exploited for revenue generation by what is intended to be a tool to cover only administrative costs.

Claim of Additional Revenues of \$10m a Year to the State of Vermont

Recently circulated documents and witness testimony have suggested the State could receive up to \$10m would in addition revenue if the Department was compelled to reopen the RFP process.

Current State revenue estimates in the first year of sports wagering operation range between \$7-\$8m. You can find more information on sports wagering in Vermont, including monthly revenue reports, on the [Department's website](#).

Stating that adding additional operators will more than double the State's revenue is not based on facts. Consider the following:

- Two of the State's existing operators (DraftKings and FanDuel) represent 65-70% of the market share in North America
- In neighboring states, VT's three operators have 84-97% of the market share
- There is little loyalty in the gaming industry. Hence, bonus credit and promotional offers.
- 85% of players of have an account with multiple platforms
- The typical players has an account with 3-4 different platforms

The data shows that if a player bets frequently in their home state, they will typically bet on whatever platform is available for lawful wagering in other state jurisdictions they visit. As such, out-of-state players are already wagering with the three operators in Vermont.

We encourage the Committee to request information from JFO to assess industry representative's claims of additional revenue potential.

Adding More Operators

Adding additional operators does not grow the Vermont market, or benefit Vermont. Instead, compelling the Department to add additional operators will:

- Dilute the revenue to the state.
- Increase the amount of advertising significantly since more operators will be competing for players. (Note: Concerns about excessive advertising remains the top

- public complaint from legislators related to sports wagering, post launch.)
- Compound any problem gambling issues.
- Add revenue from operator fees to cover the increase in administrative costs.

If Vermont engages in another RFP for NEW operators, we would be taking market share from the operators with high revenue share (31-33%) for new operators with lower revenue share, thus diluting the revenue share to the State. The State will have a competitive disadvantage because the revenue share of the existing operators (31-33%) is known to the new bidders. There is no incentive for new bidders to offer the highest revenue share. In six years, when the contract term of the existing operators is up for renewal, the existing operators have no incentive to negotiate their existing high revenue share, which puts the State at a competitive disadvantage in the long-term.

Revenue Generation from the Online Sports Wagering Market

If the legislature is interested in earning more revenue from online sports wagering, the way to accomplish this is to increase the wagering activity, not the number of operators. This could be done by:

- Increasing the number of eligible players (reduce the age of eligibility to 18)
- Eliminate the safeguards to not bet on VT college sports
- Expand the eligible events one can wager on (non-sporting events, Oscars)
- Increase amount of wagering (eliminate incentive bonus credits and promos limits)

Expanded Gaming Options in Vermont

If the Legislature is interested in identifying new revenue sources by expanding gaming, the focus should be an expanding lottery and gaming options. The Vermont Lottery generates between \$30-\$35m annually for the Education Fund. Conversely, the Sports Wagering Enterprise fund will generate less than \$10m in FY25. Options for expanding gaming might include:

- Allow establishment of bricks and mortar retail outlets for sports betting
- Add sports betting in lottery vending machines at lottery agents
- Have gaming Kiosks in bars and restaurants
- Allow iLottery and other online gaming
- Legalize poker games
- Permit the development of casinos

The Department offers these options without bias or endorsement.



Conclusion

The Department of Liquor and Lottery appreciates the regulatory authority provided by the Legislature that enables us to adjust regulatory approaches in an evolving and dynamic gaming landscape. As an example, in March we prohibited wagering on individual player proposition bets for NCAA events. This prohibition resulted in increased safety for college athletes and received praise by NCAA President Charlie Baker in a letter to Commissioner Wendy Knight (attached separately).

As a regulator of alcohol, tobacco, and gaming, the Department has decades of experience balancing the competing goals of revenue generation and public safety/harm reduction. We believe that the current regulatory framework, as authorized by the Legislature in Act 63, as well as the current sports wagering operator count, allows the Department to achieve this balance.

Please do not hesitate to contact the Department at charles.martin@vermont.gov if you have additional questions or would like clarification on any of the content included in this memo.

Attachments:

NCAA President Thank You Note
BGS Bid Letter - Penn Sports Interactive
BGS Bid Letter – Bet MGM
BGS Late Submission – Caesars Entertainment

