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**TITLE 36**  
**MARYLAND LOTTERY AND GAMING CONTROL AGENCY**

**ALL NEW SUBTITLE**

***Subtitle 11 Sports Wagering Application Review Commission***

**36.11.01 General Provisions**

*Authority: State Government Article, Title 9, Subtitles 1A and 1E, Annotated Code of Maryland*

**.01 Scope.**

*A. This subtitle applies to the Sports Wagering Application Review Commission (“SWARC”), and governs its evaluation of applications submitted to it for the award of competitive:*

- (1) Class B-1 and B-2 sports wagering facility licenses; and*
- (2) Mobile sports wagering licenses.*

*B. SWARC may not award a license unless the Commission has found the Applicant qualified for a sports wagering license.*

*C. After SWARC awards a license, the Commission is responsible for all matters relating to the issuance of the license and regulation of sports wagering operations.*

*D. The requirements for a license award by SWARC in this subtitle are in addition to, and do not supplant, the requirements in State Government Article, Title 9, Subtitle 1E, Annotated Code of Maryland or COMAR 36.10.*

**.02 Definitions.**

*A. In addition to the terms defined in State Government Article, Title 9, Subtitles 1A and 1E, Annotated Code of Maryland, and COMAR 36.01, 36.03, 36.04, and 36.10, which have the same meanings in this subtitle, the terms in §C of this regulation have the meanings indicated.*

*B. If a term identified in §A of this regulation is defined differently in this subtitle, the definitions in this subtitle apply.*

*C. Terms Defined.*

*(1) “Applicant” means a person who, as required under State Government Article, Title 9, Subtitle 1E, Annotated Code of Maryland, submits to SWARC a SWARC application for a competitive license.*

*(2) “Award” or “license award” means the act of SWARC approving the SWARC application of an Applicant that meets the requirements for licensure under State Government Article Title 9, Subtitle 1E, Annotated Code of Maryland, for a competitive license, after which the Commission may issue the license that is necessary for the Applicant to commence sports wagering operations.*

*(3) “Awardee” means a qualified Applicant to which SWARC has awarded a license.*

*(4) “Commission” means the State Lottery and Gaming Control Commission and, unless context dictates otherwise, includes Commission staff.*

*(5) “Commission application” means the application an Applicant submits to the Commission to be considered for:*

- (a) Qualification for a license to be awarded by SWARC; and*
- (b) After SWARC awards a license, issuance of a license.*

(6) “Competitive license” means a sports wagering license that is not a sports wagering license described in State Government Article §9-1E-15(f)(2), Annotated Code of Maryland, and is a:

(a) Class B-1 or B-2 sports wagering facility license; or

(b) Mobile sports wagering license.

(7) “eLicensing Portal” or “Portal” means the Commission’s electronic system by which gaming and sports wagering license applications are submitted to the Commission, and which:

(a) May be used by a prospective Applicant, before submitting its SWARC application and non-refundable SWARC application fee, to begin completing information and uploading documentation an Applicant is required to submit to the Commission in addition to its SWARC application;

(b) Shall be used by an Applicant to submit its Commission application; and

(c) May not be used to submit a SWARC application.

(8) “License” means a competitive license that SWARC awards to an Applicant.

(9) “Person” has the meaning stated in State Government Article, §1-101, Annotated Code of Maryland.

(10) Personal Net Worth.

(a) “Personal Net Worth” means the net value of the assets held by an individual, including the individual’s share of assets held jointly or as community property with the individual’s spouse, after total liabilities are deducted.

(b) “Personal Net Worth” does not include:

(i) The individual’s ownership interest in the Applicant;

(ii) The individual’s equity in his or her primary place of residence;

(iii) Any mortgage or loan secured by his or her primary place of residence as a liability; or

(iv) The cash value of any qualified retirement savings plans or individual retirement accounts.

(11) “Sports wagering law” means the law codified at State Government Article, Title 9, Subtitle 1E, Annotated Code of Maryland, and COMAR 36.10 and 36.11, by which sports wagering is regulated in the State.

(12) “Submit” means to deliver any document requested by SWARC or the Commission to SWARC or the Commission, as applicable:

(a) To the address and in the manner specified by SWARC or the Commission that ensures its receipt by SWARC or the Commission, as applicable; and

(b) Which is considered delivered only upon actual receipt by SWARC or the Commission, as applicable.

(13) “SWARC”:

(a) Means the Sports Wagering Application Review Commission established by State Government Article §9-1E-15, Annotated Code of Maryland; and

(b) Unless context dictates otherwise, includes staff to SWARC as provided in State Government Article §9-1E-15, Annotated Code of Maryland.

(14) “SWARC application”:

(a) Means the forms, information, and documentation that an Applicant is required to submit to SWARC to be considered for the award of a competitive license; and

(b) Does not mean any form, information, or documentation that a prospective Applicant completes in, or uploads to, the eLicensing Portal.

(15) “SWARC application fee” means the non-refundable application fee specified in State Government Article, §9-1E-06(b), that is:

- (a) \$250,000 for a Class B-1 facility license;
- (b) \$50,000 for a Class B-2 facility license; and
- (c) \$500,000 for a mobile license.

### **36.11.02 All Applicants and Awardees**

Authority: State Government Article, Title 9, Subtitles 1A and 1E, Annotated Code of Maryland

#### **.01 Scope.**

A. All Applicants shall comply with the requirements set forth in State Government Article, Title 9, Subtitle 1E, Annotated Code of Maryland, and this subtitle, to establish, by clear and convincing evidence, their eligibility for a license award and that the award is in the public interest.

B. For the term of any initial and renewed license, an Awardee:

- (1) Shall comply with the contents of its SWARC application; and
- (2) Shall bear the burden of proving, by clear and convincing evidence, its continued qualifications for a license award.

#### **.02 General.**

A. This chapter includes requirements for all SWARC applications for the award of a competitive license.

B. Unless SWARC has awarded an Applicant a license:

- (1) The Commission may not issue the Applicant a license; and
- (2) The Applicant may not offer or conduct sports wagering, or engage in an activity for which a license is required.

#### **.03 Separate Applications and Fees.**

A. Each SWARC application submitted to SWARC shall be accompanied by payment of the applicable non-refundable SWARC application fee, which shall be paid to the Commission as provided in Regulation .04A(2) of this chapter.

B. The non-refundable SWARC application fee is separate and distinct from any administrative costs for background investigations that are required to be submitted to the Commission under COMAR 36.10.02.03 to determine an Applicant’s qualification for a license.

C. Unless an Applicant submits to the Commission the Applicant’s written consent for the release of information from its Commission application to SWARC, SWARC may not review, receive, or consider information that an Applicant submits to the Commission in its Commission application.

D. Upon request to SWARC, the Commission may receive, review, or consider information that an Applicant submits to SWARC in its application that the Commission deems necessary for determining whether the Applicant can prove, by clear and convincing evidence, its qualifications for a license.

E. During its term, SWARC shall retain, separate from the Commission’s records, any document the Applicant submitted with its SWARC application.

F. At the conclusion of SWARC’s term, the Commission shall retain any document the Applicant submitted with its SWARC application:

- (1) For Applicants not awarded a license, for a period of 5 years from the time SWARC decided not to award a license; and

- (2) For Applicants awarded a license, for a period of 5 years from the latest of:
- (a) The expiration of the license;
  - (b) The revocation of the license; or
  - (c) The surrender of the license.

**.04 Process for the Submission of Applications and Fees.**

**A. SWARC Applications and Fees.**

By the date and time and in the manner specified by SWARC in the SWARC application, an Applicant shall submit:

- (1) To SWARC, the SWARC application;
- (2) To the Commission by electronic funds transfer, the non-refundable SWARC application fee for the concurrently submitted SWARC application.

**B. Commission Applications and Fees.**

Separate from its SWARC application, within the period provided in §C(4)(a) of this regulation, an Applicant shall comply with the requirements of COMAR 36.10.03 for the submission of its:

- (1) Commission application through the eLicensing Portal; and
- (2) Administrative costs for background investigations.

**C. SWARC and Commission Review of Applications.**

- (1) SWARC and the Commission shall separately review the applications each receives.
- (2) Within 5 calendar days of receipt of a timely SWARC application, SWARC staff shall submit to the Commission, by email, the name and other identifying information of the Applicant.
- (3) Within 5 calendar days of receipt of the information set forth in §C(2) of this regulation, the Commission staff shall notify SWARC by email if the Applicant may be ineligible under Regulation .07 of this chapter.
- (4) For each application submitted to SWARC:
  - (a) The Applicant shall submit the required Commission application and the administrative costs for background investigation no later than 14 calendar days after the date the Applicant submitted its SWARC application; and
  - (b) Within 5 days of the date specified in (4)(a) of this regulation, the Commission staff shall notify SWARC by email of any Applicant that fails to timely submit its Commission application or the administrative costs for background investigation.
- (5) SWARC shall reject and may not consider a SWARC application that it determines to be ineligible for an award under Regulation .07 of this chapter.
- (6) SWARC staff shall notify the Commission by email of those Applicants who SWARC determines to be ineligible for award of a license and the basis for the determination.
- (7) After the Commission has investigated the Applicant and determined whether it is qualified to hold a license, the Commission shall notify SWARC by email of its determination.
- (8) SWARC may not award a license to an Applicant unless the Commission has determined that the Applicant is qualified.

**.05 Submission of Commission Application.**

**A.** An Applicant shall submit a Commission application only to the Commission through the eLicensing Portal.

**B. Access to Portal.**

- (1) A prospective Applicant may request access to the Commission's eLicensing Portal before its SWARC application is submitted or due.

(2) Access to the Commission's eLicensing Portal permits the prospective Applicant to begin completing information and uploading documentation required for the Applicant's submission of a Commission application, so that the Commission may conduct an investigation to determine the Applicant's qualifications for a license.

(3) A prospective Applicant's use of the eLicensing Portal does not constitute the submission of its Commission application.

(4) If a Commission application is not submitted within 180 calendar days after it is started in the eLicensing Portal, information that a prospective Applicant has provided, and any documents it uploaded to, the Commission's eLicensing Portal:

(a) Expires and is automatically archived from the Portal; and

(b) Must be again entered or uploaded through the Portal to be considered.

(5) The Commission may not begin to conduct an Applicant's background investigation, or consider its Commission application in any way, until the Applicant submits:

(a) A completed Commission application; and

(b) The related administrative costs for background investigations.

C. The Commission may not conduct, or continue to conduct, an Applicant's background investigation, or determine the Applicant's qualifications, after SWARC notifies the Commission that the:

(1) SWARC application was determined to be ineligible for an award under Regulation .07 of this chapter; or

(2) Applicant has withdrawn its SWARC application.

D. The Commission shall refund to an Applicant any unused portion of its background investigation costs:

(1) After SWARC notifies the Commission that the:

(a) SWARC application was determined to be ineligible for an award under Regulation .07 of this chapter; or

(b) Applicant has withdrawn its SWARC application;

(2) If, before the Commission issues the license, the Applicant has surrendered its license award; or

(3) If, before the Commission determines the Applicant's qualifications, the Applicant withdraws its Commission application.

#### **.06 Submission of SWARC Application.**

A. An Applicant shall submit a SWARC application only to SWARC.

B. To be considered for the award of a license, an Applicant shall:

(1) Complete the SWARC application as required in Regulation .08 of this chapter;

(2) Timely submit its completed SWARC application, which means ensuring that SWARC receives the application as specified in its application instructions:

(a) Through delivery by any means SWARC specifies;

(b) At the location SWARC specifies; and

(c) Before 5p.m. on the date that SWARC specifies; and

(3) Timely submit the non-refundable application fee as required under Regulation .04A(2) of this chapter as specified in SWARC's application instructions.

C. SWARC may not accept or consider a SWARC application:

(1) That is not timely submitted; or

(2) For which the SWARC application fee was not timely submitted to the Commission as required under Regulation .04A(2) of this chapter.

**.07 SWARC Application – Determination of Ineligibility.**

Without conducting a hearing, SWARC shall determine that a SWARC application is ineligible for an award of a license if:

- A. The completed SWARC application was not timely submitted to SWARC;
- B. The non-refundable SWARC application fee was not timely submitted to the Commission;
- C. The Applicant's required Commission application or administrative costs for background investigation was not timely submitted to the Commission; or
- D. The SWARC application seeks the award of a facility license to an Applicant:
  - (1) Who is eligible to apply for a Class A-1 or A-2 sports wagering facility license under State Government Article, §9-1E-06(a)(1);
  - (2) Who holds a Class A-1 or A-2 sports wagering facility license; or
  - (3) Whose sports wagering facility will be located:
    - (a) Within a 15-mile radius of a Class A-1 or A-2 sports wagering facility located in Cecil County or Worcester County;
    - (b) Within a 15-mile radius of a Class B-1 or B-2 sports wagering facility located in Charles County;
    - (c) Within a 10-mile radius of a Class B-1 or B-2 sports wagering facility located in Carroll County;
    - (d) Within a 5-mile radius of a Class B-1 or B-2 sports wagering facility located in Frederick County; or
    - (e) Within a 1.5-mile radius of:
      - (i) A Class A-1 or A-2 sports wagering facility located in a county not described under §D(3)(a) of this regulation; or
      - (ii) Any other existing or operating Class B-1 or B-2 sports wagering facility.

**.08 Requirements for a Completed SWARC Application.**

- A. An Applicant shall ensure that its SWARC application is complete and timely when submitted.
- B. A completed SWARC application shall:
  - (1) Be submitted in the form and format set forth in §D of this regulation;
  - (2) Contain all required information set forth in §E of this regulation;
  - (3) If applicable, contain the information pertaining to the Applicant's efforts to solicit and interview minority and women investors, as set forth in §F of this regulation.
  - (4) Be accompanied by all required documents as set forth in §§ G and H of this regulation;
  - (5) Be executed by the Applicant, or if the Applicant is not an individual, the Chief Executive Officer or other authorized representative of the Applicant; and
  - (6) Be signed and sworn to before a notary public.
- C. Incomplete Applications.  
A SWARC application that, as determined by SWARC in its sole discretion, fails to comply with all or substantially all of the requirements of §B of this regulation:
  - (1) Shall be deemed incomplete; and
  - (2) May only be changed as provided in Regulations .09 or .10 of this chapter.
- D. Form and Format.  
As specified in the SWARC application, an application submitted pursuant to § A of this regulation shall include:
  - (1) One paper original of the SWARC application;
  - (2) Ten paper copies of the original SWARC application;

(3) Two copies in an electronic format or other format as required by SWARC on a medium selected by SWARC; and

(4) Two paper copies, and one copy in electronic format, or other format required by SWARC, of the SWARC application that identifies, on each page, any information the Applicant views as exempt from disclosure under General Provisions Article, §§4-101, et seq., Annotated Code of Maryland and a letter enumerating the specific grounds for any such exemptions.

*E. Required Information.*

A completed SWARC application shall include documents that verify information about the Applicant, including the:

(1) Applicant's legal name, business address, and taxpayer identification number;

(2) Applicant's good standing with the Maryland State Department of Assessment and Taxation;

(3) Date the Applicant established the business that would conduct the Applicant's sports wagering business;

(4) Form of business organization that would conduct the Applicant's sports wagering business;

(5) Name under which the Applicant intends to conduct sports wagering;

(6) Individual who is the primary contact for the Applicant, including the contact individual's:

(a) Name;

(b) Email address;

(c) Mailing address;

(d) Telephone number; and

(e) Title or basis of authority to represent Applicant;

(7) Names and titles of principals;

(8) Number of employees and work locations of such employees who are currently employed by the Applicant within Maryland and whether these employees are full-time or part-time employees;

(9) If applying for a competitive license that is a Class B-1 or Class B-2 facility license, the number of full-time equivalent employees employed by the Applicant in Maryland as of the end of the most recent calendar quarter;

(a) calculated by dividing the total hours worked during the calendar quarter (13 weeks) by 520 (13 weeks x 40 hours per week); and

(b) rounded to the nearest whole number;

(10) Number, and proposed work locations, of individuals identified within Maryland expected to be employed by the Applicant in its sports wagering business and whether these employees are to be full-time or part-time employees.

(11) For the business that would be licensed to conduct sports wagering, the business's revenue, expenses and profit for the two most recent tax reporting years;

(12) Sources of funding for:

(a) The SWARC application fee;

(b) The Commission's administrative cost of background investigations;

(c) All construction or renovation costs;

(d) All startup costs; and

(e) Continuing operations during the initial 5 years after commencement of sports wagering operations;

(13) Capitalization table of the Applicant identifying;



- (a) *Direct and indirect owners of the Applicant;*
  - (b) *Amount invested;*
  - (c) *Type of equity owned;*
  - (d) *Percentage ownership of the Applicant;*
  - (e) *Terms, conditions and rights of the equity interests owned, including voting rights;*
  - (f) *Whether sports wagering would be conducted by the Applicant;*
  - (g) *If Applicant is applying for a facility license, its facility operator, if identified; or*
  - (h) *If Applicant is applying for a mobile license, its online sports wagering operator, if identified;*
- (14) *Whether any person identified in the SWARC application has:*
- (a) *Experience in the operation of sports wagering;*
  - (b) *Ever had a sports wagering or gaming-related license, or application for any such license, rejected or denied in any jurisdiction;*
  - (c) *In any jurisdiction, ever held a license related to sports wagering or gaming that was revoked, suspended, or surrendered; or*
  - (d) *In any jurisdiction in which it held a sports wagering or gaming-related license, within the past 3 years, ever been subject to any disciplinary matter, judgment, settlement, order or decree pertaining to a violation of any state or federal statute, regulation or rule that resulted in a fine, penalty or payment of more than \$5,000;*
- (15) *Business plans for 5 years for the proposed sports wagering operations, including revenue estimates, for sports wagering and other business revenue, and all ongoing expenses, including:*
- (a) *Pre-launch expenses, to include marketing campaigns;*
  - (b) *Projected capital investments and expenses for site improvements and equipment acquisitions at, or planned for, the location where the Applicant would conduct sports wagering;*
  - (c) *Projected operating expenses;*
  - (d) *Other revenue-generating activities at, or planned for, the location where the Applicant would conduct sports wagering;*
  - (e) *Projected balance sheet at the time of licensure;*
  - (f) *If applying for a facility license, facility floorplans designating age-controlled wagering areas, public areas, and non-public areas; and*
  - (g) *Applicant's estimated timeline from award of a license to the acceptance of wagers;*
- and
- (16) *Any other information SWARC may, in its discretion, request whether in the SWARC application or by written request to the Applicant.*

**F. Requirements for Applicants Seeking Investors.**

(1) *As required by State Government Article §9-1E-15(i), Annotated Code of Maryland, if an Applicant sought investors, the Applicant must have made serious, good-faith efforts to solicit and interview a reasonable number of minority and women investors, and submit with its SWARC application a statement that lists the names and addresses of all minority and women investors interviewed and whether or not any of those investors have acquired an equity share in the Applicant.*

(2) *Each Applicant must submit an acknowledgement that, if SWARC awards it a license, the Awardee shall sign a memorandum of understanding with SWARC that requires the Awardee to make serious, good-faith efforts to interview minority and women investors in any future attempts to raise venture capital or attract new investors to the entity awarded the license.*

**G. Required Documents.**

*When submitted, a completed SWARC application shall include:*

*(1) A statement that the entire SWARC application has been sworn before a notary public as to the application's truth and validity, by the Applicant or, if the Applicant is not an individual, by the Chief Executive Officer of the Applicant or other authorized representative of the Applicant.*

*(2) Certification and acknowledgment by the Applicant that the:*

*(a) Business of offering or conducting sports wagering will comply with all applicable zoning requirements;*

*(b) Business of offering or conducting sports wagering will comply with all other applicable federal, State or local requirements; and*

*(c) Applicant recognizes that sports wagering is a competitive business and has an inherent risk of instability and unprofitability; and*

*(3) Affidavit of Applicant pursuant to which Applicant, for itself and its successor and assigns, expressly waives, releases, discharges, and forever holds harmless and agrees to indemnify, SWARC, the State of Maryland, and their respective members, employees, agents, consultants, and representatives, from all liability for any and all claims or legal action arising from or relating to any actions that SWARC or the State of Maryland may take related to the collection of information from the Applicant and the use of that information in connection with evaluating the Applicant for the award or issuance (or non-award or non-issuance) of a sports wagering license.*

*H. Required Documentation for Sports Wagering Facility License Applicants.*

*In addition to the documentation in §§ F and G of this regulation, if the Applicant does not own the business location, a completed SWARC application for the award of a facility license shall be accompanied by:*

*(1) A lease, or other documentation, showing that the Applicant lawfully possesses, or may possess, the property, and the term of the lawful possession; and*

*(2) A notarized acknowledgement by the person who owns or controls the property that:*

*(a) The premises may be used for a sports wagering facility without violating the lease or other term by which the Applicant possesses the property; and*

*(b) If the Applicant is issued a license, the property may be used as a sports wagering facility for at least the Applicant's initial 5-year license term.*

***.09 Required Submission of Additional Documents.***

*A. SWARC may request an Applicant to submit additional documents to clarify the contents of its SWARC application so that SWARC may decide whether to award a license.*

*B. SWARC shall notify the Applicant in writing that additional documents are required; and*

*C. An Applicant notified in accordance with §A(1) of this regulation shall submit to SWARC the required documents no later than 14 calendar days after SWARC issues the notice.*

*D. If SWARC notifies an Applicant that additional documents are required pursuant to §A of this regulation and the Applicant is unable to timely submit the required documents:*

*(1) Before the expiration of 14 calendar days from the date of SWARC's notice, the Applicant shall provide SWARC good cause as to why it is unable to timely provide the required documents; or*

*(2) After the expiration of 14 calendar days from the date of SWARC's notice, the Applicant shall provide SWARC good cause for its failure to:*

*(a) Provide the required documents; and*

*(b) Respond to SWARC within 14 calendar days of SWARC's notice.*

(3) After receiving notification from the Applicant pursuant to §D of this regulation, SWARC may:

(a) Determine that good cause was shown and extend the deadline by which the Applicant may submit the required documents; or

(b) Determine that good cause was not shown and decline to extend the deadline.

(4) SWARC shall make the determination required in §D(3) of this regulation within 7 calendar days of SWARC's receipt of notification from the Applicant.

E. SWARC may not award a license to an Applicant that has failed to provide all required documents to SWARC in a timely manner.

**.10 Limitation on Changing a SWARC Application – Changed Circumstance.**

A. If any information submitted by an Applicant as part of a SWARC application changes or becomes inaccurate before SWARC has awarded or denied a license sought by the submission of the SWARC application, the Applicant shall immediately submit to SWARC written notification of the change or inaccuracy.

B. An Applicant may not change a SWARC application after it has been submitted except:

(1) As provided in COMAR 36.11.09 or 36.11.11; or

(2) To address a change in the circumstances surrounding the SWARC application that was outside the control of the Applicant and that affects the ability of the Applicant to comply with the sports wagering law or COMAR 36.11.

C. To request approval to change a SWARC application under §B(2) of this regulation, an Applicant shall submit to SWARC a written request for its proposed change to the application that describes the:

(1) Change in the circumstances surrounding the application that would necessitate the change;

(2) Nature of the proposed change;

(3) Reason why the proposed change is necessary to bring the SWARC application into compliance with applicable law or regulations; and

(4) The law or regulation applicable to the proposed change.

D. SWARC shall grant or deny each request to change an application within 7 calendar days of receiving the request.

E. SWARC may grant the request if the Applicant demonstrates, to the satisfaction of SWARC, that:

(1) The circumstances requiring the change are outside the control of the Applicant;

(2) Before the change in the circumstances the Applicant describes in §C of this regulation, the application complied with applicable law or regulation; and

(3) The change is necessary to bring the application into compliance with applicable law or regulation.

**.11 Limitation on Changing a SWARC Application – Omission or Mistake.**

A. SWARC may permit an Applicant to change its SWARC application to remedy an omission or a mistaken failure to comply with an applicable law or regulation, if SWARC determines the failure to be inadvertent or non-substantive.

B. To request a change to a SWARC application under this regulation, an Applicant shall submit to SWARC a written request for its proposed change to the application that describes:

(1) The omission or mistake was promptly reported to SWARC after its discovery;

(2) The nature of the proposed change;

(3) Why the proposed change is necessary to bring the application into compliance with applicable law or regulation; and

(4) The law or regulation applicable to the proposed change.

C. Within 7 calendar days of SWARC's receipt of an Applicant's request to make a change as provided in §B of this regulation, SWARC shall:

(1) Grant the request;

(2) Deny the request and state the reason for the denial; or

(3) Request additional information.

#### **.12 Withdrawal of Application.**

A. Before SWARC has awarded or denied a license, an Applicant may withdraw a SWARC application by submitting a written notice to SWARC.

B. An Applicant that withdraws a SWARC application may not:

(1) Receive a refund of its SWARC application fee; or

(2) Have its SWARC application or any documents submitted to SWARC in support of the application returned.

#### **.13 Evaluation of Applications.**

In evaluating an application for the award of a license, SWARC will consider all information concerning the Applicant, including information concerning its officers, principals, affiliates, online sports wagering operator, or other representatives, based upon the following criteria, in no particular order and with no particular weight assigned:

A. Experience, business ability and track record that evidences the Applicant's, or the Applicant's identified sports wagering operator's, ability to establish and operate a successful sports wagering operation;

B. Demonstrated ability to comply with applicable sports wagering laws and regulations, including regulatory compliance in other jurisdictions and past cooperation with regulatory authorities;

C. Demonstrated culture of and investments in responsible gaming programs, and an effective governance and compliance program;

D. Demonstrated financial stability, resources, integrity, and business ability and acumen and Applicant's ability to compete in the Maryland sports wagering market;

E. If an Applicant sought investors, evidence of Applicant's serious, good-faith efforts to solicit and interview a reasonable number of minority and women investors and whether or not any of those investors have purchased an equity share in the Applicant;

F. The maximization of sports wagering revenues, including projected proceeds to the State;

G. Ability to commence sports wagering operations within a reasonable period of time after the award of the license;

H. The extent to which the proposed sports wagering operation preserves existing Maryland jobs and creates new Maryland jobs;

I. The anticipated wages and benefits for new Maryland jobs that would be created;

J. Demonstrated willingness and commitment to make investments in Maryland;

K. For facility licenses:

(1) Whether the proposed facility is located within an opportunity zone or an enterprise zone;

(2) The extent to which the proposed facility encourages Maryland wagering participants to remain in the State when placing sports wagers; and

(3) The extent to which the proposed facility will attract out-of-state visitors;

- L. Whether the Applicant's proposed sports wagering business would appeal to a unique market;*
- M. Responsiveness of the Applicant to requests of SWARC and Commission;*
- N. Whether an award of the license is in the public interest and is consistent with the purposes of the sports wagering law; and*
- O. Any other criteria deemed by SWARC to be in the public interest and consistent with the sports wagering law.*

**.14 License Award Decision.**

- A. The Commission shall review all eligible Applicants and notify SWARC by email of the Applicants determined to be qualified.*
- B. SWARC may not award a license to an Applicant that has not been found qualified by the Commission.*
- C. SWARC may not award a license unless it determines and declares in writing that award of the license to the Applicant is in the public interest and is consistent with the purposes of State Government Article Title 9, Subtitle 1E, Annotated Code of Maryland.*
- D. For each qualified Applicant, SWARC shall make a license award determination in writing based on the requirements and criteria set forth in this chapter.*
- E. Promptly after making an award decision, SWARC shall provide written notification of its decision to the Applicant and Commission.*
- F. If SWARC awards the Applicant a license, SWARC's notice of award to the successful Applicant shall include notice that:
  - (1) The Commission must evaluate and approve the Awardee's sports wagering operations before issuing a license to the Applicant;*
  - (2) The Awardee may begin sports wagering operations only after it has been issued a license to do so by the Commission; and*
  - (3) The Awardee may not transfer the award to another person.**
- G. If SWARC denies an application, SWARC's written notice to the unsuccessful Applicant shall include the Applicant's right to seek, under Title 15 of the State Finance and Procurement Article, review by the Maryland State Board of Contract Appeals as provided in State Government Article, §9-1E-15(n).*
- H. SWARC shall notify the unsuccessful Applicant, in writing, that:
  - (1) SWARC's decision to deny an application is a final action of SWARC;*
  - (2) The decision may be appealed to the Maryland State Board of Contract Appeals in accordance with COMAR 21.10.07.02;*
  - (3) If appealed, the written notice of appeal to the Maryland State Board of Contract Appeals shall be filed within 10 days from the date the unsuccessful Applicant receives SWARC's written decision; and*
  - (4) The written notice of appeal to the Appeals Board may be filed:
    - (a) Electronically, to [efile.msbc@maryland.gov](mailto:efile.msbc@maryland.gov) pursuant to <https://msbca.maryland.gov/wp-content/uploads/sites/30/2021/06/Temporary-Filing-Procedures-June-28-2021.pdf>; or*
    - (b) By mail, to The Maryland State Board of Contract Appeals, 6 St. Paul Street, Suite 601, Baltimore, Maryland 21202.***
- I. Nothing in this subtitle may be construed to require SWARC to award any or all sports wagering licenses authorized under State Government Article, Title 9, Subtitle 1E, Annotated Code of Maryland.*

*J. If SWARC does not award all available licenses, SWARC may, in its sole discretion, offer unawarded, available licenses through a subsequent competitive process as outlined in the sports wagering law.*

***.15 Surrender of License Award.***

- A. An Awardee may surrender a license award by notifying SWARC in writing of its surrender.*
- B. Upon an Awardee's notification to SWARC of its surrender of the award, the awarded license is terminated, and the Awardee may not:
  - (1) Receive a refund of its SWARC application fee; or*
  - (2) Have its SWARC application or any documents submitted to SWARC in support of the application returned.**
- C. If an Awardee surrenders a license award before the Commission issues the Applicant's license, SWARC may award the license to another Applicant utilizing the criteria established in State Government Article, Title 9, Subtitle 1E, Annotated Code of Maryland, and this subtitle.*

***.16 License Awards – Surrendered, Lapsed or Revoked Licenses.***

- A. Before January 1, 2028:
  - (1) SWARC may award a surrendered, lapsed, or revoked sports wagering license to another Applicant utilizing the criteria established in State Government Article, Title 9, Subtitle 1E, Annotated Code of Maryland, and this subtitle; and*
  - (2) The Commission may issue the license to the Applicant in accordance with State Government Article, Title 9, Subtitles 1A and 1E, Annotated Code of Maryland, and COMAR 36.10 and 36.11.**
- B. On or after January 1, 2028, and if SWARC has been reconstituted pursuant to State Government Article, §9-1E-15(q)(2), Annotated Code of Maryland:
  - (1) SWARC may award a surrendered, lapsed, or revoked license to another Applicant utilizing the criteria established in State Government Article, Title 9, Subtitle 1E, Annotated Code of Maryland; and*
  - (2) The Commission may issue the license to the Applicant in accordance with State Government Article, Title 9, Subtitles 1A and 1E, Annotated Code of Maryland, COMAR 36.10 and 36.11.**

***.17 Continuing Obligations.***

- A. At all times, an Applicant, Awardee, and sports wagering Licensee:
  - (1) Shall conform to all documents it submitted in support of its SWARC application and Commission application;*
  - (2) Shall conform to the terms and conditions of its memorandum of understanding submitted to SWARC pursuant to State Government Article, §9-1E-15(i)(2), Annotated Code of Maryland; and*
  - (3) May not discriminate against a person who in good faith informs SWARC of an act or omission that the person believes constitutes a violation of:
    - (a) State Government Article, Title 9, Subtitles 1E, Annotated Code of Maryland Annotated Code of Maryland; or*
    - (b) Regulations promulgated by SWARC or the Commission.***
- B. If information submitted to SWARC or the Commission by an Applicant, Awardee or Licensee changes, the Applicant shall, within 5 calendar days of the date that the Applicant, Awardee or Licensee knew or should have known of the change, submit written notification of the change to SWARC or the Commission.*

*C. An Applicant, Awardee and Licensee has an affirmative and continuing obligation to:*

*(1) Inform SWARC and the Commission of an act or omission that the Applicant, Awardee or Licensee knows or should have known, constitutes a violation of State Government Article, Title 9, Subtitle 1E, Annotated Code of Maryland; and*

*(2) Provide SWARC and the Commission with all information relating to its license eligibility in any form that SWARC or the Commission may request.*

*D. If, before the Commission issues a license, SWARC becomes aware of an Awardee's failure to comply with an applicable law or regulation, SWARC may:*

*(1) Reverse its determination, and*

*(2) Deny the license award.*

*E. If SWARC reverses its determination to award a license pursuant to §D of this regulation, SWARC shall notify the former Awardee in writing of its determination and the basis for the determination.*

*F. The notice of SWARC's decision to reverse a license award shall include the notice of the former Awardee's appeal rights as set forth in COMAR 36.11.02.14H.*

***.18 Burden of Proof.***

*At all times, the burden of proof shall be on the Applicant, Awardee, and Licensee to establish, by clear and convincing evidence, that the Applicant, Awardee, and Licensee meets requirements under State Government Article, Title 9, Subtitles 1A and 1E, Annotated Code of Maryland, COMAR 36.10 and 36.11.*

***.19 Ownership Criteria.***

*A. SWARC may not award a license to an Applicant that has not demonstrated direct or indirect ownership of not less than 5% by individuals with Personal Net Worth of less than \$1,847,000 each.*

*B. Owners of the Applicant intended to satisfy this ownership criteria shall provide to the Applicant a signed, notarized certification stating that the individual's Personal Net Worth is less than \$1,847,000 and such certifications must be submitted with the Applicant's SWARC application.*