

**ALJ SERVICES
MEMORANDUM OF UNDERSTANDING
OALP & IGC**

Contract #0000000000000000000066029

This Memorandum of Understanding (MOU) is entered into by and between the Office of Administrative Law Proceedings (OALP) and the Indiana Gaming Commission (IGC) and supersedes Contract #0000000000000000000044260. In consideration of those mutual undertakings, the parties agree as follows:

1. Purpose/Preamble. As the IGC is a state agency that may take administrative action resulting in administrative proceedings, which are subject to the jurisdiction of the OALP found in Ind. Code § 4-15-10.5-12 and which require the assignment of an administrative law judge (ALJ), this MOU is entered to set forth the expectations and responsibilities for each party regarding the provision of administrative proceedings by the OALP in accordance with applicable law and IGC procedures.

2. Scope. This MOU covers administrative proceedings for which the OALP has been granted jurisdiction pursuant to Ind. Code § 4-15-10.5-12.

3. Initiating Proceedings Before the OALP.

A. Petitions for administrative review may be filed by Petitioners directly with the OALP. All petitions for administrative review filed directly with the OALP are deemed granted by the IGC. The OALP will not make an initial determination regarding compliance with Ind. Code § 4-21.5-3-7(a) prior to assigning an ALJ, however, the OALP will reject incomplete petitions or petitions requesting review of matters that fall outside of the OALP's jurisdiction.

Upon receipt of a petition for administrative review within the OALP's jurisdiction, an ALJ will be assigned to administer the proceeding and the IGC shall not be required to make an individual request for assignment. The initial grant of administrative review or assignment of an ALJ shall not on its own prohibit any party from requesting dismissal of the proceeding for failure to satisfy the requirements of Ind. Code 4-21.5-3-7(a) or any other requirement for qualification for review.

B. Petitions for administrative review filed directly with the IGC may be granted or denied in accordance with law by the appropriate agency or may be forwarded by the IGC to the OALP for granting and assignment of an ALJ in accordance with item 3.A. of this MOU.

- i. If forwarded to OALP for granting and assignment of an ALJ in accordance with item 3.A. of this MOU, the IGC shall complete the appropriate OALP webform and attach a copy of the petition for review and order to the filing.
- ii. If review is granted prior to filing with the OALP, a copy of any order to be reviewed, the order granting review, and the petition for review shall be delivered to the OALP.

C. For proceedings initiated under Ind. Code § 4-21.5-3-8, Ind. Code § 4-21.5-4-2(a)(2), or any other applicable law whereby proceedings are initiated not by the grant of a petition for review but the filing of a complaint or similar document, the IGC shall initiate such proceeding by completing the appropriate OALP webform requesting assignment of an ALJ.

D. Requests for hearings pursuant to Ind. Code § 4-21.5-4-4 may be filed directly with the OALP who will assign an ALJ upon receipt. If a request under this section is filed

with the IGC, the IGC shall immediately complete the appropriate OALP form requesting assignment of an ALJ which shall include a copy of the order under review and the request for hearing.

4. **Service Information for OALP.** If directing persons to submit petitions for review or request for hearings directly with the OALP under item 3.A. or 3.D. of this MOU, the brief explanation of procedures for seeking administrative review contained in the order shall provide, along with any other requirements imposed by law, the following methods for service to the OALP:

A. **Electronic:**

By completing the webform for "Individuals or Entities: File a Petition for Review" located at this link: <https://www.in.gov/oalp/>

B. **Mail or Hand Delivery:**

Office of Administrative Law Proceedings
Indiana Government Center North
100 N. Senate Avenue Rm. N-802
Indianapolis, IN 46204

5. **Ultimate Authority.** The IGC has ultimate authority over all IGC proceedings and may expressly designate its ultimate authority to the OALP in this MOU or a later designation made in writing. Designations made by the IGC may be revoked at any time by providing written notice to the OALP.

The IGC expressly designates the OALP as the ultimate authority for purposes of taking final agency action in the following instances:

- A. when dismissing the matter and entering a final order based on agreement of the parties;
- B. when dismissing the matter based on voluntarily dismissal by Petitioner or Complainant;
- C. when dismissing the matter due to the order under review being rescinded; and
- D. for proceedings conducted under Ind. Code 4-21.5-4.

Except where law provides otherwise, in all instances where the OALP is not the ultimate authority over a matter, an OALP action disposing of all issues in a proceeding will be issued as a nonfinal order which must be acted on by the ultimate authority or its designee in accordance with Ind. Code § 4-21.5-3-29.

6. **Notice to the IGC of Nonfinal and Final Orders Issued by the OALP.** The OALP will serve a copy of any nonfinal or final order it issues to the ultimate authority in addition to the parties to the matter. Unless later notified in writing by the IGC, the OALP shall send these orders to the IGC attorney of record in the proceeding.
7. **Notice to the OALP of Final Written Orders.** The IGC agrees to provide final orders on actions concerning a matter first heard by the OALP to the OALP upon issuance or no later than thirty (30) days after issuance by sending a copy of the order to OALP@oalp.IN.gov. In addition to providing a copy of the final order, the IGC will also submit any objections, motions, transcripts, audio recordings, meeting minutes, or any other documents related to the ultimate authority's consideration of the matter prior to issuance of the final order. The OALP shall store these records for purposes of maintaining the official record of the proceeding.
8. **Availability and Indexing of Final Orders.** Pursuant to Ind. Code § 4-21.5-3-32, agencies are required to index and make available for public inspection and copying all written final orders. For purposes of complying with Ind. Code § 4-21.5-3-32, the IGC will retain its obligations under Ind. Code § 4-21.5-3-32.

- 9. Public Access to Records.** All documents (e.g. emails, pleadings, notices, motions, orders, and exhibits) that are submitted to the OALP are subject to the Indiana Access to Public Records Act, codified in Ind. Code Chapter 5-14-3. The OALP has no authority to withhold disclosure of a document unless the record is excepted from disclosure in Ind. Code § 5-14-3-4. To ensure consistent application of the Indiana Access to Public Records Act, the parties shall consult each other and the IGC shall make any preliminary determinations regarding the release of documents that may be deemed confidential under the laws administered by the IGC.
- 10. Official Record of Administrative Proceedings to be Maintained by the OALP.** Pursuant to Ind. Code § 4-21.5-3-33, the IGC is required to maintain an official record of each proceeding. The IGC and the OALP agree that the OALP shall maintain the official record of each proceeding as described in IC § 4-21.5-3-33. The OALP will ensure the official record complies with all statutory requirements and will serve as the central agency from which an official record may be requested for judicial review or any other reason.
- 11. Additional Procedural or Other Terms Agreed to by the Parties.**
- A. Upon notice by the IGC to the ALJ assigned to a case, the IGC may arrange for a court reporter to be present at a hearing to transcribe the hearing. The IGC shall schedule and secure the court reporter's attendance for the hearing and shall bear the cost of the court reporter. The IGC shall provide a digital copy of any transcription to the OALP upon completion and the OALP shall maintain the copy of the transcript with the official case record. The OALP shall ensure that any room reserved where a court reporter is present shall be equipped with electrical outlets and space large enough to accommodate parties and the court reporter.
 - B. Should the IGC request a transcription of a hearing that was not attended by a court reporter, the OALP shall provide the IGC with the audio of such proceeding and the IGC may bear the cost of transcribing the audio record. The IGC shall supply the OALP with a copy of any transcription produced to be maintained with the official case file.
 - C. In proceedings where an interpreter may be required, the OALP will provide a "proceeding interpreter" at no cost to the parties. This includes ensuring the presence of interpreters at any hearing or prehearing occurring before an OALP ALJ. However, unless a law provides otherwise, the OALP generally will not translate party documents as part of this service. Documents filed with the OALP in a foreign language are to be translated into English with sufficient proof that the translation is accurate. The filing party bears the cost of translating their document to English prior to filing it with the OALP. If necessary, the OALP will translate orders, notices, or other communications it issues. If issues arise during discovery regarding which party bears the burden of translation, those may be addressed in discovery orders issued in any particular proceeding, however, the OALP is not responsible for the costs of translation or the provisions of interpreters to facilitate the discovery process.
 - D. If a transcript is required to be prepared under Ind. Code 4-21.5-5-13(c) to complete the agency record for judicial review, the OALP will arrange for a third party to complete the transcript. However, prior to initiating transcription services by the third party, the petitioner for judicial review will be billed directly by the third party for the cost of the transcripts in accordance with Ind. Code § 4-21.5-5-13(d). If the petitioner is exempted from this charge by filing a statement under Ind. Code 33-37-3-2, the OALP will be responsible for the costs.
- 12. Consideration.** The consideration during the term of this MOU is \$0. No monies shall be exchanged between the parties for the purposes set forth in this MOU.

13. Term. This MOU shall commence upon execution and shall remain in effect until terminated or modified.

14. Termination. This MOU may be terminated in whole or in part by either party, upon thirty (30) days' written notice.

15. Modification. This MOU may be modified in whole or in part by a mutually agreed upon written amendment.

16. Changes in Law. This MOU may be rendered null and void, in whole or in part, by changes in federal or state law. In such an event, each party agrees to notify the other as soon as possible.

17. Severability. If any provision of this MOU is found unenforceable, the remaining provisions shall continue in full force and effect.

18. Cancellation by State Budget Agency. Though no funds are being exchanged in this MOU, if the Director of the State Budget Agency makes a written determination that funds are not appropriated or otherwise available to support continuation of this MOU, the MOU shall be cancelled. A determination by the Budget Director that funds are not appropriated or otherwise available to support continuation of performance shall be final and conclusive.

19. Notice to Parties.

A. Notice to the OALP shall be given to:

Office of Administrative Law Proceedings
Attn: Deputy Director and General Counsel
Indiana Government Center North
100 North Senate Avenue, Suite N-802
Indianapolis, IN 46204
Email: oalp@oalp.in.gov

B. Notice to the IGC shall be given to:

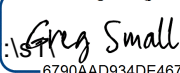
Indiana Gaming Commission
Attn: General Counsel
East Tower, Suite 1600
101 W. Washington St.
Indianapolis, IN 46204

Non-Collusion and Acceptance

The undersigned attests, subject to the penalties for perjury, that the undersigned is the properly authorized representative, agent, member or officer of the agreeing party. Further, to the undersigned's knowledge, neither the undersigned nor any other member, employee, representative, agent or officer of the party, directly or indirectly, has entered into or been offered any sum of money or other consideration for the execution of this MOU other than that which appears upon the face hereof. **Furthermore, if the undersigned has knowledge that a state officer, employee, or special state appointee, as those terms are defined in IC § 4-2-6-1, has a financial interest in the MOU, the party attests to compliance with the disclosure requirements in IC § 4-2-6-10.5.**

In Witness Whereof, the IGC and the OALP have, through their duly authorized representatives, entered into this MOU. The parties, having read and understood the foregoing terms of this MOU, do by their respective signatures dated below agree to the terms thereof.

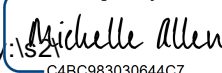
Indiana Gaming Commission

By: 
6790AAD934DE467...

Title: Executive Director

Date: 9/1/2022 | 14:43 EDT

Office of Administrative Law Proceedings

By: 
C4BC983030644C7...

Title: Director

Date: 9/1/2022 | 14:49 EDT

<p>Electronically Approved by: State Budget Agency</p> <p>By: _____ (for) Zachary Q. Jackson, Director</p>	