

**PROGRAM GUIDELINES FOR THE
SUCCESSOR HORSE RACING PARTNERSHIP FUNDING PROGRAM
APRIL 1, 2016**

A. INTRODUCTION / PURPOSE OF PROGRAM

In 2014, the Government of Ontario announced its five-year Horse Racing Partnership Plan to invest up to \$500 million to support a world-class horse racing industry in the province. The plan reflects the hard work and genuine willingness of many in the horse racing industry to work together and build a new partnership with government.

The Horse Racing Partnership Funding Program (“2014-15 HRPFP”) is the transfer payment program that aims to provide funding to racetracks in order to support a stable and sustainable framework for the horse racing industry.

In 2014-15, five-year transfer payment agreements were signed by 15 racetracks and the Ontario Racing Commission (“ORC”), on behalf of the Ontario Government (as represented by the Ontario Ministry of Agriculture, Food and Rural Affairs). These agreements provide racetracks with government funding for purses and operational assistance, depending on the racetrack and the agreement.

In 2015-16, legislative amendments were passed to restructure horse racing regulation in Ontario, including the transfer of regulatory responsibilities from the ORC to the Alcohol and Gaming Commission of Ontario (“AGCO”). The *Ontario Lottery and Gaming Corporation Act, 1999* (“Act”) was amended to update the mandate of the Ontario Lottery and Gaming Corporation (“OLG”) to allow it to “undertake activities with respect to the support of the live horse racing in Ontario.” This update to OLG’s mandate is in keeping with the government’s commitment to integrate horse racing with the province’s gaming strategy.

In addition, the Act was amended to provide that the Minister of Finance may establish a grant program for owners or operators of racecourses in Ontario where live horses races are held for the purpose of supporting live horse racing in Ontario and may establish guidelines for the program. In addition, this program may be designated by the Minister of Finance as a successor to the 2014-15 HRPFP.

Pursuant to the Act, the Minister of Finance has established a program called the Successor Horse Racing Partnership Funding Program (“Program” as defined below) and this Program has been designated by the Minister as the successor to the 2014-15 HRPFP. The existing transfer payment agreements have been designated by regulation under the Act and the Crown as represented by the Minister of Finance replaces the Ontario Racing Commission as a party to those agreements effective March 31, 2016.

Pursuant to the Act the Minister has delegated certain of the Minister’s powers in relation to the Designated Grant Agreements to OLG. The Minister has entered into an agreement with OLG to govern the administration of this Program starting in 2016-17.

These Program Guidelines outline the roles and responsibilities of the various parties involved in this successor Program, along with the compliance and eligibility requirements for the Program. These Program Guidelines are largely based on the program parameters outlined in two Orders-in-

Council (OC 251/2014 and OC 528/2014) made under the Ministry of Agriculture, Food and Rural Affairs Act, which authorized the 2014-15 HRPFP.

In the 2016 Ontario Budget, it was announced that the term of the Program will be extended by two years to March 2021.

B. DEFINITIONS

The terms in this document shall have the following meanings:

“Act” means the *Ontario Lottery and Gaming Corporation Act, 1999*, and any regulations made thereunder, as may be amended from time to time;

“Administration Agreement” means the administration agreement between the Minister and OLG that governs the administration of the Program;

“Alcohol and Gaming Commission of Ontario” means the Alcohol and Gaming Commission of Ontario that is responsible for the licensing and regulation of the horse racing industry in Ontario pursuant to the *Horse Racing Licence Act, 2015*;

“Alliance Racetracks” means those Licenced standardbred racetrack operators in Ontario that have agreed to work together in an alliance for certain purposes, including: proposing a schedule of coordinated racing dates and an annual racing calendar and purse levels; and seeking other business efficiencies through a collaborative and co-operative approach. As of October 2017, the Alliance Racetracks are the following: Woodbine Racetrack, Mohawk Racetrack, Clinton Raceway, Flamboro Downs, Georgian Downs, Grand River Raceway, Hanover Raceway, Rideau Carleton Raceway, and Western Fair;

“Benefit” means the total of each amount received by an employee as set out under the *Public Sector Salary Disclosure Act, 1996*;

“Business Day” means any regular working day, Monday to Friday inclusive, but excluding statutory and other holidays on which the Ministry is closed for business;

“Centralized Racetracks” means those Licenced racetrack operators in central and southwestern Ontario in addition to the Alliance racetracks whose facilities are centred around the concentrated horse supply and offer live Thoroughbred and/or Quarterhorse racing and agree to participate in a revenue sharing and/or distribution agreement with the alliance tracks. The Centralized racetrack operators are: Ajax Downs, Woodbine Entertainment Group for the purposes of thoroughbred and quarter horse racing, in addition to the Alliance Racetracks;

“Crown” means Her Majesty the Queen in right of Ontario;

“Designated Grant Agreements” means the transfer payment agreements designated by the Minister of Finance by regulation under subsection 12.3(2) of the Act;

“Director” means Senior Vice President of Horse Racing at OLG or his or her authorized delegate;;

“Disclose” with respect to disclosing the amount of salary and Benefits means:

- a) Compliance with the requirements of the *Public Sector Salary Disclosure Act, 1996*, if the Person is an employer subject to requirements under that Act; and

- b) Disclosure to OLG or by such other means as may be agreed if the person is not an employer subject to requirements under the *Public Sector Salary Disclosure Act, 1996*.

“Eligible Costs” means Eligible Costs as set out in the Program Details section of this document;

“Employee” means an employee, director or officer of an employer, and a holder of office elected or appointed to serve on the board of the employer;

“FAR Racetracks” means Fort Erie Racetrack and Ajax Downs Racetrack;

“Industry” means the live horse racing industry in Ontario;

“Licenced” with respect to a racetrack, means the operator of the racetrack is licenced by the Alcohol and Gaming Commission of Ontario to operate a racetrack;

“Minister” means the Minister of Finance;

“Ministry” means the Ministry of Finance;

“OLG” means the Ontario Lottery and Gaming Corporation;

“Payment” means the provision of grants pursuant to Designated Grant Agreements;

“Person” means a legally-recognized entity;

“PMTR”, also known as the **“Pari-Mutuel Tax Reduction”**, means the forgone government revenue that was made available to the industry following the 1996 amendments to the *Race Tracks Tax Act* which lowered the provincial taxes on a bet placed under the system known as pari-mutuel wagering from 7.4 per cent to 0.5 per cent;

“Program” means the “Successor Horse Racing Partnership Funding Program”, as established by the Minister of Finance under the Act and designated as the successor to the 2014-15 Horse Racing Partnership Funding Program;

“Purse” means the prize money earned by owners, trainers, drivers/jockeys of place winning horses in a competitive horse race;

“Recipient” means a Person that receives a grant pursuant to a Designated Grant Agreement;

“Regional Racetrack” means any Licenced racetrack operator that is not an Alliance Racetrack, Centralized Racetrack or FAR racetrack;

“Salary” means the total of each amount received by an employee as set out under the *Public Sector Salary Disclosure Act, 1996*.

C. OVERVIEW

a. Program Purpose

The purpose of the Program is to provide grants to racetrack owners/operators for funding Purses and operational support to allow them to become more self-sustainable through the growth of marketplace revenues, while ensuring the accountable and transparent use of public funds.

The Successor Horse Racing Partnership Funding Program consists of the following components:

1. Live Racing Component, which includes:
 - a. Purse Support for Centralized and Alliance Racetracks;
 - b. Purse Support for Regional Racetracks;
 - c. Purse Support for FAR Racetracks
 - d. Operational Support for Regional Racetracks; and,
 - e. Operational Support for FAR Racetracks.
2. Industry Development Component, which includes:
 - a. Assisting the Industry to develop a Responsible Gambling Strategy in accordance with the Administration Agreement;
 - b. Providing advice to the Industry to assist the Industry with developing a plan for marketing horse racing in the province, in accordance with the Administration Agreement; and,
3. OLGs Program administration costs.

b. Program Term

The Program shall continue under OLG's administration on April 1, 2016, and end on March 31, 2021.

OLG will be sending an amending agreement to each Recipient for execution by each Recipient that, when executed by the parties, will extend the term of the Designated Grant Agreement to March 31, 2021. Recipients that wish to continue to be eligible to receive funding after March 31, 2019 will be required to sign the amending agreement in the form provided by OLG.

Despite this, if at any time the Ministry receives an insufficient annual appropriation by the Legislature to fully fund the Program (or any of the components), the Program can be terminated or suspended. If this happens:

- The Minister will post a notice on the Ministry's website indicating that the Program (or any of the components) has been terminated or suspended and the effective date of such termination or suspension;
- The Minister will immediately inform OLG, and OLG will also post a notice of the termination or suspension of the Program on its website;
- Any outstanding Payments under the Program (or any of the components), including any payment by OLG on behalf of the Minister under a Designated Grant Agreement or otherwise under the Program will not be paid as of the effective date of termination or suspension.

It is important to note that the termination of one or more components of the Program may not terminate all components of the Program or the Program itself, unless so indicated. Termination of the Program (or a component) does not terminate any obligations that a Recipient may have under a Designated Grant Agreement.

Funding

Funding for the Program, or any component of the Program, comes from funding annually allocated to the Ministry by the Legislature for the purpose of the Program, and the Minister may provide funding that is permitted under the Program.

Repayment of Funding by Recipients:

There are certain circumstances where a Recipient may be required to repay Program funding, including:

- If a Recipient receives a Payment that he/she is not eligible to receive under the Program through an administrative error, that Payment will be considered to be an overpayment and a debt owed to the Crown, and will be payable by the Recipient immediately upon demand.
- If a Recipient receives a Payment through the provision of false or misleading information, they shall have their participation in the Program immediately terminated. In addition, any Payment received by the Recipient, including Payments provided before the submission of false or misleading information, will be considered to be an overpayment and a debt owed to the Crown, and will be payable by the Recipient immediately upon demand.
 - For greater certainty, the termination of the Program does not cancel any debt(s) owed to the Crown by a Recipient that received a Payment for any of the above-mentioned reasons.
- If a Recipient owes a debt to the Crown under this Program, the Minister may require the payment of interest or penalty on any unpaid amount in accordance with the *Financial Administration Act*. Any such interest or penalty to be paid will also be considered a debt due to the Crown, and will be recoverable by action or by any other remedy or procedure available by law to the Crown for the collection of debts owed to the Crown.
- In addition to any other legal remedies that the Crown may have at law, equity or otherwise to recover any debt that a Recipient may owe to the Crown as mentioned above, the Crown may also choose to set off funding based on the debt owed.

c. Roles and Responsibilities:

Government Lead: Minister / Ministry of Finance

The Minister is responsible for the overall administration of the Program, which includes:

- Establishing standards and procedures for the administration of all aspects of the Program, including administrative deadlines, reporting and audit requirements and any other rules, terms and conditions that the Minister believes are necessary for the successful administration and delivery of the Program (or a component);
- Establishing Guidelines as required under the Act;
- Monitoring the performance of all aspects of the Program; and,
- Entering into an Administration Agreement with OLG to govern the administration of the Program.

These Guidelines were developed by the Ministry and will be posted on the website of the Minister's Program administrator, OLG. These Guidelines are not intended to conflict with anything contained in the Act. If there is a conflict, the provisions of the Act will prevail over the Guidelines.

For the purposes of determining whether the Guidelines conflict with the Act, a conflict shall exist if the Guidelines:

- Provide for something that is prohibited under the Act; or
- If the Guidelines provide that something is not needed which the Act requires.

A conflict shall not, however, exist if the Guidelines set out additional requirements that a Recipient must follow in order to be eligible for funding under the Program.

Program Administrator: OLG

The Act provides the ability for the Minister to delegate his or her powers to OLG to deliver or administer the Program on behalf of the Minister. The Minister has delegated the necessary authority to and entered into an Administration Agreement with OLG, which sets out OLG's roles and responsibilities with respect to delivery of the Program on behalf of the Minister.

Recipients: Racetrack Owners/Operators

The Recipients of Grants under the Program are racetrack owners/operators that are parties to the Designated Grant Agreements. These Designated Grant Agreements are listed in the regulation under the Act and are the transfer payment agreements with ORC for funding entered into under the 2014-15 Program administered by OMAFRA.

In addition to the terms and conditions set out in the Designated Grant Agreements, Recipients will also be required to meet the following requirements:

- Authorize the Minister, OLG or their respective delegates to obtain information from any government department/ministry, agency or third party for the purposes of verifying the eligibility of any Payment that may be provided under the Program or any other information that the Recipient has provided; and,
- Consent to the release of information that may have been collected by the Minister, OLG or their respective delegates, to any government department/ministry, agency or third party for the purposes of verifying the eligibility of any Payment that may be provided under the Program, or any other information that the Recipient has provided.

D. PROGRAM DETAILS

1. Live Racing Component

a. Purse Support for Centralized and Alliance Racetracks

The purpose of the provision of Purse support to Centralized and Alliance Racetracks is to maintain high calibre live racing in the province by providing support to the racetracks whose facilities are located in central and southwestern Ontario where the greatest concentration of horse supply and the majority of wagering exists. These racetracks are working together to propose a co-ordinated circuit of race dates and standardized Purse levels for races of similar calibre. In addition they have agreed to enhance the fan base, increase revenues from the marketplace and seek business efficiencies through Industry collaborative efforts.

As of October, 2017, the Centralized and Alliance Racetracks eligible for this Program are:

- Woodbine Racetrack
- Mohawk Racetrack
- Clinton Raceway

- Flamboro Downs
- Georgian Downs
- Grand River Raceway
- Hanover Raceway
- Rideau Carleton Raceway
- Western Fair

b. Purse Support for Regional Racetracks and FAR Racetracks

The purpose of the provision of Purse support to Regional and FAR Racetracks is to support live horse racing at the facilities of Regional Racetracks, each of which addresses a unique regional or local market need. This funding will help sustain direct jobs and economic activity related to the Industry in rural Ontario.

As of April 1, 2016, the Regional Racetracks eligible for this Program are:

- Dresden Raceway
- Hiawatha Horse Park
- Kawartha Downs
- Leamington Raceway

As of April 1, 2016, the FAR Racetracks eligible for this Program are:

- Fort Erie Race Track
- Ajax Downs

Requirements for Purse Support Funding*:

Requirement	Centralized	Regional and FAR
A: ELIGIBILITY REQUIREMENTS		
The Recipient is a Person, as defined in the Definitions section	✓	✓
The Recipient operates a racetrack Licenced by the AGCO (as of April 1, 2016)	✓	✓
The Recipient has submitted a business plan, which includes a plan to increase fan base and enhance wagering or other revenues, either individually or as part of an alliance of racetracks, that is acceptable to the Minister and/or the OLG	✓	
The Recipient has submitted a business plan which includes a plan to increase fan base and enhance wagering or other revenues, that is acceptable to the Minister and/or the OLG		✓
The Recipient agrees to be bound by all applicable rules, terms and conditions set out in the OLGCA and these Guidelines	✓	✓
The Recipient is an Alliance racetrack or a Centralized racetrack that has agreed to cooperate with the Alliance racetracks	✓	
The Recipient agrees that by March 31 of each year following the year in which they would receive funding for the racetrack, they will Disclose to OLG the amount of salary and Benefits paid in the previous year by the employer to or in respect of any employee, associated with the racetrack, to whom the employer paid at least \$100,000 as salary.	✓	✓

Requirement	Centralized	Regional and FAR
The Recipient agrees to distribute PMTR for the benefit of the Industry based on an MOU signed by operators of racetracks, horse people, the ORC and the Minister of Consumer and Business Services and effective September 30, 1996 or as may otherwise be agreed between the OLG, the AGCO and Ontario Racing.	✓	✓
The Recipient agrees to conduct the stipulated number of race dates and racing opportunities each year at minimum Purse levels/race date as agreed to annually by the Alliance and Centralized racetracks and approved by the AGCO.	✓	
The Recipient agrees to conduct the stipulated number of race dates and racing opportunities each year at average Purse levels/race date as approved by the AGCO.		✓
The Recipient is in compliance with and remains in compliance with all applicable federal, provincial and municipal laws and orders and directives of regulatory bodies. •	✓	✓
The Recipient is not receiving funding under the Live Racing Component for Centralized and Alliance Racetracks in relation to the racetrack that they are seeking funding for under this component.		✓
B: ELIGIBLE/INELIGIBLE USE OF FUNDS		
The funding of Purses shall be considered an eligible use of funds under this component. All costs normally associated with the funding of Purses shall be deemed to be eligible costs in which Payments may be made under this component.	✓	✓
Any expense not associated with the funding of Purses shall not be an eligible use of funds under this component. All costs not normally associated with the funding of Purses shall be deemed to be ineligible costs in which Payments shall not be made under this component.	✓	✓
C: PAYMENTS TO RECIPIENTS		
Payment will be based on the number of race dates, racing opportunities and Purse levels each Recipient is required to conduct on an annual basis as approved by the Alcohol and Gaming Commission of Ontario. • Despite this and subject to the terms of the Designate Grant Agreements, no further Payment shall be made to a Recipient if the Recipient has used any of the funds for ineligible uses (see "Ineligible Use of Funds").	✓	✓
Payment may be up to 90% of the Purse costs as calculated by multiplying the minimum Purse level per race date by the number of race dates the operator of the racetrack has agreed to hold.	✓	
Payment may be up to 100% of the Purse costs, as calculated by multiplying the average Purse level per race date by the number of race dates the operator of the racetrack has agreed to hold, up to a maximum of \$4,000,000.00 per eligible racetrack, per funding year.		✓
Payment may be reduced if the Recipient does not provide the stipulated number of race dates, racing opportunities, minimum Purse levels/race date, or	✓	

Requirement	Centralized	Regional and FAR
if the targets in their plan to increase fan base and enhanced wagering or other revenues are not met.		
Payment may be reduced if the Recipient does not provide the stipulated number of race dates, racing opportunities, average Purse levels/race date, or if the targets in their plan to increase fan base and enhanced wagering or other revenues are not met.		✓
No Recipient shall assign any Payments that the Recipient receives through a Designated Grant Agreement without the prior written consent of the Minister.	✓	✓
Notwithstanding anything else in the Act or these Guidelines, the Minister may prorate any Payment that a Recipient may be eligible to receive.	✓	✓
Where the amount of funds available is less than the amount of funding that would be calculated based on the maximum payment per racetrack, the determination of how to allocate funding amongst eligible Centralized racetracks and Alliance racetracks shall be based on a model that supports sufficient race dates, racing opportunities and Purse levels at the facilities of the Centralized and Alliance racetracks to ensure Ontario is competitive with other horse racing jurisdictions in North America.	✓	
Where the amount of funds available under this component is less than the amount of funding that would be calculated based on the maximum payment per racetrack, the following principles shall be used to determine the allocation amongst eligible Regional Racetracks: <ul style="list-style-type: none"> • The allocation supports racing in the area based on market need and regional horse supply; and • The allocation does not undermine the racing provided by the Centralized and Alliance racetracks 		✓

*Note: any variance in requirements between the different racetracks (as outlined in OC 251/2014 and OC 528/2014) is noted by shaded boxes in this chart.

c. Operational Support for Regional and FAR Racetracks

The purpose of the Live Racing – Operational Support for Regional and FAR Racetracks is to provide funding to enable racing to continue to occur at those racetracks that are not a Centralized or Alliance Racetrack and require some operational funding in order to continue to offer live racing. These racetracks meet unique regional or local needs related to the Industry in rural Ontario, but face unique challenges in their ability to offer live racing.

Requirements for Operational Support Funding:

Requirement	Regional	FAR
In each year that funding is provided under this component, no Recipient shall be considered to be eligible unless they meet all of the requirements set out in the Act and these Guidelines. At a minimum, a Recipient shall meet the following eligibility requirements in order to be considered eligible for funding: <ul style="list-style-type: none"> • The prospective Recipient is a Person, as defined in the Definitions section of this document; and • The Recipient meets the Eligibility Requirements. 	✓	✓

Requirement	Regional	FAR
<p>Eligible Costs: the following categories of costs are included in a Designated Grant Agreement as being eligible costs upon which the maximum amount of Payments a recipient is eligible to receive in a year under the Designated Grant Agreement is calculated:</p> <ul style="list-style-type: none"> • Reasonable costs associated with paying a director or employee's base salary, Benefits and pension; • Reasonable overhead costs associated with: <ul style="list-style-type: none"> ○ Pari-Mutuels; ○ Racing of horses, with the exception of the funding of purses as outlined above; ○ Security for the racetrack; ○ Maintenance of racetrack facilities; ○ Marketing of racetrack; ○ Providing food and beverage services at the racetrack; ○ Administration of racetrack facilities; ○ Reasonable restructuring costs; ○ Reasonable financing costs; and ○ Taxes related to eligible costs. <p>All costs normally associated with these categories shall be deemed to be eligible costs in which Payments may be made.</p>	✓	✓
<p>Ineligible Costs: the following categories are included in a Designated Grant Agreement as being ineligible costs upon which the maximum amount of Payments a recipient is eligible to receive in a year under the Designated Grant Agreement is calculated:</p> <ul style="list-style-type: none"> • Any salary and related costs above paying a director or employee's reasonable base salary, Benefits or pension and includes: <ul style="list-style-type: none"> ○ Performance bonuses, ○ Profit sharing, and ○ Any other forms of compensation above base salary, Benefits or pension; • Any travel, meal and hospitality costs above that which is allowed under the Government of Ontario's Travel, Meal and Hospitality Directive, as amended; • Depreciation or amortization of assets; • Financing costs, other than those set out as being eligible costs; • Funding of Purses as outlined above; and • Taxes, other than those set out as being eligible costs. <p>All costs normally associated with these categories shall be deemed to be ineligible costs in which Payments shall not be made. For greater certainty, where a cost does not appear on either the list of eligible costs, or ineligible costs, that cost shall be considered to be an ineligible cost.</p>	✓	✓
<p>Payment will be based on the number of race dates, racing opportunities and purse levels each Recipient is required to conduct on an annual basis as approved by the Alcohol and Gaming Commission of Ontario.</p>	✓	✓
<p>Payments made under this component shall be allocated between eligible racetracks.</p> <p>The following principles shall be used to determine the allocation amongst eligible Regional Racetracks:</p> <ul style="list-style-type: none"> • The allocation supports racing in the area based on market need and regional horse supply; • The allocation does not undermine the racing provided by the Alliance racetracks; • The allocation supports increased economic activity in Ontario; and 	✓	✓

Requirement	Regional	FAR
<ul style="list-style-type: none"> The allocation supports growth in wagering and the fan base for live racing in Ontario. 		
Payment may be reduced if the Recipient does not provide the stipulated number of race dates, racing opportunities, minimum purse levels/race date, or if the targets in their plan to increase fan base and enhanced wagering or other revenues are not met.	✓	✓
Despite the above, and subject to the terms of the Designated Grant Agreements, no further Payment shall be made to a Recipient if the Recipient has used funds for ineligible uses (see "Ineligible Use of Funds" above).	✓	✓
No Recipient shall assign any Payments without the prior written consent of the Minister.	✓	✓
Notwithstanding anything else in the Act or these Guidelines, the Minister may prorate any Payment that a Recipient may be eligible to receive under this component.	✓	✓

2. Industry Development Component

The purpose of the Industry Development Component is to provide funding to OLG to enable them to provide Responsible Gambling and Marketing support to the Industry. The Administration Agreement contains further details on the funding and activities of OLG under the Industry Development Component.