The Commonwealth of Massachusetts
Massachusetts Gaming Commission

NOTICE OF MEETING and AGENDA
December 13, 2012 Meeting

Pursuant to the Massachusetts Open Meeting Law, G.L. c. 30A, §§ 18-25, notice is hereby given of a meeting of the Massachusetts Gaming Commission. The meeting will take place:

Thursday, December 13, 2012
1:00 p.m.
Division of Insurance
1000 Washington Street
1st Floor, Meeting Room 1-E
Boston, Massachusetts

PUBLIC MEETING - #42

1. Call to order
2. Discussion of Policy Questions if time permits:
   9
   10
   11
   12
   15
   36
   38
   44
   Additional questions if time permits.
3. Other business – reserved for matters the Chair did not reasonably anticipate at the time of posting

I certify that on this date, this Notice was posted as "Gaming Commission Meeting" at www.mass.gov/gaming/meetings, and emailed to: regs@sec.state.ma.us, melissa.andrade@state.ma.us, brian.gosselin@state.ma.us.

12/10/12
(date)

Stephen P. Crosby, Chairman

Date Posted to Website: December 10, 2012 at 1:00 p.m.

Massachusetts Gaming Commission				
Framework for Addressing Policy Questions			1 Immediate action	
Update Date: December 6, 2012			2 Needs attention	
			3 May be addressed later	
Anticipated Date of Discussion	**Q #**	**Questions and/or Policies**	**Priority Level ***	**Follow Up**
	Questions Anticipated for Thursday December 13			
Thursday, Dec 13	9	Should the Commission increase the minimum license fee and/or capital investment requirements? Should the Commission encourage bidding on the license fee? If the amounts are modified, should they vary by region?	2	Zuniga
Thursday, Dec 13	10	How should the Commission determine a suitable debt-to-equity ratio for applicants for a gaming license?	2	Zuniga
Thursday, Dec 13	11	Should the Commission allow a facility to open in stages, with the casino opening prior to the hotel and/or other facilities? If so, under what constraints?	2	Zuniga
Thursday, Dec 13	12	To what degree will an applicant be required to have progressed in federal, state and local permitting and other regulatory process before submitting its RFA-2 application?	2	Ziemba
Thursday, Dec 13	15	What degree of building design completion will be required before the licensing selection?	2	Zuniga
Thursday, Dec 13	36	If MOU's and other agreements may be part of an applicant's proposal to the commission to demonstrate their commitment to key evaluation criteria, how should the commission weigh these agreements and enforce them in the coming years after the license is awarded?	2	Stebbins
Thursday, Dec 13	38	As part of an applicant's goal to impact small businesses, what information should the commission require?	2	Stebbins
Thursday, Dec 13	44	What should the studies and reports required by G.L. c. 23K, §§ 9 (a) (13), 18 (18) contain?	2	Zuniga / Stebbins

Massachusetts Gaming Commission

MEMORANDUM

Date: December 7, 2012

To: Commissioners

From: Enrique Zuniga

Re: Position Paper Regarding Policy Questions # 9, #10, #11 and #15

Policy Question #9: Should the Commission increase the minimum license fee and/or capital investment requirements? Should the Commission encourage bidding on the license fee? If the amounts are modified, should they vary by region?

Considerations:

- The license fee, capital investment and tax on gross gaming revenues (along with the demand and size of the gaming market) are all factors that are closely correlated. Isolating and affecting one of them while disregarding the others could result in unintended consequences (i.e., presumably a lower capital investment if increasing the licensing fee).
- Spectrum's 2008 report to the legislature has a series of recommendations and analyses to balance the paramount goals of creating large destination resorts (maximizing capital investment and thus economic development) and realizing benefits to the Commonwealth (tax on gaming revenues). Spectrum's modeling (through the analyses of different scenarios) resulted in specific recommendations for fees and taxes incorporated for the most part in the statute.
- Spectrum's 2008 report also cautions against using the licensing fee as a criterion for evaluation. Some of the rationale behind this is that such an approach may take focus away from the proponents' creativity in their proposals, and/or dampen the capital investment amount (see point above).
- Varying investment thresholds by region would have to be based on some rationale and such rationale could be difficult to substantiate. In estimating the value of a license, two important approaches are usually taken: a revenue approach and a cost approach. While the value of a license from a revenue standpoint has been estimated in prior studies, the actual costs are likely to vary greatly, even within a particular region. Some (not all) construction costs will likely be

greater in the Boston area, compared to the other regions. Land acquisition costs have the potential to vary greatly. Other mitigation costs would also vary greatly depending on location. Finally, some costs like remediation, have the potential to vary significantly. Accordingly, trying to vary minimum thresholds by region would ostensibly merit the need to account for these price differentials, which could be very difficult to ascertain.

We received the following responses to this question

Respondent	Answers	Comment
Sterling Suffolk Racecourse	No position. Alerts Commission of background by providing legislative history	Legislature considered bidding licensing fee and rejected it. License fee is eligibility requirement while investment requirement is specific criterion for selection
Shefsky Froelich/City of Springfield	No, No	Capital investments will be well above $500m (so not necessary to increase minimum) Bidding license may adversely impact monies available for host/surrounding communities
Foley Hoag / Mohegan	No, No Support current structure	Increasing licensing fee increases effective tax rate and thus potential to decrease capital investment (2010 Gaming report to State Senate) Evidence from other jurisdictions demonstrate that bidding up license results in a detriment of capital investment
MGM Springfield	No, No (comment refers to region B)	In a competitive bid process market forces will drive the quality of bids MA sits in competitive market (CT, RI, NY). Higher license fee will decrease investment amount. Suggests that increasing licensing fee may be suitable for region(s) with only one bidder
Paul Vignoli	Yes, Yes	License should be bid
Joshua Levin	Yes	License fee should be increased

Recommendation Question #9

While it may be tempting to think that the minimum capital investment ($500 million) is currently being surpassed by the preliminary proposals as reported in the media ($800m - $1 billion), and thus a potential for the Commission to capture more value in the form of higher licensing fees, it is important to consider that the capital investment is the factor that is longest lasting in terms of economic development. Thus it could be argued that increasing licensing fees or bidding out licenses is a "short term benefit" (if we accept that licensing fees and capital investment are inversely correlated). Further, there is a case to be made that larger amounts of capital investment would implicitly mean larger amenities (hotel, restaurants, etc.) which also contribute to an increase in non-gaming revenue, which may also be more desirable from an economic development standpoint.

I therefore recommend that the Commission **do not** increase the licensing fee, thus fix the effective tax rate, and allow competition in the investment amounts. As with any public procurement, the Commission could decide to reject and re-bid any part of its RFA process if it deems that it is advantageous to do so (i.e., if it were to receive only one proposal for a particular region, and make a determination that such proposal is not advantageous to the Commonwealth)

Policy Question #10: How should the Commission determine a suitable debt-to-equity ratio for applicants for a gaming license?

Considerations:

- Chapter 23K Section 4 (14) states that *"…the Commission shall have all powers necessary…to carry out…its purposes including… (14) determine a suitable debt-to-equity ratio for applicants for a gaming license"*
    - The statement implies that a suitable debt-to-equity ratio as determined by the Commission would be a condition of awarding a license (as it applies to "applicants" and not "licensees"). Further, the power of the Commission could also be interpreted as having the authority to determine different debt to equity ratios given the different types of licenses, or perhaps different levels of investment. The statement is silent as to whether such debt-to-equity ratios were to change, say after the award of a license, but prior to the opening of the gaming operation (and even beyond during the operation period).
    - It would appear that Section 4(14) would allow for the Commission the possibility of determining a debt-to-equity ratio after receipt of proposals, but prior to award of a license, and thus afford the Commission the opportunity to solicit proposals with a detailed financing plan, and have a period of evaluation during which a suitable debt to equity ratio could be ascertained (in conjunction with other financing factors – see below)
- Debt to equity ratio in the financing structure is just one factor in determining financial strength and stability or suitability. Other factors include (1) free cash flow from operations (2) financial and operational strength of other related or parent companies (or subsidiaries), (3) the ability of an entity to adequately fund its daily operations and less frequent expenditures like capital reserves, operating reserves, etc. There are other ratios that are also helpful in analyzing an entity's ability to fund operations, and pay down debt, like "Cash Flow from Operations / Net Income" which generally provide an idea of an entity's ability to pay down debt.
- Not all debt or equity will be the same across applicants (see point above). Applicants will likely have different levels and different rating of such debt, and thus cost of capital. Further, the debt profile across different companies may be very different (even if sticking to some Commission pre-determined equity participation).
- G.L. 23K section 10 (a) requires that the applicant deposit 10% of the total investment proposed in the application into an interest-bearing account (either as cash or as a bond). If the Commission were to determine an equity participation, it would have to do so with this requirement in mind (and make a determination as to whether this form of guarantee would count as temporary equity participation). Incidentally, the Commission will have to eventually issue guidelines or policy statements (or perhaps even regulations) as to when, how and whether the 10% can be reduced upon achieving certain completion milestone(s), and to whether and how to transition to a performance bond for the period of operations.

- There is a potential for a wide array of complex financing structures including different levels of debt (senior / subordinate), different entity and financing structures, and a diverse form of partnerships (entities and/or individuals who participate with land, real estate development, or gaming operations), or a number of limited partnerships with very diverse partnership agreements (i.e., senior or subordinate positions in equity participation, and even "in-kind" participation).
- Although the statute seems to imply one determination of a ratio, the broader mandate of the Commission is to ensure the financial stability of the operations across time and at any given point, and allow for the reality of changing economic conditions and evolution of projects (from an initial capital-intense period on to a steady state of operations). As such, the Commission could incorporate criteria (like New Jersey) which place certain sufficiency conditions for meeting obligations during the life of the project and during its operations (see comment from Sterling Suffolk Downs).

Respondent	Answer	Comment
Sterling Suffolk Racecourse	Silent, suggests No	Such ratio in a vacuum would be arbitrary and itself not determinative of financial stability. Highlights other areas where Gaming Act ensures capital expenditures. Suggests New Jersey's five part test for financial stability
Shefsky Froelich/City of Springfield	Qualified Yes	Such determination should be made on a case-by-case basis (related to facts and circumstances of each applicant). Appropriate for Commission to issue general policy statement
Phil Cataldo	Yes	

Recommendation Question #10

Given that debt-to-equity ratio is just one of several factors to determine financial stability, and given further that the need to ensure financial stability on an on-going basis is a paramount goal, I recommend the Commission issue a general test for financial stability (similar to New Jersey's). The tests for financial stability (or financial risk assessment) can be tested using a variety of factors. throughout the life of the project, during the on-going operations, and after on-going inspections and financial audits.

Further, I recommend the Commission allow itself the flexibility to impose a debt-to-equity ratio (or any other financial measures) at any point during the development and operations based on those on-going audit activities.

I recommend against a pre-emptive number (ratio) at this point, and that the Commission only put in regulations tests relative to financial stability like:

a) Maintain sufficient bankroll to pay winning wagers
b) Meet operating expenses essential to casino operations
c) Timely payment of all local, state and federal taxes
d) Adequate necessary capital and maintenance expenditures (as required by certain capital reserves, or as required by the Commission)
e) Payment of all debt service
f) Satisfactory completion of a financial risk assessment as determined by the Commission

Policy Question #11: Should the Commission allow a facility to open in stages, with the casino opening prior to the hotel and/or other facilities? If so, under what constraints (conditions)?

Considerations:

- The State generates direct value in allowing a casino to generate gaming revenue (as per the tax on gross gaming revenue) as early as possible.
- There are some obvious conditions for the opening of space (either gaming space, or other) that would have to be clearly articulated such as:
    - Certificate of Occupancy
    - Building is safe and secure
    - Completion of a phase complies with all operation regulations and other conditions set forth in the statute, by the Commission or as part of a Community Agreement (Host or Surrounding Communities)
- As in policy question #9, imposing a strict restriction on phasing may result in a lower level of capital investment because there would be incremental costs (like additional carried interest costs), if operators are precluded from using some cash flow from operations to help the later stages of the capital investment.
- There are at least one known bidder for a Type 1 license and another bidder for a Type 2 license, who currently conduct racing operations. While their specific plans are not known to this Commission at this point, it is conceivable that these operators would want to preserve as much of their ability to generate cash flow from racing operations as possible (and the commission in its dual role of racing regulator would probably agree). This possibility would likely mean the need for a phasing plan. If the Commission were to preclude phasing of any kind, this could result in a burdening of operators who may propose building on an existing/operating facility (which may not be limited to racing operators).
- The Commission could place on applicants the burden of demonstrating that a phasing plan satisfies all the criteria in the statute, regulations, mitigation agreements, and any other requirements like permitting. Further, statutory penalties could be imposed on the applicant's inability to meet any of the interim milestones in a phasing plan.

Respondent	Answers	Comment
Sterling Suffolk Racecourse	Case-by-case	Gaming Act specifically allows staging and imposes penalties for non-completion. Allowing stages would generate economic benefits earlier. This question should be considered in the context of other requirements such as MEPA, local permitting, etc.
Shefsky Froelich/City of Springfield	Up to Commission, however City intends to require a single phase	

Foley Hoag / Mohegan	Yes	Act specifically authorizes facility to open gaming prior to completing entire facility
MGM / Springfield	No	Commission runs the risk of the winning applicant (licensee) delaying completion of the project and frustrating a major goal of the statute

Recommendation Question #11

I believe the Commonwealth stands to derive the most economic benefit (in the form of gaming revenues and investment amount) if it allows for phases. By their very nature, large real estate projects are "bulky," especially projects of mixed use like a destination resort, and in projects of this magnitude a best practice is that of phasing. A key aspect of phasing however, is what gets built and is operational and when (i.e., ensuring that there are enough amenities like hotel and restaurant operating at the time of opening the gaming floor to further the goal of destination resorts).

It is not surprising that a host community may be inclined to require a single phase, given that it is the Commission that has the ultimate say in imposing the penalties outlined in the gaming act. However, the key question here may be that the Commission (and only the Commission) has the ability and authority to determine when a gaming floor can be operational. As such, the Commission should allow what the gaming act allows, and examine a detailed phasing plan, and decide on the appropriateness of those phasing plans on a case-by-case basis.

Policy Question #15: What degree of building design completion will be required before the licensing selection?

Considerations:

- The American Institute of Architects ("AIA") defines the following major phases in the design process:
    - Schematic Design ("SD")
    - Design Development ("DD")
    - Construction Documents ("CD")

  Often, the DD and CD phases are further defined by their level of completion (50%, 80%, 90%). See attached basic explanation of each phase. The earlier the design (SD vs. DD) the less scope definition a design will have. That is not to say that a SD phase would not include most (if not all) design components that are critical to permitting authorities, host communities and the public in general.
- At a minimum the specifications, plans and drawings would have to be at a level that would facilitate the necessary permitting review (MEPA). This may include an SD phase supplemented with relevant studies (i.e., traffic study, others) or a DD phase. It is important to note that the MEPA process, by itself will help determine progress in key components of the design
- Applicants will have a track record of casino design and construction. It is also very likely that those entities will follow certain design criteria and use of materials both as part of their business model of operations, real estate development and branding. Whether the Commission issues detailed and/or broad design criteria or not, the applicants' track record as well as their proposal for the Commonwealth will be an important consideration for the Commission and the Host Community, in ascertaining the quality of their design.

Respondent	Answer	Comment
Sterling Suffolk Racecourse		Commission has the ability to defer to agencies with statutory authority on the various issues (DOT, DEP, MEPA, etc.) Applicants should demonstrate that has met statutory requirements and evaluative criteria while filing for permits in parallel
Shefsky Froelich/City of Springfield		Concept designs drawn to scale with floor plans, detailed finishes, building elevations, landscaping and relationships to surrounding areas.
Vignoli, Robinson, Cataldo		Design should be complete

Recommendation Question #15

I believe that it would be both impractical and unnecessary for the Commission to require a CD phase completed prior to awarding a license (the drawings and specifications for this phase incorporate the details necessary for construction, not for making decisions about a project or aspects that need to be mitigated). Having said that, the Commission, the Host & Surrounding Communities and the public in general stand to benefit from the most level of detail presented in the design. An important consideration may be how best to accomplish that in a cost effective and time sensitive way.

A Schematic Design level of design may be sufficient especially if complemented by a detailed "design criteria/design narrative" and/or a "statement of work." A "statement of work" is generally a detailed account in narrative form that, among other things, helps ascertain the quality, type and usage of elements of design and provide stakeholders a generally good understanding of the project. Similarly, a document stipulating the design criteria could be thought of as a summary of a statement of work. It is important to note that cost estimates are usually attached to each of the major design phases, and the level of detail of the cost estimate is an important data point in ascertaining the quality of the project.

The Commission should also establish a process for reviewing the progress and evolution of the design for all phases after the award of a license (but prior to and during construction).

<u>Key Policy Question #36</u>: If MOU's and other agreements may be part of an applicant's proposal to the commission to demonstrate their commitment to key evaluation criteria, how should the commission weigh these agreements and enforce them in the coming years after the license is awarded?

The relevant sections of the gaming law are M.G.L. c 23K § 15 (8) and (13) and §23.

Since the start of this commission, the question has been raised about whether local groups could sign agreements/MOU's with casino operators to help facilitate the priorities within the statute. For example, the Greater Springfield Convention and Visitors Bureau approached the commission early on to discuss their MOU and pending Request for Proposals to see how casino operators would plan to help market and support the tourism assets within their region. Their goal was to sign an agreement that would create an official partnership going forward with a licensee. In addition, the Community Colleges' Casino Career Institute has also invited potential casino applicants to sign MOU's with them to help plan for the development of the local workforce and look to see where the two entities may partner.

Nowhere in the statute especially under Sections 9 (This section details the requirements of the application), or under 15 and 18 is there any mention about local agreements/MOU's beyond host or surrounding community agreements and agreements from impacted venues being submitted to the MGC. Other studies including workforce development plans, affirmative action plans and marketing plans are all identified in the statute to be submitted to the Commission as part of an application.

Under Section 18, the commission shall evaluate and issue a statement of findings of how each applicant proposes to advance the stated objectives in this section. It would appear that critical documentation for an applicant such as an MOU or outside agreement would be helpful and required in this phase of the applicant's submittal so the commission can have a clear understanding of how they demonstrate to meet the objectives.

We received 6 written submissions on this question:

Respondent	MOU's, Eval and Enforce	Comment
MAPC	Silent, Silent, Yes	Responsibility for enforcing the agreements ultimately lies with the Commission. However input and guidance from the Community Mitigation subcommittee (SS 68) and/or the optional community mitigation advisory committees for each facility, should be sought to enforce and track mitigation efforts as outlined in the agreements, including but not limited to public meetings and/or hearing.

Sterling Suffolk Racecourses	Yes, Yes,Yes	SSR believes that the such agreements can be evaluated in the licensing process only in the context of the record established in connection with a particular application. With respect a licensee's performance of such agreements, SSR notes that Commission's general oversight power enables it to field complaints from either party as to the other's performance and to investigate any allegations of breach. Experience in other jurisdictions suggests parties will not be shy about bringing such issues to the attention of the Commission and, accordingly, the Commission need not spend time and resources at this stage developing procedure to monitor compliance."
Joshua Levin	Silent, Silent, Yes	Violation of ANY agreement should result in license suspension and severe fines."
Martha Robinson	Silent, Silent, Yes	No comment other than answers given above about strengthening enforcement.
Paul Vignoli	Silent, Silent, Yes	Violation of ANY agreement should result in license suspension and severe fines."
Shevsky Froelich/City of Springfield	Silent, Yes, Yes	If an MOU or other agreement is an integral part of the applicant's proposal, then the MOU or agreement should be given appropriate weight. Such MOUs and agreements should be enforced by the party with whom the applicant has made the agreement."

After granting of a license, Section 23 requires Class A and B licensees to *issue an annual report to the commission explicitly stating its progress on meeting each of the stated goals and stipulations put forth in the licensee's original application. Inability to meet stated goals within a reasonable time frame, as*

determined by the commission, shall result in additional fees as deemed fair and reasonable by the commission. This portion of the statute could be read to allow us to review their progress on components of their application including any submitted MOU's.

I therefore recommend that we answer this question in the affirmative that MOU's can be included in an application and potentially defer enforcement measures until later.

<u>Key Policy Question #38</u>: As part of an applicant's goal to impact small business, what information should the commission require?

The relevant sections of the gaming law are M.G.L. c 23K § 1 (6) § 9 (13), §15 (15) and § 18 (2), (10) and (16).

Language in Section 1 discusses the goal of the expanded gaming legislation to promote small business and the development of new and existing small businesses. In Section 9, which focuses on the information to be included in the actual license application, the statute asks for completed reports to show the applicant's impact on the local and regional economy including small businesses in the host and surrounding communities. Related wording in Section 15 calls for definitive plans for outreach to minority, women and veteran owned enterprises. Finally, in reviewing a license application under Section 18, the commission will evaluate and issue a statement of findings on how the applicant plans to promote small business in host and surrounding communities, contract with local business owners for the provision of goods and services to the gaming establishment and implementing a marketing program that identifies specific goals, expressed as an overall program goal applicable to the total dollar amount of contracts, for the utilization of plans to support and promote small business.

In addressing this question, it requires that we first understand the definition of small business. The US Small Business Administration has created a spreadsheet that lists small business size standards matched to industries described in the North American Industry Classification System (NAICS). The size standards are for the most part expressed in either millions of dollars or number of employees. Though most industries qualify as a small business with up to 500 employees, I would expect that the commission and most policy makers in Massachusetts would consider a company with this number of employees as a large employer. Minority, women and veteran owned businesses are identified with their registration with state and federal agencies.

We should not seek to create our own definition for small business but direct applicants to be creative and aggressively seek suitable vendors in the immediate area and report the impact that they may have on other area businesses. With our pending hire of a Director of Workforce and Supplier Development and Diversity Initiatives, we will also plan to offer our support to an eventual licensee to identify those small businesses and those that may not currently have the capacity to meet the expectations of a licensed gaming operation but may with proper assistance from federal, state and local business resources.

We received 5 written submissions on this question:

Respondent	Information Required	Comment
MAPC	Yes	To best identify potential impacts to local small businesses, a detailed market analysis should be performed, including an analysis of potential secondary displacement. The

		analysis could include an inventory of local retail/services establishments by location and MAICS code to help us identify the type and location of local businesses most likely to be impacted positively or negatively by new establishments at the facility. This may also help to identify local goods and services businesses that could potentially serve as vendors to the larger facility. A targeted survey of local businesses, along with a focus group discussions, would also be beneficial to better understand the needs and concerns of local business owners, and their customer base. Applicants and licensees should be encouraged to pursue cross-promotional opportunities and agreements. For example, the theater at Legacy Place is required to advertise the independent theater in downtown prior to screenings.
Joshua Levin	Yes	The host city should submit a detailed proposal on small business impact. This must include independent evidence from other casino sites around the country showing how casinos do not have a detrimental impact on small businesses.
Sterling Suffolk Racecourse LLC	Yes	We note that the Gaming Act requires an applicant to study its impact on small business, c. 23K, § 9(a)(13), and the Commission to determine how and whether an applicant promotes "local business," id. § 18(2), (10). Moreover, an applicant must provide the Commission with a "marketing program" relating to its partnerships with minority, women and veteran business

		enterprises. Id. § 15(15)). In this context, SSR believes that an applicant should provide an overview of its experience promoting and positively impacting small businesses in other markets. In addition, an applicant should also outline its plan of having a highly inclusive, collaborative process of: 1) Identifying and contacting key business, advertising, media and community partnership organizations, such as the host community Chamber of Commerce; 2) Informing the local small business community through meetings and presentations about the project and operation, and what and how the applicant will purchase supplies and services; 3) Conducting outreach and category meetings to discuss and identify contracting needs and potential sourcing opportunities; and 4) Identifying ongoing support mechanisms and activities
Martha Robinson	Yes	The document/info needed, as stated in the .pdf, look good. Chambers of Commerce are unreliable as they tend to ignore their members' bad practices.
Shevsky Froelich/City of Springfield	Yes	The MGC should require applicants to submit information to the MGC concerning (i) the expected impact of the applicant's project on small businesses located in the host community and surrounding region and (ii) how the applicant expects to mitigate such impact

The statute does call for three documents for the licensee's application related to small business impact. The first as noted in a study to determine the regional impact a licensee would have on small business.

The second request is in § 18 for a detailed plan that the applicant will use to reach minority, women and veteran owned businesses for design, construction and for providing goods and services to an eventual operator. The third requirement is also stated in § 18 as plans designed to assist businesses in the commonwealth in identifying the needs for goods and services to the establishment.

It is also important to note that the statute does not recommend but only mentions a goal or target of percentage of work to be contracted to the small business or the described categories. I expect an individual host or surrounding community might also address this issue in a host or surrounding community agreement.

If we are looking to request additional information from an applicant, asking a license applicant for information relative to their outside spending categories (i.e. landscaping services, limousine services, etc.) would be helpful. Information on these categories could help our staff support a licensee by identifying possible vendors and securing available resources to help a potential supplier build the capacity to support an operator.

I recommend that we respond to this question by highlighting for potential applicants that information, which is already requested, and additionally request an applicant's expected outside spending categories and projected amounts.

Massachusetts Gaming Commission

MEMORANDUM

Date: December 10, 2012

To: Commissioners

From: Enrique Zuniga / Bruce Stebbins

Re: Position Paper Regarding Policy Question #44

Policy Question #44: What should the studies and reports required by G.L. 23K Section 9 (a) (13) and 18(18) contain?

Considerations Section 9 (a)(13):

- Section 9 (a) stipulates that "...the Commission shall prescribe the form of application, which *shall require...*" *(13) completed studies and reports...including... an examination of the gaming establishment's*
  - *(i) economic benefits;*
  - *(ii) local, and regional social, environmental, traffic and infrastructure impacts;*
  - *(iii) impact of local and regional economy...cultural institutions, small business in the host and surrounding communities;*
  - *(iv) cost to the host and surrounding communities...;*
  - *(v) estimated municipal and state tax revenue generated by the gaming establishment...*
- Certain economic benefit claims, particularly for subsection Section 9 (a) (13) (i), (iii) and (v), may be difficult to ascertain, and the Commission, Communities and the public would benefit from understanding the detailed assumptions behind economic analyses. The Commission may benefit from defining what constitutes economic benefits. Economic and fiscal studies as required in other states such as Pennsylvania could contain helpful categories of benefits for the Commission to consider including number of jobs, multiplier effect of jobs to be created (applicant has assumed a "multiplier" effect, the methodology behind that should be included), and expected local spending by visitors (again methodology would be required).
- In addition the Commission may design a process for obtaining additional information in the case of substantiating assumptions behind certain responses.

- The Commission could determine certain categories of economic benefits that require specific detail including:
    - The level of spend by category and amount that an applicant anticipates to buy locally, at a state level or nationally
    - Spending patterns of the average casino patron (average stay, dollars spent, frequency of visits, etc.)
- By their very nature, certain estimates (i.e., estimated municipal and state tax revenue) may depend on actions of the local jurisdiction, a state agency or even the Commission. For example Massachusetts could require sales tax be assessed on complimentary drinks, or issue a waiver or credit of the sales tax (States throughout the U.S. have done this differently). Another example is income tax withholding on winnings. The IRS sets a threshold of $1,200, while MA DOR has that threshold at $600.
- Impact on local and regional economy including cultural institutions and small business is also tough to evaluate for any report and may be detailed in other documents requested in the application including agreements with impacted venues and information described in Section 18. It should be reiterated that impact should carry a positive connotation and stress the potential benefits a resort casino can have on a region.

Under (ii), we would expect that information provided here would also be reflected in the details of executed host and surrounding community agreements. Subsection (iv) would include detailed, projected costs for additional municipal services including police, fire, ambulance, utilities, etc.

Considerations Section 18 (18):

- *(i) # of employees at a gaming establishment…*: Submit separate pay rate and benefits data for each expected job classification, including starting rates and scheduled increases. Average expected pay rates and benefits across broad categories of employees **should not** be considered sufficient detail.
- *(ii) total amount of investment by the applicant in the gaming establishment and all infrastructure improvement related to the project:* Submit detailed cost estimates (emphasis on plural) as design progresses and in conjunction with a statement of work narrative. The commission should also clarify cost categories that will not count towards the total investment amount (see section 10) to meet the minimum investment criteria, but would be required as part of this subsection to ascertain total amount of investment. Some infrastructure improvements may be related to host and surrounding community mitigation agreements and should be differentiated from host and surrounding community payments
- *(iii) economic benefit for the region: (see relevant section above)*
- *(iv) Plans for assuring labor harmony*: State whether an applicant has entered into a labor peace agreement with all labor organizations actively engaged in representing or attempting to represent casino and hospitality industry workers in the Commonwealth and all unions whose jurisdiction includes trades involved in the facility's construction. Include a letter of support

from senior officers of labor organizations. If no labor peace agreement has been entered into for any or all aspects of the construction or operation, the applicant should disclose whether the employer's supervisors will be required or urged to oppose unionization; whether supervisors will be required or urged to report on unionization efforts occurring on employee's own time; whether the employer will be urging employees to refuse to unionize (and if so, whether they will hire outside consultants to prepare and distribute such communications). Further, submit any and all documented violations of federal, local and state labor laws at the employer's other locations within the past 10 years, including federal discrimination, wage and hour, disability and occupational and environmental health and safety laws, and any charges of such violation not yet resolved or which resulted in settlement, and a description of such settlement unless confidential. An applicant could be invited to provide any information relative to labor relationships at other properties to highlight their record.

Studies or reports for this section (18) appear to be specific as to the information that is being requested except economic benefit which is highlighted in the discussion relative Section 9.

Respondent	Answers	Comment
Sterling Suffolk Racecourse		Economic and Fiscal impacts/benefits: 1) Current, future New England gaming market 2) Spending by MA residents in other states 3) Gaming and non-gaming spend projections 4) Expected re-capture of casino spending by MA residents 5) Evaluation of project as generator of tourism 6) Direct and indirect wages generated by proposed project 7) Direct and indirect spending by proposed project on goods and services 8) Overall net fiscal impact on local and state economy 9) Overall net employment, wage and output impacts on the region and state Other goals if the Research Agenda and the sentiments expressed by the Commission in its Research Agenda RFI Applicants should be expected to provide analysis on (i) Crime, police, fire and emergency services (ii) problem gambling (iii) local businesses (iv) cultural institutions, museums, performing art (v) the Lottery (vi) bankruptcy rates (vii) residential and commercial property values (viii) unemployment and employment
Shefsky & Froelich / City of Springfield		Believe reports and studies in these sections are self-explanatory
MAPC		Using MEPA ENF criteria as a base would benefit the

	process, and this analysis should be completed prior to issuing a license Content for the additional housing, economic development and social service studies would need to be evaluated with assistance of industry experts
MGM / Springfield	1) Economic impacts limited to direct/indirect taxes, wages, employment and economic activity under the most likely scenario. 2) An analysis quantifying projected gaming revenue and how that projection compares to applicants in other municipalities
Town of Bridgewater	1) Economic Impacts on existing local retail and restaurants 2) Traffic impacts on local and regional roads 3) Reports on social impacts 4) Studies/reports on impacts to public safety

Defining the Architect's Basic Services

Contributed by the AIA Knowledge Resources Staff

July 2007

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SUMMARY

A client's unfamiliarity with the process of architectural design should not hinder that client's comprehension of the phases of design services. This Best Practice introduces first-time clients to the common services of architectural design and the process of design-bid-build.

Note: The deliverables listed below are examples of common architectural deliverables for each phase but are not required of AIA members.

SCHEMATIC DESIGN PHASE SERVICES

During the first phase—schematic design—an architect consults with the owner to determine project goals and requirements. Often this determines the program for the project.

The program, or architectural program, is the term used to define the required functions of the project. It should include estimated square footage of each usage type and any other elements that achieve the project goals.

During schematic design, an architect commonly develops study drawings, documents, or other media that illustrate the concepts of the design and include spatial relationships, scale, and form for the owner to review. Schematic design also is the research phase of the project, when zoning requirements or jurisdictional restrictions are discovered and addressed.

This phase produces a final schematic design, to which the owner agrees after consultation and discussions with the architect. Costs are estimated based on overall project volume. The design then moves forward to the design development phase.

Deliverables: Schematic design often produces a site plan, floor plan(s), sections, an elevation, and other illustrative materials; computer images, renderings, or models. Typically the drawings include overall dimensions, and a construction cost is estimated. Note: The contract may actually spell out what is to be delivered.

DESIGN DEVELOPMENT PHASE SERVICES

Design development (DD) services use the initial design documents from the schematic phase and take them one step further. This phase lays out mechanical, electrical, plumbing, structural, and architectural details.

Typically referred to as DD, this phase results in drawings that often specify design elements such as material types and location of windows and doors. The level of detail provided in the DD phase is determined by the owner's request and the project requirements. The DD phase often ends with a formal presentation to, and approval by, the owner.

Deliverables: Design development often produces floor plans, sections, and elevations with full dimensions. These drawings typically include door and window details and outline material specifications.

CONSTRUCTION DOCUMENT PHASE SERVICES

The next phase is construction documents (CDs). Once the owner and architect are satisfied with the documents produced during DD, the architect moves forward and produces drawings with greater detail. These drawings typically include specifications for construction details and materials.

Once CDs are satisfactorily produced, the architect sends them to contractors for pricing or bidding, if part of the contract. The level of detail in CDs may vary depending on the owner's preference. If the CD set is not 100-percent complete, this is noted on the CD set when it is sent out for bid. This phase results in the contractors' final estimate of project costs. To learn more about the most common ways owners select a contractor, see Best Practice 05.03.01, "Qualifications-Based vs. Low-Bid Contractor Selection."

Deliverables: The construction document phase produces a set of drawings that include all pertinent information required for the contractor to price and build the project.

BID OR NEGOTIATION PHASE SERVICES

The first step of this phase is preparation of the bid documents to go out to potential contractors for pricing. The bid document set often includes an advertisement for bids, instructions to bidders, the bid form, bid documents, the owner-contractor agreement, labor and material payment bond, and any other sections necessary for successful price bids. For some projects that have unique aspects or complex requirements, the architect and owner elect to have a prebid meeting for potential contractors.

After bid sets are distributed, both the owner and architect wait for bids to come in. The owner, with the help of the architect, evaluate the bids and select a winning bid. Any negotiation with the bidder of price or project scope, if necessary, should be done before the contract for construction is signed.

The final step is to award the contract to the selected bidder with a formal letter of intent to allow construction to begin.

Deliverables: The final deliverable is a construction contract. Once this document is signed, project construction can begin.

CONSTRUCTION PHASE SERVICES

Contract administration (CA) services are rendered at the owner's discretion and are outlined in the owner-architect construction agreement. Different owner-architect-contractor agreements require different levels of services on the architect's part. CA services begin with the initial contract for construction and terminate when the final certificate of payment is issued.

The architect's core responsibility during this phase is to help the contractor to build the project as specified in the CDs as approved by the owner. Questions may arise on site that require the architect to develop architectural sketches: drawings issued after construction documents have been released that offer additional clarification to finish the project properly. Different situations may require the architect to issue a Change in Services to complete the project.

Deliverables: A successfully built and contracted project.

RESOURCES

More Best Practices

The following AIA Best Practices provide additional information related to this topic:

17.02.05 Qualifications-Based vs. Low-Bid Contractor Selection

12.03.02 How Roles Change in Design-Build

11.02.04 Terminology: As-Built Drawings, Record Drawings, Measured Drawings

The Knowledge Resources Staff based this Best Practice on definitions in the AIA Contract Documents as well as in the 12th, 13th, and the forthcoming 14th editions of *The Architect's Handbook of Professional Practice*.

For More Information on This Topic

See also "Defining Services" by Robin Ellerthorpe, FAIA, in *The Architect's Handbook of Professional Practice*, 13th edition, Chapter 16, page 515.

See also the 14th edition of the *Handbook*, which can be ordered from the AIA Bookstore by calling 800-242-3837 (option 4) or by email at bookstore@aia.org.

Feedback

The AIA welcomes member feedback on Best Practice articles. To provide feedback on this article, please contact bestpractices@aia.org.

Key Terms

- Design
- Preliminary design
- Schematic design
- Design development
- Construction documents
- Bidding or negotiation
- Construction contract administration

Massachusetts Gaming Commission				
Framework for Addressing Policy Questions			1 Immediate action	
Update Date: December 6, 2012			2 Needs attention	
			3 May be addressed later	
Anticipated Date of Discussion	**Q #**	**Questions and/or Policies**	**Priority Level ***	**Follow Up**
	Questions Anticipated for Friday December 14			
Friday, Dec 14	22	What, if any, conditions in addition to those prescribed in G.L. c. 23K, § 21, should the Commission prescribe for each gaming license?	2	McHugh / Ziemba
Friday, Dec 14	39	How much weight or consideration does the commission give to the facility itself in meeting the goals of Sec. 5 SS 3 related to building appeal and other factors?	2	McHugh / Ziemba
Friday, Dec 14	41	What process should the commission use/require for testing gaming equipment? See § 66.	2	Cameron
Friday, Dec 14	24	What information should the commission require in respect to an applicant's "description of its minimum system of internal procedures and administrative and accounting controls for gaming and any simulcast wagering operations" required by G.L. c. 23K, § 25 (d).	2	Cameron
Friday, Dec 14	42	What should be the length of the licenses issued to employees whom the statute requires to be licensed?	2	Cameron
Friday, Dec 14	43	What non-gaming vendors should be excused from the licensing process?	2	Cameron

Massachusetts Gaming Commission

MEMORANDUM

Date: December 11, 2012
To: Commissioners
From: Gayle Cameron
Re: Policy Question # 41

Policy Question #41: What process should the commission use/require for testing gaming equipment?

Legislative Summary:
Chapter 23K § 66 establishes that the Commission utilize the services of an independent testing laboratory unless the Commission "otherwise determines it to be in the best fiscal interests of the commonwealth." The laboratory must be qualified and approved by the Commission to perform the testing of slot machines and other gaming equipment. The Commission also may look at applicable data from the independent testing laboratory or from agencies in other states. Section 31(c) also requires that all testing of slot machines be performed by a licensed vendor.

Strategic Plan Summary:
The Strategic Plan recommends that testing be done by outside laboratories (pp. 113-116). It also states that the Commission may consider reviewing the standards developed by Gaming Laboratories International (GLI) and BMM. No matter what standards the Commission implements, those standards will need to evolve as gaming devices become more sophisticated.

Public Comment Summary:

- Sterling Suffolk Racecourse LLC—The Commission should utilize the services of nationally recognized testing laboratories such as Gaming Laboratories International LLC and BMM International LLC, both of which were recently approved by Nevada regulatory authorities.

Recommendation:
The Commission should promulgate regulations for licensing independent testing laboratories and create a comprehensive set of standards which those laboratories must follow. The Commission should license all qualified testing laboratories. Each casino should have the option of deciding which licensed laboratory to use when testing its gaming equipment.

Massachusetts Gaming Commission

MEMORANDUM

Date: December 11, 2012
To: Commissioners
From: Gayle Cameron
Re: Policy Question # 24

Policy Question #24: What information should the commission require in respect to an applicant's "description of its minimum system of internal procedures and administrative and accounting controls for gaming and any simulcast wagering operations" required by G.L. c. 23K, § 25(d)?

Legislative Summary:
Chapter 23K § 25(d) establishes that an applicant must have a "minimum system of accounting controls and administrative and accounting controls for gaming and any simulcast wagering operations". These controls must be certified by the applicant's chief legal officer and chief financial officer. The controls must be "adequate and effective", be in compliance with generally accepted accounting principles (GAAP), and conform with any additional "standards" that the Commission requires. The applicant must submit these controls at least 30 days prior to commencement of operations, or as the Commission request. These controls cannot be altered without prior approval of the Commission.

Strategic Plan Summary:
The Strategic Plan provides recommendations for the minimum internal controls (pp. 155-158). The goals of the controls are: to create accounting records; to conduct transactions and access assets only in accordance with management's authorization; to regularly check assets against records; and to supervise all games and departments. The specificity of the controls will be determined in Phase 2 regulations. The controls themselves will be developed by the casinos, but must be in conformity with minimum internal control standards established by the Commission's regulations. The plan recommends that the Commission consider whether it can promulgate general regulations while maintaining comprehensive minimum internal control standards so as to allow the Commission or Directors of Gaming to approve changes in minimum internal controls without the burdensome process necessary for regulation changes. The plan lists the following areas that regulations and minimum internal controls should address:

1. Definitions (terms associated with casino operations)
2. Accounting records (financial statements, ledgers, and accounting method)
3. Forms, records and documents (gaming related i.e. fills/credits, MGR)
4. Financial and statistical reporting (game performance, hold, drop Percent win)
5. Records retention (minimum period, index for easy access)

6. Complimentaries (room, food, beverage, & entertainment approval)
7. Surveillance and security (independent oversight, protection and integrity)
8. Casino entity organization structure (reporting lines, departments established)
9. Supervision of games and other personnel assigned (game integrity & security)
10. Cage and cashiering functions (control of cash and cash equivalents physical security over cage assets, wire transfers, & customer deposits)
11. Drop box removal and transportation to count room (protections & security)
12. Acceptance of cash at gaming tables (counted & assurance deposited in box)
13. Table inventory procedures (open/close, fills/credits, credit issuance)
14. Credit approval, issuance, redemptions, collection, and write-offs
15. Count room characteristics and procedures for counting drop boxes (walls and doors sufficient to prevent unwanted entrance; documented count process)
16. Slot machine controls, bill acceptors, boxes, & memory chips (movement, bill acceptor security, EPROMs [erasable programmable read-only memory chip] secure and tested)
17. Slot jackpots, credit meter payouts and progressive wagers (verification of major jackpots, payments of credits on meters & documenting winners)
18. Signature requirements of employees (signing documents prepared or transactions observed or participant to)
19. Computerized gaming voucher systems (tested and approved)
20. Control over sensitive keys (accounted for and controlled)
21. Revenue audit procedures (audit of prior day transactions)
22. Slot machine movement and accountability (minimize unauthorized movement)
23. Technical standards for electronic games and gaming systems (tested and approved prior to implementation)
24. Information management system responsibilities (logical and physical security of operations, change controls)
25. Gaming tournaments (prior approval, entry fees, prize money, tournament chips)
26. Anti money laundering reporting
27. Internal audit function

Public Comment Summary:

- Sterling Suffolk Racecourse LLC suggests that the Commission should adopt Minimum Internal Control Standards ("MICS") sufficiently in advance of the commencement of casino operations to permit gaming licensees to craft their systems of internal controls to comply with the MICS. Gaming licensees should be precluded from commencing such operations until the Commission issues written approval of the initial internal controls submission. One example the Commission may consider is the Minimum Internal Controls Standards adopted by the Missouri Gaming Commission (available at http://www.mgc.dps.mo.gov/MICS/mics.html). Regarding the substance of internal controls, SSR makes no specific substantive recommendations, but notes that in the past year the New Jersey Division of Gaming Enforcement engaged the local licensees in extended discussions regarding all casino regulations, with special emphasis on internal

controls. The resulting revised regulations are found at N.J.A.C. 13:69D-1.1 through 3.1 (available at http://www.nj.gov/oag/ge/chapter69D.html).

Recommendation:

The Commission should promulgate a general set of regulations governing the types of controls that casino operators must have in place. The Commission should also create a comprehensive and detailed set of minimum internal control standards to supplement the regulations. This bifurcated approach will allow the Commission to avoid any delays created by regulatory changes and be able to quickly update its system of minimum internal control standards when necessary. Using these regulations and standards, casino operators will create their own internal control systems. The Executive Director of the Commission will have the power to accept and reject the internal control standards developed by the casinos.

Massachusetts Gaming Commission

MEMORANDUM

Date: December 11, 2012
To: Commissioners
From: Gayle Cameron
Re: Policy Question # 42

Policy Question #42: What should be the length of the licenses issued to employees whom the statute requires to be licensed?

Legislative Summary:

The legislature does not establish a length for a license issued to an employee. Chapter 23K § 30(i) requires that the Commission "establish the term of a key gaming employee and a gaming employee license." Regardless of the length of the license, chapter 23K § 30(h) gives the Commission the power to condition, revoke, or suspend a license when the licensee fails to report charges or a conviction or fails to comply with licensing provisions. Temporary licenses may be given to employees under Chapter 23K § 30(e), and those licenses statutorily expire in 6 months unless the Commission determines otherwise. Also, the statute categorizes employees into "key gaming employees", "gaming employees", and "gaming service employees". Under Chapter 23K § 30(c), gaming service employees need only be registered, not licensed. The Commission has the power to create different durations for the length of licensing of key gaming employees and gaming employees.

Strategic Plan Summary:

The Strategic Plan recommends staggering the issuance of employee licenses for a more even rate of activity for the initial license period and for the renewal of those licenses (p. 23). The Strategic Plan makes no recommendation on the length of employee licenses.

Public Comment Summary:

- Sterling Suffolk Racecourse LLC points out that the Commonwealth's licensing requirements are modeled after New Jersey law prior to 2011. At that time, New Jersey had a five year licensing length in place, after which the license holder would have to undergo a renewal investigation equally thorough to the one conducted at initial licensure. Since then, New Jersey has modified its licensing to only require that licensees file updates every five years but do not undergo an investigation. The license remains active for life, absent any regulatory concerns being raised in the interim. Temporal license terms accompanied with extended renewal processes are prohibitively expensive consumers of scarce agency resources that yield little regulatory benefit. Other jurisdictions, such as Nevada, came to that realization from the outset. Thus, a 15-year period, or such shorter term as the Commission deems appropriate, is recommended for the duration of key gaming employee licenses, subject to the submission of periodic updates.

Recommendation:

The Commission should issue licenses to gaming employees and key gaming employees for a three year period. After the three year period, the Commission should investigate the licensees to determine whether to reissue the license for an additional three year period. This duration would create a balanced tradeoff between the need to ensure public trust in gaming and the avoidance of unnecessary administrative burden. The Commission nevertheless has the power to condition, revoke, or suspend a license when the licensee fails to comply with licensing provisions. The Commission, after three years, should reevaluate whether the three-year licensing period is the proper balance.

The Commission should not require licensure of gaming service employees, but those employees will still be registered with the Commission. Registration is not as extensive as licensure. The registration form will not require listing all prior employment or submitting fingerprint samples, but merely ask the applicant to list basic identifiers and answer a few catch all questions for the applicant to self-identify any potential issues. An applicant registering will undergo a standard background and CORI check. Registration aims to strike a proper balance between conserving resources by not licensing all employees and still having sufficient knowledge regarding those individuals working in a gaming establishment. Registration should be renewed every three years.

Massachusetts Gaming Commission

MEMORANDUM

Date: December 11, 2012
To: Commissioners
From: Gayle Cameron
Re: Policy Question # 43

Policy Question #43: What non-gaming vendors should be excused from the licensing process?

Legislative Summary:
Chapter 23K § 2 defines that gaming vendors are those that supply a gaming licensee with equipment related to gaming. Similarly, that section defines non-gaming vendors as those that supply goods not directly related to gaming, such as construction companies, vending machine providers, linen suppliers, garbage handlers, maintenance companies, limousine services, food purveyors or suppliers of alcoholic beverages. Under Chapter 23K § 31(d) non-gaming vendors shall register with the Commission. Chapter 23K § 31(d) also provides that the Commission may require licensure of non-gaming vendors falling in one of two tiers based on the amount of business the vendor conducts with a gaming licensee. The lower tier is $100,000 of business over a 3-year period ($33,333 average per year). The higher tier is $250,000 in business in a 12-month period. The statute provides no definition for "business."

	Under $33,333 per year average over 3 year period	Under $250,000 in one year but over $33,333	Over $250,000 in one year
Gaming Vendor	Licensure	Licensure	Licensure
Non-Gaming Vendor	Registration	Licensure or Registration	Licensure or Registration

Table 1. statutory requirements for registration and licensure.

Strategic Plan Summary:
The Strategic Plan contains no guidance on the issue.

Public Comment Summary:

- Paul Vignoli Jr.—All Employees, Vendors and Vendor Employees should have extensive background checks and be licensed without exception. It is essential to the integrity of the casinos that anyone who has access to non-public areas of the casinos be licensed. Airport

employees are an excellent example of how everyone must have clearance to access non-public areas.

- Sterling Suffolk Racecourse LLC—SSR believes that publicly traded non-gaming vendors that do business with gaming licensees and applicants should be excluded from the regulatory process entirely. Non-publicly traded companies should be required to register with the Commission, with such registration being valid and effective unless and until the Commission revokes, suspends or administratively removes the "approved vendor" status of the entity. The Gaming Act provides the Commission with sufficiently broad discretion to call forward any non-gaming vendor about which it has concerns.
- Foley Hoag LLP—Mohegan Sun encourages the Commission to establish a system that supports the use of as many Massachusetts based businesses as possible. In this regard, many of the goods and services that the Mohegan Sun project, as well as the other gaming projects in the Commonwealth will use, will be non-gaming related as described in subsection 31(d). In implementing this subsection, Mohegan Sun suggests that the Commission establish a process that does not discourage or restrict these businesses from participating in the business opportunities by creating non-gaming licensing thresholds or systems that discourage their participation in the newly created industry and supports streamlined efforts by small, minority, women and veteran-owned businesses and certification agencies to be able to prequalify small and diverse businesses for vendor relationship with the new gaming facilities.

Recommendation:

The Commission should require licenses for all non-gaming vendors conducting over $250,000 of business each year with a gaming licensee. As the legislation requires, the Commission will only require registration, not licensure, of non-gaming vendors conducting under $33,333 of business per year averaged over a three year period. For the group of non-gaming vendors conducting over $33,333 of business with a gaming licensee per year averaged over a three year period and under $250,000 of business each year with a gaming licensee, the Commission should require a heightened registration. Heightened registration would require more information than a basic registration requires.

For determining which threshold a vendor falls within, the Commission may look at the amount of business the vendor conducts with any single gaming licensee in the Commonwealth. This measure will base licensure requirements on how influential the vendor is on a single casino. Alternatively, the Commission may look at the aggregate business conducted with all gaming licensees across the Commonwealth, or even nationwide, in order to base licensure requirements on the vendor's ability to influence the broader gaming industry.

	Under $33,333 per year average over 3 year period	Under $250,000 in one year but over $33,333	Over $250,000 in one year
Gaming Vendor	Licensure	Licensure	Licensure
Non-Gaming Vendor	Registration	Heightened Registration	Licensure

Table 2. recommended registration and licensure