

RULES AND REGULATIONS

TITLE 58. RECREATION

PENNSYLVANIA GAMING CONTROL BOARD

[58 PA. CODE CHS 401, 435, 437 and 441]

Response to Public Comment

GENERAL COMMENTS

Comment:

Our company manufactures the tickets that are used in slot machines for redemption. Our comment is that there is no specific wording in either the Supplier License or Vendor Regulations regarding our product. Our concern is that as a small, Pennsylvania-based WBE manufacturer we could somehow be excluded from conducting casino business in our state. Therefore, we have the following questions: Will we be required to be either a licensed supplier or registered vendor? Or will we be free to conduct business in our state with the casinos in terms of our ticket product?

Response:

The Board anticipates that once the supplier regulations are adopted, the installation and replacement of voucher paper and the clearing of paper jams will be construed as routine maintenance to be performed by the

slot machine licensee. Based only on the limited information provided by this public comment, the Board believes that this company would be a vendor.

Comment:

The nature and extent of the regulatory requirements for vendors appears to be so burdensome that it may well act as a disincentive for firms who want to provide products and services to potential slot applicants. The current regulations would appear to impose a registration obligation upon the slot license applicant to file a registration application for each and every one of the slot parlor vendors prior to the slot operation "conducting business" with the vendor. The registration form, as contemplated in the regulation, is not insubstantial, requiring a host of data about the vendor. (Section 437.4) For those vendors who will do \$150,000 or more of annual business (or who will do \$500,000 or more of business with all slot machine applicants/licensees in a 12 month period) (Section 401.4), an even more extensive license application is required, and according to the current draft, the Board must issue the license *before* a slot licensee may conduct business with the vendor. It also requires a "description" of the contract terms. For many businesses, compiling and

supplying such information may be difficult and time consuming - or a formal list may not exist at all.

In order to reduce the administrative burden on slot applicants/licensees and their vendors, we respectfully propose the following modifications to the proposed rules:

1. Create a minimum threshold floor before a vendor is required to file a registration. Since the ultimate purpose of the vendor rules is to permit the Board to assure that criminal influences do not infiltrate Pennsylvania gaming operations, it is logical to exclude from the vendor registration process any vendor that only engages in a small amount of business with the slot applicant/licensee - where the contact with the gaming operation will not be substantial. We suggest a threshold level of \$25,000 annually for any one vendor providing goods or services to any one slot applicant/licensee.

2. Revise the information required for a vendor registration to that which is necessary to permit the Board's Bureau of Investigation and Enforcement to conduct further investigation when warranted. A revised requirement should include general data about the business (i.e. name and address, telephone number, official trade name, nature of the business to be provided to the licensee, form of business, Federal ID number), whether the

vendor is minority or women owned, and date of agreement with licensee. The registrant would also be required to consent to permitting additional investigations or submit additional information when deemed warranted by the Board. All the remaining information that the Board now proposes to be included in the registration should be made available upon request of the BIE.

3. Increase the threshold level of business required before the more extensive information required by a license application is necessary to \$300,000 annually for any one slot licensee and \$750,000 for all slot licensees, annually.

The scope of the Board's registration/license requirements will impose a difficult, expensive and time consuming burden upon each slot licensee who will be required to obtain completed registration/license forms from vendors, or compile the information themselves. After the application is filed, there undoubtedly will be some interaction with the Board's investigative staff which, again, will cause the slot applicant/licensee to incur costs and expend time and energy coordinating and supervising the process.

While the burden on slot applicants/licensees will be great, the burden on the vendors themselves will be even

greater. (See Section 437.4) For small businesses, or for those with little experience with regulatory compliance, the compilation process will likely be especially difficult. Given the nature and type of information proposed to be required even for a registration, it would appear likely that many businesses, and particularly small businesses, could decide to forgo providing products and services to slot licensees. This may well have a negative effect on the ability of slot applicants/licensees to attract minority and women-owned businesses, who generally will tend to be smaller and with less resources available for record maintenance, regulatory compliance and legal representation. (Significantly, most minority and women owned business are small businesses. See, for example, US Small Business Administration, Office of Advocacy, Minorities in Business, 2001, Pg. 15 (Nov. 2001), www.sba.gov/advo/stats/min01.pdf ("Measured by receipts size, Black owned businesses in particular were much more likely to be small: Black owned firms constituted more than 30 percent of the minority-owned firms earning less than \$25,000 in receipts, but just 10 percent of those earning \$500,000 or more"); US Small Business Administration, Office of Advocacy, Women in Business, 2001, Pg. 15 (Oct. 2001), www.sba.gov/advo/stats/wib01.pdf

("As measured by receipts, women owned businesses were also mostly very small ventures. About 1.6 million women owned businesses - 30% of the women owned businesses had less than \$5,000 in revenues and contributed less than 1 percent of total women owned business receipts.)

As the Board is well aware, encouraging minority participation in the vendors providing goods or services is a primary goal of the Act. See, 4 Pa. C.S. § 1212(a). The Board has championed this cause, but overly burdensome vendor registration requirements threaten to undermine its efforts.

Moreover, the extensive nature of the information required in the registration application appears to be broader than necessary to accomplish the legitimate goal of the Board to supervise the business dealings of slot licensees and have readily available basic information that would permit further investigation when deemed to be necessary. The proposed registration form now requires such data as the names and addresses of all subsidiaries and any person or entity owning more than 5% of the vendor or its business, the names and addresses of all individuals who will deal directly with the licensee, all officers, partners or directors who are significantly involved in the conduct of the business, and each owner of more than 5% of

the business (and the percentage ownership of the business).

Response:

1. While the Board agrees with the concept of requiring a minimum threshold for registration of vendors, the Board disagrees with the thresholds offered by the commentator. The Board has amended section 437.2 of our regulations to create a threshold of \$2,500 for vendor registration. We are performing an ongoing investigation of a statistical nature to determine the reasonableness of the threshold in terms of the Board's duty to ensure the integrity of gaming.

2. The Board notes that all of the recommendations set forth are currently in the vendor regulations. The Board agrees to the extent that we have removed references to subsidiaries and affiliates from the vendor registration form but the Board reserves the right to require additional information as it deems necessary.

3. The Board agrees with the concept of raising the threshold level of business required for vendor licensing, the Board has amended the definition of "regular or continuing basis" in section 401.4 to create threshold limits of \$200,000 and \$500,000. The Board is reviewing statistical data and best practices to ensure that these

thresholds are in line with other jurisdictions. The Board acknowledges the balance between overseeing gaming and maintaining the integrity of gaming and encouraging the growth of business and diversity in gaming enterprises in Pennsylvania.

Comment:

We understand and appreciate the Board's desire to obtain sufficient information about the vendors that will supply products and services to slot machine applicants and licensees, but the regulatory scheme that is adopted must be cognizant of the effect that extensive regulatory burdens will have on both the slot applicant/licensee as well as its hundreds of vendors of products and services, many of which are small businesses with little or no experience complying with complicated regulatory reporting requirements. Some background on our existing affiliated operations and potential casino plans will serve to illustrate the problem.

As explained above, we are an existing, full service luxury resort employing over 1,000 people during several months of the year and expending tens of millions of dollars in products and services for the various resort facilities. We currently utilize over **2,500** different vendors to provide products and services to the resort, its

sports and recreation facilities, restaurants, etc. All of those vendors are currently providing products or services to us or are under contract to do so upon request. While some of these contractual relationships are substantial, the overwhelming majority have a relatively low annual dollar value:

Total Vendors	Over 2500
Spend>\$150K	63 (2.5%)
Spend>\$200K	52
Spend>\$250K	42
Spend>\$300K	36
Spend>\$350K	33
Spend>\$400K	31
Spend>\$450K	28
Spend>\$500K	26 (1%)

We estimate that of the over 2,500 existing resort vendors some 70-80% are small businesses.

Response:

The Board acknowledges the need to balance its charge that it must ensure the integrity of gaming with its mandate to encourage business development and diversity in Pennsylvania in the area of business enterprise. To achieve this balance, the Board has raised the threshold limits of vendor certification and registration in order to

make the registration process less burdensome on small businesses, but believes the need to investigate non-gaming vendors is essential to ensure the integrity of gaming.

Comment:

From our perspective, the most important clarification required to make the vendor registration/licensing regulations minimally workable for slot machine licensees, and especially for Category 3 licensees, is to establish that the vendor registration/licensing requirement applies only to vendors who provide "products or services" to the slot operation itself, and not to any ancillary or associated businesses. We understand that the Board staff has confirmed this interpretation for Category 1 applicants; it should provide the same clarification for Category 3 applicants. This clarification is minimally necessary and appropriate and fully consistent with the legitimate goals of the Board. Clearly, the Board has a legitimate interest in seeking to assure that slot machine licensees will not be influenced by organized crime or other criminal influences. But that goal can and should be achieved by keeping track of the vendors that serve the slot machine facility and not any ancillary or affiliated operations. On the other hand, if we were required at the time that we filed a Category 3 slot license application,

to file registrations or license applications for over 2500 different vendors it would create an almost insurmountable barrier to our ability to successfully complete its licensee application. Accordingly, the Board should modify the definition of "vendor" to clarify that the registration/license application applies only to vendors providing products or services directly to the applicant or licensee's slot parlor operation.

Comment:

Non-gaming vendors of goods and services should be exempt from the license requirements and reasonable registration procedures should be adopted.

Response:

The Board disagrees with these comments and has stated that it will evaluate and investigate gaming and nongaming vendors. The Board needs this information in order to audit compliance with the diversity requirements set forth §1212 of the act and Chapter 481 of the regulations.

CHAPTER 437. VENDOR REGISTRATION AND [LICENSING]

CERTIFICATION

§ 437.2 Vendor registration form.

Comment:

While many jurisdictions do not require the licensing of non-gaming vendors, Pennsylvania's regulations seek to require licensure. We request that the Board consider removing the requirement that non-gaming vendors must be licensed.

Alternatively, should the Board retain the licensure of non-gaming vendors, we respectfully submit that the proposed method by which the slot licensee bears responsibility for the filing and content of a Vendor License Application should be modified. Similar to NJ, the slot licensee must provide a completed Vendor Registration Form (VRF) to the Board before doing business. (Sec. 437.1) The proposed Pennsylvania requirements for the content of the VRF are essentially the same as New Jersey's in their scope. (Sec. 437.2) The primary difference between the regulatory schemes is the highly burdensome requirement that the slot licensee is responsible for the filing of the Non-gaming Vendors License Application with the Board.

Response:

The Board disagrees with these recommendations as discussed in previous response. The Board believes that it is in the best interest of the slot machine licensee to

have the ability to require compliance with the regulations in order to carry out the intent of Act 71.

§ 437.3 Vendor [license] certification requirements.

Comment:

It is respectfully submitted that due to the sensitive and confidential nature of the information contained in the entity and the Key Employee Qualifier and Key Employee Applications, i.e., tax returns, corporate/personal financial information, etc., Section 437.3, Vendor License requirements, Subsection (d), should be revised to read that a vendor which is required to obtain a vendor license is authorized to submit Vendor License Application Disclosure Forms and Multi Jurisdictional Personal History Disclosure forms and Pennsylvania Supplements for each key employee qualifier and key employee directly to the Board's Licensing Division. The proposed regulation states that a Slot Machine Licensee or applicant must submit the vendor license applications.

Response:

The Board disagrees with this recommendation. As way of further response, the Board notes that there is nothing in the regulations that prohibits a vendor from providing a

slot machine licensee with a sealed packet of information to be provided with the vendor application.

Comment:

Under the proposed regulations, the slot licensee is responsible for the Vendor Licensing Application for each of its vendors, once they reach the monetary thresholds (Sec. 437.3(d)). Essentially, the proposed regulation is placing the burden on the slot licensee to engage in substantial due diligence, and be the entity responsible to require the vendors to get their background information completed, in order to do business. This creates an enormous burden on the licensee by way of costs and administrative efforts. Such a burden is not reasonable, as the slot licensee does not have the resources to obtain cooperation, and further, cannot engage in the kinds of criminal and financial background checks that the Board and other public law enforcement entities can. Such a process also tends to chill competition, as licensees will only want to deal with companies that are already licensed, to avoid the hassle.

We respectfully propose that the slot licensees not be responsible for this burden. Instead, as in NJ, a vendor meeting the monetary thresholds should be independently obligated to provide the necessary information and file the

forms directly with the Board for registration or licensure.

Response:

While the Board anticipates that the slot machine licensee will perform a reasonable amount of due diligence on the vendor applicants, the Board disagrees with the assertion that compliance with these requirements would require a slot machine licensee to perform the same criminal and financial background checks that a law enforcement agency would conduct. As way of further response, the Board believes that it is in the best interest of the slot machine licensee to have the ability to control the vendor's compliance with the regulations in order to keep its operator's license in good standing.

Comment:

In eight of the eleven casino states, vendors of non-gaming products and services are not required to be licensed (Colorado, Illinois, Indiana, Iowa, Mississippi, Missouri, Nevada and South Dakota). In sharp contrast, notwithstanding the long list of exemptions in 437.9, under the proposed regulations, the Joint Commenters submit that the great majority of minority and women owned vendors will be required to receive a vendor's license. For example, under the current provisions of 437.3, a minority owned

business that contracted to provide bottled water to a licensed gaming establishment would be required to receive a license if they receive a one year contract worth more than \$150,000. Similarly, a food vendor with a one year contract worth more than \$150,000 would be required to be licensed by the Board. The Joint Commenters submit that the proposed language of Section 437.3 will have the effect of discouraging - not encouraging - minority vendor participation in PA's gaming industry.

In order to correct this problem, the Joint Commenters recommend that the Board amend section 437.3 to limit its application to suppliers and vendors of gaming related products and services. Alternatively, the Joint Commenters recommend that the Board increase the threshold revenue requirement in section 401.1 definition of "regular course of business" as follows: from \$150,000 with a single licensee over a 12 month period to \$500,000 with a single licensee over a 12 month period; From \$500,000 with multiple licensees over a 12 month period to \$1,000,000 with multiple licensees over a 12 month period. It is important to note that under Sections 437.1 and 437.2 of the proposed regulations all licensee must currently file a registration form with the Board in order to do business with a vendor. Moreover, the Joint Commenters acknowledge

that this registration requirement enables the Board to identify the precise individuals and entities doing business with licensees. The registration requirements of section 437.1 and 437.2, in effect, permit the Board to strike a balance between the important objectives of keeping the industry free and clear from the influence of organized crime and the promotion and inclusion of diverse businesses as vendors and participants in the PA gaming industry.

Response:

Under Act 71, providers of gaming-related products and services, including slot machines and associated equipment are subject to licensure as suppliers. The vendor regulations are distinguishable from the suppliers as these regulations contemplate the certification and regulation of entities providing non-gaming related equipment. The Board reiterates its response that although the Board agrees with the concept of raising the threshold limits and has amended the regulations in order to encourage diversity and the involvement of small business, the Board disagrees with the limits provided by the commentator and the Board will regulate non-gaming vendors.

§ 437.4 Vendor [license] certification application.

Comment:

Section 437.4 (13) should be revised to delete the requirement that Vendor Disclosure Information forms must be filed for each affiliate, intermediary and subsidiary of the applicant. It is respectfully submitted that such a broad definition will create an administrative burden on the Board and the vendor license applicants while serving little regulatory purpose. Many affiliate, intermediary and subsidiary companies of vendor applicants will have nothing to do with gaming in PA. For example, our company has a wholly owned subsidiary in Nevada that serves as its sales and service company for Nevada and California casinos. Our company also has a Canadian subsidiary that functions as its slot machine service operation for casinos in Ontario and British Columbia. Neither of these entities will have any involvement in gaming in Pennsylvania. It is respectfully recommended that a vendor license applicant should include a description of any affiliates, intermediaries or subsidiaries in the Vendor's applications to the Board. After the Board's review of the Vendor application, if the Board determines that a license is required for an affiliate, intermediary or subsidiary, the Board can require the vendor to submit an application regarding such entity.

Response:

The Board declines to accept this recommendation. The Board will evaluate the corporate structure of applicant and determine the status of the applicant's affiliated entities on a case-by-case basis.

Comment:

Section 437.4 of the proposed regulations provides that the vendor license application "shall consist of an application processing fee" and other detailed information. For most of the reasons outlined above (i.e. minority and woman business primarily provide non-gaming good and services and under representation of minority and woman businesses in the PA gaming industry), the Joint Commenters urge that the vendor application fee be set at a reasonable level. While we note that in the eight casino states in which non-gaming vendors are not required to be licensed, no fee would apply. However, the Joint Commenters encourage this Board to follow the example of New Jersey, and recommend that for gaming and non-gaming vendor required to secure a license, the application fee should be no more than \$2,000.

Response:

The Board agrees with this concept and intends to set a reasonable fee.

Comment:

The Board must examine the Diversity Plans of applicants as a key component in the determination of whether to award an applicant a gaming license. Diversity commitments must be demonstrated in work force inclusion and in procurement opportunities. These diversity commitments must be implemented in all phases of the gaming application and diversity plan.

The Minority Councils urge the Board to follow the example of the Indiana Gaming Commission, where a person issued an owner's license must establish spending goals that are at least:

- 10 percent of the dollar value of the licensee's contracts for the products and services with minority business enterprises (MBEs).

- 5 percent of the dollar value of the licensee's contracts for the products and services with women's business enterprises (WBEs). These "spending goals" are more than reasonable in Pennsylvania, where the minority population (Blacks, Hispanics and Asians) represents approximately 16% of Pennsylvanians. For these reasons, diversity plans must not be viewed as "secondary" criteria in awarding a gaming license Pennsylvania.

Additionally, there must be some consequences for failure to meet such plans. "Good Faith" efforts are not enough. The Minority Councils recognize that even written commitments of inclusion and participation, without consequences for failure, are worthless. We therefore urge the Board to adopt a quarterly monitoring system for compliance with diversity initiatives.

Diversity it is not a soft and emotionally driven concept. It is a practical one. Diversity recognizes that minority groups represent significant purchasing and supply chain groups. In fact, recent statistics suggest that by the year 2010 over 50% of the US buying public will be non-Caucasian.

The Minority Councils stress the importance of aligning diversity programs with the business objectives of incenses and putting metrics in place to measure the program's success. Each dollar spent with a diversity supplier should represent credit towards those diversity efforts so that it is easy to measure the ultimate effectiveness of the diversity program.

A licensee should also be permitted to use either Tier 1 or Tier 2 diversity vendors to count towards their diversity spending. A Tier 1 supplier is a direct supplier to the company while a Tier 2 vendor is a subcontractor to

the Tier 1 supplier. The minority Councils recognize that many minority and women-owned business are Tier 2 suppliers.

Response:

The Board intends to conduct thorough compliance reviews of all diversity plans and will use its authority to ensure diversity representation in ownership as well as in all other categories of licensing, permitting, certification and registration.

§ 437.7. Permission to conduct business prior to [licensure] certification.

Comment:

Although the intent of section 437.7 is laudable, it fails to provide a workable solution to our facility's problem for several reasons. First and foremost, the Board must review and consider the arguments and facts set forth in the petition before any relief is granted. This process will likely take some time and could result in considerable delay. Under the proposed regulations it appears that the vendor will not be permitted to be utilized until the petition is approved and therefore, the slot applicant/licensee is again forced to wait. This delay will impede the ability of our facility to commence its

gaming operations and will seriously disrupt its current operations.

A second concern with section 437.7 is the requirement that "good cause" must be shown before a petition will be granted and the vendor permitted to work. Unfortunately, "good cause" is not defined in the regulations and provides an additional layer of uncertainty to the process. We respectfully suggest two workable procedures to permit a slot licensee to begin to conduct business with a new vendor prior to the vendor receiving a vendor license. First, a workable procedure can be established by simply modifying section 437.7 (relating to permission to conduct business prior to licensure). Section 437.7 should explicitly provide that upon the filing of the petition, the petition will be deemed approved, making clear that the slot applicant/licensee will be permitted to do business with the vendor unless and until the Board issues an order denying the petition and/or disqualifying the vendor. To properly implement this suggested modification, the six month limitation set forth in section 437.7(b) should be omitted.

The second alternative involves the adoption of the New Jersey regulatory scheme on which Pennsylvania regulatory scheme apparently was modeled. Specifically,

NJAC 19:43-10.4 requires casino licensee to file with the Casino Control Commission, no later than 20 days following a formal offer and acceptance of an agreement with an entity, a completed Notice of Intent to Conduct Business for any enterprise which does not appear on the active vendor's record list submitted to the Commission. The Notice of Intent to Conduct Business as prescribed in regulation NJAC 19:41-5.11(A) requires a Casino to notify the Commission of the official trade name of the entity, its business address, telephone number, federal employee ID number and date of the formal offer and acceptance of an agreement to conduct business with the Casino.

Additionally, in New Jersey, the Casino is required to file with the Commission a Vendor Registration Form (VRF) for any enterprise with which it is conducting certain types of business, including bus operations or more significantly any agreement for goods or services expected to total \$10,000.00 or more. The VRF is to be filed within twenty (20) calendar days from the date of a formal offer and acceptance by the vendor and the Casino. The New Jersey rules also require licensing for vendors who do business with a casino on a "regular and continuous basis." (The NJ Commission's rules require persons and enterprises that conduct non-gaming related business with a casino or

slot machine licensee or applicant on a "regular or continuing" basis to either be licensed or be exempted from licensure. A person or enterprise may be determined to be conducting regular or continuing business upon Commission consideration of the enumerated criteria set forth in the regulations. These criteria include the number and frequency of transactions conducted the duration of agreements, and the nature of the goods and services provided. Alternatively, the NJ Commission's rules also set forth various monetary thresholds of business conducted with individual casino licensees or the industry as a whole which, when reached by a person or enterprise, create a rebuttable presumption that the person or enterprise is conducting regular or continuing business for purposes of the NJ Act and rules.) Whether subject to registration or a licensing requirement, the NJ process allows the casino to enter into a business agreement, contract or business transaction with a vendor prior to the vendor filing any form with the Commission by way of formal application or otherwise. As a matter of business practice, all casinos licensees prior to entering into any transactions require its prospective vendors to provide the information which will be required to be set forth on the VRF. That

information is similar to the information requested by the draft PA regulations.

If the PA slot licensee vendor rules are to be workable, it is important that the Board modify its requirements to allow for a similar ability to conduct business prior to having to make any extensive filings with the Board and without having to wait for the Board to approve a license application or grant a petition. It can do so by:

1. Adding a section that permits a slot licensee to file, no later than 20 days after signing an agreement or contract (or otherwise agreeing) with a vendor to provide a product or service or, if the vendor did business with the slot applicant/licensee prior to the submission of the slot applicant/license application and the slot applicant/license wants that vendor to continue conducting that business, no later than 20 days after the filing of the slot license application, a "Notice of Intent to Conduct Business" which lists the name, address, official trade name of the entity, its business address, telephone number, federal employee ID number and date of the formal offer and acceptance of an agreement to conduct business with the slot applicant/licensee.

2. Within ninety (90) days after signing an agreement, or, if the vendor did business with the slot applicant/licensee prior to submission of the slot license application and the slot applicant/licensee wants that vendor to continue conducting that business, within 90 days after the submission of the slot license application, and for entities that will do more than \$25,000 of business with the slot licensee (and who are not otherwise exempted), file a registration or application for vendor license (depending on the extent of the business activity that the vendor will provide to the slot applicant/licensee's slot operation).

3. Making clear that the slot applicant/licensee will be permitted to continue to do business with the vendor unless or until Board issues an order disqualifying the vendor.

Response:

The Board has amended section 437.6, Existing agreements, to allow slot machine license applicants to submit a "Vendor notification form" on behalf of unregistered or non-certified vendors with whom the slot machine license applicant has an existing agreement. The slot machine license applicant must submit this form to the Board with the slot machine license application. Within 20

business days of the submission of the vendor notification form, the slot machine license applicant must submit the vendor registration form or certification application, a certification of the slot machine license applicant's performance of due diligence on the vendor and a copy of the existing agreement with the vendor.

Comment:

The Joint Commenters recognize that the proposed language of 437.7 permits licensees to conduct business with vendors, for a period of up to 6 months, prior to receiving a license. These provisions seem to acknowledge the possibility that an event or circumstances may arise which requires that a licensee secure goods or services immediately. For example, in the event that a licensed vendor goes out of business and must be replaced on an emergency basis, the licensee is permitted to make such replacement and simultaneously apply to the Board for a license.

While the Joint Commenters generally agree with the provisions of section 437.7, we offer one suggestion for improvement of this section. In section 437.7(b), the Board limits the period of permission to do business without a license to six months and may extend the period for an additional period of six months. This provision

seems to acknowledge both the exigency of circumstances which a licensee may face and the possibility that a delay in the issuance of a license by the Board may occur. Accordingly, the Joint Commenters recommend that these provisions be modified to permit, upon the timely filing of an application for vendor license, that a vendor may work indefinitely until such time as their application is approved or rejected by the Board. In other words, permission to conduct business prior to license should be deemed granted unless otherwise denied by the Board.

Response:

The Board declines to accept this recommendation. This provision is not self-executing.

§ 437.9. Exemption from vendor registration or certification [licensing] requirements.

Comment:

The Joint Commenters note that a central feature of the long list of exemptions in 437.9 is that they are generally all vendors who are engaged in "non-gaming" activity. Moreover, unlike most minority and women business owners in PA, the current list of exempt entities represents professions and organizations with significant influence in PA. Consequently, the Joint Commenters offer

these comments on behalf of those minority and women business owners who have not previously been represented in this process. This primary message of this comment is simple, **treat non-gaming minority and women owned vendor companies the same way as the other exempted professions and organizations are treated.**

Response:

The Board declines to accept this recommendation. This recommendation violates the Board's goal to achieve balance between diversity and protecting the integrity of gaming.

CHAPTER 441. SLOT MACHINE LICENSES

§ 441.17 Master purchasing and disbursement report.

Comment:

The Task Force seeks to comment specifically on section 441.17 of the draft regulations, which requires that slot machine licenses submit a monthly "Master Purchasing and Disbursement Report" enumerating nonpayroll transactions by the license/applicant; transactions in which the license/applicant acted as the vendor of goods and services; and transactions by an affiliate, subsidiary, or other agent of the licensee/applicant in which the licensee/applicant is a beneficiary.

Through the gaming implementation process, the Board has consistently recognized the need for diversity throughout Pennsylvania's gaming industry. To that end, its proposed regulations have imposed requirements upon participants that will ensure the substantive, lasting involvement of minorities and women in the industry. Section 441.17 presents another opportunity to ensure the meaningful diversity the Board has emphasized as a goal. The Task Force recommends that, in addition to the identification of payees and the date and amount of disbursements, the report mandated by section 441.17 should indicate whether payees included in the report meet diversity standards because of their ownership by minorities, women, or disabled persons, and the payee's enterprise certification number, if any. Additionally, licensees/applicants should be required to total the amounts disbursed, with itemization of the amounts disbursed to DBE's and to provide an explanation of the nature of services provided or work performed by the DBE's to which funds have been disbursed. Such requirements would provide an additional mechanism for assessing the breadth of diversity within the gaming industry, consistent with the Board's goals.

Response:

The Board agrees and refers to Subpart G., Chapter 481 of the regulations which requires reporting of diversity by licensed entities.