

3772-17-01 Approval of third-party engineering and accounting firms.

Before a casino operator may conduct casino gaming, a casino operator shall engage a third party engineering or accounting firm ("firm") to certify to or attest to expenses of its initial investment, as provided in sections [3772.09](#) and [3772.27](#) of the Revised Code, and provide documentation to the ~~Ohio casino control~~ commission (~~"commission"~~). An accounting firm engaged for this purpose shall issue an examination report under the statements on standards for attestation engagements issued by the American institute of certified public accountants on the assertion that the casino operator has made an initial investment as defined in section [3772.27](#) of the Revised Code. An engineering firm engaged for this purpose shall issue a certification, attestation or report of examination, as required by section 3773.09 of the Revised Code that shall conform to the accepted engineering standards for the form and content of such certifications, attestations, or reports. The casino operator must engage a third party engineering or accounting firm that has been approved for this purpose by the commission. The casino operator and any firm engaged for this purpose shall follow the procedure set forth in this rule.

(A) A firm engaged for this purpose must request approval from the commission and must establish to the commission's satisfaction that the firm is suitable and qualified to conduct such services. The firm's request for approval shall contain, at a minimum, the following information and supporting documentation:

- (1) A list and description of any and all services that the firm has provided to an Ohio casino operator or an applicant for an Ohio casino operator license over the previous five years;
- (2) A certification that the firm and its current partners, principals, or members has not been sanctioned for any failure to comply with rules of professional standards and practices promulgated by the accountancy board of Ohio or the professional engineering and surveyors board within the last five years.

(B) Before the commission grants approval, the applicant firm must agree to the following conditions:

- (1) The firm will maintain all information compiled in the course of its engagement regarding the casino operator's initial investment in separate files and retain them in accord with any standards promulgated by the accountancy board of Ohio or the professional engineering and surveyors board. Upon request of the commission, the firm will provide the commission access to examine and review documents, records, or other papers created or obtained by the firm in the course of this engagement;
- (2) Upon request of the commission, the firm will provide to the commission access to any individuals or sub-contractors who performed services to the casino operator pursuant to this engagement.

(C) The commission may further request information from either the casino operator or the third-party engineering or accounting firm regarding this engagement not specifically requested in this rule or in addition to that which is provided in response to this rule.

(D) No sooner than thirty days, unless otherwise waived or modified by the commission, after all required information and documentation, as outlined in this rule, has been submitted to the satisfaction of the commission, the commission shall place the request for approval of the firm on the agenda of a commission meeting.

(1) A representative of the casino operator and the firm shall be present at that commission meeting to answer any questions posed by the commission.

(2) The approval of the firm will be discussed, and a decision will be issued by the commission at that meeting of the commission, unless otherwise extended by mutual agreement of the commission, the casino operator and the firm.

(E) The firm may be approved to certify initial investment expenses for more than one casino facility.

(F) The approved engineering or accounting firm must also submit to the commission a copy of any certification or examination report that it submits to a casino operator that has engaged it to certify to or attest to initial investment expenses. The firm must certify to or attest that the casino operator has made the necessary expenses for development of the casino facility as required by section [3772.27](#) of the Revised Code. Such certification or examination report shall state that the conclusions it contains were independently arrived at, that the examination was conducted in accordance with standards of practice promulgated by the accountancy board of Ohio or the professional engineering and surveyors board, and that the author or authors of the certification or report believe that the examination conducted provides a reasonable basis for the conclusion stated.

(G) The commission may immediately withdraw the approval of the firm when it has reasonable cause to believe that the firm has submitted false or misleading information as part of the approval process. The commission does not waive the right to withdraw the approval for any other appropriate basis.

(H) If the commission denies approval of a firm or withdraws approval, the casino operator must engage another firm.

(I) The commission's approval of a firm is a separate and distinct process from casino operator licensure, as generally set forth in sections [3772.07](#) to [3772.112](#) of the Revised Code, and approval of a firm does not insure that a casino operator's license will be approved.