

§542.42 What are the minimum internal control standards for internal audit for Tier C gaming operations?

Comment (July): The Commission should revise the annual gross gaming revenue thresholds for tier determination. Suggest a more than \$30 million threshold for Tier C.

Response: Referred to the Commissioners for consideration.

(a) *Internal audit personnel.* (1) For Tier C gaming operations, a separate internal audit department shall be maintained whose primary function is performing internal audit work and that is independent with respect to the departments subject to audit.

(2) The internal audit personnel shall report directly to the Tribe, Tribal gaming regulatory authority, audit committee, or other entity designated by the Tribe in accordance with the definition of internal audit in §542.2.

Note: (b) (1) and (2) have been updated for consistency with final proposals.

(b) *Audits.* (1) Internal audit personnel shall perform audits of all ~~major gaming~~ areas of the gaming operation. The following shall be reviewed at least annually:

Comment (July): Replace “all areas” with “gaming areas”.

Response: Agree to strike “all areas” as overly inclusive. Disagree to replace with “gaming areas” as audit standards for areas that could be classified as non-gaming are included in this subsection, including cage, credit, information technology, and accounting.

Comment (July): Replace with “Internal audit personnel shall perform audits of the following areas at least annually.”

Response: Agree. However, recommend modification of (b), (b) (1), and (b) (2) to reduce repetition and incorporate the comment into the standards.

(b) *Audits.* Internal audit personnel shall perform audits ~~of all major gaming areas~~ of the gaming operation.

(1) The following areas shall be reviewed at least annually:

Revised proposal as a result of written comment to (b) (3) below.

(1) The following areas shall be ~~reviewed~~ **audited** at least annually:

(i) Bingo, including but not limited to, computer applications, game play standards, promotional payouts or awards, accountability form, bingo equipment, statistical reports, electronic equipment, linked games, host requirements, remote requirements, player accounts; bingo card control, payout procedures, and cash reconciliation process;

(ii) Pull tabs, including but not limited to, computer applications, pull tab inventory, access, transfers, winning pull tabs, accountability form, statistical reports, and electronic equipment; winner verification, perpetual inventory, and accountability of sales versus inventory;

(iii) Card games, including but not limited to, computer applications, drop and count, supervision, playing cards, shills, reconciliation of card room bank promotional progressive pots, card room contests and tournaments computerized player tracking systems and accounting/audit standards; card games operation, cash exchange procedures, shill transactions, and count procedures;

Comment (October): Strike paragraphs (i) – (iii). Class II games, Part 542 not applicable.

Response: ~~Agree, with the exception of Pull tabs, which are considered Class III games unless played in the same location as bingo. After striking paragraphs (i) and (iii), paragraphs (ii) – (xii) become (i) – (x).~~

Revised Response: Agree, with the exception of Pull tabs, which are considered Class III games unless played in the same location as bingo and card games, which according to NIGC’s Office of General Counsel, may be classified as Class II or Class III games. After striking paragraphs (i), paragraphs (ii) – (xii) become (i) – (xi).

(i) Bingo, including but not limited to, computer applications, game play standards, promotional payouts or awards, accountability form, bingo equipment, statistical reports, electronic equipment, linked games, host requirements, remote requirements, player accounts;

(i) (ii) Pull tabs, including but not limited to, computer applications, pull tab inventory, access, transfers, winning pull tabs, accountability form, statistical reports, and electronic equipment; ~~winner verification, perpetual inventory, and accountability of sales versus inventory;~~

(ii) (iii) Card games, including but not limited to, computer applications, supervision, playing cards, shills, reconciliation of card room bank promotional progressive pots, card room contests and tournaments computerized player tracking systems and accounting/audit standards; ~~card games operation, cash exchange procedures, shill transactions, and count procedures;~~

(iii) (iv) Keno, including but not limited to, computer applications, game play standards, rabbit ear or wheel system, random number generator, winning tickets, check out standards, promotional payouts, statistical records, system security, documentation, audit standards, access, keno equipment, document retention and multi-race tickets; ~~game write and payout procedures, sensitive key location and control, and a review of keno auditing procedures;~~

(iv) (v) Pari-mutuel wagering, including but not limited to, exemptions, computer applications, betting ticket and equipment standards, payout standards, checkout standards, employee wagering, computer reports, and accounting and auditing; ~~write and payout procedures, and pari-mutual auditing procedures;~~

~~(vi) Table games, including but not limited to, fill and credit procedures, pit credit play procedures, rim credit procedures, soft drop/count procedures and the subsequent transfer of funds, unannounced testing of count room currency counters and/or currency interface, location and control over sensitive keys, the tracing of source documents to summarized documentation and accounting records, and reconciliation to restricted copies;~~

~~(vii) Gaming machines, including but not limited to, jackpot payout and gaming machine fill procedures, gaming machine drop/count and bill acceptor drop/count and subsequent transfer of funds, unannounced testing of weigh scale and weigh scale interface, unannounced testing of count room currency counters and/or currency interface, gaming machine drop cabinet access, tracing of source documents to summarized documentation and accounting records, reconciliation to restricted copies, location and control over sensitive keys, compliance with EPROM duplication procedures, and compliance with MICS procedures for gaming machines that accept currency or coin(s) and issue cash-out tickets or gaming machines that do not accept currency or coin(s) and do not return currency or coin(s);~~

(v) ~~(viii)~~ Cage procedures, including but not limited to, personal checks, cashier's checks, payroll checks, and counter checks, customer deposited funds, cage/vault accountability, chip and token standards, and accounting/auditing standards;

Note: Subsequent review revealed inconsistencies between the cage procedures listed above and the subsections of proposed Cage section §542.14.

Revised proposal incorporating note:

(v) ~~(viii)~~ Cage procedures, including but not limited to, computer applications, personal checks, cashier's checks, traveler's checks, payroll checks, and counter checks, customer deposited funds, safe deposit boxes, cage/vault accountability, chip and token standards, promotional payouts, drawings, and giveaway programs, accounting/auditing standards and extraneous items;

(vi) ~~(ix)~~ Credit procedures, including but not limited to, computer applications, credit standards, payment standards, access to credit documentation, maintenance of credit documentation, write off and settlement, collection agencies, and accounting/ auditing standards; , all cage, credit, and collection procedures, and the reconciliation of trial balances to physical instruments on a sample basis. Cage accountability shall be reconciled to the general ledger;

(vii) ~~(x)~~ Information technology, including but not limited to, Physical access and maintenance controls, system parameters, user accounts, generic user accounts, service and default accounts, administrative access, backups, recordkeeping, electronic storage of documentation, network security, changes to production environment, remote access, information technology department, in-house developed systems, and purchased software programs. functions, including review for compliance with information technology standards;

(viii) ~~(xi)~~ Complimentary services or items, including but not limited to, procedures whereby complimentary service items are issued, authorized, ~~and~~ redeemed and reported; and

(ix) Accounting standards, including but not limited to, accounting records, GAAP requirements, administrative and accounting procedures, gross gaming revenue computations, and maintenance and preservation of books;

Comment (July): Strike “administrative and”. Could be interpreted as including non-gaming administrative procedures.

Response: Disagree. The scope of the paragraph is limited to standards contained in section 542.19, and the reference is specific to subsection 542.19(c).

Note: Subsequent review revealed inconsistencies between the accounting standards listed above and the subsections of proposed accounting section 542.19.

(ix) Accounting standards, including but not limited to, accounting records, GAAP requirements, administrative and accounting procedures, gross gaming revenue computations, currency controls, periodic payment plans, cash out ticket deductibility, credit instrument deductibility, allowable and non-allowable deductions from gross revenue, and maintenance and preservation of books;

(x) Drop and count standards, including but not limited to, computer applications, table games drop, soft count room personnel, table games count, gaming machine bill acceptor drop, gaming machine bill acceptor count, gaming machine coin drop standards, hard count room personnel, gaming machine coin count and wrap standards, count room inventory security, transfers of currency and coin during the count, key controls-general, gaming machine drop key control standards, table games drop key control standards, table game drop box release keys, bill acceptor canister release keys, table game drop box storage rack keys, bill acceptor canister storage rack keys, table game drop box contents keys, bill acceptor canister contents keys, gaming machine computerized key security systems and table game

computerized key security systems, emergency drop procedures and gaming machine count equipment; and

Comment (July): Inclusion of computerized key control standards could be interpreted as a requiring the use of a computerized key control system.

Response: Disagree. The scope of the paragraph is limited to standards contained in section 542.41, and the reference is specific to subsection 542.41(t), which has no such requirement.

(xi) Any other internal audits as required by the Tribe, Tribal gaming regulatory authority, audit committee, or other entity designated by the Tribe.

(2) The following areas shall be reviewed at least semi-annually:

(i) Table games, including but not limited to, computer applications, fill and credit procedures, table inventory forms, computer generated documentation, playing cards and dice, plastic cards, supervision, table game analysis, accounting/auditing, marker credit play, named credit instruments, call bets, rim credit and foreign currency; and

(ii) Gaming machines, including but not limited to, standards for gaming machines, computer applications, jackpot payouts, gaming machine fills, short pays and accumulated credit payouts, promotional payouts, department funds, game programs, theoretical and actual hold, hopper content standards, player tracking, in-house progressives, wide area progressives, accounting/auditing, cash-out tickets, account access cards and smart cards.

Written Comment (March): We recommend that the use of the term “EPROM” be replaced with the term “gaming media”.

Response: The Committee reviewed the proposed revision and had no comment. The term “EPROM” had previously been replaced with “game program”.

(3) In addition to the observation and examinations performed under paragraph (b)(1) of this section, follow-up observations and examinations shall be performed to verify that corrective action has been taken regarding all instances of noncompliance cited by internal audit, the independent accountant, and/or the Commission. The verification shall be performed within six (6) months following the date of notification.

Comment (July): Add a statement that semi-annual testing satisfies the 6 month follow up requirement.

Response: Disagree. The 6 month follow up requirement is applicable only to the areas with required annual testing in paragraph (b) (1).

Comment (October): Replace “date of notification” with “end date of the half year during which the audit was performed”.

Comment (October): Add “or the end date of the half year during which the audit was performed” as an alternative to “date of notification”.

Response: Disagree. The half year concept as described by the commenter is difficult to define in a way that will be readily understood. Six months from notification provides sufficient time for performance of follow-up procedures, and for design and implementation of compliant procedures by management. However, staff remains receptive to suggestions of the committee.

Comment (October): Move (b) (3) to follow (b) (1).

Response: Agree. (b)(2) then becomes (b) (3).

~~(3)~~ **(2)** In addition to the observation and examinations performed under paragraph (b)(1) of this section, follow-up observations and examinations shall be performed to verify that corrective action has been taken regarding all instances of noncompliance cited by internal audit, the independent accountant, and/or the Commission. The verification shall be performed within six (6) months following the date of notification.

~~(2)~~ **(3)** The following areas shall be reviewed at least semi-annually:

Written Comment (March): If the intent of this section is the same as (1), then we ask then the NIGC ensure that the term “reviewed” is consistent with the term “audit”. If that is not the intent, then we ask the NIGC to clarify the purpose, scope and intent of the term “reviewed” in this section.

Response: Although NIGC believes that the introductory sentence in (b) makes it clear that “audits” of the specified areas are required, in the interest of clarity, we agree to replace “reviewed” with “audited” in (b) (1) and (b) (3).

Revised proposal as a result of written comment:

~~(2)~~ **(3)** The following areas shall be **reviewed audited** at least semi-annually:

(i) Table games, including but not limited to, fill and credit procedures, table inventory forms, playing cards and dice, table game analysis, accounting/auditing, marker credit, named credit instruments, call bets, and foreign currency; and

(ii) Gaming machines, including but not limited to, jackpot payout and gaming machine fills, promotional payouts, department funds, EPROM’s, theoretical and actual hold, hopper content standards, player tracking, in-house progressives, wide area progressives, accounting/auditing, cash-out tickets and account access cards.

(4) Whenever possible, internal audit observations shall be performed on an unannounced basis (i.e., without the employees being forewarned that their activities will be observed). Additionally, if the independent accountant also performs the internal audit function, the accountant shall perform separate observations of the table games/gaming machine drops and counts to satisfy the internal audit observation requirements and independent accountant tests of controls as required by the American Institute of Certified Public Accountants guide.

(c) *Documentation.* (1) Documentation (e.g., checklists, programs, reports, etc.) shall be prepared to evidence all internal audit work performed as it relates to the requirements in this section, including all instances of noncompliance.

(2) The internal audit department shall operate with audit programs, which, at a minimum, address the MICS. Additionally, the department shall properly document the work performed, the conclusions reached, and the resolution of all exceptions. Institute of Internal Auditors standards are recommended but not required.

(d) *Reports.* (1) Reports documenting audits performed shall be maintained and made available to the Commission upon request.

(2) Such audit reports shall include the following information:

(i) Audit objectives;

(ii) Audit procedures and scope;

(iii) Findings and conclusions;

(iv) Recommendations, if applicable; and

(v) Management's response.

(e) *Material exceptions.* All material exceptions resulting from internal audit work shall be investigated and resolved with the results of such being documented and retained for five years.

(f) *Role of management.* (1) Internal audit findings shall be reported to management.

(2) Management shall be required to respond to internal audit findings stating corrective measures to be taken to avoid recurrence of the audit exception.

(3) Such management responses shall be included in the internal audit report that will be delivered to management, the Tribe, Tribal gaming regulatory authority, audit committee, or other entity designated by the Tribe.

(g) *Internal Audit Guidelines*. In connection with the internal audit testing pursuant to paragraph (b) (1) **and (b) (3)** of this section, the Commission shall develop recommended Internal Audit Guidelines, which shall be available upon request.