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August 15, 2012

**VIA E-mail [reg.review@nigc.gov](mailto:reg.review@nigc.gov)**

National Indian Gaming Commission  
Attn: Regulatory Review  
1441 L Street, Suite 9100  
Washington, DC 20005

Re: Comments on Proposed Rule - 25 CFR Part 543 – Minimum Internal Control Standards for Class II Gaming

Dear Chairperson Stevens, Vice-Chairperson Cochran, and Commissioner Little:

On behalf of the Lytton Rancheria of California (“Tribe”), we hereby submit the following comments in response to the National Indian Gaming Commission’s (“Commission”) Proposed 25 CFR Part 543 – Minimum Internal Control Standards for Class II Gaming (Proposed Rule). The Tribe appreciates the opportunity to submit comments on the Proposed Rule and welcomes the Commission’s commitment to providing a comprehensive government-to-government consultation process.

In its comments on the Preliminary Draft published by the Commission, the Tribe limited its comments to its concerns regarding the overall foundation of the Preliminary Draft. As we stated previously, it appears that the Commission has created the Proposed Rule by using portions of the Tribal Gaming Work Group’s (“TGWG”) proposed regulations, the TGWG guidance documents, and the existing 2010 Minimum Internal Control Standards (“2010 MICS”). The Tribe continues to believe that this combination has resulted in a very unbalanced and often confusing, regulation. While the Tribe understands the Commission’s position that some areas present a substantially greater risk than others; however, the Tribe continues to believe that many areas of the Proposed Rule are far too procedural, resulting in overly burdensome requirements (particularly for smaller operations), limitations on the ability of Tribes to implement controls best suited for their operations, and potential limitations on the use of current and future technologies.

Comments of the Lytton Rancheria of California  
on Proposed 25 CFR Part 543  
August 15, 2012

The Tribe now shifts its comments from the broader foundational issues, to the specific requirements and language of the Proposed Rule. Given the considerable amount of comments the Tribe will be making, we believe that providing a “redline” of the document is the most efficient and useful method of providing its comments. Thus, the attached “redline” of the Proposed Rule shall constitute the Tribe’s official comments.

On behalf of the Lytton Rancheria of California, we appreciate the opportunity to comment on the Proposed Rule. The Tribe looks forward to new and improved Minimum Internal Control Standards in the near future.

Sincerely,

A handwritten signature in black ink that reads "Kathryn A. Ogas". The signature is written in a cursive, flowing style.

Kathryn A. Ogas  
Attorney for the Lytton Rancheria of California

Enclosure

**Part 543: Minimum Internal Control Standards for Class II Gaming**

Sec.

- § 543.1 What does this part cover?
- § 543.2 What are the definitions of this part?
- § 543.3 How do tribal governments comply with this part?
- § 543.4 Does this part apply to small and charitable gaming operations?
- § 543.5 How does a gaming operation apply to use an alternate control standard from those set forth in this part?
- § 543.6 [RESERVED]
- § 543.7 [RESERVED]
- § 543.8 What are the minimum internal control standards for bingo?
- § 543.9 What are the minimum internal control standards for pull tabs?
- § 543.10 What are the minimum internal control standards for card games?
- § 543.11 [RESERVED]
- § 543.12 What are the minimum internal control standards for gaming promotions and player tracking systems?
- § 543.13 What are the minimum internal control standards for complimentary services or items?
- § 543.14 What are the minimum internal control standards for patron deposit accounts and cashless systems?
- § 543.15 What are the minimum internal control standards for lines of credit?
- § 543.16 [RESERVED]
- § 543.17 What are the minimum internal control standards for drop and count?
- § 543.18 What are the minimum internal control standards for the cage, vault, kiosk, cash and cash equivalents?
- § 543.19 [RESERVED]

- § 543.20 What are the minimum internal control standards for information technology and information technology data?
- § 543.21 What are the minimum internal control standards for surveillance?
- § 543.22 [RESERVED]
- § 543.23 What are the minimum internal control standards for audit and accounting?
- § 543.24 What are the minimum internal control standards for revenue audit?
- § 543.25 – 543.49 [RESERVED]

Authority: 25 U.S.C. §§ 2702(2), 2706(b)(1-4), 2706(b)(10).

**General Comments:**

**We have noted numerous instances of the use of the phrase “Controls must be established and procedures implemented...” We recognize that this was language used in the TGWG proposed MICS and guidance; however, we believe this phrase is cumbersome, unnecessary, and confusing (since it is not used consistently). In addition, the phrase is sometimes used in areas where some sort of technology may be used to meet the standard and thus there would not necessarily be any “controls or procedures.” Thus, we urge the Commission to consider deleting this phrase throughout the regulation.**

**System – The term “system” is used to refer to both the Class II gaming system and other systems. We urge the Commission to conduct a thorough review of the document to ensure that the use of the defined term “Class II gaming system” is always used when referring to that system.**

**Class II gaming component –We have noticed a significant number of instances where the term “Class II gaming component” is used instead of the term “Class II gaming system component.” We urge the Commission to conduct a thorough review to correct these inconsistencies.**

**§ 543.1           What does this part cover?**

This part establishes the minimum internal control standards for the conduct of Class II games on Indian lands as defined in 25 U.S.C. § 2701 *et seq.*

**§ 543.2           What are the definitions for this part?**

The definitions in this section apply to all sections of this part unless otherwise noted.

Accountability. All financial instruments, receivables, and patron deposits constituting the total amount for which the bankroll custodian is responsible at a given time.

**Lytton Comment: Consideration should be given to revising this definition as the current definition is not accurate. Generally, accountability refers to the action of taking responsibility for something, not tangible objects. Moreover, this definition does not comport with the manner in which the term is used throughout this document. We have noted specific instances of this issue throughout the document.**

Agent. A person authorized by the gaming operation, as approved by the TGRA, to make decisions or perform assigned tasks or actions on behalf of the gaming operation.

Automatic payout. Payment issued by a machine.

**Lytton Comment: Consideration should be given to changing this term throughout the document. Even payments by a “machine” are not automatic.**

Cage. A secure work area within the gaming operation for cashiers, which may include a storage area for the gaming operation bankroll.

Chair. The Chair of the National Indian Gaming Commission.

Cash equivalents. Documents, financial instruments other than cash, or anything else of representative value to which the gaming operation has assigned a monetary value. A cash equivalent includes, but is not limited to, tokens, chips, coupons, vouchers, payout slips and tickets, and other items to which a gaming operation has assigned an exchange value.

Cashless system. A system that performs cashless transactions and maintains records of those cashless transactions.

Cashless transaction. A movement of funds electronically from one component to another, often to or from a patron deposit account, or promotional account.

**Lytton Comment: If the Commission intends to maintain the current combination of Patron Deposit Accounts and Cashless Systems in the same section, a definition of cashless transaction is vital to ensuring that voucher do not inadvertently get included in the strict standards (such as PINs and identification requirements) associated with patron deposit accounts. Without this definition it is very difficult to determine the scope of a cashless system and impossible to apply the standards in 543.14.**

~~Chips. Cash substitutes, in various denominations, issued by a gaming operation.~~

**Lytton Comment: Consideration should be given to deleting this definition because it really is not needed and it is, in any event, an incorrect definition and does not provide any sort of clarity.**

Class II gaming. Class II gaming has the same meaning as defined in 25 U.S.C. § 2703(7)(A).

**Lytton: Consideration should be given to changing the term to Class II gaming since that is the term used in IGRA (and the Technical Standards).**

Class II gaming system. All components, whether or not technologic aids in electronic, computer, mechanical, or other technologic form, that function together to aid the play of one or more Class II games, including accounting functions mandated by these regulations or part 547 of this chapter.

Commission. The National Indian Gaming Commission, established by the Indian Gaming Regulatory Act, 25 U.S.C. § 2701 *et seq.*

Count. The act of counting and recording the drop and/or other funds. Also, the total funds counted for a particular game, player interface, shift, or other period.

Count room. A secured room or location where the count is performed in which the cash and cash equivalents are counted.

**Lytton Comment: We believe the intent is that a count room can either be a dedicated room OR secured location.**

Coupon. A financial instrument of fixed value that can only be used to acquire non-cashable credits through interaction with a voucher system. This does not include instruments such as printed advertising material that cannot be validated directly by a voucher system.

**Lytton Comment: Consideration should be given to inserting a definition of Coupon since the term is used often throughout the document and the distinction between coupons and vouchers needs to be made clear.**

Dedicated camera. A ~~video~~-camera that continuously records a specific activity.

**Lytton Comment: Consider deleting the word “video.” Technology is always evolving. Thus, a camera could be something other than a video camera.**

Drop proceeds. The total amount of financial instruments removed from drop boxes ~~and financial instrument storage components.~~

Drop box. A locked container in which cash or cash equivalents are placed at the time of a transaction.

Exception report. A listing of occurrences, transactions or items that fall outside a predetermined range of acceptability.

Financial instrument. Any tangible item of value tendered in Class II game play, including, but not limited to bills, coins, vouchers, and coupons.

Financial Instrument Storage Component. Any component that stores financial instruments, such as a drop box.

**Lytton Comment: This term is used throughout this document. As noted in our comments on the Technical Standards, we believe the term Drop Box is the more appropriate and generally accepted term. The use of two separate terms can create unnecessary confusion. Thus, we urge the Commission to reconsider its position on this term. However, should the Commission decide to retain the term Financial Instrument Storage Component, the definition should be reinstated.**

Gaming promotion. Any promotional activity or award that requires Class II game play as a condition of eligibility.

Generally Accepted Accounting Principles (GAAP). A widely accepted set of rules, conventions, standards, and procedures for reporting financial information, as established by the Financial Accounting Standards Board (FASB), including, but not limited to, the standards for casino accounting published by the American Institute of Certified Public Accountants (AICPA).

Generally Accepted Auditing Standards (GAAS). A widely accepted set of standards that provide a measure of audit quality and the objectives to be achieved in an audit, as established by the Auditing Standards Board of the American Institute of Certified Public Accountants (AICPA).

Governmental Accounting Standards Board (GASB). Generally accepted accounting principles used by state and local governments.

Independent. The separation of functions to ensure that the agent or process monitoring, reviewing, or authorizing the controlled activity, function, or transaction is separate from the agents or process performing the controlled activity, function, or transaction.

~~Kiosk. A device capable of accepting or generating wagering or cash-out tickets and/or wagering credits, and may be capable of initiating electronic transfers of money to or from a customer account. Kiosks may also be capable of redeeming and reconciling pull tabs. A device that enables a patron of a Class II gaming operation to interact with systems and/or process transactions without the assistance of a gaming operation agent.~~

**Lytton Comment: Consideration should be given to revising this definition. It appears this definition was taken from the 2010 MICS and was not updated to reflect the terminology used in these MICS. For instance terms are now “vouchers” not “tickets”; “patron deposit account” not “customer account.” We believe the suggested definition also provides the necessary flexibility to ensure that future technology is not limited.**

Lines of credit. The privilege granted by a gaming operation to a patron to (1) defer payment of debt or (2) to incur debt and defer its payment under specific terms and conditions.

~~Manual payout. Hand payment to a player. A payout made by an agent that requires additional recordkeeping, such as IRS forms.~~

**Lytton Comment: Consider revising this definition. This is not a very good definition and does not provide any clarity to the term.**

Marker. A document, signed by the patron, promising to repay credit issued by the gaming operation.

MICS. Minimum internal control standards in this part.

Network communication equipment. A device or collection of devices that controls data communication in a system including, but not limited to, cables, switches, hubs, routers, wireless access points, landline telephones and cellular telephones.

Patron. A person who is a customer or guest of the gaming operation and may interact with a Class II game. Also may be referred to as a “player.”

Patron deposit account. An account maintained on behalf of a patron, for the deposit and withdrawal of funds for the primary purpose of interacting with a gaming activity.

Player interface. Any component(s) of a Class II gaming system, including an electronic or technological aid (not limited to terminals, player stations, handhelds, fixed units, etc.), that directly enables player interaction in a Class II game.

Prize payout. Payment to a player associated with a winning or qualifying event.

Promotional progressive pots and/or pools. Funds contributed to a ~~game-prize~~ by and for the benefit of players that are distributed to players based on a predetermined event.

~~Server. A computer that controls one or more applications or environments within a Class II gaming system.~~

**Lytton Comment: Consideration should be given to adding a definition of server since that term is used throughout this document. The proposed definition is the definition used in the Technical Standards.**

Shift. A time period, unless otherwise approved by the ~~tribal gaming regulatory authority~~ TGRA, not to exceed 24 hours.

Shill. An agent financed by the gaming operation and acting as a player.

Smart card. A card with embedded integrated circuits that possesses the means to electronically store or retrieve account data.

~~Sufficient clarity. The capacity of a surveillance system to record images at a minimum of 20 frames per second and at a resolution sufficient to clearly identify the intended activity, person, object, or location.~~

**Lytton Comment: We are concerned with both this definition and the substantive “sufficient clarity” requirements in the body of the regulation**

(which are discussed in detail later in this document). With respect to the definition, the frames per second requirement does nothing to ensure sufficient clarity. Recording speed has nothing to do with clarity. Sufficient clarity involves various factors, such as light, camera distance, connections, camera recording capabilities, etc. Moreover, this sort of absolute requirement limits the use of technology. Thus, consideration should be given to deleting this definition.

Surveillance operation room(s). The secured area(s) where surveillance takes place and/or where active surveillance equipment is located.

~~Surveillance system. A system of video cameras, monitors, recorders, video printers, switches, selectors, and other ancillary equipment used for surveillance.~~

**Lytton Comment: Consideration should be given to deleting this definition. We are concerned that it could limit the technology and functionality of a surveillance system. As long as the functions that are required by the MICS are in place, it should not matter what type of system is used. Moreover, the word “video” should be deleted throughout the document as it may be misunderstood to limit technology.**

System of Internal Controls (SICS). An overall operational framework for a gaming operation that incorporates principles of independence and segregation of function, and is comprised of written policies, procedures, and standard practices based on overarching regulatory standards specifically designed to create a system of checks and balances to safeguard the integrity of a gaming operation and protect its assets.

Tier A. Gaming operations with annual gross gaming revenues of more than \$3 million but not more than \$8 million.

Tier B. Gaming operations with annual gross gaming revenues of more than \$8 million but not more than \$15 million.

Tier C. Gaming operations with annual gross gaming revenues of more than \$15 million.

TGRA. Tribal gaming regulatory authority which is the entity authorized by tribal law to regulate gaming conducted pursuant to the Indian Gaming Regulatory Act.

TICS. Tribal Internal Control Standards.

**Lytton: Consider deleting this definition since it is not really a definition. If the Commission believes a definition is necessary, an definition that provides appropriate clarity should be used.**

Vault. A secure area where cash and cash equivalents are stored.

Voucher. A financial instrument of fixed value that can only be used to acquire an equivalent value of cashable credits or cash through interaction with a voucher system.

Lytton Comment: Consideration should be given to inserting a definition of Voucher since the term is used throughout the document and the distinction between coupons and vouchers needs to be made clear.

### § 543.3 How do tribal governments comply with this part?

(a) Minimum standards. These are minimum standards and a TGRA may establish and implement additional controls that do not conflict with those set out in this part.

(b) TICS. TGRAs must ensure that TICS are established and implemented that provide a level of control that equals or exceeds the applicable standards set forth in this part.

(1) Evaluation of Existing TICS. Each TGRA must, in accordance with the tribal gaming ordinance, determine whether and to what extent their TICS require revision to ensure compliance with this part.

(2) Compliance Date. All changes necessary to TICS to ensure compliance with this part must be promulgated within twelve months of the effective date of this part and implemented at the commencement of the next fiscal year. At the discretion of the TGRA, gaming operations may have an additional six months to come into compliance with the TICS.

Lytton Comment: Consider revising this paragraph as this provision is somewhat confusing. We believe the intent is that any necessary changes to TICS must be promulgated within 12 months, but compliance with the new TICS/MICS do not have to be implemented until the fiscal year following the date any revised TICS were promulgated.

(c) SICS. Each gaming operation must develop and implement a SICS that, at a minimum, comply with the TICS.

(1) Existing gaming operations. All gaming operations that are operating on or before the effective date of this part, must comply with this part within the time requirements established in paragraph (b) of this section. In the interim, such operations must continue to comply with existing ~~T~~SICS.

Lytton Comment: This section is addressing SICS, not TICS.

(2) New gaming operations. All gaming operations that commence operations after the effective date of this part must comply with this part before commencement of operations.

(d) Variances. Where referenced throughout this part, the ~~TGRA-gaming operation~~ must set a reasonable threshold, as approved by the TGRA, for when a variance

must be reviewed to determine the cause, and the results of the review must be documented and maintained.

**Lytton Comment: The gaming operation (with approval from the TGRA), not the TGRA, establishes thresholds.**

(e) Computer applications. For any computer applications utilized, alternate documentation and/or procedures that provide at least the level of control established by the standards of this part, as approved in writing by the TGRA, will be acceptable.

(f) Determination of tier.(1) The determination of tier level will be made based upon the annual gross gaming revenues indicated within the gaming operation's audited financial statements.

(2) Gaming operations moving from one tier to another will have nine months from the date of the independent certified public accountant's audit report to achieve compliance with the requirements of the new tier. The TGRA may extend the deadline by an additional six months if written notice is provided to the Commission no later than two weeks before the expiration of the nine month period.

(g) Submission to Commission. Tribal regulations promulgated pursuant to this part are not required to be submitted to the Commission pursuant to § 522.3(b) of this chapter.

(h) Enforcement of Commission MICS. (1) Each TGRA is required to establish and implement TICS pursuant to paragraph (b) of this section. Each gaming operation is then required, pursuant to paragraph (c) of this section, to develop and implement a SICS that complies with the TICS. Failure to do so may subject the tribal operator of the gaming operation, or the management contractor, to penalties under 25 U.S.C. § 2713.

(2) Enforcement action by the Commission will not be initiated under this part without first informing the tribe and TGRA of deficiencies in the **STICS** of its gaming operation and allowing a reasonable period of time to address such deficiencies. Such prior notice and opportunity for corrective action are not required where the threat to the integrity of the gaming operation is immediate and severe.

**Lytton Comment: We believe the reference is intended to be to the TICS, not SICS. It is our understanding that the Commission enforces TICS to be sure that they are compliant with the MICS, but not SICS. Was it the Commission's intent to change the focus of their enforcement from TICS to SICS? What exactly will NIGC be auditing when evaluating compliance with these MICS? Note that SICS are often volumes of information.**

**§ 543.4 Does this part apply to small and charitable gaming operations?**

(a) Small gaming operations. This part does not apply to small gaming operations provided that:

- (1) The TGRA permits the operation to be exempt from this part;
- (2) The annual gross gaming revenue of the operation does not exceed \$3 million; and
- (3) The TGRA develops, and the operation complies with, alternate procedures that:
  - (i) Protect the integrity of games offered;
  - (ii) Safeguard the assets used in connection with the operation; and
  - (iii) Create, prepare and maintain records in accordance with GAAP. Generally Accepted Accounting Principles.

**Lytton Comment: Consideration should be given to using the defined term.**

(b) Charitable gaming operations. This part does not apply to charitable gaming operations provided that:

- (1) All proceeds are for the benefit of a charitable organization;
- (2) The TGRA permits the charitable organization to be exempt from this part;
- (3) The charitable gaming operation is operated wholly by the charitable organization's agents;
- (4) The annual gross gaming revenue of the charitable operation does not exceed \$3 million; and
- (5) The TGRA develops, and the charitable gaming operation complies with, alternate procedures that:
  - (i) Protect the integrity of the games offered;
  - (ii) Safeguard the assets used in connection with the gaming operation; and
  - (iii) Create, prepare and maintain records in accordance with GAAP.- Generally Accepted Accounting Principles.

(c) Independent operators. Nothing in this section exempts gaming operations conducted by independent operators for the benefit of a charitable organization.

**§ 543.5 How does a gaming operation apply to use an alternate minimum standard from those set forth in this part?**

(a) TGRA approval. (1) A TGRA may approve an alternate standard from those required by this part if it has determined that the alternate standard will achieve a level of security and integrity sufficient to accomplish the purpose of the standard it is to replace.

(2) For each enumerated standard for which the ~~tribal gaming regulatory authority~~ TGRA approves an alternate standard, it must submit to the Chair within 30 days a detailed report, which must include the following:

(i) An explanation of how the alternate standard achieves a level of security and integrity sufficient to accomplish the purpose of the standard it is to replace; and

(ii) The alternate standard as granted and the record on which it is based.

(3) In the event that the TGRA or the tribal government chooses to submit an alternate standard request directly to the Chair for joint government to government review, the TGRA or tribal government may do so without the approval requirement set forth in paragraph (a) (1) of this section.

(b) Chair review. (1) The Chair may approve or object to an alternate standard granted by a TGRA.

(2) Any objection by the Chair must be in writing and provide reasons that the alternate standard, as approved by the TGRA, does not provide a level of security or integrity sufficient to accomplish the purpose of the standard it is to replace.

(3) If the Chair fails to approve or object in writing within 60 days after the date of receipt of a complete submission, the alternate standard is considered approved by the Chair. The Chair may, upon notification to the TGRA, extend this deadline an additional 60 days.

(4) No alternate standard may be implemented until it has been approved by the TGRA pursuant to paragraph (a)(1) of this section or the Chair has approved it pursuant to paragraph (b)(1) of this section.

(c) Appeal of Chair decision. A Chair's decision may be appealed pursuant to 25 C.F.R. Subchapter H.

**§ 543.6 [RESERVED]**

**§ 543.7 [RESERVED]**

**§ 543.8 What are the minimum internal control standards for bingo?**

(a) Supervision. Supervision must be provided as needed for bingo operations by an agent(s) with authority equal to or greater than those being supervised.

(b) Bingo Cards. (1) Physical bingo card inventory controls must address the placement of orders, receipt, storage, issuance, removal, and cancellation of bingo card inventory to ensure that:

(i) The bingo card inventory can be accounted for at all times; and

(ii) Bingo cards have not been marked, altered, or otherwise manipulated.

(2) Receipt from supplier.(i) When bingo card inventory is initially received from the supplier, it must be inspected (without breaking the factory seals, if any), counted, inventoried, and secured by an authorized agent.

(ii) Bingo card inventory records must include the date received, quantities received, and the name of the individual conducting the inspection.

(3) Storage.(i) Bingo cards must be maintained in a secure location, accessible only to authorized agents, and with surveillance coverage adequate to identify persons accessing the storage area.<sup>5</sup>

(ii) For Tier A operations, bingo card inventory may be stored in a cabinet, closet, or other similar area; however, such area must be secured and separate from the working inventory.

(4) Issuance and Returns of Inventory.(i) ~~Controls must be established for the~~ issuance and return of bingo card inventory must be recorded and signed by the issuer and recipient for the following events. ~~Records signed by the issuer and recipient must be created under the following events:~~

**Lytton Comment: Consider revising the above. We believe the statement “controls must be established” is unnecessary and unhelpful.**

(A) Issuance of inventory from storage to a staging area;

(B) Issuance of inventory from a staging area to the cage or sellers;

(C) Return of inventory from a staging area to storage; and

(D) Return of inventory from cage or seller to staging area or storage.

(ii) [RESERVED]

(5) Cancellation and removal.(i) Bingo cards removed from inventory that are deemed out of sequence, flawed, or misprinted and not returned to the supplier must be cancelled to ensure that they are not utilized in the play of a bingo game. Bingo cards that are removed from inventory and returned to the supplier or cancelled must be logged as removed from inventory.

(ii) Bingo cards associated with an investigation must be retained intact outside of the established removal and cancellation policy.

(6) Logs.(i) The inventory of bingo cards must be tracked and logged from receipt until use or permanent removal from inventory.

(ii) The bingo card inventory ~~record~~log(s) must include sufficient information to track the movement of the bingo card inventory: For example:

- (A) Date;
- (B) Shift;
- (C) Time;
- (D) Location;
- (E) Inventory received, issued, removed, and returned;
- (F) Signature of agent performing transaction;
- (G) Signature of agent performing the reconciliation;
- (H) Any variance;
- (I) Beginning and ending inventory; and
- (J) Description of inventory transaction being performed.

**Lytton Comment: Consider revising to make this requirement less procedural and allow Tribes to develop a system that works best for their operation. We recognize that this provision was recommended in the TGWG's guidance, but such was meant only to be helpful, not mandatory.**

(c) Bingo card sales.(1) Agents who sell bingo cards must not be the sole verifier of bingo cards for prize payouts.

(2) Manual bingo card sales: Bingo card sales documentation must include sufficient information to ~~In order to adequately~~ record, track,

and reconcile sales of bingo cards. ~~For example, the following information must be documented:~~

- (i) Date;
- (ii) Shift or session;
- (iii) Number of bingo cards issued, sold, and returned;
- (iv) Dollar amount of bingo card sales;
- (v) Signature, initials, or identification number of the agent preparing the record;
- (vi) Signature, initials, or identification number of an independent agent who verified the bingo cards returned to inventory and dollar amount of bingo card sales.

**Lytton Comment: Again, these requirements are very procedural. Consider revising to allow gaming operations some flexibility in designing appropriate controls. We also believe that there is still too much distinction being made between “manual” and “electronic bingo.” What about systems that do not readily fit into one category or another? It would be more appropriate to develop a standard that would apply to all bingo card sales.**

(3) Bingo card sale voids must be processed in accordance with the rules of the game and established controls that must include the following:

- (i) Patron refunds;
- (ii) Adjustments to bingo card sales to reflect voids;
- (iii) Adjustment to bingo card inventory;
- (iv) Documentation of the reason for the void; and
- (v) Authorization for all voids.

(4) ~~Server Based Electronic b~~Bingo card sales. In order to ~~adequately~~ sufficiently record, track and reconcile sales of bingo cards, the following information must be documented ~~from the server~~:

**Lytton Comment: We have serious concerns regarding this entire paragraph (4). First, we do not know what the term “server based bingo” means. Second, this provision has procedures that are impossible to meet. Much of this information**

is not required by Part 547 and, therefore does not get generated or recorded. For example, Part 547 does not require Class II gaming systems to provide the number of bingo cards sold, rather the system provides amount in and amount out data for bingo card sales, nor does the server record shift or session. Also, requiring information to be documented from the server is problematic because, in most cases, servers are the property of the manufacturer and the operation does not have access to the server and gets the information from another source.

(i) Date;

~~(ii) Shift or session;~~

~~(iii) Number of bingo cards sold (this is not required if the system does not track cards sold, but system limitation must be noted);~~

~~(iiiv) Dollar amount in of bingo card sales; and~~

~~(iiiv) Dollar amount Amount in, amount out and other associated meter information;~~

**Lytton Comment: It is not clear what is meant by the phrase “other associated meter information.”**

~~(d) Draw.(1) Controls must be established and procedures implemented to ensure that all eligible objects used in the conduct of the bingo game are available to be drawn and have not been damaged or altered.~~

~~(i) Verification of physical objects used in the conduct of the bingo game must be performed by two agents before the start of the first bingo game/session to ensure that all eligible objects are available to be drawn and have not been damaged or altered. At least one of the verifying agents must be a supervisory agent or independent of the bingo games department.~~

**Lytton Comment: Consider revising the above paragraph as noted (or in some similar fashion). Again, it is understood that controls and procedures must be established. Thus, using this phrase in some places is both unnecessary and somewhat confusing (i.e., why do some sections simply jump directly to the requirements while others start with this introductory sentence?)**

~~(ii) Where the selection is made through an electronic aid, certification in accordance with 25 C.F.R. part 547 is acceptable for verifying the randomness of the draw.~~

**Lytton Comment: Consider deleting the above requirement. It is unclear as to what is required. If it is determined that some sort of requirement is needed, such requirement should be clarified and consideration should be**

**given to pinpointing an actual Section in 547 rather than just the entire regulation.**

~~(2) The identity of each object draw must be accurately recorded and transmitted to the participants. For games offering a prize payout of \$1,200 or more, the identity of the objects drawn must be maintained for a minimum of 24 hours. Controls must be established and procedures implemented to: (i) Verify the identity of the objects as they~~

~~are drawn;~~

~~(ii) Accurately record the drawn objects; and~~

~~(iii) Transmit the identity of the drawn objects to the participants.~~

**Lytton Comment: Consider moving the language currently used in (4)(i) below which as an identical requirement, but in written in a more concise manner.**

~~(3) Controls must be established and procedures implemented to provide a There must be a method of recalling of the draw, which includes the order and identity of the objects drawn, for dispute resolution purposes.~~

**Lytton Comment: Consider revising to remove the “controls must be established...” per our previous comments. Also, the phrase for “dispute resolution purposes” is unnecessary.**

~~(4) Verification and display of server based draw. Controls must be established and procedures implemented to ensure that:~~

**Lytton Comment: Consideration should be given to combining the requirements in this paragraph (d) and deleting duplicate standards. We believe it is both inappropriate and unnecessary to separate standards by “manual” and “server” based bingo. As we have noted, there is a way to write standards that apply equally to all bingo games.**

~~(i) The identity of each object drawn is accurately recorded and transmitted to the participants. The procedures must identify the method used to ensure the identity of each object drawn.~~

**Lytton Comment: As noted above, consider moving (i) to paragraph (2) above.**

~~(ii) For all games offering a prize payout of \$1,200 or more, as the objects are drawn, the identity of the objects are immediately recorded and maintained for a minimum of 24 hours.~~

**Lytton Comment: We suggest moving this requirement up to (2) above, with some revision. Again, this requirement applies equally to all bingo games. In**

addition, we suggest deleting the phrase “immediately recorded” as we believe that the identity of objects must be recorded immediately regardless of the amount of a prize payout.

~~(iii) Certification in accordance with 25 C.F.R. part 547 is acceptable for verifying the randomness of the draw.~~

(e) Prize payout.(1)~~Authorization or signatures.~~

Lytton Comment: Consideration should also be given to changing or deleting the phrase “Authorization and signatures.” We do not see what paragraph (1) has to do with authorizations or signatures. Moreover, paragraph (e)(5) below is also titled “authorization and signatures.” Also, we urge the Commission to conduct a thorough review to make sure “payouts” are properly referred to as “prize payouts.”

~~(i) Controls must be established and procedures implemented to prevent unauthorized access or misappropriation of cash or cash equivalents by identifying t~~The agent authorized (by position) to make a prize payout and at the predetermined payouts levels for that position must be identified; and

Lytton Comment: Again, we think “controls must be established...” is cumbersome and unnecessary. Also, the word “prize” should be inserted before “payout.”

~~(ii) Payout controls must ensure separate e~~Control of the cash accountability functions must be separated;

~~(2) Verification and Validation of validity. Controls must be established and procedures implemented to verify that the following is valid-(i) The validity of the following must be verified, by at least two agents (where an automated verification method is available, verification by such method is acceptable), for the game in play prior to making a prize payout:payment of a winning prize:~~

~~(iA) Winning card(s);~~

~~(iiB) Objects drawn; and~~

~~(iii) The previously designated arrangement of numbers or designations on such cards, as described in 25 U.S.C. § 2703(7)(A).~~

Lytton Comment: Consideration should be given to deleting or at least revising this requirement. As noted above, the intent of this requirement is unclear. We believe the intent is to verify that all of the necessary prerequisites to accomplish a winning

pattern are present (i.e., a “cover-all” was completed in 40 draws); however, given the vagueness of this requirement, we cannot be sure.

~~(iv) At least two agents must verify that the card, objects drawn, and previously designated arrangement were valid for the game in play.~~

~~(v) Where an automated verification method is available, verification by such method is acceptable.~~

**Lytton Comment: Considered moving paragraphs (iv) and (v) to the first paragraph of this section (2) to simplify this standard.**

~~(3) Validation. (A) For manual payouts, at least two agents must determine the validity of the claim prior to the payment of a prize. The system may serve as one of the validators.~~

**Lytton Comment: Consider deleting this paragraph (3). The validation required here is the same as that required in paragraph (2) above. The use of different paragraphs with similar headings, but different requirements is confusing. Thus, consideration should be given to combining all “validation” requirements into one area.**

~~(B) ( ) For automatic system prize payouts, the Class II gaming system may serve as the sole validator of the claim.~~

~~(4) Verification. (A) ( ) For manual prize payouts, at least two agents must verify that the winning pattern has been achieved on the winning card prior to a prize payout the payment of a prize. The Class II gaming system may serve as one of the verifiers.~~

**Lytton Comment: Consideration should be given to deleting the above two paragraph as they are covered in paragraph (2) above. If these paragraph are retained for some reason, consider making the noted revisions.**

~~( ) (B) For automatic system prize payouts, the Class II gaming system may serve as the sole verifier that the pattern has been achieved on the winning card.~~

**Lytton Comment: Same comment as above.**

(5) Authorizations and signatures. (i) At least two agents must authorize, sign, ~~and witness~~ all manual prize payouts.

**Lytton Comment: Consider deleting the witness requirement from this paragraph. First, requiring two witnesses for every manual prize payout is overly burdensome. Second, the witness requirement is covered in paragraph (7) below.**

(ii) Manual prize payouts over a predetermined amount (not to exceed \$5,000 for a Tier A facility, \$10,000 at a Tier B facility and \$20,000 for

a Tier C facility, except for \$50,000 for a Tier C facility with over \$100,000,000 in gross gaming revenues) must require one of the two signatures and verifications to be an ~~an supervisory or management employee agent~~ independent of the ~~bingo department operation of Class II Gaming System Bingo~~.

**Lytton Comment: Consider removing the “supervisory or management agent” approval. Requiring a supervisory or management agent’s approval is too restrictive and does not necessarily provide any greater control. Independence is the most appropriate and effective control.**

(iii) This predetermined amount must be authorized by management, approved by the ~~tribal gaming regulatory authority~~ TGRA, documented, and maintained.

(iv) A Class II gaming system may substitute for one authorization/signature verifying, validating or authorizing a prize payout winning card, ~~but may not substitute for a supervisory or management employee signature.~~

**Lytton Comment: We believe the intended requirement here is the authorization of a prize payout, not validation of the winning card (which is already addressed above). In addition, we believe the limitation relating to supervisory/ management agents is overly burdensome and unnecessary.**

(6) ~~Prize pPayout records, including manual payout records, must~~ records must be controlled to prevent unauthorized access, misappropriation, fraud or forgery. Prize pPayout records must include the following information:

**Lytton Comment: Consider deleting the reference to manual payout records as there is no reason to specifically list them since they are just one form of a payout.**

(i) Date and time;

(ii) Amount of the payout (alpha & numeric for player interface payouts); and

(iii) Bingo card identifier or player interface identifier

(iv) Manual payouts records must also include the following:

(A) Game name or number;

(B) Description of pattern covered, such as cover-all or four corners;

(C) Signature of ~~all, but not less than two, agents~~ all agents involved in the transaction;

**Lytton Comment: How can you require the signature of ALL agents, and then say no less than two?**

~~(D)(1)~~ Overrides;(1) An authorized agent must compare the amount of the prize at the player interface to the accounting system amount. If the player interface amount is different than the accounting system amount, any necessary override an override may be necessary and, if so, must be properly documented.

**Lytton Comment: Consider moving overrides out of this section since this has nothing to do with payout records. Surely the Commission does not intend to require that comparison against an accounting system must be accomplished before a payment is made as the means to do so may not be readily available to the agents making the manual payout. It may also diminish service levels by delaying payment to patrons for investigative work that may be unnecessary or overly burdensome.**

(2) Override transactions must be verified by a supervisory or management agent independent of the transaction.

**Lytton Comment: We think the above requirement is unnecessarily restrictive.**

~~(E)~~ Any other information necessary to substantiate the prize payout.

(7) Prize pPayouts over a predetermined threshold established by the gaming operation, as approved by the TGRA, must be witnessed and verified against the prize payout record by an agent other than the agent issuing the payout.

**Lytton Comment: This paragraph should be revised. As noted above, requiring every prize payout be witnessed by a second agent is overly burdensome. Thus, any standard in this regard should only be for prize payouts exceeding a predetermined threshold established by the operation and approved by the TGRA.**

~~(f) Cash and cash equivalents controls.~~(1) Cash and cash equivalents must be controlled in accordance with cash and cash equivalent controls established in subpart 543.18.

~~Procedures must be implemented to prevent unauthorized access to, or fraudulent transactions involving, cash or cash equivalents.~~

~~(2) Cash or cash equivalents exchanged between two persons must be counted independently by at least two agents and reconciled to the recorded amounts at the end of each shift or session. Unexplained variances must be documented and maintained. Unverified transfers of cash or cash equivalents are prohibited.~~

~~(3) Procedures must be implemented to control cash or cash equivalents based on the amount of the transaction. These procedures must include documentation by shift, session, or other relevant time period of the following:~~

~~(i) Inventory, including any increases or decreases;~~

~~(ii) Transfers;~~

~~(iii) Exchanges, including acknowledging signatures or initials; and~~

~~(iv) Resulting variances.~~

~~(4) Any change to control of accountability, exchange, or transfer must require that the cash or cash equivalents be counted and recorded independently by at least two agents and reconciled to the recorded amount.~~

**Lytton Comment: Consideration should be given to moving cash and cash equivalents requirements to 543.18 (and just providing a cross-reference) so that all cash and/or cash equivalent controls are in a single section to reduce confusion and the potential of conflicting requirements.**

(g) Technologic aids to the play of bingo. Controls must be established and procedures implemented to safeguard the integrity of technologic aids to the play of bingo during installations, operations, modifications, removal and retirements. ~~Such procedures must include the following:~~

~~(1) Shipping and receiving. (i) A communication procedure must be established between the supplier, the gaming operation, and the TGRA to properly control the shipping and receiving of all software and hardware components. Such procedures must include:~~

~~(A) Notification of pending shipments must be provided to the TGRA by the gaming operation;~~

~~(B) Certification in accordance with 25 C.F.R. part 547 and approval by TGRA prior to shipment;~~

~~(C) Notification from the supplier to the TGRA, or the gaming operation as approved by the TGRA, of the shipping date and expected date of delivery. The shipping notification must include:~~

~~(1) Name and address of the supplier; (2) Description of shipment;~~

~~(3) For player interfaces: a serial number;~~

~~(4) For software: software version and description of software; (5) Method of shipment; and~~

~~(6) Expected date of delivery.~~

~~(ii) Procedures must be implemented for the exchange of Class II gaming system components for maintenance and replacement.~~

~~(iii) Class II gaming system components must be shipped in a secure manner to deter unauthorized access.~~

~~(iv) The TGRA, or its designee, must receive all Class II gaming system components and game play software packages, and verify the contents against the shipping notification.~~

~~(2) Access credential control methods. (i) Controls must be established to restrict access to the Class II gaming system components, as set forth in § 543.20, Information and Technology.~~

**Lytton Comment: Consideration should be given to deleting these very specific procedures. The Tribe is very concerned with the Commission's addition of such detailed procedures as doing so can result in conflict with requirements of other jurisdictions. For example, many tribal-state gaming compacts have very specific procedures related to shipping, which vary from state-to-state. Thus, such detailed procedures in a federal regulation could require "mixed" facilities to use different procedures for Class II and III games. Should the Commission decide to retain any shipping/receiving requirements, such requirements should be far less procedural.**

(ii) [RESERVED]

~~(3) Recordkeeping and audit processes (i) The gaming operation must maintain the following records, as applicable, related to installed game servers and player interfaces:~~

~~(A) Date placed into service;~~

~~(B) Date made available for play;~~

~~(C) Supplier;~~

~~(D) Software version;~~

~~(E) Serial number;~~

~~(F) Game title;~~

~~(G) Asset and/or location number; (H) Seal number; and~~

**Lytton Comment: Same comment as above. In addition, if any of this paragraph (3) is retained, it should be noted that there is no requirement that devices be sealed. Thus, it is entirely inappropriate to require the recording of a seal number.**

(I) Initial meter reading.

(ii) Procedures must be implemented for auditing such records in accordance with § 543.23, Audit and Accounting.

~~(4) System software signature verification. (i) Procedures must be implemented for system software verifications. These procedures must include comparing signatures generated by the verification programs required by 25 C.F.R. §547.8, to the signatures provided in the independent test laboratory letter for that software version.~~

~~(ii) An agent independent of the bingo operation must perform system software signature verification(s) to verify that only approved software is installed.~~

~~(iii) Procedures must be implemented for investigating and resolving any software verification variances.~~

~~(iv) Internal audits must be conducted as set forth in § 543.23, Audit and Accounting. Such audits must be documented.~~

**Lytton Comment: Consideration should be given to deleting this entire paragraph (4). Software signature verification is the responsibility of the TGRA (see 547.8 and 547.12).**

~~(5) Testing. (i) Testing must be completed during the installation process to verify that the player interface has been properly installed. This must include testing of the following, as applicable:~~

~~(A) Communication with the Class II gaming system; (B) Communication with the accounting system;~~

~~(C) Communication with the player tracking system; (D) Currency and vouchers to bill acceptor;~~

~~(E) Voucher printing;~~

~~(F) Meter incrementation;~~

~~(G) Pay table, for verification;~~

~~(H) Player interface denomination, for verification;~~

~~(I) All buttons, to ensure that all are operational and programmed appropriately;~~

~~(J) System components, to ensure that they are safely installed at location;~~  
and

~~(K) Locks, to ensure that they are secure and functioning.~~

**Lytton Comment: Consideration should be given to deleting the above testing requirements. The Tribe is very concerned that this procedure is being mandated by federal regulation. The product being installed has already been tested, certified, and approved by an independent test laboratory and the TGRA. This testing control is new and unwarranted; it does not exist in Part 542 or 543 currently. No other major jurisdiction requires such procedures.**

~~(6) Display of Rules and Necessary Disclaimers. The TGRA or the operation must verify that all game rules and disclaimers are displayed at all times or made readily available to the player upon request, as required by 25 C.F.R. part 547.~~

**Lytton Comment: Consider deleting this paragraph. Paragraph (7) below, which requires compliance with all technical standards covers this requirement.**

(7) All Class II gaming equipment must comply with 25 C.F.R. part 547, Minimum Technical Standards for Gaming Equipment Used With the Play of Class II Games.

~~(8) Dispute resolution~~

**Lytton Comment: Dispute resolution is an operational matter that should be left to Tribes and their gaming operations.**

~~(h) Operations.~~

**Lytton Comment: Consideration should be given to deleting this heading. First, it does not provide any clarity nor do we see how any of the subparagraphs under this heading are any more related to “operations” than anything else in this regulations.**

~~(\_\_\_) Malfunctions. Procedures must be implemented to Malfunction must be investigated, documented and resolved malfunctions. Such procedures must address the following:~~

~~(i) Determination of the event causing the malfunction;~~

~~(ii) Review of relevant records, game recall, reports, logs, surveillance records;~~

~~(iii) Repair or replacement of the Class II gaming component;~~

~~(iv) Verification of the integrity of the Class II gaming component before restoring it to operation; and~~

**Lytton Comment: Specifying the procedure for investigation and options for resolution of malfunction could become quite limiting as many other methods**

and options could be required or available depending on the particular situation. This is a perfect example of where defining exact steps or options could create overly burdensome procedures or procedures that do not properly address the particular situation.

~~(2) Removal, Retirement and/or Destruction. Procedures must be implemented to retire or remove any or all associated components of a Class II gaming system from operation. Procedures must include the following:~~

~~(i) For player interfaces and components that accept cash or cash equivalents:~~

~~(A) Coordinate with the drop team to perform a final drop;~~

~~(B) Collect final accounting information such as meter readings, drop, payouts, etc.;~~

~~(C) Remove and/or secure any or all associated equipment such as locks, card reader, or ticket printer from the retired or removed component; and~~

~~(D) Document removal, retirement, and/or destruction.~~

~~(ii) For removal of software components:~~

~~(A) Purge and/or return the software to the license holder; and~~

~~(B) Document the removal.~~

~~(iii) For other related equipment such as blowers, cards, interface cards:~~

~~(A) Remove and/or secure equipment; and~~

~~(B) Document the removal or securing of equipment.~~

~~(iv) For all components: (A) Verify that unique identifiers, and descriptions of removed/retired components are recorded as part of the retirement documentation; and~~

~~(B) Coordinate with the accounting department to properly retire the component in the system records.~~

~~(v) Where the TGRA authorizes destruction of any Class II gaming system components, procedures must be developed to destroy such components. Such procedures must include the following:~~

~~(A) Methods of destruction~~

~~(B) Witness or surveillance of destruction~~

~~(C) Documentation of all components destroyed; and~~

~~(D) Signatures of agent(s) destroying components attesting to destruction.~~

**Lytton Comment: Consideration should be given to deleting all of the above requirements of paragraph (2). These are entirely new requirements that could potentially conflict with contractual obligations between gaming operations and game manufacturers/vendors.**

~~(i) Vouchers. (1) Controls must be established and procedures implemented to:-~~

**Lytton Comment Consideration should be given to deleting this entire paragraph (i). Vouchers are a cash equivalent and should be controlled in the same manner as any cash or cash equivalent.**

~~(i) Verify the authenticity of each voucher or coupon redeemed.~~

~~(ii) If the voucher is valid, verify that the patron is paid the appropriate amount.~~

~~(iii) Document the payment of a claim on a voucher that is not physically available or a voucher that cannot be validated such as a mutilated, expired, lost, or stolen voucher.~~

~~(iv) Retain payment documentation for reconciliation purposes.~~

~~(v) For manual payment of a voucher of \$500 or more, require a supervisory employee to verify the validity of the voucher prior to payment.~~

**Lytton Comment: The Tribe is deeply concerned about the above requirement in paragraph (v) as such would cripple its operation. If, for some reason, the Commission decides to treat vouchers differently from other cash and cash equivalents and retain this paragraph (i), the Tribe urges the Commission to at least delete this potentially devastating requirement.**

~~(2) Vouchers paid during a period while the voucher system is temporarily out of operation must be marked "paid" by the cashier.~~

~~(3) Vouchers redeemed while the voucher system was temporarily out of operation must be validated as expeditiously as possible upon restored operation of the voucher system.~~

~~(4) Paid vouchers must be maintained in the cashier's accountability for reconciliation purposes.~~

**Lytton Comment: If this requirement is retained, it should be noted that the use of the word accountability does not comport with proposed definition of term “accountability.”**

~~(5) Unredeemed vouchers can only be voided in the voucher system by supervisory employees. The accounting department will maintain the voided voucher, if available.~~

**Lytton Comment: If this paragraph is retained, consideration should be given to removing the requirement that unredeemed vouchers be voided by supervisory agents as such is unreasonable and overly burdensome. Such duties are often performed by accounting clerks or other employees.**

(j) All relevant controls from § 543.20, Information and Technology will apply.

(k) Revenue Audit. Standards for revenue audit of bingo are contained in § 543.24, Revenue Audit.

**Lytton Comment: Why is a cross reference to Revenue Audit provided in only some sections? Consideration should be given to either (i) removing this cross-reference or (ii) ensuring that this reference is in all sections of this document to which it is applicable.**

(l) Variance. The gaming operation, with the approval of the TGRA, must establish the threshold level at which a variance, including deviations from the mathematical expectations required by 25 C.F.R. §547.4, will be reviewed to determine the cause. Any such review must be documented.

#### **§ 543.9 What are the minimum internal control standards for pull tabs?**

(a) Supervision. Supervision must be provided as needed for pull tab operations and over pull tab storage areas by an agent(s) with authority equal to or greater than those being supervised.

(b) Pull tab inventory. ~~Controls must be established and procedures implemented to prevent unauthorized access, misappropriation, forgery, theft, or fraud to pull tab inventory. Such controls must provide that:~~

(1) Access to pull tabs is restricted to authorized agents;

(2) The pull tab inventory ~~is~~must be controlled by agents independent of pull tab sales;

(3) Pull tabs exchanged between agents must be ~~are~~ secured and independently controlled;

(4) Increases or decreases to pull tab inventory ~~are~~must be recorded, tracked, and reconciled; and

(5) Pull tabs must be maintained in a secure location, accessible only to authorized agents, and with surveillance coverage adequate to identify persons accessing the area.

(c) Pull tab sales.(1) ~~Controls must be established and procedures implemented to record, track, and reconcile all pull tab sales and voids.~~

~~(2)~~ When pull tab sales are recorded manually, total sales must be verified by an agent independent of the pull tab sales being verified.

~~(3)~~ No person may have unrestricted access to pull tab sales records.

(d) Winning pull tabs.(1) ~~Controls must be established and procedures implemented to record, track, and reconcile a~~All rRedeemed pull tabs and pull tab payouts must be recorded, tracked, and reconciled.

(2) The redeemed pull tabs must be defaced so that they cannot be redeemed for payment again.

(3) Pull tabs that are uniquely identifiable with a machine readable code (including, but not limited to a barcode) may be redeemed, reconciled, and stored by kiosks without the need for defacing, so long as the redeemed pull tabs are secured and destroyed after removal from the kiosk in accordance with the procedures approved by the TGRA.

(4) Winning pull tabs must be verified and paid as follows:

(i) Prize payouts of \$600 or more, or a lesser amount established by the gaming operation, must be documented and verified by at least two agents. If an automated method of verification is available, it is acceptable for the automated method to serve as one of the verifiers.

**Lytton Comment: Consideration should be given to removing the \$600 limitation as it is very \$600 limiting. If the intent of the \$600 limitation is to meet IRS taxable or withholding requirements, then it should say as much. First, so that these requirements do not have to be revised every time the IRS regulations are revised. Second, because simply documenting the payout does not ensure that the payout was processed in a manner that covers all other applicable regulations. Third, the current IRS requirement for Miscellaneous 1099 reporting includes the aggregate of multiple win not just upon a single \$600 win.**

(ii) Prize payouts over a predetermined amount, authorized by management, as approved by the TGRA, require the signature and verification of two agents, one of whom must be a member of supervisory or management agent staff independent of the pull tab

department. ~~This predetermined amount must be authorized by management,~~ documented, and maintained.

**Lytton Comment: We believe the intent is that the prize payout itself, not the predetermined amount, be documented and maintained**

(5) Total payout must be calculated and recorded by shift.

(e) Pull tab operating funds.

(1) All funds used to operate the pull tab game must be accounted for and recorded and all transfers of cash and/or cash equivalents must be verified.

(2) All funds used to operate the pull tab game must be independently counted and verified by at least two agents and reconciled to the recorded amounts at the end of each shift or session.

(f) Statistical records. (1) Statistical records must be maintained, including (for games sold in their entirety) a win-to-write hold percentage as compared to the expected hold percentage derived from the flare. Records must also include win and write (sales) for each deal or type of game, for:

**Lytton Comment: Consider deleting the entire paragraph (f). Statistical records do not add any value. Unless every single pull tab is sold, comparing expected hold derived from the flare is not helpful as they would not be valid statistics.**

(i) Each shift;

(ii) Each day;

(iii) Month-to-date; and

(iv) Year-to-date or fiscal year-to-date as applicable.

(2) A manager independent of the pull tab operations must review statistical information at least on a monthly basis and must investigate any unusual statistical fluctuations. These investigations must be documented, maintained for inspection, and provided to the TGRA upon request.

**Lytton Comment: What is a manager? Is that different than a supervisory or management agent? This is a good example of why using specific job titles is not a good idea.**

(g) Revenue audit. Standards for revenue audit of pull tabs are contained in § 543.24, Revenue Audit.

(h) Variances. The ~~TGRA-gaming operation~~ must establish, ~~with the approval of the TGRA,~~ the threshold level at which a variance must be reviewed to determine the cause. Any such review must be documented.

**§ 543.10 What are the minimum internal control standards for card games?**

(a) Supervision. Supervision must be provided as needed during the card room operations by an agent(s) with authority equal to or greater than those being supervised.

(1) A supervisor may function as a dealer without any other supervision if disputes are resolved by a supervisory ~~agent personnel independent~~ independent of the transaction or independent of the card games department;  
or

(2) A dealer may function as a supervisor if not dealing the game.

(b) Exchanges or transfers. (1) ~~Exchanges between table banks and the main card room bank (or cage, if a main card room bank is not used) must be authorized by a supervisor. All exchanges must be evidenced by the use of a lammer unless the exchange of chips, tokens, and/or cash takes place at the table. If table banks are maintained at an imprest level and runners are used for the exchanges at the table, no supervisory authorization is required.~~

**Lytton Comment: Consideration should be given to deleting the first and last sentences of (b)(1). The Commission's proposed standard, requiring a supervisor to authorize every exchange, is unheard of anywhere else in the gaming industry. Even money exchanges do not need to be authorized by a supervisor. An exchange must be something that two (2) agents can transact without supervisory intervention.**

(2) Exchanges from the main card room bank (or cage, if a main card room bank is not used) to the table banks must be verified by the two agents making the exchange. ~~card room dealer and the runner.~~

**Lytton Comment: Having standards that dictate specific job titles or require specific job positions to complete a task is unnecessary and inappropriate.**

(3) Transfers between the main card room bank and the cage must be properly authorized and documented. Documentation must be retained for at least 24 hours.

(c) Playing cards. (1) New and used playing cards must be maintained in a secure location, with appropriate surveillance coverage, and accessible only to authorized agents.

(2) Used playing cards that are not to be re-used must be properly cancelled and removed from service to prevent re-use. ~~The removal and cancellation procedure requires TGRA review and approval.~~

**Lytton Comment: Consider deleting the last sentence. All procedures relating to regulatory requirements require TGRA approval so it is unclear as**

**to why the Commission determined it necessary to restate this in only this one area.**

(3) Playing cards associated with an investigation must be retained intact and outside of the established removal and cancellation procedure.

(d) Skill funds. (1) Issuance of skill funds must be recorded and have the written approval of a supervisory agent ~~the supervisor~~.

**Lytton Comment: As noted previously, the regulations should not dictate specific job titles.**

(2) Returned skill funds must be recorded and verified by a supervisory agent.

**Lytton Comment: Consider deleting the requirement that returned funds be verified by a supervisory agent. Skill funds would be returned and verified as any other cash and/or cash equivalents and may not require supervisory approval.**

~~(3) The replenishment of skill funds must be documented.~~

**Lytton Comment: Consider deleting paragraph (3) as replenishment of funds is simply an issuance. All issuances should be treated the same and thus replenishment of funds is covered by (1).**

(e) Standards for reconciliation of card room bank. Two agents —~~one of whom must be a supervisory agent~~— must independently count the table inventory at the opening and closing of the table and record the following information:

- (1) Date;
- (2) Shift;
- (3) Table number;
- (4) Amount by denomination;
- (5) Amount in total; and
- (6) Signatures of both agents.

**Lytton Comment: Again, the requirement that on agent be a supervisory agent is overly burdensome and unnecessary.**

(f) Posted rules. The rules must be displayed or available for patron review at the gaming operation, including rules governing contests, prize payouts, fees, the rake collected, and the placing of antes.

(g) Promotional Progressive Pots and/or Pools.(1) All funds contributed by players into the pools must be returned when won in accordance with the posted rules with no commission or administrative fee withheld.

**Lytton Comment: Consideration should be given to substantially revising this section as it is quite confusing. The section header suggests that only promotional progressive pots and/or pools are covered in this section yet some of the language used inappropriately includes other types of activity, such as contests, tournaments, drawings, and other types of giveaways. These controls are not appropriate for those other types of activities. In addition, the section header should match the defined term.**

(i) The payout may be in the form of personal property, such as a car.

(ii) A combination of a promotion and progressive pool may be offered.

(2) The conditions for participating in current card game promotional progressive pots, ~~and~~ pools, ~~and any related promotions, including drawings and giveaway programs~~, must be ~~prominently~~ displayed or available for ~~patron customer~~ review at the gaming operation.

**Lytton Comment: Consideration should be given to moving paragraph (2) to paragraph (5) below as this is a rules posting requirement. In addition, the phrase “including drawings and giveaway programs” should be deleted -- there is a significant difference promotional progressive pots and/or pools, which are player funded, and other promotions, drawings and giveaway programs, which are traditionally funded by the gaming operation. Finally, if the Commission decides to retain this paragraph, the language relating to the requirement to display or make such information available to patrons should be revised to that it conforms to the language in paragraph (f) above.**

(3) Individual ~~prize~~ payouts for card game promotional progressive pots ~~and~~ pools ~~and any other promotion, including related drawings and giveaway programs, that are \$600 or more~~ must be documented, in accordance with applicable IRS requirements, at the time of the ~~prize~~ payout to include the following:

**Lytton Comment: Consideration should be given to removing the \$600 limitation as it is very \$600 limiting. If the intent of the \$600 limitation is to meet IRS taxable or withholding requirements, then it should say as much. If the intent is indeed to address IRS withholding requirements, it should be noted that the current IRS requirement for Miscellaneous 1099 reporting includes the aggregate of multiple win not just upon a single \$600 win.**

- (i) ~~Customer's~~ Player's name;
- (ii) Date of payout;
- (iii) Dollar amount of ~~entry~~ payout and/or nature and dollar value of any non-cash payout;

**Lytton Comment: Consideration should be give to deleting, revising, or at least clarifying what is meant by the term "entry payout."**

- (iv) The signature of the agent completing the transaction attesting to the disbursement of the payout; and
- (v) Name of the promotional progressive pot and/or pool ~~contest/tournament~~.

~~(4) If the cash (or cash equivalent) payout for the card game promotional progressive pot, pool, or related promotion, including a payout resulting from a drawing or giveaway program, is less than \$600, documentation must be created to support accountability of the bank from which the payout was made.~~

**Lytton Comment: Consideration should be given to deleting paragraph (4). Paragraph (3) covers all payouts of promotional progressive pots and/or pools and is appropriate given that all payouts of player contributed funds must be documented and in the case of IRS reporting requirements aggregates must be identifiable by patron name and upon achieving the reporting threshold. If the Commission decides to retain this paragraph, the \$600 requirement should be replaced with "amounts less than a predetermined threshold established by the gaming operation, as approved by the, TGRA..." and the use of the word accountability should be reviewed to ensure it conforms with the definition in 543.2**

(5) Rules governing current promotional progressive pots and/or pools must be ~~conspicuously posted~~ displayed in the card room and/or available ~~in writing for customer-patron review~~ at the gaming operation. The rules must designate:

**Lytton Comment: This paragraph should be revised so that it is the same as the language in paragraphs (f) and (g)(2) above to avoid confusion.**

- (i) The conditions for participating in the pot or pool;
- (ii) The amount of funds to be contributed from each pot to each promotional progressive pot and/or pool;

(iii) ~~What type of Qualifying hand it takes~~ to win the

promotional progressive pot and/or pool;

(iv) ~~Method and procedure or payout of the promotional progressive pot and/or pool funds; How the promotional funds will be paid out;~~

**Lytton Comment: Consideration should be given to revising the above language. It is unclear what the Commission means by “How the promotional funds will be paid out.” We assume the suggested language captures the intent.**

(iv) How/when the contributed funds are added to ~~the promotional progressive pots and/or~~ pools; and

(v) Amount/percentage of funds allocated to primary and secondary promotional progressive pots or pools, if applicable.

(6)(i) Promotional progressive pots and/or pools contributions can be commingled with other funds as long as they can be distinguished and accounted for from other funds.

(ii) Promotional progressive pot and/or pool contributions that cannot be distinguished from any other funds used in the play of the card game must not be placed in or near the rake circle, in the drop box, or commingled with gaming revenue from card games or any other gambling game.

**Lytton Comment: Consideration should be given to deleting the restriction in paragraph (6) against commingling. Such a restriction is far too limiting in today’s technology. There are a multitude of other ways to accomplish the intent, which is to distinguish these funds from revenue.**

(7) The amount of ~~the promotional progressive pots and~~ pools must displayed or made available to patrons at the gaming operation ~~be conspicuously displayed in the card room.~~

**Lytton Comment: Consider revising. The language in paragraph (7) should conform with the language used in (f), (g)(2), etc.**

(8) At least once each day that the game is offered, the posted promotional progressive pot and/or pool amounts must be updated to reflect the current ~~pool~~ amount.

(9) At least once each day that the game is offered, agents independent of the card room must reconcile the increases to the posted promotional progressive pot and/or pool amounts to the cash previously counted or received by the cage.

(10) All decreases to the promotional progressive pot and/~~pool~~ or pool must be properly documented, including a reason for the decrease.

~~(11) Promotional funds removed from the card game must be placed in a locked container.~~

~~(i) Agents authorized to transport the locked container are precluded from having access to the contents keys.~~

~~(ii) The contents key must be maintained by a department independent of the card room.~~

~~(iii) At least once a day, the locked container must be removed by two agents, one of whom is independent of the card games department, and transported directly to the cage or other secure room to be counted, recorded, and verified, prior to accepting the funds into cage accountability.~~

**Lytton Comment: Consideration should be given to deleting the entire paragraph (11) as these are drop procedures, which are covered in Section 543.17, Drop and Count. Duplicating drop procedures is confusing and creates a potential for conflicting standards. In addition, it begs the question why other applicable standards set out in other sections are not included (i.e., surveillance, count). We have noticed similar issues in other sections. Although we have tried to point each of these out, the Commission should consider a thorough review to make sure it is not placing separate (and potentially different) procedures in multiple sections.**

(h) Variances. The ~~TGRA gaming operation~~, must establish, with the approval of the TGRA, the threshold level at which a variance must be reviewed to determine the cause. Any such review must be documented.

#### § 543.11 [RESERVED]

#### § 543.12 What are the minimum internal control standards for gaming promotions and player tracking systems?

(a) Supervision. Supervision must be provided as needed for gaming promotions and player tracking by an agent(s) with authority equal to or greater than those being supervised.

(b) Gaming promotions. The rules of the gaming promotion must be displayed or made ~~readily~~ available to patrons at the gaming operation~~participants upon request~~. Gaming promotions rules require TGRA approval and must include the following:

**Lytton Comment: Again, this should conform with the language relating to the posting of rules used in other sections.**

(1) The rules of play;

(2) The nature and value of the associated prize(s) or cash award(s);

- (3) Any restrictions or limitations on participant eligibility;
- (4) The date(s), time(s), and location(s) for the associated promotional activity or activities;
- (5) Any other restrictions or limitations, including any related to the claim of prizes or cash awards;
- (6) The announcement date(s), time(s), and location(s) for the winning entry or entries; and
- (7) Rules governing promotions offered across multiple gaming operations, third party sponsored promotions, and joint promotions involving third parties.

**Lytton Comment: Consideration should be given to mandating such specific procedures. We believe the above is far too procedural. In addition, the Commission should consider whether the requirements in this section conflict with requirements of other sections (such as the promotional progressive pots and/or pools in Section 543.10)**

(c) Player tracking systems.(1) Changes to the player tracking ~~systems, promotional accounts, promotion and external bonusing system parameters which control features such as the awarding of bonuses, the issuance of cashable credits, non-cashable credits, coupons and vouchers, must~~ systems must be performed under the authority of supervisory ~~employee agents~~, independent of the department initiating the change. Alternatively, the changes may be performed by supervisory ~~employee agents~~ of the department initiating the change ~~if sufficient if~~ documentation is generated and the propriety of the changes are randomly verified by ~~a~~ supervisory ~~employee agents~~ independent of the department initiating the change on a monthly basis.

**Lytton Comment: Promotions, patron accounts, coupons and vouchers are all controlled in separate sections and should not be confused with player tracking systems.**

- ~~(2) All other changes to the player tracking system must be appropriately documented.~~

**Lytton Comment: Since we have suggested deleting the non-player tracking items from paragraph (1), paragraph (2) is no longer needed and should be deleted. If, however, the Commission decides to retain this paragraph it should consider deleting the word “appropriately.” We have noticed words like “adequately” and “appropriately” crop up now and then. Such terms are subjective to apply as a control. There is no way to test or audit to “adequate” to “appropriate.” We urge the Commission to conduct a thorough review and address the use of these terms.**

(d) Variances. The ~~TGRA-gaming operation~~ must establish, with the approval of the TGRA, the threshold level at which a variance must be reviewed to determine the cause. Any such review must be documented.

**§ 543.13 What are the minimum internal control standards for complimentary services or items?**

(a) Supervision. Supervision must be provided as needed for approval of complimentary services by an agent(s) with authority equal to or greater than those being supervised.

(b) Complimentary services and items are services and items provided to a patron at the discretion of an agent on behalf of the gaming operation, or by a third party on behalf of the gaming include, but are not limited to, travel, lodging, food, beverages, or entertainment expenses provided, ~~at the agent's discretion, directly to the patron by the gaming operation or indirectly to patrons on behalf of the gaming operation by a third party.~~

**Lytton Comment: Consider modifying this so that the actual definition of the term comes before the examples.**

(c) Complimentary services or items. Controls must be established ~~and procedures implemented~~ to prevent unauthorized access, misappropriation, forgery, theft, or fraud. Such controls must include procedures for the following:

(1) Authorizing agents to approve the issuance of complimentary services or items, including levels of authorization;

(2) Limits and conditions on the approval and issuance of complimentary services or items;

(3) Modifying conditions or limits on the approval and issuance of complimentary services or items;

(4) Documenting and recording the authorization, issuance, and ~~tracking redemption~~ of complimentary services or items, ~~including cash and non-cash gifts~~;

(i) ~~Complimentary i~~ssuance and redemption records must include the following for all complimentary services and items ~~and services~~ equal to or exceeding an amount established by the gaming operation, as approved by the TGRA.

(A) Name of patron who received the complimentary service or item;

(B) Name(s) of issuer(s) of the complimentary service or item;

(C) The actual cash value of the complimentary service or item;

(D) The type of complimentary service or item (food, beverage, etc.); and

(E) Date the complimentary service or item was issued.

(ii) [RESERVED].

(d) Complimentary services and items records must be summarized and reviewed for proper authorization and compliance with established authorization thresholds.

(1) A detailed reporting of complimentary service or item transactions that meet an established threshold approved by the TGRA must be prepared at least monthly.

(2) The detailed report must be forwarded to management for review.

(e) Variances. The TGRA-gaming operation must establish, with the approval of the TGRA, the threshold level at which a variance must be reviewed to determine the cause. Any such review must be documented.

**§ 543.14 What are the minimum internal control standards for patron deposit accounts ~~and cashless systems~~?**

**Lytton Comment: Cashless system controls must be separated from patron deposit accounts. Consideration should also be given to making Cashless Systems and Patron Deposit Accounts separate as combining the two may place overly burdensome requirements on items such as vouchers (although it is difficult to tell given the lack of a clear definition of Cashless System or any definition for Cashless Transactions). Without proper definitions, it is difficult to determine what the term Cashless System encompasses and, thus, makes it impossible for the Tribe to provide any sort of useful comment relating to any proposed standards addressing Cashless Systems. Based on this concern we have also recommended the return of the defined term cashless transactions into the definitions section**

(a) Supervision. Supervision must be provided as needed for patron deposit accounts and cashless systems by an agent(s) with authority equal to or greater than those being supervised.

(b) Patron deposit accounts ~~and cashless systems~~. (1) ~~Controls must be established and procedures implemented for patron deposit accounts and cashless systems to prevent unauthorized access, misappropriation, forgery, theft, or fraud.~~

**Lytton Comment: We do not think the introductory section is necessary.**

(2) Smart cards cannot maintain the only source of account data.

(32) Establishment of patron deposit accounts. The following standards apply when the patron establishes a patron deposit account.

(i) The patron must appear at the gaming operation in person, at a designated area ~~of accountability~~, and present valid government issued picture identification; and

**Lytton Comment: The use of the word “accountability” in paragraph (i) conflicts with the term, as defined herein. We do not believe the term is necessary here and can be deleted, but the Commission should still reconsider its current definition.**

(ii) An agent must examine the patron’s identification and record the following information:

(A) Type, number, and expiration date of the identification;

(B) Patron’s name;

(C) A unique account identifier;

(D) Date the account was opened; and

(E) The agent’s name.

(4) The patron must sign the account documentation before the agent may activate the account.

(5) The ~~agent or cashless system must provide the~~ patron deposit account holder must be provided with a secure method of access.

(c) Patron deposits, withdrawals and adjustments.(1) The Patron deposit account, the patron’s identity, and the availability of funds must be verified pPrior to the patron making a deposit or a withdrawal from a patron deposit account, ~~the agent or cashless system must verify the patron deposit account, the patron identity, and availability of funds.~~

(2) Adjustments made to ~~the~~ patron deposit accounts must be performed by an agent.

(3) When a deposit, withdrawal, or adjustment is processed by an agent, a transaction record must be created containing the following information:

(i) Same document number on all copies;

(ii) Type of transaction, (deposit, withdrawal, or adjustment);

(iii) Name or other identifier of the patron;

- (iv) The unique account identifier;
- (v) Patron signature for withdrawals, unless a secured method of access is utilized;
- (vi) For adjustments to the account, the reason for the adjustment;
- (vii) Date and time of transaction;
- (viii) Amount of transaction;
- (ix) Nature of deposit, withdrawal, or adjustment (i.e., cash, check, chips); and
- (x) Signature of the agent processing the transaction.

(4) When a patron deposits or withdraws funds from a patron deposit account electronically, the following must be recorded:

- (i) Date and time of transaction;
- (ii) Location (player interface, kiosk);
- (iii) Type of transaction (deposit, withdrawal);
- (iv) Amount of transaction; and
- (v) The unique account identifier.

(5) Patron deposit account transaction records must be available to the patron upon reasonable request.

(6) If electronic funds transfers are made to or from a gaming operation bank account for patron deposit account funds, the bank account must be dedicated and may not be used for any other types of transactions.

(d) Variances. The ~~TGRA-gaming operation~~ must establish, with the approval of the TGRA, the threshold level at which a variance must be reviewed to determine the cause. Any such review must be documented.

**§ 543.15      What are the minimum internal control standards for lines of credit?**

(a) Supervision. Supervision must be provided as needed for lines of credit by an agent(s) with authority equal to or greater than those being supervised.

(b) Establishment of Lines of Credit Policy. (1) If a gaming operation extends lines of credit, controls must be established and procedures implemented to safeguard the

assets of the gaming operation. Such controls must include a lines of credit policy including the following:

- (i) A process for the patron to apply for, modify, and/or re-establish lines of credit, to include required documentation and credit line limit;
- (ii) Authorization levels of credit issuer(s);
- (iii) Identification of agents authorized to issue lines of credit;
- (iv) A process for verifying an applicant's credit worthiness;
- (v) A system for recording patron information, to include:
  - (A) Name, current address, and signature;
  - (B) Identification credential;
  - (C) Authorized credit line limit;
  - ~~(D)~~ (vi) Documented approval by an agent authorized to approve credit line limits;
  - ~~(E)~~ (vii) Date, time and amount of credit issuances and payments; and
  - ~~(F)~~ (D) Amount of available credit.

**Lytton Comment: Consider changing current paragraphs (D) and (E) to (vi) and (vii) as documenting approval and recording date and time are not "patron information," which is what these subparagraphs are about.**

- (vi) A process for issuing lines of credit to include the following:
  - (A) Verifying the patron's identity;
  - (B) Notifying the patron of the lines of credit terms, including obtaining patron's written acknowledgment of the terms by signature;
  - (C) Completing a uniquely identified, multi-part, lines of credit issuance form, such as a marker or counter check, which includes the terms of the lines of credit transaction;
  - (D) Obtaining required signatures;
  - (E) Determining the amount of the patron's available lines of credit;

(F) Updating the credit balance record at the time of each transaction to **as**ensure that lines of credit issued are within the established limit and balance for that patron; and

**Lytton Comment: “Assure” is not the correct word.**

(G) Requiring the agent issuing the lines of credit to be independent of the agent who authorized the lines of credit.

(vii) A policy establishing credit line limit exceptions to include the following:

(A) Identification of the agent(s) authorized to permit a credit line limit to be exceeded;

(B) Authorization thresholds; and

(C) Required documentation.

(viii) A policy governing increases and decreases to a patron’s lines of credit account balances to include the following:

(A) Documentation and record keeping requirements;

(B) Independence between the department that receives the payment and the department that maintains custody of the credit balance for payments made by mail;

(C) Collections;

(D) Periodic audits and confirmation of balances; and

(E) If a collection agency is used, a process to ensure documentation of increases and decreases to the lines of credit account balances.

(ix) A policy governing write-offs and settlements to include:

(A) Identification of agent(s) authorized to approve write-offs and settlements;

(B) Authorization levels for write-offs and settlements of lines of credit instruments;

(C) Required documentation for write-offs and settlements;

(D) Independence between the agent who established the lines of credit and the agent writing off or settling the lines of credit instrument.

(E) Necessary documentation for the approval of write-offs and settlements and transmittal to the appropriate department for recording and deductibility.

(c) Variances. The ~~TGRA-gaming operation~~ must establish, with the approval of the TGRA, the threshold level at which a variance must be reviewed to determine the cause. Any such review must be documented.

§ 543.16 [RESERVED]

§ 543.17 What are the minimum internal control standards for drop and count?

**Lytton Comment: We have serious concerns about the format of this section. We understand it is the Commission's position that drop and count is different for different areas. The Tribe respectfully disagrees. Assets, no matter where they come from, are still assets and therefore should be treated the same. Unnecessarily separating drop and count by gaming area creates confusion and the potential (as will be noted) of conflicting or unjustifiable differences. The Tribe once again urges the Commission to use the Drop and Count standards recommended by the TGWG and TAC.**

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(a) Supervision. Supervision must be provided as needed for drop and count ~~as needed~~ by an agent(s) with authority equal to or greater than those being supervised.

(b) Count Room Access. ~~Controls must be established and procedures implemented to limit p~~Physical access to the count room must be restricted to count team agents, designated staff, and other authorized persons. ~~Such controls must include the following:~~

**Lytton Comment: Again, we believe this introductory language is superfluous.**

(~~4~~2) Count team agents may not exit or enter the count room during the count except for emergencies or scheduled breaks.

(~~2~~3) Surveillance must be notified when anybody ~~ever count room agents exits~~ or enters the count room during the count.

**Lytton Comment: Surveillance should be notified if anyone, not just count room agents, exit or enter the count room. In fact, it is more important that they are notified when other people enter the room, particularly if the count has already started.**

(~~4~~3) ~~Controls~~ The count team policy, at a minimum, must address the transportation of extraneous items such as personal belongings, tool boxes, beverage containers, etc., into or out of the count room.

**Lytton Comment: Consider changing “count team policy” to “controls” as this section is about the count room, not the count team. Further, it is unclear why “policies,” are being referenced all of a sudden..**

~~(c) Count team. Controls must be established and procedures implemented to ensure security of the count and the count room to prevent unauthorized access, misappropriation of funds, forgery, theft, or fraud. Such controls must include the following:~~

**Lytton Comment: The heading of (c) is count team; however, the introductory paragraph is addressing count room access. The Tribe believes this language is superfluous and can be deleted; however, if the Commission decides to keep it, such should either be moved or revised, accordingly.**

(1) For Tier A and B operations, all counts must be performed by at least two agents. For Tier C operations, all counts must be performed by at least three agents.

(2) For Tier A and B operations, at no time during the count can there be fewer than two count team agents in the count room until the drop proceeds have been accepted into cage/vault accountability. For Tier C operations, at no time during the count can there be fewer than three count team agents in the count room until the drop proceeds have been accepted into cage/vault accountability.

(3) For Tier A and B operations, count team agents must be rotated on a routine basis such that the count team is not consistently the same two agents more than four days per week. This standard does not apply to gaming operations that utilize a count team of more than two agents. For Tier C operations, count team agents must be rotated on a routine basis such that the count team is not consistently the same three agents more than four days per week. This standard does not apply to gaming operations that utilize a count team of more than three agents.

(4) Functions performed by count team agents must be rotated on a routine basis.

(5) Count team agents must be independent of the department being counted and the cage/vault departments. An accounting agent may be used if there is an independent audit of all count documentation.

~~(d) Card game drop standards. Controls must be established and procedures implemented to ensure security of the drop process to prevent unauthorized access to gaming equipment and the drop, misappropriation of funds, forgery, theft, or fraud. Such controls must include the following:~~

(1) Surveillance must be notified when the drop is to begin so that surveillance may monitor the activities.

(2) Once the drop is started, it must continue until finished.

**Lytton Comment: Why is this not required for the player interface drop? We think this is a perfect example of the issues created in separating drop and count standards by gaming area.**

(3) At the end of each shift:

(i) All locked card game drop boxes must be removed from the tables by an agent independent of the card game shift being dropped;

(ii) For any tables opened during the shift, a separate drop box must be placed on each table, or a gaming operation may utilize a single drop box with separate openings and compartments for each shift; and

(iii) Card game drop boxes must be transported directly to the count room or other equivalently secure area by a minimum of two agents, at least one of whom is independent of the card game shift being dropped, until the count takes place.

(4) ~~Document which~~ Tables that were not open during a shift and therefore not part of the drop must be documented.

(5) ~~All card game drop boxes must be posted with a number corresponding to a permanent number on the gaming table and marked to indicate game, table number, and shift, if applicable. All drop boxes must be uniquely identified to correspond with the card table from which the drop box was removed.~~

**Lytton Comment: Consider revising (and using TGWG/TAC's recommended language, which notably can also be used to apply to any gaming area). This is not how it works in practice and this requirement is too limiting. There are numerous ways to identify what assets came from the box, such as smart cans, barcodes, etc.**

(e) Player interface ~~and financial instrument~~ drop standards.

(1) Surveillance must be notified when the drop is to begin so that surveillance may monitor the activities. The ~~player interface financial-instrument storage component~~ drop begins when the first ~~financial-instrument storage component~~ drop box is removed.

**Lytton Comment: This requirement is another example of the issue created by separating drop and count by gaming area. The language about when the drop begins is not in the card games section. Also, the Tribe does not believe this is when the drop begins. Finally, as noted in the comments in the Definitions section, the Tribe believes it is unnecessary to differentiate financial instrument storage components from drop boxes.**

(2) A minimum of two individuals must be involved in the removal of the ~~drop boxes~~ ~~player interface storage component~~ ~~drop~~, at least one of whom is independent of the ~~player interface-bingo~~ department.

**Lytton Comment: Why does the card game drop section not have this requirement?**

(3) All ~~financial instrument storage components~~ ~~drop boxes~~ may be removed only at the time previously designated by the gaming operation and reported to the TGRA. If an emergency drop is required, surveillance must be notified before the drop is conducted and the TGRA must be informed within a timeframe approved by the TGRA.

**Lytton Comment: Again, why is this not required for the card games drop? Also, the last sentence is confusing. Surveillance is always notified of any drop.**

(4) The ~~drop box~~ ~~financial instrument storage components~~ must be removed by an agent independent of the ~~player interface-bingo~~ department, then transported directly to the count room or other equivalently secure area with comparable controls and locked in a secure manner until the count takes place.

(i) Security must be provided for the ~~financial instrument storage components~~ ~~drop boxes~~ removed from the player interfaces and awaiting transport to the count room.

(ii) Transportation of ~~financial instrument storage components~~ ~~drop boxes~~ must be performed by a minimum of two agents, at least one of whom is independent of the player interface department.

**Lytton Comment: Why are none of the above procedures required for card games?**

(5) ~~All financial instrument storage components must be posted with a number corresponding to a permanent number on the player interface. All drop boxes must be uniquely identified to correspond with the player interface from which the drop box was removed.~~

**Lytton Comment: Consider revising (and using TGWG/TAC's recommended language, which notably can also be used to apply to any gaming area). This is not how it works in practice and this requirement is too limiting. There are numerous ways to identify what assets came from the box, such as smart cans, barcodes, etc.**

(f) Card game count standards. (1) Access to stored, full card game drop boxes must be restricted to authorized members of the drop and count teams.

**Lytton Comment: As written paragraph (1) makes it sound like access to empty drop boxes (stored) must be restricted in the same manner. The Tribe**

**believes that access should be different for stored, empty boxes, than it is for full boxes.**

**To emphasize the Tribe's point about not separating standards by gaming area, the Tribe notes that the current count sections for card games and bingo are nearly identical. There is only one truly substantive difference that we note and that is Paragraph (5) in the "Player Interface Count Standards, which in our view, should really be in paragraph (c), in any event, since it is about the count team.**

(2) The card game count must be performed in a ~~soft~~-count room or other equivalently secure area with comparable controls.

(3) Access to the count room during the count must be restricted to members of the drop and count teams, with the exception of authorized observers, supervisors for resolution of problems, and authorized maintenance ~~personnel~~agent.

**Lytton Comment: Consideration should be given to moving this to paragraph (c) as this applies to any drop or count. It is simpler, clearer, and more effective and efficient to place global standards in one place rather than repeating them numerous times.**

(4) If counts from various revenue centers occur simultaneously in the count room, procedures must be in effect to prevent the commingling of funds from different revenue centers.

(5) Count equipment and systems must be tested, with the results documented, ~~at minimum~~ before the first count begins to ensure the accuracy of the equipment.

**Lytton Comment: Everything in these MICS are at a minimum.**

(6) The ~~card game~~-drop boxes must be individually emptied and counted so as to prevent the commingling of funds between drop boxes until the count of the drop box has been recorded.

(i) The count of each drop box must be recorded in ink or other permanent form of recordation.

(ii) For counts that do not utilize a currency counter, a second count must be performed by a member of the count team who did not perform the initial count. Separate counts of chips and tokens must always be performed by members of the count team.

(iii) Coupons or other promotional items not included in gross revenue must be recorded on a supplemental document by either the count team members or accounting ~~personnel~~agent. All single-use coupons

must be cancelled daily by an authorized agent to prevent improper recirculation.

~~(iv7)~~ If a currency counter interface is used:

~~(iA)~~ It must be adequately restricted to prevent unauthorized access; and

~~(iiB)~~ The ~~currency~~ drop figures must be transferred via direct communications line or computer storage media to the accounting department.

~~(7) If currency counters are utilized, a~~~~(iii) A~~ count team member must observe the loading and unloading of all ~~currency~~ financial instruments at the currency counter, including rejected ~~currency~~ financial instruments.

**Lytton Comment: This should be a subparagraph of (7) since it is about the use of a currency counter.**

~~(8iv)~~ Two counts of the ~~currency~~ financial instruments rejected by the currency counter must be recorded per table, as well as in total. ~~Posting rejected currency to a nonexistent table is prohibited. Rejected currency must be posted to the table from which it was collected.~~

**Lytton Comment: Same comment as above regarding paragraph number. Also, the last sentence should be revised. Finally, the term used in this document is financial instrument, not currency.**

~~(98)~~ Card game drop boxes, when empty, must be shown to another member of the count team, to another agent observing the count, or to surveillance, provided that the count is monitored in its entirety by an agent independent of the count.

~~(109) Procedures must be implemented to ensure that a~~~~ny~~ corrections to the count documentation ~~are~~ must be permanent, identifiable and ~~that~~ the original, corrected information must remains legible. Corrections must be verified by two count team agents.

**Lytton Comment: This paragraph talks about corrections to count document, but there has yet to be a requirement to this point that anything be documented. This paragraph and many of the below paragraphs are very confusing and some appear to be out of order. Thus, should the Commission decide not to use the TGWG/TAC proposed language, we urge the Commission to make substantial modifications to clarify these requirements.**

~~(104)~~ The count sheet must be reconciled to the total drop by a count team member who ~~may~~ did not record the count results on the count sheet ~~not~~

~~function as the sole recorder~~, and variances must be reconciled and documented.

(112) All count team agents must sign the report attesting to their participation in the count.

**Lytton Comment: What report? The Count sheet? This is the first time a “report” is mentioned.**

(132) A final verification of the total drop proceeds, before transfer to cage/vault, must be performed by at least two agents, one of whom is a supervisory count team member, and one a count team agent.

**Lytton Comment: How is a “final verification” different from reconciliation? If this requirement is retained, the term “final verification” needs to at least be defined. Further, the requirements relating to a supervisory agent are far too limiting and overly burdensome.**

(i) Final verification must include a comparison of ~~currency-~~  
financial instruments counted totals against the currency counter/system report, if any counter/system is used.

**Lytton Comment: This is the first time a “currency system” is referred to.**

(ii) Any unresolved variances must be documented, and the documentation must remain part of the final count record forwarded to accounting.

(iii) This verification does not require a complete recount of the drop proceeds, but does require a review sufficient to verify the total drop proceeds being transferred.

**Lytton comment: What “verification”? The “final verification”? Consider clarifying.**

(iv) The two agents must sign the report attesting to the accuracy of the total drop proceeds verified.

**Lytton Comment: What report? Consideration should be given to providing clear and consistent language to avoid confusion.**

(~~\*13~~) All drop proceeds ~~and cash equivalents~~ that were counted must be submitted to the cage or vault cashier (who must be independent of the count team) or to an agent independent of the revenue generation source and the count process for verification. The cashier or agent must certify, by signature, the amount of the drop proceeds delivered and received. Any unresolved variances must be reconciled, documented, and/or investigated by accounting/revenue audit.

**Lytton Comment: The entire paragraph above is confusing. What is the difference between drop proceeds and cash equivalents? What exactly is the cage or vault cashier verifying? Also, you would never let the funds out of the count room before the cage accepts accountability. Finally, consider moving this paragraph as it does not appear to have any relation to “final verification.”**

(14) After certification by the ~~receiver~~ agent receiving of the funds, the drop proceeds must be transferred to the cage/vault.

(i) The count documentation and records must not be transferred to the cage/vault with the drop proceeds.

(ii) The cage/vault agent must have no knowledge or record of the drop proceeds total before it is verified.

(iii) All count ~~records~~ documentation must be forwarded to accounting or adequately secured and accessible only by accounting agents.

(iv) The cage/vault agent receiving the transferred drop proceeds must sign the report attesting to the verification of the total received.

**Lytton Comment: Hasn't the requirements in paragraph (iv) already been said in paragraph (13)? Also, to what “report” is this referring?**

(v) Any unresolved variances between total drop proceeds recorded on the count room report and the cage/vault final verification during transfer must be documented and investigated.

**Lytton Comment: What is the count room report? This is the first reference to such a report. Also, shouldn't this be accomplished before certification?**

(15) The count sheet or other reconciling document, with all supporting documents, must be delivered to the accounting department by a count team member or an agent independent of the cashiers department. Alternatively, it may be adequately secured so that it is only accessible to accounting agents.

(16) The cage/vault agent must sign the count sheet, or other reconciling document, and thereby assume accountability of the currency drop proceeds, ending the count.

(g) Player interface ~~financial instrument~~ count standards.

**Lytton Comment: Since the requirements in this paragraph (g) are nearly identical to the Card room count standards, many of our above comments apply equally here. Thus, the Tribe urges the Commission to conduct a thorough and careful review of this section should it decide to retain separate “count” standards for card games and bingo.**

(1) Access to stored full ~~financial instrument storage components drop boxes~~ must be restricted to:

(i) Authorized members of the drop and count teams; and

(ii) In an emergency, authorized persons for the resolution of a problem.

**Lytton Comment: This is a similar, but differently worded, requirement as that in the card games count standard section. We believe the requirements should be identical.**

(2) The player interface ~~financial instrument~~ count must be performed in a count room or other equivalently secure area with comparable controls.

(3) Access to the count room during the count must be restricted to members of the drop and count teams, with the exception of authorized observers, supervisors for resolution of problems, and authorized maintenance ~~personnel~~agent.

**Lytton Comment: Consideration should be given to moving this to paragraph (c) as this applies to any drop or count. It is simpler, clearer, and more effective and efficient to place global standards in one place rather than repeating them numerous times.**

(4) If counts from various revenue centers occur simultaneously in the count room, procedures must be in effect that prevent the commingling of funds from different revenue centers.

(5) The count team must not have access to bill-in meter amounts until after the count is completed and the drop proceeds are accepted into the cage/vault accountability.

(6) Count equipment and systems must be tested, with the results documented, at minimum before the first count begins, to ensure the accuracy of the equipment.

(7) If a currency counter interface is used:

(i) It must be adequately restricted to prevent unauthorized access; and

(ii) The ~~currency~~ drop figures must be transferred via direct communications line or computer storage media to the accounting department.

(8) The ~~financial instrument storage components drop boxes~~ must be individually emptied and counted so as to prevent the commingling of funds

between ~~storage components drop boxes~~ until the count of the ~~storage component drop box~~ has been recorded.

(i) The count of each ~~storage component drop box~~ must be recorded in ink or other permanent form of recordation.

(ii) Coupons or other promotional items not included in gross revenue may be recorded on a supplemental document by the count team members or accounting ~~personnel agent~~. All single-use coupons must be cancelled daily by an authorized agent to prevent improper recirculation.

(9) If currency counters are utilized, a count team member must observe the loading and unloading of all currency at the currency counter, including rejected currency.

(10) Two counts of the ~~currency financial instruments~~ rejected by the currency counter must be recorded per interface terminal as well as in total. Rejected ~~currency financial instruments~~ must be posted to the ~~player~~ interface ~~terminal~~ from which it was collected.

(11) ~~Storage components Drop boxes~~, when empty, must be shown to another member of the count team, to another agent who is observing the count, or to surveillance, provided that the count is monitored in its entirety by an agent independent of the count.

(12) ~~Procedures must be implemented to ensure that a~~ Any corrections to the count documentation ~~are must be~~ permanent, identifiable and the original, corrected information ~~must remains~~ legible. Corrections must be verified by two count team agents.

(13) The count sheet must be reconciled to the total drop by a count team member who may not function as the sole recorder, and variances must be reconciled and documented. This standard does not apply to vouchers removed from the ~~drop boxes financial instrument storage components~~.

(14) All count team agents must sign the report attesting to their participation in the count.

(15) A final verification of the total drop proceeds, before transfer to cage/vault, must be performed by the at least two agents, one of whom is a supervisory count team member and the other a count team agent.

(i) Final verification must include a comparison of ~~currency financial instruments~~ counted totals against the currency counter/system report, if a counter/system is used.

(ii) Any unresolved variances must be documented and the documentation must remain a part of the final count record forwarded to accounting.

(iii) This verification does not require a complete recount of the drop proceeds but does require a review sufficient to verify the total drop proceeds being transferred.

(iv) The two agents must sign the report attesting to the accuracy of the total drop proceeds verified.

(v) All drop proceeds ~~and cash equivalents~~ that were counted must be turned over to the cage or vault cashier (who must be independent of the count team) or to an agent independent of the revenue generation and the count process for verification. Such cashier or agent must certify, by signature, the amount of the drop proceeds delivered and received. Any unresolved variances must be reconciled, documented, and/or investigated by accounting/revenue audit.

(16) After certification by the ~~recipient agent receiving of~~ the funds, the drop proceeds must be transferred to the cage/vault.

(i) The count documentation and records must not be transferred to the cage/vault with the drop proceeds.

(ii) The cage/vault agent may have no knowledge or record of the drop proceeds total before it is verified.

(iii) All count records must be forwarded to accounting adequately secured and accessible only by accounting agents.

(iv) The cage/vault agent receiving the transferred drop proceeds must sign the report attesting to the verification of the total received.

(v) Any unresolved variances between total drop proceeds recorded on the count room report and the cage/vault final verification during transfer must be documented and investigated.

(17) The cage/vault agent must sign the count sheet, or other reconciling document, thereby assuming accountability of the currency drop proceeds, and ending the count.

(18) The count sheet, with all supporting documents, must be delivered to the accounting department by a count team member or agent independent of the cashiers department. Alternatively, it may be adequately secured and accessible only by accounting department.

(h) Controlled keys or equivalent. ~~Controls must be established and procedures implemented to safeguard the use, access, and security of keys in accordance with the following:~~

**Lytton Comment: Consideration should be given to adding the term “or equivalent” everywhere the term “key” is used to allow for technology that does not involve a “key.”**

(1) Each of the following requires a separate and unique key lock or alternative secure access method:

- (i) Drop cabinet;
- (ii) Drop box release;
- (iii) Drop box content; ~~and~~
- (iv) Storage racks; and
- (v) ~~e~~Carts used for the drop.

**Lytton Comment: Need to separate storage racks from the phrase “used for the drop.” Also, if the Commission decides to retain the term “financial instrument storage component,” then a requirement for that needs to be added to this list.**

(2) Access to and return of keys or equivalents must be documented with the date, time, and signature or other unique identifier of the agent accessing or returning the key(s) or equivalents.

(i) For Tier A and B operations, at least two (2) drop team agents are required to be present to access and return keys or equivalents. For Tier C operations, at least three (3) drop team agents are required to be present to access and return keys or equivalents.

(ii) For Tier A and B operations, at least two (2) count team agents are required to be present at the time count room and other count keys are issued for the count. For Tier C operations, at least three (two for card game drop box keys in operations with three tables or fewer) count team agents are required to be present at the time count room and other count keys are issued for the count.

(3) Documentation of all keys, including duplicates, must be maintained, including:

- (i) Unique identifier for each individual key;
- (ii) Key storage location;

(iii) Number of keys made, duplicated, and destroyed; and

(iv) Authorization and access.

(4) All duplicate keys shall be maintained in a manner that provides the same degree of control as required for the original keys. ~~Custody of all keys involved in the drop and count must be maintained by a department independent of the count and the drop agents as well as those departments being dropped and counted.~~

Lytton Comment: Consideration should be given to using the above requirement (which is from the existing Part 542). As currently written the requirement it is too restrictive. For example, an accounting manager may participate in the drop and count, and some operations would have the accounting manager maintain duplicate keys.

(5) Other than the count team, no agent may have access to the drop box content keys while in possession of storage rack keys and/or release keys.

(6) Other than the count team, only agents authorized to remove drop boxes are allowed access to ~~drop box~~ release keys.

(7) Any use of keys at times other than the scheduled drop and count must be properly authorized and documented.

(8) Emergency manual keys, such as an override key, for computerized, electronic, and alternative key systems must be maintained in accordance with the following:

(i) Access to the emergency manual key(s) used to access the box containing the ~~player interface drop and count drop box(?)~~ keys requires the physical involvement of at least three agents from separate departments, including management. The date, time, and reason for access, must be documented with the signatures of all participating persons signing out/in the emergency manual key(s);

Lytton Comment: This is the first time the phrase “player interface drop and count keys” is used. It is unclear to what this is intended to refer.

(ii) The custody of the emergency manual keys requires the presence of two agents from separate departments from the time ~~of their~~ the emergency manual keys are issued ~~issuance~~ until the time the key are returned ~~of their return~~

; and

(iii) Routine physical maintenance that requires access to the emergency manual key(s), and does not involve accessing the drop player interface drop and count keybox keys, only requires the presence of two agents from separate departments. The date, time, and reason for access must be documented with the signatures of all participating agents signing out/in the emergency manual key(s).

**Lytton Comment: Again, it is unclear as to what exactly the “player interface drop and count keys” are.**

(i) Variances. The TGRA-gaming operation must establish, with the approval of the TGRA, the threshold level at which a variance must be reviewed to determine the cause. Any such review must be documented.

**§ 543.18 What are the minimum internal control standards for the cage, vault, kiosk, cash and cash equivalents?**

(a) Supervision. Supervision must be provided as needed for cage, vault, kiosk, and other operations using cash or cash equivalents by an agent(s) with authority equal to or greater than those being supervised.

(b) Cash and cash equivalents. Controls must be established and procedures implemented to prevent unauthorized access, misappropriation, forgery, theft, or fraud.

(c) Check cashing. Personal checks, cashier's checks, traveler's checks, payroll checks, and counter checks.

**Lytton Comment: This entire section is overly procedural and contains outdated or limiting terminology. Again, we urge the Commission to reconsider its rejection of the standards recommended by the TGWG and TAC.**

(1) If ~~personal checks, cashier's checks, traveler's checks, payroll checks or counter checks~~ are cashed at the cage, ~~the controls must provide for security and integrity. For each check cashing transaction,~~ the agent(s) conducting the transaction must:

(i) Verify the patron's identity;

(ii) Examine the check to ensure it includes the patron's name, current address, and signature;

(iii) For personal checks, verify the patron's check cashing authority and record the source and results in accordance with management policy;

(iv) If a check guarantee service is used to guarantee the transaction and the procedures required by the check guarantee service are followed, then the above requirements do not apply.

(2) When counter checks are issued, the following must be included on the check:

(i) The patron's name and signature;

(ii) The dollar amount of the counter check;

(iii) Patron's bank name, bank routing, and account numbers;

(iv) Date of issuance; and

(v) Signature of the agent approving the counter check transaction.

(3) ~~Personal eChecks, payroll checks, and counter checks~~ that are not deposited in the normal course of business, as established by management, (held checks) are subject to § 543.15 credit standards.

**Lytton Comment: Consider just using the term checks since any check not deposited in the normal course of business, regardless of what it is called, would be subject to the credit standards. In addition, using very specific terminology can limit technology.**

(4) When traveler's checks or other guaranteed drafts, such as cashier's checks, are presented, the cashier must comply with the examination and documentation procedures as required by the issuer.

(5) If a third party check cashing or guarantee service is used, the examination and documentation procedures required by the service provider apply, unless otherwise provided by tribal law or regulation.

(d) Cage and vault accountability.(1) All transactions that flow through the cage must be summarized for each work shift of the cage and must be supported by documentation.

(2) Increases and decreases to the total cage inventory must be verified, supported by documentation, and recorded. For any individual increase/decrease that exceeds ~~\$100~~, a predetermined threshold established by the gaming operation, as approved by the TGRA, documentation must include:

**Lytton Comment: The \$100 requirement is too restrictive. The amount should be left up to the gaming operation and the TGRA.**

(i) the date and shift;

(ii); the purpose of the increase/decrease;

(iii); the agent(s) completing the transaction; and

(iv) the person or department receiving the cage funds (for decreases only).

**Lytton Comment: Consider putting the documentation requirements in list form (as indicated) to conform with the general formatting of this document.**

(3) The cage and vault inventories (including coin rooms/vaults) must be counted independently by at least two agents, attested to by signature, and recorded in ~~ink or other~~ permanent form at the end of each shift during which the activity took place. These agents must make individual counts to compare for accuracy and maintain individual accountability. All ~~discrepancies-variances~~ must be ~~noted-documented~~ and investigated.

**Lytton Comment: This is another example of where the use of the term “accountability” does not square with the definition.**

(4) The gaming operation must establish and comply with a minimum bankroll formula to ensure the gaming operation maintains cash or cash equivalents (on hand and in the bank, if readily accessible) in an amount sufficient to satisfy obligations to the gaming operation's patrons as they are incurred.

**Lytton Comment: Consideration should be given to deleting or moving this standard from this paragraph (d) as this is not a cage/cashier function. Moreover, the cage does not, and should not, have access to what the gaming operation has in the bank so they do not have the necessary information to perform this function.**

(e) Kiosks. (1) Kiosks ~~shall~~must be maintained on an imprest basis on the cage accountability and ~~shall~~must be counted independently by at least two agents and reconciled each time the kiosk is reimpressed.

**Lytton Comment: There are numerous issues with this section and this standard itself. First, a kiosk is its own revenue center and should be controlled in the same manner as any other revenue center. Second, “reimpressed” is not the correct term and means something entirely different. Third, requiring kiosks to be maintained on an imprest basis is very restrictive. It is difficult to maintain kiosks on an imprest basis, and, if a kiosk is an ATM, it may not be maintained on an imprest basis. Fourth, referring to the “cage accountability” is far too specific. Fifth, we believe “imprest” basis is an outdated term. Finally, the Commission should also determine whether the term “accountability” is used according to its definition.**

(2) Currency cassettes ~~shall~~must be imprest by an agent and verified independently by at least one agent, both of whom ~~shall~~must sign each cassette.

**Lytton Comment: Same comment as above regarding the “imprest” requirement. Also, there is no way to sign the “cassette.” Typically, you either**

**sign a document or some sort of tag that is attached to the “cassette.”**  
**Consideration should be given to revising this requirement.**

(3) ~~Imprest-Currency~~ cassettes ~~shall~~must be secured with a lock or tamper resistant seal and, if not placed inside a kiosk, ~~shall~~must be stored in a secured area of the cage/vault.

**Lytton Comment: In paragraph (2) above the cassettes are referred to as “currency cassettes.”**

~~(4) The gaming operation, subject to the approval of the TGRA, shall develop and implement security controls over the kiosks, i.e. forced entry, evidence of any entry, and protection of circuit boards containing programs. Controls must be established to prevent unauthorized access, misappropriate, forgery, theft, or fraud of kiosk equipment and funds.~~

**Lytton Comment: We do not believe the above paragraph is necessary; however, if the Commission decides to retain this requirement, consideration should be given to using language that is more consistent with that used throughout this regulation.**

~~(5) With regard to cashless systems, the TGRA or the gaming operation, subject to the approval of the TGRA, shall develop and implement procedures to ensure that communications between the kiosk and system are secure and functioning.~~

**Lytton Comment: Consideration should be given to deleting paragraph (5) as it is already covered in the Information Technology section.**

~~(6) Kiosks or equipment associated therewith must be capable of producing the following reports upon demand: (i) Recap of the disposition of wagering instruments accepted, which must be available by reconciliation period (day, shift or drop cycle); and~~

**Lytton Comment: The above paragraphs are technical standards and therefore should be deleted.**

~~(ii) Reconciliation report that includes the current cash balance, current balance of the wagering instruments by dollar amount and by number of items and the reconciliation period date and time.~~

**Lytton Comment: Subparagraph (ii) should be deleted and replaced with a general requirement that kiosks be reconciled. As currently written, this paragraph mandates requirements for which gaming operators cannot comply because (i) each kiosk company has a different method for reporting what is going on in that machine (thus, there may not be just one report that contains all of the required information), (ii) not every manufacturer may have any report that recaps all of the required information; and (iii) even if manufacturers do have such reports, they would only be aids in the reconciliation, not a “reconciliation report.”**

~~(f) Patron deposited funds. If a gaming operation permits a patron to deposit funds for safekeeping and/or front money purposes with the gaming operation at the cage, and when transfers of patron deposited funds are transferred to a gaming area for~~

~~wagering purposes, the following standards apply:~~

~~(1) The receipt or withdrawal of a patron deposit must be documented, with a copy given to the patron and a copy remaining in the cage.~~

~~(2) Both copies of the document of receipt or withdrawal must contain the following information:~~

~~(i) Same receipt number on each copy; (ii) Patron's name and signature;~~

~~(iii) Date of receipt and withdrawal;~~

~~(iv) Dollar amount of deposit/withdrawal (for foreign currency transactions include the US dollar equivalent, the name of the foreign country, and the amount of the foreign currency by denomination);~~

~~(v) Nature of deposit/withdrawal; and~~

~~(vi) Name and signature of the agent who conducted the transaction.~~

~~(3) The following procedures must be established and complied with for front money deposits:~~

~~(i) Maintaining a detailed record by patron name and date of all funds on deposit;~~

~~(ii) Maintaining a current balance of all patron deposits that are in the cage/vault inventory or accountability; and~~

~~(iii) Reconciling this current balance with the deposits and withdrawals at least daily.~~

**Lytton Comment: It is unclear as to why such specific requirements regarding patron deposit accounts are contained in this section given that patron deposit accounts are addressed in a 543.14. Many of the requirements in this section conflict with those in 543.14. Thus, this section should be carefully reviewed and any portions that do not conflict with 543.14 should be moved to that section.**

(g) Promotional payments, drawings, and giveaway programs. The following procedures must apply to any payment resulting from a promotional payment, drawing, or giveaway program disbursed by the cage department or any other department. This section does not apply to programs that are addressed elsewhere in this part.

**Lytton Comment: Consideration should be given to deleting this entire section. The statement that it does not apply to programs that are address elsewhere is vague and could lead to confusion. Thus, if this paragraph (g) is retained, it should be made clear to what exactly it applies.**

(1) Payments that are less than \$100 must be documented to support the cage accountability.

**Lytton Comment: Consideration should be given to replacing the hard \$100 figure with “less than a predetermined threshold...” to allow more flexibility.**

(2) Payments of \$100 or more must be documented at the time of the payment, and documentation must include the following:

**Lytton Comment: Same comment as (1) above.**

(i) Date and time;

(ii) Dollar amount of payment or description of personal property;

(iii) Reason for payment; and

(iv) Patron’s name (drawings only).

(v) Signature(s) of at least two agents verifying, authorizing, and completing the promotional payment with the patron, except for computerized systems that validate and print the dollar amount of the payment on a computer generated form, only one signature is required.

(h) Chip(s) and token(s). Controls must be established and procedures implemented to ensure accountability of chip and token inventory. Such controls must include, but are not limited to, the following:

(1) Purchase;

(2) Receipt;

(3) Inventory;

(4) Storage; and

(5) Destruction.

(i) Cage and vault access. ~~Controls must be established and procedures implemented to prevent unauthorized access, misappropriation, forgery, or fraud. Such controls must include the following:~~

(1) ~~Restricting p~~Physical access must be restricted to the cage to cage department agents, designated staff, and other authorized persons; and

(2) ~~Limiting The~~ transportation of extraneous items such as personal belongings, tool boxes, beverage containers, etc., into and out of the cage must be controlled.

(j) Variances. The ~~TGRA-gaming operation~~ must establish, with the approval of the TGRA, the threshold level at which a variance must be reviewed to determine the cause. Any such review must be documented.

§ 543.19 [RESERVED]

§ 543.20 What are the minimum internal control standards for information technology and information technology data?

(a) Supervision.

(1) Controls must identify the supervisory agent in the department or area responsible for ensuring that the department or area is operating in accordance with established policies and procedures.

(2) The supervisory agent must be independent of the operation of Class II games.

(3) ~~Controls must ensure that d~~Duties are must be adequately segregated and monitored to detect procedural errors and to prevent the concealment of fraud.

(4) ~~Internal controls must require that a~~All personnel agents having access to Class II gaming systems cannot have ~~no~~ signatory authority over financial instruments and or payout forms, and are must be independent of and restricted from access to:

(i) Financial instruments; and

(ii) Accounting, audit, and ledger entries.

**Lytton Comment: Paragraphs (3) and (4) should be moved to paragraph (d) since they address independence, not supervision.**

(b) As used in this section only, a system is any computerized system that is essential to the gaming environment. This includes, but is not limited to, the server and peripherals for Class II gaming system, accounting, surveillance, essential phone system, and door access and warning systems.

**Lytton Comment: It is unclear as to what the phrase “essential to the gaming environment” means. For example, how is a telephone system “essential to the gaming environment”? Consider providing further clarification as using such vague terminology does not provide much guidance into figuring out what a “system” is and can lead to overly broad regulations. This is of great importance given the number of times “systems” are referred to in this section.**

(c) Class II gaming systems' logical and physical controls. Controls must be established and procedures implemented to ensure ~~adequate~~:

(1) Control of physical and logical access to the Class II gaming system information technology environments~~systems~~, including accounting, voucher, cashless and player tracking, among others used in conjunction with Class II gaming;

**Lytton Comment: The phrase "information technology environment" could be misunderstood to include systems that are not associated to Class II gaming. Even though those unrelated systems may be under the same supervision this part does not apply to them.**

(2) Physical and logical protection of storage media and its contents, including recovery procedures;

(3) Access credential control methods;

(4) Record keeping and audit processes ~~;~~ and.

~~(5) Departmental independence, including, but not limited to, means to restrict agents that have access to information technology from having access to financial instruments.~~

**Lytton Comment: Delete paragraph (5). It is repetitive. Currently, its covered in both paragraphs (a) and (d).**

~~(d) Independence. All agents having access to the Class II information technology environment and/or data are independent of and restricted from access to:~~

~~(1) Financial instruments;~~

~~(2) Signatory authority over financial instruments and payouts forms; and~~

~~(3) Accounting, audit, and ledger entries.~~

**Lytton Comment: Consider deleting this language and replacing it with the language that is currently in paragraphs (a)(3) and (4).**

(e) Physical security. ~~(1) Internal controls must require that the information technology environment and infrastructure~~ The Class II gaming systems be maintained in a secured physical location such that access is restricted to authorized agents only.

**Lytton Comment: The definition of Class II gaming system covers the environment and infrastructure. Using undefined phrases, such as "information technology environment" and "infrastructure" may cause confusion.**

(2) Access devices to the systems' secured physical location, such as keys, cards, or fobs, must be controlled by an independent agent.

(3) Access to the systems' secured physical location must be restricted to agents in accordance with established policies and procedures, which must include maintaining and updating a record of agents granted access privileges.

(4) Physical connections for communications to and from Network Communication Equipment must be physically secured from unauthorized access.

**Lytton Comment: Consideration should be given to inserting the above suggested phrase as it is impossible to physically secure “communications.”**

(f) Logical security.(1) ~~Security standards and procedures must be designed and implemented to protect all systems and to ensure that a~~Access to the following ~~is must be~~ restricted and secured:

**Lytton Comment: How are “security standards different from “controls” or “internal controls”? Again, inconsistencies like this are one of the reasons we suggest deleting these types of introductory phrases.**

(i) Systems' software and application programs;

(ii) Data associated with Class II gaming; and

(iii) Communications facilities, systems, and information transmissions associated with Class II gaming systems.

(2) Unused services and non-essential ports must be disabled whenever possible.

(3) ~~Procedures must be implemented to ensure that a~~All activity performed on systems ~~is must be~~ restricted, ~~and~~ secured ~~from against~~ unauthorized access, and logged.

(4) Communications to and from systems via ~~N~~network ~~C~~ommunication ~~E~~quipment must be ~~logically~~ secured from unauthorized access.

**Lytton Comment: Since this section is all about logical security, it seems odd to use the word “logically” just in this one paragraph.**

(g) User controls.(1) Systems, including application software, must be secured with passwords or other means for authorizing access.

(2) Management ~~personnel~~agent or agents independent of the department being controlled must assign and control access to system functions.

(3) Access credentials such as passwords, PINs, or cards must be controlled as follows:

- (i) Each user must have his or her own individual access credential;
- (ii) Access credentials must be changed at ~~an~~ established intervals approved by the TGRA; and
- (iii) Access credential records must be maintained either manually or by systems that automatically record access changes and force access credential changes, including the following information for each user:
  - (A) User's name;
  - (B) Date the user was given access and/or password change; and
  - (C) Description of the access rights assigned to user.

(4) Lost or compromised access credentials must be deactivated, secured or destroyed within an established time period approved by the TGRA.

(5) Access credentials of terminated users must be deactivated within an established time period approved by the TGRA.

(6) Only authorized agents may have access to inactive or closed accounts of other users, such as player tracking accounts and terminated user accounts.

(h) Installations and/or modifications.(1) Only TGRA authorized or approved systems and modifications may be installed.

(2) Records must be kept of all new installations and/or modifications to Class II gaming systems. These records must include, at a minimum:

- (i) The date of the installation ~~or change~~ or modification;
- (ii) The nature of the installation or ~~change~~ modification such as new software, server repair, significant configuration changes;
- (iii) Evidence of verification that the installation or ~~the changes~~ modification is ~~are~~ approved; and
- (iv) The identity of the agent(s) performing the installation/modification.

(3) Documentation ~~must be maintained~~, such as manuals, user guides, describing the systems in use and the operation, including hardware must be maintained.

(i) Remote access.(1) Agents may be granted remote access for system support, provided that each access session is documented and maintained at the place of authorization. The documentation must include:

- (i) Name of agent authorizing the access;
- (ii) Name of agent accessing the system;
- (iii) Verification of the agent's authorization;
- (iv) Reason for remote access;
- (v) Description of work to be performed;
- (vi) Date and time of start of end-user remote access session; and
- (vii) Date and time of conclusion of end-user remote access session.

(2) All remote access must be performed via a secured method.

(j) Incident monitoring and reporting. (1) ~~Documented procedures must be implemented. All security incidents associated with Class II gaming systems must be responded to, monitored, investigated, resolved, documented, and reported.~~ ~~security incidents associated with information technology systems.~~

**Lytton Comment: Consideration should be given to clarify what a "security incident" is. Such a vague term could lead to misinterpretations and misunderstandings.**

(2) All security incidents must be responded to within an established time period approved by the TGRA ~~and formally documented.~~

(k) Data backups. (1) Controls must include ~~adequate~~ backup, including, but not limited to, the following:

**Lytton Comment: Consider deleting the word "adequate." The term adequate is too subjective to apply as a control. There is no way to test or audit to "adequate." If the term "adequate" is retained, then there must be a definition.**

- (i) Daily data backup of critical information technology systems;
- (ii) Data backup of critical programs or the ability to reinstall the exact programs as needed;
- (iii) Secured storage of all backup data files and programs, or other ~~adequate~~ protection;
- (iv) Mirrored or redundant data source; and
- (v) Redundant and/or backup hardware.

(2) Controls must include recovery procedures, including, but not limited to, the following:

- (i) Data backup restoration;
- (ii) Program restoration; and
- (iii) Redundant or backup hardware restoration.

(3) Recovery procedures must be tested on a sample basis at specified intervals at least annually. Results must be documented.

(4) Backup data files and recovery components must be managed with at least the same level of security and access controls as the system for which they are designed to support.

(l) Software downloads. (1) Downloads, either automatic or manual, must be performed in accordance with 25 C.F.R. § 547.12.

~~(m<sub>2</sub>) Verifying downloads. Following download of any game software, the Class II gaming system must verify the downloaded software using a software signature verification method.~~ Using any method it deems appropriate, the TGRA must confirm the verification.

**Lytton Comment: Everything except the last sentence of paragraph (m) is a technical standard. In addition, verification should be a subparagraph of (l).**

**§ 543.21 What are the minimum internal control standards for surveillance?**

(a) Supervision. Supervision must be provided as needed for surveillance by an agent(s) with authority equal to or greater than those being supervised.

~~(b) Surveillance equipment and control room(s). Controls must be established and procedures implemented to prevent unauthorized access and/or activities, misappropriation, forgery, theft, or fraud. Such controls must include the following:~~

(1) For Tier A, the surveillance system must be maintained and operated from a secured location, such as a locked cabinet. For Tier<sub>s</sub> B and C, the surveillance system must be maintained and operated from a staffed surveillance operation room(s).

(2) The surveillance operation room(s) must be secured to prevent unauthorized entry.

(3) Access to the surveillance operation room(s) must be limited to surveillance agents and other authorized persons.

(4) Surveillance operation room(s) access logs must be maintained.

(5) Surveillance operation room equipment must have total override capability over all usage of other ~~satellite~~ surveillance equipment ~~located outside the surveillance operation room~~.

**Lytton Comment: The above changes are recommended to ensure that the surveillance room can override all usage of surveillance equipment regardless of where it resides. For example; there may be usage within the surveillance room that needs to be overridden, such as terminals that are set up in the surveillance room for use by managers or TGRA.**

(6) Power loss to the surveillance system.

(i) For Tier A, in the event of power loss to the surveillance system, alternative security procedures, such as additional supervisory or security agents, must be implemented immediately.

(ii) For Tier B and C, in the event of power loss to the surveillance system, an auxiliary or backup power source must be available and capable of providing immediate restoration of power to the surveillance system to ensure that surveillance agents can observe all areas covered by dedicated cameras.

(7) The surveillance system must record an accurate date and time stamp on recorded events. The displayed date and time must not significantly obstruct the recorded view.

(8) All surveillance agents must be trained in the use of the equipment, games, and house rules.

(9) Each camera required by the standards in this section must be installed in a manner that will prevent it from being readily obstructed, tampered with, or disabled.

(10) The surveillance system must:

(i) Have the capability to display all camera views on a monitor;

(ii) Include sufficient numbers of recording devices to record the views of all cameras required by this section;

(iii) Record all camera views required by this section; and

(iv) For Tier B and C only, include sufficient numbers of monitors to simultaneously display gaming and count room activities.

(11) A periodic inspection of the surveillance systems must be conducted. When a malfunction of the surveillance system is discovered, the malfunction and necessary repairs must be documented and repairs initiated within seventy-two (72) hours.

(i) If a dedicated camera malfunctions, alternative security procedures, such as additional supervisory or security agents, must be implemented immediately.

(ii) The TGRA must be notified of any surveillance system and/or camera(s) that have malfunctioned for more than twenty-four (24) hours and the alternative security measures being implemented.

(c) Additional surveillance requirements. With regard to the following functions, controls must also include:

(1) Surveillance of the jackpot meter for Class II gaming systems:

**Lytton Comment: Consider deleting, or at least revising, the requirement in paragraph (c)(1). This requirement appears very restrictive, although we are not quite sure what is meant by a “jackpot meter.” Typically, a jackpot meter refers to a meter that is incremented with each purchase. We believe the intent of this requirement is to ensure that if a prize is noted on a meter/sign, that it is covered by a camera. We believe the requirement might be referring to meters/signs showing progressive prize payouts. If this is the case, it should be noted that there could be many such meters in a Class II environment. For example, one system may have four progressive prize payouts, each one with its own meter. Thus, trying to place a camera on each meter would be overly burdensome and not all that helpful as you would not necessarily know what player interfaces were attached to the meter just by using a surveillance camera (system reports would be of far more use). Thus, any benefits are outweighed by the potential burdens. If the Commission decides to retain this requirement, such should be limited by only requiring that progressive prize payout meters (signs) over a predetermined threshold established by the operation, as approved by the TGRA, must be under surveillance.**

(2) Manual bingo:(i) For manual draws, the surveillance system must monitor the bingo ball drawing device or mechanical random number generator, which must be recorded during the course of the draw by a dedicated camera to identify the numbers or other designations drawn; and

(ii) The surveillance system must monitor and record the activities of the bingo game, including drawing, calling, and entering the balls, numbers or other designations drawn.

(3) Card games:(i) Except for card game tournaments, a dedicated camera(s) with **sufficient clarity** must be used to provide:

**Lytton Comment: As noted previously, the Tribe is very concerned with both the definition and the substantive “sufficient clarity” requirements.**

(A) An overview of the activities on each card table surface, including card faces and cash and/or cash equivalents;

**Lytton Comment: Given the “sufficient clarity” definition, the standard in paragraph (A) is not possible without significantly increases the number of cameras, storage, capacity, labor, infrastructure, etc. It is impossible for one camera to give an overview and enough detail to cover all actions, of all players and identify every card face, every chip, etc.**

(B) An overview of card game activities, including patrons and dealers; and

(C) An unobstructed view of all posted progressive pool amounts.

(ii) For card game tournaments, a dedicated camera(s) must be used to provide an overview of tournament activities, including entrances/exits and any area where cash or cash equivalents are exchanged.

(4) Cage and vault: (i) The surveillance system must monitor and record a general overview of activities occurring in each cage and vault area with sufficient clarity to identify individuals within the cage and patrons and ~~agents staff members~~ at the counter areas and to confirm the amount of each cash transaction;

**Lytton Comment: This cage and vault section is another area where the Tribe urges the Commission to use the standards recommended by the TGWG/TAC.**

(ii) Each cashier station must be equipped with one (1) dedicated overhead camera covering the transaction area; and

(iii) The cage or vault area in which ~~fill and credit exchanges and transfers transactions~~ occur must be monitored and recorded by a dedicated camera or motion activated dedicated camera that provides coverage with sufficient clarity to identify the cash and cash equivalent chip values and the amounts on the documents fill and credit slips. Controls provided by a computerized ~~fill and credit~~ system constitute an adequate alternative to viewing the amounts on the ~~fill and credit slips documentation~~.

(5) Count rooms: (i) The surveillance system must monitor and record with sufficient clarity a general overview of all areas where ~~currency or coin~~ cash and cash equivalents may be stored or counted; and

(ii) The surveillance system must provide coverage of ~~seales count equipment~~ of sufficient clarity to view any attempted manipulation of the recorded data.

(d) Reporting Requirements. TGRA-approved procedures must be implemented for reporting suspected crimes and suspicious activity.

(e) Recording Retention. ~~Controls must be established and procedures implemented that include the following:~~

(1) All recordings required by this section must be retained for a minimum of seven days; and

(2) Suspected crimes, suspicious activity, or detentions by security ~~personnel~~agents discovered within the initial retention period must be copied and retained for a time period, not less than one year.

(f) Logs. Logs must be maintained and demonstrate the following:

(1) Compliance with the storage, identification, and retention standards required in this section;

(2) Each malfunction and repair of the surveillance system as defined in this section; and

(3) Activities performed by surveillance agents.

**Lytton Comment: Why is this the only section where logs are required?**

§ 543.22 [RESERVED]

§ 543.23 What are the minimum internal control standards for accounting and internal audit ~~and accounting?~~

**Lytton Comment: Consideration should be given to changing the order in the heading so that it matched the order in the body of this section.**

**Lytton Comment: Consideration should be given to adding the boilerplate supervision provision used in other sections.**

(a) Conflicts of standards. When establishing SICS, the gaming operation should review, and consider incorporating, other external standards such as GAAP, GAAS, and standards promulgated by GASB and FASB. In the event of a conflict between the MICS and the incorporated external standards, the external standards prevail.

(b) Accounting. ~~Controls must be established and procedures implemented to safeguard assets and ensure e~~Each gaming operation must:

(1) Prepares accurate, complete, legible, and permanent records of all transactions pertaining to gaming revenue and activities for operational accountability.

**Lytton Comment: The use of the term accountability conflicts with the definition.**

(2) Prepares general accounting records on a double-entry system of accounting, maintaining detailed, supporting, subsidiary records, and ensures the following activities are performed:

(i) Record gaming activity transactions in an accounting system to identify and track all revenues, expenses, assets, liabilities, and equity;

~~(ii) Record all markers, IOU's, returned checks, held checks, or other similar credit instruments;~~

**Lytton Comment: Consideration should be given to deleting paragraph (ii). These are all assets, which are covered by paragraph (i).**

~~(iii) Record journal entries prepared by the gaming operation and by its independent accountants;~~

**Lytton Comment: Consider deleting paragraph (iii). Recording journal entries is what is being done in paragraph (i).**

(iv) Prepare income statements and balance sheets;

(v) Prepare appropriate subsidiary ledgers to support the balance sheet;

(vi) Prepare, review, and maintain accurate financial statements;

(viii) Prepare transactions in accordance with management's general and specific authorization only;

**Lytton Comment: It is unclear what paragraph (viii) is requiring. Consider clarifying.**

(ix) Record transactions to facilitate proper recording of gaming revenue and fees, and to maintain accountability of assets;

~~(x) Compare recorded accountability for assets to actual assets at periodic intervals, and take appropriate action with respect to any discrepancies;~~

**Lytton Comment: Considering deleting paragraph (x). These requirements are covered by paragraph (v)**

(xi) Segregate functions, duties, and responsibilities in accordance with sound business practices;

**Lytton Comment: Consider deleting or at least moving paragraph (xi). First, "sound business practices" is too subjective a control. There is no way to test or audit "sound business practices." Second, this is an inappropriate place for this requirement.**

(xii) Prepare minimum bankroll calculations; and

(xiii) Maintain and preserve all financial records and relevant supporting documentation.

(c) Internal audit. ~~Controls must be established and procedures implemented to ensure that:~~

(1) Internal auditor(s) must perform audits of each department of a gaming operation, at least annually, to review compliance with TICS, SICS, and these MICS, which include at least the following areas:

(i) Bingo, including supervision, bingo cards, bingo card sales, draw, prize payout; cash and equivalent controls, technological aids to the play of bingo, operations, vouchers, and revenue audit procedures;

(ii) Pull tabs, including, supervision, pull tab inventory, pull tab sales, winning pull tabs, pull tab operating funds, statistical records, and revenue audit procedures;

(iii) Card games, including supervision, exchange or transfers, playing cards, skill funds, reconciliation of card room bank, posted rules, and promotional progressive pots and pools;

(iv) Gaming promotions and player tracking procedures, including supervision, gaming promotion rules and player tracking systems;

(v) Complimentary services or items, including procedures for issuing, authorizing, redeeming, and reporting complimentary service items;

(vi) Patron deposit accounts and cashless systems procedures, including supervision, patron deposit accounts and cashless systems, as well as patron deposits, withdrawals and adjustments;

(vii) Lines of credit procedures, including establishment of lines of credit policy;

(viii) Drop and count standards, including supervision, count room access, count team, card game drop standards, player interface and financial instrument drop standards, card game count standards, player interface financial instrument count standards, and controlled keys;

(ix) Cage, vault, cash and cash equivalent procedures, including supervision, cash and cash equivalents, personal checks, cashier's checks, traveler's checks, payroll checks, and counter checks, cage and vault accountability, kiosks, patron deposited funds, promotional payouts, drawings, and giveaway programs, chip and token standards, and cage and vault access;

(x) Information technology, including supervision, class II gaming systems' logical and physical controls, independence, physical

security, logical security, user controls, installations and/or modifications, remote access, incident monitoring and reporting, data back-ups, software downloads, and verifying downloads;

(xi) Accounting standards, including accounting records, maintenance and preservation of financial records and relevant supporting documentation.

(2) Internal auditor(s) ~~are~~must be independent of gaming operations with respect to the departments subject to audit (auditors internal to the operation, officers of the TGRA, or outside CPA firm may perform this function).

(3) Internal auditor(s) must report directly to the Tribe, TGRA, audit committee, or other entity designated by the Tribe.

(4) Documentation such as checklists, programs, reports, etc. ~~is~~must be prepared to evidence all internal audit work and follow-up performed as it relates to compliance with TICS, SICS, and these MICS, including all instances of noncompliance.

(5) Audit reports ~~are~~must be maintained and made available to the Commission upon request and must 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.

(6) All material exceptions, as defined by the TGRA, in consultation with management and external auditors, resulting from internal audit work ~~are~~must be investigated and resolved ~~and~~with the results are documented.

**Lytton Comment: Consideration should be given to revising (6) so that there is some way to define material exceptions. The above suggestion is in accordance with the TAC's recommendations.**

(7) Internal audit findings ~~are~~must be reported to management, responded to by management stating corrective measures to be taken, and included in the report delivered to management, the Tribe, TGRA, audit committee, or other entity designated by the Tribe for corrective action.

(8) Follow-up observations and examinations must be performed to verify that corrective action has been taken on all material exceptions regarding all instances of non-compliance cited by internal audit, the independent

accountant, the Commission, and/or the TGRA. The verification must be performed within six (6) months following the date of notification.

**Lytton Comment: Consideration should be given to revising the above. It may be necessary to follow-up on material exceptions, but not everything.**

(d) Annual requirements.(1) Agreed upon procedures. A CPA must be engaged to perform an assessment to verify whether the gaming operation is in compliance with these MICS, and/or the TICS or SICS if they provide at least the same level of controls as the MICS. The assessment must be performed in accordance with agreed upon procedures and the most recent versions of the Statements on Standards for Attestation Engagements and Agreed-Upon Procedures Engagements (collectively “SSAEs”), issued by the American Institute of Certified Public Accountants.

(2) The tribe must submit two copies of the agreed-upon procedures report to the Commission within 120 days of the gaming operation’s fiscal year end in conjunction with the submission of the annual financial audit report required pursuant to 25 C.F.R. part 571.

(3) Review of internal audit.(i) The CPA must determine compliance by the gaming operation with the internal audit requirements in paragraph (d) above by:

(A) Completing the internal audit checklist;

(B) Ensuring that the internal auditor completed checklists for each gaming department of the operation;

(C) Verifying that any areas of material non-compliance have been identified;

**Lytton Comment: It is impossible to identify all areas of non-compliance.**

(D) Ensuring that audit reports are completed and include responses from management; and

(E) Verifying that appropriate follow-up observations and examinations on audit findings has been conducted and necessary corrective measures have been taken to effectively mitigate the noted risks.

(ii) If the CPA determines that the internal audit procedures performed during the fiscal year have been properly completed, the CPA may rely on the work of the internal audit for the completion of the MICS checklists as they relate to the standards covered by this part.

(4) Report format. The SSAEs are applicable to agreed-upon procedures engagements required in this part. All noted material instances of noncompliance with the MICS and/or the TICS or SICS, if they provide the

same level of controls as the MICS, must be documented in the report with a narrative description, the number of exceptions and sample size tested.

**§ 543.24 What are the minimum internal control standards for ~~revenue~~ operational audit?**

**Lytton Comment: The TGWG and the TAC recommended changing the name of this section to operational audit to clarify that the controls were about the tasks to be performed, not the name normally associated to the people or department who may perform the tasks. The term “revenue audit” is often interpreted as the people who audit revenue rather than the action of auditing revenue. Changing the section name may eliminate that confusion.**

**Also, it appears that much of the language in this section was taken from the 2010 MICS. As such, the language style is quite different from that used in the rest of this document (including many areas within this section). Consideration should be given to revising to ensure conformity.**

**Finally, consideration should be given to inserting the boilerplate supervision provision.**

(a) Independence. Audits must be performed by agent(s) independent of the transactions being audited.

(b) Documentation. The performance of revenue audit procedures, the exceptions noted, and the follow-up of all revenue audit exceptions must be documented and maintained.

(c) ~~Controls must be established and procedures implemented to audit of e~~Each of the following operational areas must be audited:

(1) Bingo.(i) At the end of each month, ~~verify~~the accuracy of the ending balance in the bingo control log must be verified by reconciling it with the bingo paper inventory. Investigate and document any variance noted.

(ii) Daily, ~~recalculate~~Supporting records and documents must be to reconciled to summarized paperwork (e.g. total sales and payouts per shift and/or day).

(iii) At least monthly, ~~review~~variances related to bingo accounting data must be reviewed, which must include, ~~at a minimum~~,any variance noted by the Class II gaming system for cashless transactions in and out, electronic funds transfer in and out, external bonus payouts, vouchers out and coupon promotion out. Investigate and document any variance noted.

(iv) At least monthly, ~~review~~statistical reports must be reviewed for any deviations from the mathematical expectations exceeding a

threshold established by the TGRA. ~~Investigate and document a~~Any deviations compared to the mathematical expectations required to be submitted per § 547.4 must be investigated and documented.

(v) At least monthly, take a random sample, foot the vouchers redeemed and trace the totals to the totals recorded in the voucher system and to the amount recorded in the applicable cashier's accountability document.

**Lytton Comment: We are concerned with (c)(1)(iii)-(v) which specifically list transactions and use the phrase “investigate and document any variance,”, which could be in amounts so small as to not warrant such actions. consideration should be given to requiring review at an established threshold rather than for any variance.**

(2) Pull tabs.(i) Daily, ~~verify~~the amount of winning pull tabs redeemed each day must be verified.

(ii) At the end of each month, ~~verify~~the accuracy of the ending balance in the pull tab control must be verified by reconciling the pull tabs on hand. Investigate and document any variance noted.

(iii) At least monthly, ~~compare for reasonableness t~~The amount of pull tabs sold from the pull tab control log to the amount of revenue recognized must be compared for reasonableness.

(iv) At least monthly, ~~review s~~Statistical reports for any deviations exceeding a specified threshold, as defined by the TGRA must be reviewed. Investigate and document any large and unusual fluctuations noted.

**Lytton Comment: What is a large and unusual fluctuation? Again, consider requiring this at a threshold established by the gaming operation/TGRA.**

(3) Card games.(i) Daily, ~~reconcile~~the amount indicated on the progressive sign/meter must be reconciled to the cash counted or received by the cage and the payouts made for each promotional progressive pot and pool. This reconciliation must be ~~suffieiently~~documented, including substantiation of differences, adjustments, etc.

**Lytton Comment: We are not sure it is a good idea to use the term “etc.” in a regulation.**

(ii) At least monthly, ~~review~~all payouts for the promotional progressive pots, pools, or other promotions must be reviewed to determine proper accounting treatment and that they are conducted in accordance with conditions provided to ~~patrons.the~~customers.

(iii) At least weekly, ~~reconcile~~ all contest/tournament entry and payout forms must be reconciled to the dollar amounts recorded in the appropriate accountability document.

(4) Gaming promotions and player tracking. (i) At least monthly, procedures must be performed ~~procedures~~ to ensure that promotional payments, drawings, and giveaway programs are conducted in accordance with information provided to ~~patrons, the customers~~.

(ii) At least one day per quarter, for computerized player tracking systems, perform the following ~~procedures~~:

(A) Review all point addition/deletion authorization documentation, other than for point additions/deletions made through an automated process, for propriety;

(B) Review exception reports, including transfers between accounts; and

(C) Review documentation related to access to inactive and closed accounts.

(iii) At least annually, all computerized player tracking systems (~~in-house developed and purchased systems~~) must be reviewed by ~~personnel~~ agents independent of the individuals that set up or make changes to the system parameters. The review must be performed to determine that the configuration parameters are accurate and have not been altered without appropriate ~~management~~ authorization (e.g., player tracking system - verify the accuracy of the awarding of points based on the dollar amount wagered). ~~Document and maintain~~ The test results must be documented and maintained.

(5) Complimentary services or items. At least monthly, ~~review~~ the reports required in § 543.13(d) must be reviewed. ~~These reports must be made available to the Tribe, TGRA, audit committee, other entity designated by the Tribe, and the Commission, upon request.~~

**Lytton Comment: Consider deleting the last sentence. It seems odd that this is mentioned in this one place.**

(6) Patron deposit accounts. (i) At least weekly, ~~reconcile~~ patron deposit account liability (deposits ± adjustments – withdrawals = total account balance) must be reconciled to the system record.

(ii) At least weekly, ~~review~~ manual increases and decreases to/from player deposit accounts must be reviewed to ensure ~~proper~~ adjustments were authorized.

**Lytton Comment: Consider deleting the word “proper.” Isn’t the intent that a review be done to ensure that all “adjustments” were authorized?**

(7) Lines of credit.(i) At least three (3) times per year, an agent independent of the cage, credit, and collection functions must perform all of the following:

(A) Select a sample of line of credit accounts;

(B) Ascertain compliance with credit limits and other established credit issuance procedures;

(C) Reconcile outstanding balances of both active and inactive (includes write-offs and settlements) accounts on the accounts receivable listing to individual credit records and physical instruments. This procedure need only be performed once per year for inactive accounts; and

(D) Examine line of credit records to determine that appropriate collection efforts are being made and payments are being properly recorded.

(ii) ~~On-For~~ at least five (5) days per month, ~~subsequently reconcile~~ partial payment receipts must be subsequently reconciled to the total payments recorded by the cage for the day and account for the receipts sequentially.

**Lytton Comment: This provision is somewhat confusing. If the intent of including the phrase “account for the receipts sequentially” is to require the review of partial payments sequentially to verify correct line of credit balances per partial payment, consideration should be given to clarifying such intent in a separate control.**

(iii) At least monthly, ~~perform~~ an evaluation of the collection percentage of credit issued must be performed to identify unusual trends.

(8) Drop and count.(i) At least quarterly, unannounced currency counter and currency counter interface (if applicable) tests must be performed, ~~and the test results documented and maintained.~~ All ~~denominations of currency and all types of cash out-tickets-financial instruments~~ counted by the currency counter must be tested. This test may be performed by internal audit or the TGRA. The tests results of ~~these tests~~ must be documented and signed by the agent (s) ~~or agents~~ performing the test.

(ii) At least quarterly, unannounced weigh scale and weigh scale interface (if applicable) tests must be performed, and the test results documented and maintained. This test may be performed by internal audit or the TGRA. The result of ~~these~~ this tests must be documented and signed by the agent (s) ~~or agents~~ performing the test.

(iii) For computerized key security systems controlling access to drop and count keys, perform the following ~~procedures~~:

(A) At least quarterly, review the report generated by the computerized key security system indicating the transactions performed by the individual(s) that adds, deletes, and changes users' access within the system (*i.e.*, system administrator). Determine whether the transactions completed by the system administrator provide adequate control over the access to the drop and count keys. ~~Also, determine whether any drop and count key(s) removed or returned to the key cabinet by the system administrator was properly authorized;~~

(B) At least quarterly, review the report generated by the computerized key security system indicating all transactions performed to determine whether any unusual drop and count key removals or key returns occurred and were properly authorized; and

(C) At least quarterly, review a sample of users that are assigned access to the drop and count keys to determine that their access to the assigned keys is ~~adequate~~ appropriate relative to their job position.

(iv) At least quarterly, an inventory of all controlled keys must be performed and reconciled to records of keys made, issued, and destroyed. Investigations must be performed for all keys unaccounted for, and the investigation documented.

(9) Cage, vault, cash, and cash equivalents.(i) At least monthly, the cage accountability must be reconciled to the general ledger.

(ii) On at least one day each month, ~~trace~~ the amount of cage deposits must be traced to the amounts indicated in the bank statements.

(iii) ~~On at least two days each year~~ Twice annually, a count must be performed of all funds in all gaming areas (*i.e.* cages, vaults, and booths (including reserve areas)); ~~and kiosks, cash-out ticket redemption machines, and change machines, and must include the following:~~

**Lytton Comment: Consider deleting “cash out ticket redemption machines and change machines as such all fall within the definition of a kiosk.**

(A). ~~The c~~Count of all chips and tokens must be verified by denomination and type.

~~(B) Count-i~~ Individual straps, bags, and imprest banks must be counted on a sample basis. ~~Trace a~~

~~(C) All~~ amounts counted must be traced to the amounts recorded on the corresponding accountability forms to ensure that the proper amounts are recorded. ~~Maintain d~~

~~(D) Documentation~~ evidencing the amount counted for each area and the subsequent comparison to the corresponding accountability form must be maintained.

~~(E) The~~ count must be completed within the same gaming day for all areas.

**Lytton Comment: Consideration should be given to breaking the requirements in paragraph (iii) above into subparagraphs. There is a substantial amount of information contained within this one paragraph and it would be easy to miss something.**

(A) Counts must be observed by an individual independent of the department being counted. It is permissible for the individual responsible for the funds to perform the actual count while being observed.

(B) Internal audit may perform and/or observe the two counts.

(iv) At least annually, ~~select~~ a sample of invoices for chips and tokens purchased must be selected, and trace the dollar amount from the purchase invoice to the accountability document that indicates the increase to the chip or token inventory to ensure that the proper dollar amount has been recorded.

(v) At each business year end, ~~create and maintain~~ documentation evidencing the amount of the chip/token liability, the change in the liability from the previous year, and explanations for adjustments to the liability account (including any adjustments for chip/token float) must be created and maintained.

(vi) At least monthly, ~~review~~ a sample of returned checks must be reviewed to determine that the required information was recorded by a cage ~~personnel~~ agent when the check was cashed.

(vii) At least monthly, ~~review~~ exception reports for all computerized cage systems must be reviewed for propriety of transactions and unusual occurrences. The review must include; ~~but is not limited to~~, voided authorizations. All noted improper transactions or unusual occurrences identified must be investigated and the results documented.

(viii) Daily, ~~reconcile~~ all parts of forms used to document increases/decreases must be reconciled to the total cage inventory, investigate any variances noted, and document the results of such investigations.

(10) Accounting. (i) At least monthly, ~~verify~~ receipt, issuance, and use of controlled inventory, including, but not limited to, bingo cards, pull tabs, playing cards, keys, pre-numbered and/or multi-part forms, etc. must be verified.

(ii) ~~Periodically perform a~~ Minimum bankroll calculations must be performed periodically to ensure that the gaming operation maintains cash in an amount sufficient to satisfy the gaming operation's obligations.

**§ 543.25 – 543.49 [RESERVED]**

Dated this 22 of May, 2012

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