



**San Manuel Band of Mission Indians
Tribal Gaming Commission
OFFICE OF THE COMMISSION**

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August 22, 2011

Ms. Tracie Stevens, Chairwoman
National Indian Gaming Commission
1441 L Street, Suite 9100
Washington, D.C. 20005

Dear Chairwoman Stevens,

Thank you for the opportunity to submit written comments on your preliminary discussion draft of revisions to NIGC Regulation 25 CFR Part 518 regarding certificates of self regulation.

First, generally speaking, we applaud the Commission's effort to make the petition process less cumbersome. We especially appreciate the elimination of provisions intruding upon the accounting systems of the Tribal Government (as opposed to the Gaming Operation), and the requirements for public notices of the Tribe's petition. There are a few other provisions in the draft that we would like to specifically address below.

Section 518.2 (b) is not clear as to whether the reference is limited to Class II gaming (which is the scope defined in 518.1) or if it is supposed to include a mixture of both Class II and Class III.

Section 518.3 (a) (2) (v) requires a petition package to contain a list of names, titles and dates of employment of all employees of the tribal regulatory body. We view this provision as burdensome, unnecessary, and irrelevant to a Tribe's eligibility. These personnel are subject to constant change. In addition, the previously required "organizational chart" along with all other documentation should be sufficient to determine eligibility.

Section 518.3 (a) (2) (vii) asks for a list of gaming activity internal controls. Again, it is unclear if this refers to a mix of Class II and Class III MICS.

Section 518.4 (a) (4) (iii) requires the Tribe to adopt a system adequate for "investigating, enforcing, and prosecuting violations of its gaming ordinance and regulations". This poses several dilemmas making it nearly impossible to comply. For example, in California the only "prosecuting" authority is the County or State under Public Law 280, and the U.S. Department of Justice under certain circumstances. None of those prosecutorial jurisdictions enforce "tribal" ordinances or regulations. Additionally, the vast majority of Tribes in California do not have tribal courts and even if they did, I don't believe they could or would "prosecute" non Indians for violations of a tribal ordinance or regulations. In most cases, the tribal regulatory agency "investigates" and "enforces" compliance with the Tribe's gaming ordinance and regulations by imposing licensing sanctions or fines, but that is limited to "licensees". These same comments are applicable to Section 518.4 (b) (9).

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Again, we are not clear if the reference to MICS in Section 518.4 (b) (1) is limited to Class II only. If not there would seem to be an arbitrary comingling of Class II and Class III compliance requirements in a Class II only certificate of self regulation.

Section 518.4 (b) (5) (ix) requires standards for licensing or issuing permits to vendors. While we would agree that this is a valuable and responsible policy for a tribal regulatory agency to implement, and likely most Tribes have done so, there is no such mandate in IGRA. We must conclude that the Commission is exceeding its authority by mandating this requirement. This comment similarly applies to Section 518.4 (b) (7).

In Section 518.4 (b) (5) (xii) we would suggest that hearings on “matters related to the revocation oflicenses”, not be limited to “revocation”, and should include “denial” and “suspensions” of licenses. We also recommend either removing the word “vendor” from this section, or adding the words “if applicable” immediately after the word “vendor”.

In Section 5418.5 (c) the word “investigation” in the first sentence should probably be “investigate”.

Section 518.7 (b) requires the submission of a “complete resume” on all primary management officials and key employees licensed after a certificate is issued. This would be more onerous, requiring more time and paper, than the current “pilot program” requirements of submitting a “notice of results” and “suitability” determination to NIGC. Secondly, we could not possibly comply because we have designated virtually all of our 3,400 employees as “key employees” and less than 15% submit “completed resumes” as part of their license applications.

This completes our comments on the discussion draft of Part 518. We again, thank you for the opportunity to provide input and hope that you will find some value in the comments and give due consideration in any final proposals.

Sincerely,

A handwritten signature in cursive script, appearing to read "Norman H. DesRosiers". The signature is written in black ink and is positioned above a horizontal line.

Norman H. DesRosiers
Gaming Commissioner

cc: Ms. Stephanie Cochran, Vice Chair
Mr. Daniel Little, Commissioner
Lael Echo-Hawk, Special Counsel
Rita Homa, Administrative Assistant