



NOTICE OF CONSULTATION SESSIONS FOR 2018

December 22, 2017

Dear Tribal Leader:

The National Indian Gaming Commission (NIGC) recognizes and respects the sovereignty of Indian Tribes and the government-to-government relationship that exists between the United States and Tribal governments. Consistent with federal law and NIGC's internal policy, the NIGC places the utmost importance on meaningful consultation with Tribal nations in the performance of its regulatory duties. The Indian Gaming Regulatory Act (IGRA) provides the statutory framework to promote tribal economic development, self-sufficiency, and strong tribal governments. Tribal consultations are a vital tool for accomplishing this purpose. Consultation establishes regular and meaningful collaboration with Tribal officials in the development of Federal policies that have tribal implications.

INTRODUCTION TO 2018 CONSULTATION TOPICS

We wish to introduce you to NIGC's 2018 consultation topics. Additional information on these topics will be provided prior to the first scheduled consultation on our website.

Please note that the NIGC is providing this Notice in order to meet its commitment to announce its intention for the 2018 Consultation Series before the end of 2017. This Notice also provides Tribal leaders as much opportunity as possible to plan and allocate resources for the coming year, and it allows the NIGC to hear Tribal input on the NIGC's plans before the year begins. Further, as a standing practice, the NIGC welcomes ongoing input at these sessions or in any other manner regarding appropriate topics or form of consultation.

The following is the list of the 2018 consultation topics:

1. Proposed changes to Management Contract process

IGRA mandates that the Chairman of the NIGC may only approve a management contract if it does not exceed a term of 5 years, or in rare circumstances, 7 years. NIGC regulations reflect that limitation as well as the other requirements of IGRA in 25 C.F.R. Part 531, which include background investigations for the third-party management team, business plans, and, in some instances, justifications for the

compensation being paid to the third party. Management contracts are not approved unless they comply with IGRA's requirements, including term limits. In the past, the NIGC Chair has approved amendments to agreements that extend the agreement's term beyond five or seven years. By treating these extensions as amendments, rather than new agreements, management companies have claimed that the regulation's background investigation and suitability requirements are not applicable. The NIGC is proposing to change its regulations to treat any extension of a management contract beyond the permitted five or seven year term as a new contract. We understand this change may raise concerns regarding the timing and expense of updating background investigations and suitability determinations, so the Commission is also proposing a number of changes to our review process, including streamlining the background investigation process and billing a management contractor for the investigation costs rather than requiring a deposit before those investigations will be started. We are confident that by performing our statutory and regulatory responsibilities in a more efficient manner, we can make this change with no noticeable disruption to working partnerships in the industry. We look forward to discussing these proposed changes and hearing your feedback.

2. Audit Submissions

NIGC regulation 25 C.F.R. Part §571.12 requires each gaming operation to submit audited financial statements to the NIGC on an annual basis. In 2009 the regulation was revised to allow gaming operations with annual gross gaming revenue (GGR) less than \$2 million to submit reviewed financial statements. The intent of the 2009 revision was to relieve smaller rural gaming operations of the cost of an annual CPA audit. However, for small gaming operations, even the cost of a CPA review can be prohibitive and in some cases exceeding the total annual gaming revenue of the operation.

The Commission is considering additional amendments to 25 C.F.R. Part §571.12 such as adding the smallest gaming operations would be exempted from the annual financial statement submission requirement, allowing other small operations to submit unaudited or CPA compiled (rather than reviewed) financial statements and increase the maximum GGR for allowing submission of reviewed (rather than audited) financial statements to \$3 million. The Commission would like to consult on developing regulatory language for these proposed changes.

3. Management & Sole Proprietary Interest

Although IGRA is clear that all management agreements must be submitted to the NIGC for the Chairman's review and approval and prohibits management of a facility without an approved contract, it is less clear on what exactly constitutes management. Related to that, IGRA also requires that a Tribe maintain the sole proprietary interest in its gaming establishment, but does not specify what "sole proprietary interest" means. The NIGC has attempted to clarify these questions in the past through bulletins, legal opinions, and enforcement actions. The courts have also weighed in on these questions, further determining how the Agency should view these questions. From this, the Commission would like to consult on developing regulations clearly setting out its standard for what constitutes management and sole proprietary interest. The Commission is eager to discuss whether regulations are warranted and, if so, how best to implement them.

2018 CONSULTATION LOCATIONS AND DATES

For the 2018 consultation topics, the NIGC would like to consult at the following times and locations:

- January 23rd, Tribal Location TBD (Plains location)
- January 25th, Doubletree by Hilton, Portland, OR
- January 29th, Apache Casino Hotel, Lawton, OK
- February 8th, Harrahs Southern California, Valley Center, CA
- February 15th, NIGC Headquarters office, Washington, DC (In-person and telephonic)
- February 21st, Location TBD, Milwaukee, WI

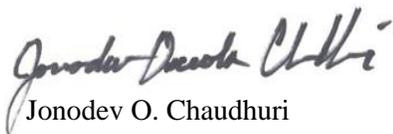
RSVP AND CONTACT INFORMATION

For additional information on the time and location of the consultations, please consult the NIGC's web site at <http://www.nigc.gov/commission/tribal-consultation-2018>. Information will be updated on the web site every Wednesday by 5:00 p.m. EST. For planning purposes, and to accommodate all who want to attend the consultations, RSVP to Rita Homa, Executive Administrator, at (202) 418-9807 or by e-mail at consultation.rsvp@nigc.gov.

For those Tribal leaders unable to attend the scheduled consultation sessions, we also invite you to submit written comments by e-mail to Vannice_Doulou@nigc.gov or by U.S. mail to; NIGC, Attn: Vannice Doulou, 1849 C St. NW, Mail Stop #1621, Washington, DC 20240.

Thank you for your consideration and participation.

Sincerely,



Jonodev O. Chaudhuri
Chairman



Kathryn Isom-Clause
Vice Chair



E. Sequoyah Simermeyer
Associate Commissioner