

Tribal Background Investigations and Licensing

Session Guide



Key Points

Tribal Background Investigations and Licensing

[25 CFR 556](#) and [25 CFR 558](#)

Participant Guide

Notes

What's in it for me?

Discover Tribal (TGRA) Authority, Duties & Responsibilities in the licensing process under 25 CFR 556 & 558 and review timelines for licensing submissions.



Key Points

Reviewing Parts 556 and 558.

Notes

Three Sources of Authority in the Licensing Process



Indian Gaming Regulatory Act (IGRA) 25 USC Ch. 29

Tribal Gaming Ordinance (TGO)

Tribal State Compact (TSC)



Key Points

Familiarize yourselves on the provisions of the [Indian Gaming Regulatory Act](#) (IGRA), [Tribal Gaming Ordinance](#) (TGO), & Tribal State Compact (TSC).

Notes

Licensing Responsibilities of a TGRA

- Develop licensing procedures.
- Subject to background investigation:
 - Key employees (KE).
 - Primary management officials (PMO).



Key Points

Licensing Responsibilities of a TGRA

- Develop licensing procedures for all employees ([25 CFR 558.1](#))
 - “Unless a tribal-state compact assigns responsibility to an entity other than a tribe, **the licensing authority for class II or class III gaming is a tribal authority.** The procedures and standards of this part apply only to licenses for primary management officials and key employees. This part does not apply to any license that is intended to expire within 90 days of issuance.”
- Only key employees (KE) and primary management officials (PMS) are subject to a background investigation in the licensing process.

([25 CFR 502.14](#)) Key Employee (KE) means:

(a) Any person who performs one or more of the following functions for the gaming operation:

- (1) Bingo caller;
- (2) Counting room supervisor;
- (3) Chief of security;
- (4) **Floor manager;**
- (5) Pit boss;
- (6) Dealer;
- (7) Croupier;
- (8) Approver of credit;
- (9) **Custodian of gaming systems as defined in 25 CFR 547.2 and similar class III systems, gaming cash or gaming cash equivalents, gaming supplies or gaming system records;**
- (10) **Custodian of surveillance systems or surveillance system records.**

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- (b) **Any gaming operation employee authorized by the gaming operation for unescorted access to secured gaming areas designated as secured gaming areas by the TGRA;**
- (c) If not otherwise licensed as a key employee or primary management official, the four persons most highly compensated **by the gaming operation;**
- (d) **Any other employee of the gaming enterprise as documented by the tribe as a key employee.**
([25 CFR 502.19](#)) Primary Management Official (PMO) means:
 - (a) Any person having management responsibility for a management contract;
 - (b) Any person who has authority:
 - (1) To hire and fire employees **of the gaming operation;** or
 - (2) **To establish policy** for the gaming operation.
 - (c) The chief financial officer **or a position with duties similar to a chief financial officer.**
 - (d) **The general manager or a position with duties similar to a general manager.**
 - (e) **Any other employed management official of the gaming enterprise as documented by the Tribe as a primary management official.**

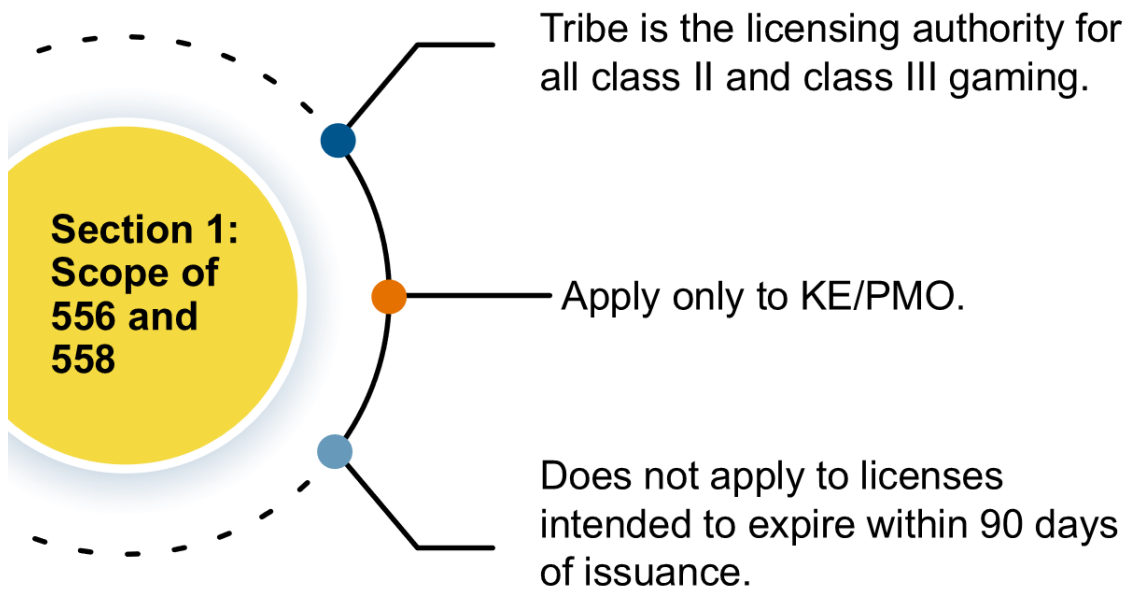
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Key Points

[25 CFR Part 522.5\(b\)\(5\)](#) requires a Tribe's ordinance to include a provision that provides that – "A tribe shall perform background investigations and issue licenses for key employees and primary management officials according to requirements that are at least as stringent as those in parts 556 and 558 of this chapter."

[25 CFR 556.1](#) and [25 CFR 558.1](#)

Unless a tribal-state compact assigns responsibility to an entity other than a Tribe, the **licensing authority for class II or class III gaming is a tribal authority. The procedures and standards of this part apply only to licenses for primary management officials and key employees.** This part **does not apply to any license that is intended to expire within 90 days of issuance.**

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Section 556.2 & 556.3 – Notices

- Licensing application for KE/PMO must include
 - Privacy Act Notice.
 - False Statement Notice.
- Statements from the regulations must be used VERBATIM on the application.



Key Points

All licensing applications must include a Privacy Act Notice and False Statement.

The wording for these statements on the application must be copied verbatim from the regulation.

If existing KE/PMO filled out a licensing application before these statements were included, they must either

- Complete a new application that contains the statements, or
- Sign a notice that contains the statement and consent to the uses of the information in the statement.

[25 CFR 556.2](#) **Privacy Act Notice**

- (a) A tribe shall place the following notice on the application form for a key employee or a primary management official before that form is filled out by an applicant:
- (b) A tribe shall notify in writing existing key employees and primary management officials that they shall either:
 - (1) Complete a new application form that contains a Privacy Act notice; or
 - (2) Sign a statement that contains the Privacy Act notice and consent to the routine uses described in that notice.

Key Points

[25 CFR 556.3](#) **Notice regarding false statements**

(a) A tribe shall place the following notice on the application form for a key employee or a primary management official before that form is filled out by an applicant:

A false statement on any part of your license application may be grounds for denying a license or the suspension or revocation of a license. Also, you may be punished by fine or imprisonment (U.S. Code, title 18, section 1001).

(b) A tribe shall notify in writing existing key employees and primary management officials that they shall either:

- (1) Complete a new application form that contains a notice regarding false statements; or
- (2) Sign statement that contains the notice regarding false statements.

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Section 556.4 – Background Investigations



- Background investigation required for each KE/PMO.
- Minimum gaming license application requirements.

Key Points

[25 CFR 556.4](#)

A Tribe shall perform a background investigation for each primary management official and for each key employee of the gaming enterprise.

(a) A tribe shall request from each primary management official and from each key employee all of the following information:

- (1) Full name, other names used (oral or written), social security number(s), birth date, place of birth, citizenship, gender, all languages (spoken or written);
- (2) Currently and **for the previous five years**: Business and employment positions held, ownership interests in those businesses, business and residence addresses, and **driver's license numbers**;
- (3) The names and current addresses of at least three personal references, **including one personal reference who was acquainted with the applicant during each period of residence** listed under [paragraph \(a\)\(2\)](#) of this section;
- (4) Current business and residence telephone numbers;
- (5) A description of any existing and previous **business relationships with Indian tribes**, including ownership interests in those businesses;
- (6) A description of any existing and previous **business relationships with the gaming industry** generally, including ownership interests in those businesses;
- (7) The name and address of any licensing or regulatory agency with which the person has filed an application for a license or permit **related to gaming**, whether or not such license or permit was granted;

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- (8) For each felony for which there is an ongoing prosecution or a conviction, the charge, the name and address of the court involved, and the date and disposition if any;
- (9) For each misdemeanor conviction or ongoing misdemeanor prosecution (excluding minor traffic violations) within 10 years of the date of the application, the name and address of the court involved and the date and disposition;
- (10) For each criminal charge (excluding minor traffic charges) whether or not there is a conviction, if such criminal charge is within 10 years of the date of the application and is not otherwise listed pursuant to [paragraph \(a\)\(8\)](#) or [\(a\)\(9\)](#) of this section, the criminal charge, the name and address of the court involved and the date and disposition;
- (11) The name and address of any licensing or regulatory agency with which the person has filed an application for **an occupational license or permit**, whether or not such license or permit was granted;
- (12) A photograph;
- (13) Any other information a tribe deems relevant; and
- (14) **Fingerprints** consistent with procedures adopted by a tribe according to [§ 522.2\(g\) of this chapter](#), 522.2(g): Identification of the entity that will take fingerprints and a copy of the procedures for conducting a criminal history check. Such a criminal history check shall include a check of criminal history records information maintained by the Federal Bureau of Investigation.

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Tribal Eligibility Determination (556.5)



The TGRA's determination of an applicant's eligibility must include a review of:

- A Reputation, habits and associations
- B Credit history
- C Prior activities
- D Criminal record, if any

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Key Points

POLL QUESTION

The TGRA's determination of an applicant's eligibility must include a review of . . .

What factors must be reviewed?

- A) Reputation, habits and associations
- B) Credit History
- C) Prior activities
- D) Criminal record, if any

[25 CFR 556.5 Tribal Eligibility Determination](#)

A Tribe shall conduct an investigation sufficient to make an eligibility determination.

(a) To make a finding concerning the eligibility of a key employee or primary management official for granting of a gaming license, an authorized tribal official shall review a person's:

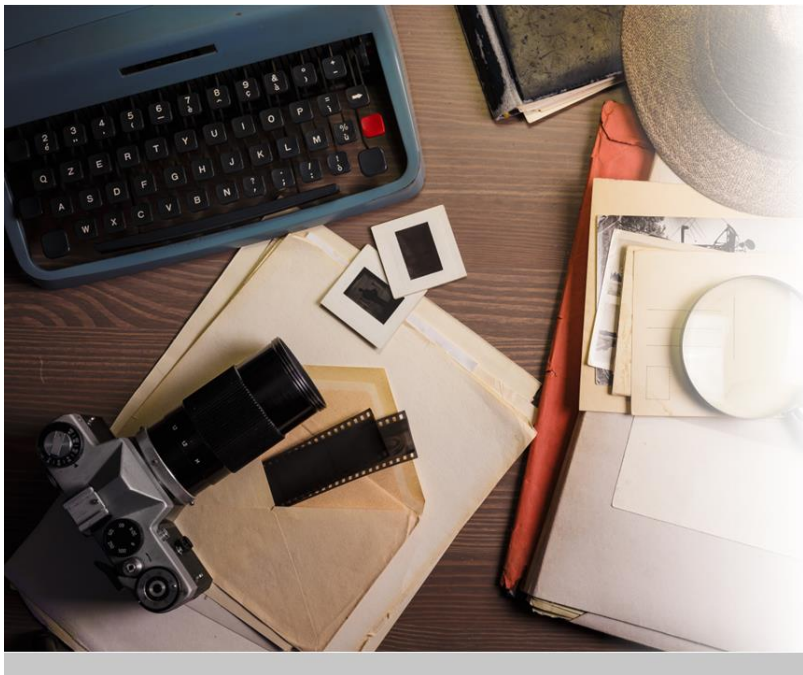
- (1) Prior activities;
- (2) Criminal record, if any; and
- (3) Reputation, habits and associations.

(b) If the authorized tribal official, in applying the standards adopted in a tribal ordinance, determines that licensing of the person poses a threat to the public interest or to the effective regulation of gaming, or creates or enhances the dangers of unsuitable, unfair, or illegal practices and methods and activities in the conduct of gaming, an authorizing Tribal official shall not license that person in a key employee or primary management official position.

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Activity Reviewing Applicants



Key Points

Reviewing Applicants

Instructions:

Create a list of the methods and practices that are used to review applicants for gaming licenses.

1. Brainstorm: Make a list of methods and tools your organization uses to review applicants':
 - a. Reputation.
 - b. Habits.
 - c. Associations.
 - d. Criminal record.
2. Share the methods and tools with the larger group.
3. As groups share, make a summary list in your notes.
4. Note how methods and tools on the summary are similar or different from the tools and methods your organization uses to review applicants for gaming licenses.

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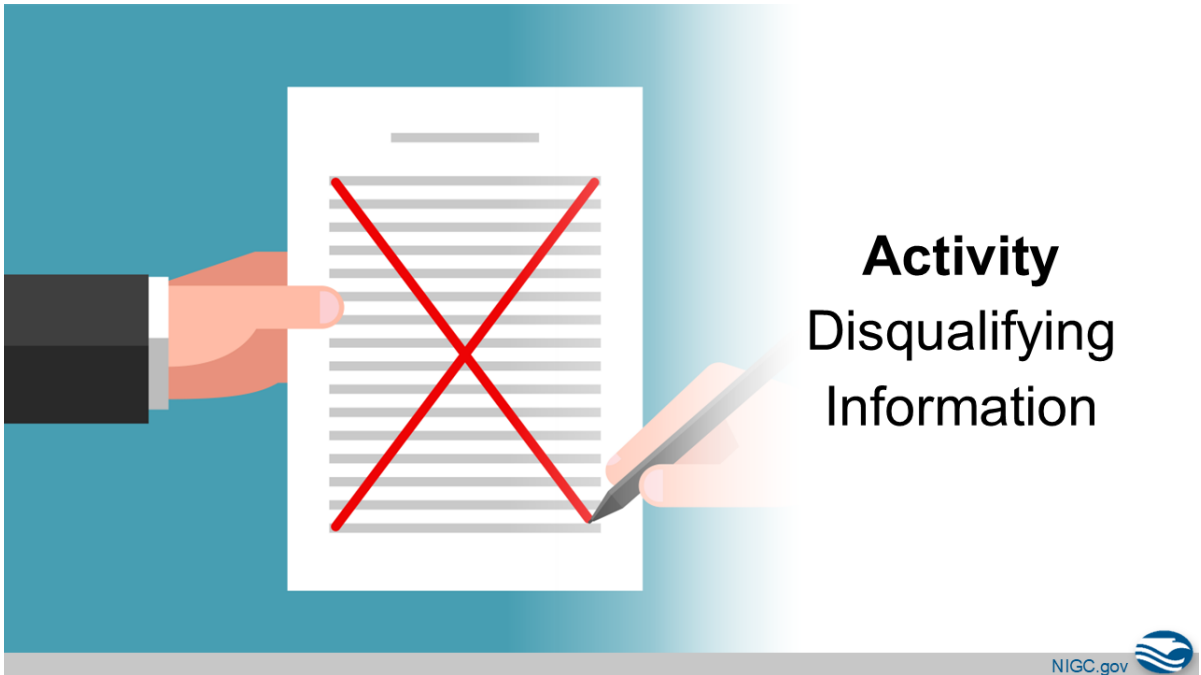
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Key Points

ACTIVITY - Disqualifying Information

Instructions:

Create a list of information that might disqualify applicants for gaming licenses or result in the revocation of a license.

1. Table Brainstorm: Make a list of information that might disqualify an applicant from obtaining a license through your TGRA or result in the revocation of a license.
**** Make sure you consider items like: felony convictions, repeated misdemeanor citations, and failure to document information.**
2. Share the table list with the larger group.
3. As groups share, make a summary list in your notes.
4. Note how items on the summary list of information that might disqualify applicants for gaming licenses are similar or different to your organization.

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556.6 Report to the Commission

- Maintain the information from the KE/PMO licensing application.
- **BEFORE** issuing a license:
 - Create & maintain an investigative report.
 - Submit a Notice of Results to the Commission.



Key Points

[25 CFR 556.6](#) **Report to the Commission**

- (a) When a Tribe licenses a primary management official or a key employee, the Tribe shall maintain the information listed under [§ 556.4\(a\)\(1\)](#) through [\(14\)](#).
- (b) **Before** issuing a license to a primary management official or to a key employee, a tribe shall:
- (1) Create and maintain an investigative report on each background investigation. An investigative report shall include all of the following:
 - (i) Steps taken in conducting a background investigation;
 - (ii) Results obtained;
 - (iii) Conclusions reached; and
 - (iv) The basis for those conclusions.
 - (2) Submit a Notice of Results of the applicant's background investigation to the Commission.

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What Makes up a Notice of Results?

NIGC must be notified of the results of the background investigation **before** a license is issued and within 60 days of an individual beginning employment.



Key Points

[25 CFR 556.6](#) **Report to the Commission**

(b) Before issuing a license to a primary management official or to a key employee, a tribe shall:

(2) **Submit a notice of results of the applicant's background investigation to the Commission no later than sixty (60) days after the applicant begins work.** The notice of results shall contain:

- (i) Applicant's name, date of birth, and social security number;
- (ii) Date on which applicant began or will begin work as key employee or primary management official;
- (iii) A summary of the information presented in the investigative report, which shall at a minimum include a listing of:
 - (A) Licenses that have previously been denied;
 - (B) Gaming licenses that have been revoked, even if subsequently reinstated;
 - (C) Every known criminal charge brought against the applicant within the last 10 years of the date of application; and
 - (D) Every felony of which the applicant has been convicted or any ongoing prosecution.
- (iv) A copy of the eligibility determination made under [§ 556.5](#).

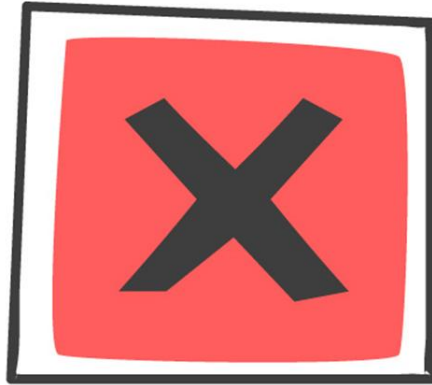
Per Section V.B.9 the [Memorandum of Understanding \(MOU\) with the NIGC regarding Criminal History Record Information](#), applicant's position must be included as well.

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Part 558.2 – Objection / No Objection



Key Points

[25 CFR 558.2](#) *Review of notice of results for a key employee or primary management official.*

- (a) Upon receipt of a complete notice of results for a key employee or primary management official as required by § 556.6(b)(2) of this chapter, the Chair has 30 days to request additional information from a tribe concerning the applicant or licensee and to object.
- (b) If the Commission has no objection to issuance of a license, it shall notify the tribe within thirty (30) days of receiving notice of results pursuant to § 556.6(b)(2) of this chapter.
- (c) If, within the 30-day period described in paragraph (a) of this section, the Commission provides the tribe with a statement itemizing objections to the issuance of a license to a key employee or to a primary management official applicant for whom the tribe has provided a notice of results, the tribe shall reconsider the application, taking into account the objections itemized by the Commission. The tribe shall make the final decision whether to issue a license to such applicant.
- (d) If the tribe has issued the license before receiving the Commission's statement of objections, notice and hearing shall be provided to the licensee as provided by § 558.4.

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Part 558.3 – Gaming License Decisions and Retention

1. Provide NOR to NIGC.
2. License issued.
3. Provide issuance of license (IOL) notice to NIGC.



Key Points

[25 CFR 558.3](#) **Notification to NIGC of license decisions and retention obligations.**

- (a) After a tribe has provided a notice of results of the background check to the Commission, a tribe may license a primary management official or key employee.
- (b) Within 30 days after the issuance of the license, a tribe shall notify the Commission of its issuance.

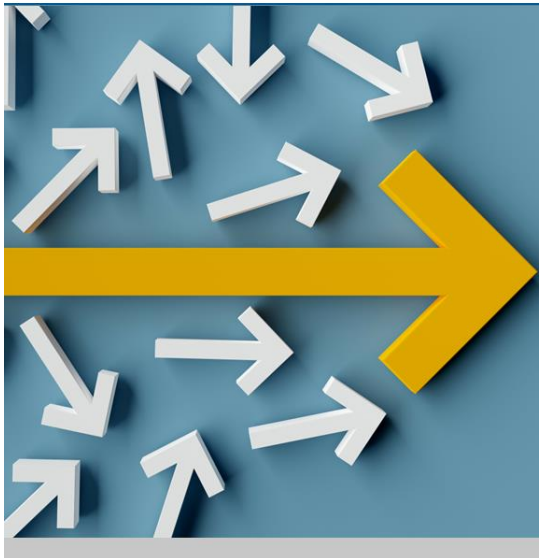
Issuance of License (IOL)

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Notes

Part 558.3 – Gaming License Decisions and Retention



- KE/PMO without licenses after 90 days cannot perform KE/PMO duties.
- NIGC must be notified if
 - No license is issued.
 - License is revoked.

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Key Points

[25 CFR 558.3](#) **Notification to NIGC of license decisions and retention obligations.**

(c) A key employee or primary management official who does not have a license after ninety (90) days shall not be permitted to perform the duties, functions, and/or responsibilities of a key employee or primary management official until so licensed.

(d) If a tribe does not license an applicant—

(1) The tribe shall notify the Commission; and

(2) Shall forward copies of its eligibility determination and notice of results, under [§ 556.6\(b\)\(2\) of this chapter](#), to the Commission for inclusion in the Indian Gaming Individuals Record System.

(e) If a tribe revokes a key employee or primary management official's license—

(1) The tribe shall notify the Commission; and

(2) Shall forward copies of its license revocation decision for inclusion in the Indian Gaming Individuals Record System.

[Memorandum of Understanding with the NIGC regarding CHRI](#) section V.B.13 requires the TGRA to notify the NIGC, on a monthly basis, of the following licensing information associated with the dissemination of CHRI for a fingerprinted applicant that does not result in a submission of a NOR: a) the reason for the fingerprint submission and b) if the submission was in error, the steps taken to correct the process that created the error.

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Part 558.3 – Gaming License Decisions and Retention

For at least three (3) years from termination, retain

- Information collected in KE/PMO gaming license application.
- Investigative reports.
- Eligibility determinations.
- Privacy Act Notice.
- False Statement Notice.



Key Points

[25 CFR 558.3](#) **Notification to NIGC of license decisions and retention obligations.**

(f) A tribe shall retain the following for inspection by the Chair or their designee for no less than three years from the date of termination of employment:

- (1) The information listed under [§ 556.4\(a\)\(1\)](#) through [\(14\) of this chapter](#);
- (2) Investigative reports, as defined in [§ 556.6\(b\) of this chapter](#);
- (3) Eligibility determinations, as defined in [§ 556.5 of this chapter](#);
- (4) Privacy Act notice, as defined in [§ 556.2 of this chapter](#); and
- (5) False Statement notice, as defined in [§ 556.3 of this chapter](#).

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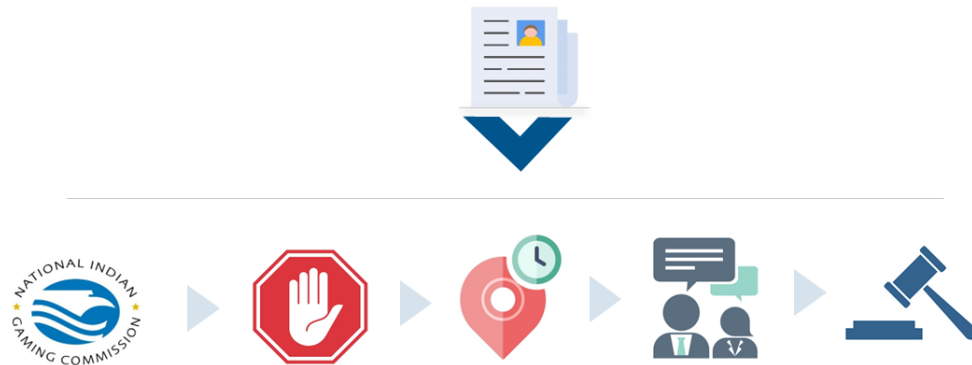
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Part 558.4 – Information impacting eligibility and licensee’s right to a hearing



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Key Points

[25 CFR 558.4](#) *Notice of information impacting eligibility and licensee's right to a hearing.*

Additional reliable information from NIGC indicating licensee is not eligible or suitable

- (a) NIGC will notify Tribe.
- (b) Tribe will suspend license and notify licensee of suspension and proposed revocation.
- (c) Tribe shall set time and place for hearing on revocation and notify licensee.
- (d) Licensee right to a revocation hearing vests upon receipt of license or as determined by tribal law, regulation and/or policy.**
- (e) After a hearing, Tribe makes final decision to revoke or reinstate, and shall notify NIGC in writing of decision.

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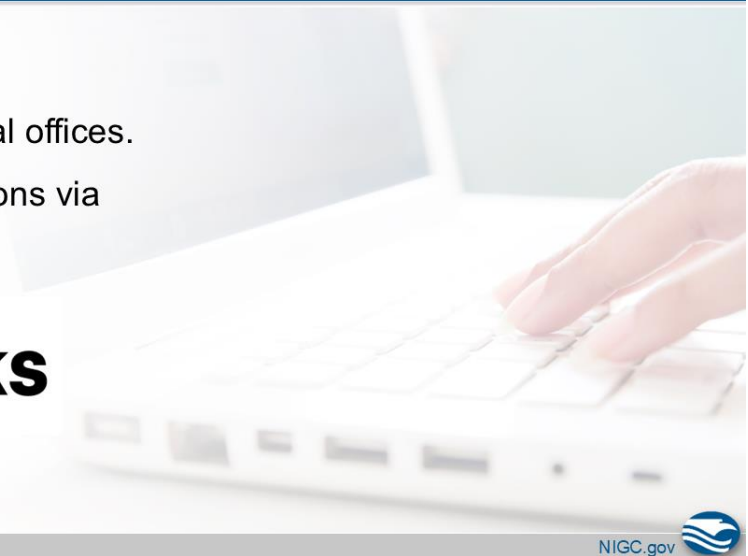
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Notes

Section 556 and 558 – Notice

- All notices must be submitted to regional offices.
- Electronic submissions via Kiteworks.

Kiteworks



Key Points

NIGC recommends that TGRA's submit notices electronically through Kiteworks, NIGC's encrypted mail platform.

[25 CFR 558.5](#) **Submission of notices.**

[25 CFR 556.7](#) **Notices.**

- (a) All notices under this part shall be provided to the Commission through the appropriate Regional office.
- (b) Should a tribe wish to submit notices electronically, it should contact the appropriate Regional office for guidance on acceptable document formats and means of transmission.

Resource: [Kiteworks Guide](#)

Notes

Section 556 and 558 – Compliance

- Gaming ordinances approved by NIGC before September 2023 - **exempt**.
- Any new or amended ordinances submitted after September 2023 - **must comply**.



Key Points

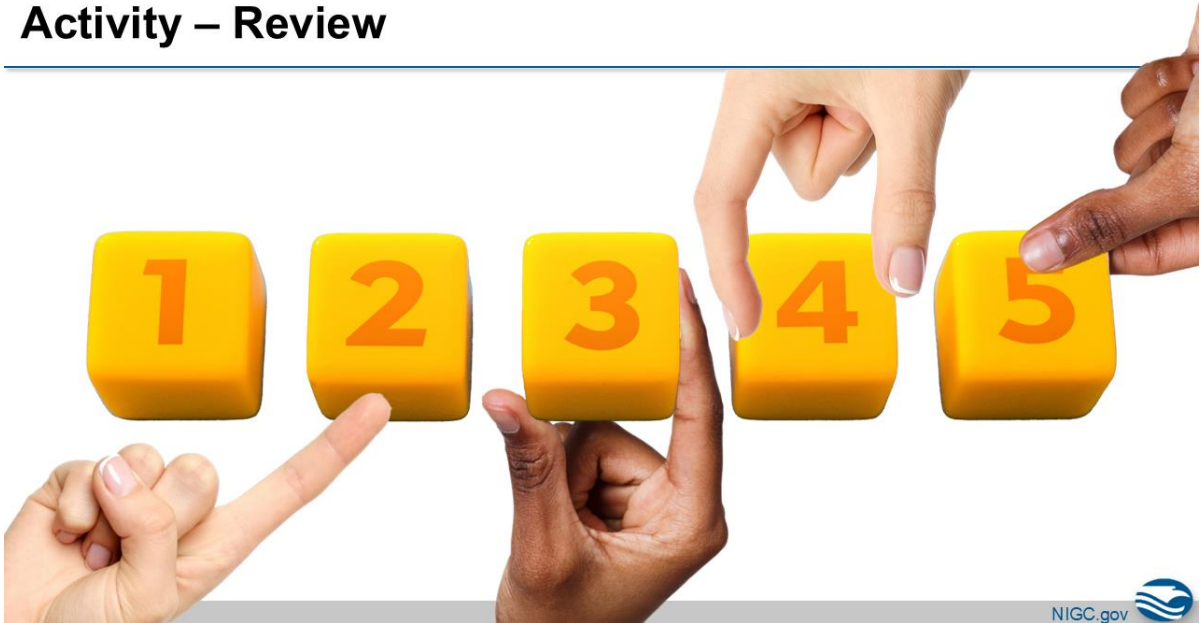
25 CFR 556.8 and 558.6 **Compliance with this part.**

All tribal gaming ordinances and ordinance amendments that have been approved by the Chair prior to September 14, 2023, and that reference this part do not need to be amended to comply with this section. All future ordinance submissions, however, must comply.

[Frequently Asked Questions – 25 C.F.R §§ 502, 556 and 558](#)

Notes

Activity – Review



Review Activity

In person

Put the steps in the background investigation and licensing process in the correct order.

1. Remove the cards with steps of the background investigation and licensing process from the envelope.
2. Work together to put the steps of the background investigation and licensing process in order.
3. When you think the steps are in the right order ask the instructor to check your work.
4. Review the process with the whole group.

Online

Put the background investigation and licensing process steps listed below in the correct order. We will review the steps together.

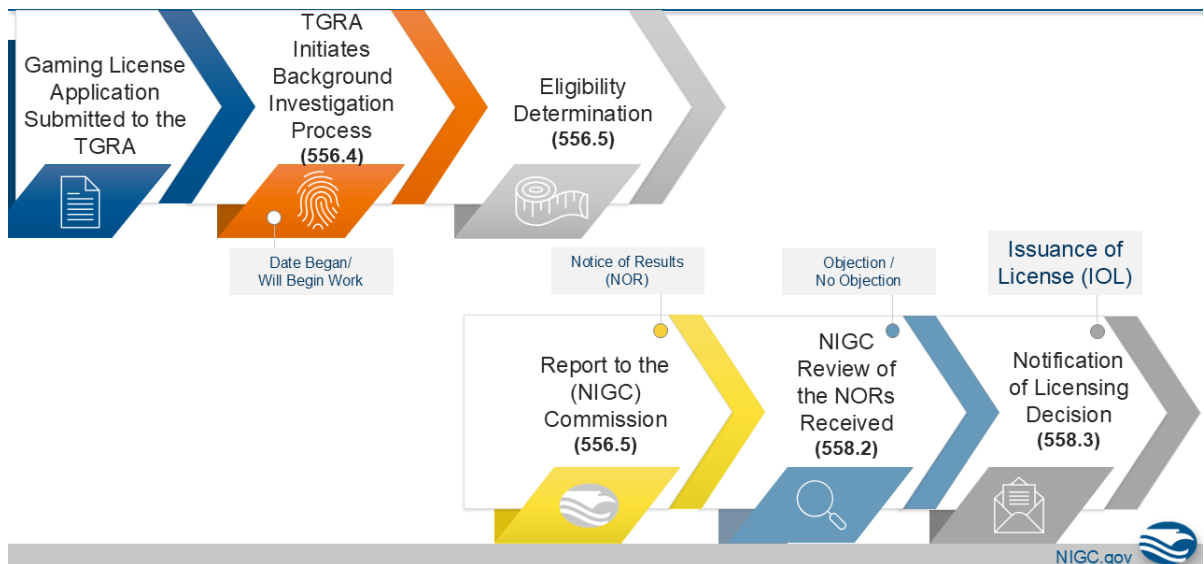
Steps	Background & Licensing Process
<ul style="list-style-type: none"> • NIGC reviews and responds to decision. • Provide NOR to NIGC. • Issue gaming license and notify NIGC. • Conduct background investigation. • Applicant submits gaming license application. • Determine eligibility. 	<ol style="list-style-type: none"> 1. _____ 2. _____ 3. _____ 4. _____ 5. _____ 6. _____

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Background Investigation and Licensing Timeline



Key Points

1. Applicant submits gaming license application to the TGRA.
2. TGRA conducts background investigation. (556.4)
3. TGRA determines eligibility of applicant. (556.5)
4. TGRA sends NOR to the Commission (NIGC). (556.5)
5. NIGC reviews NOR and has 30 days to object. (558.2)
6. TGRA sends IOL notification to NIGC. (558.3)

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Thank You!



Questions or Comments?
TrainingInfo@NIGC.gov

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If you have additional questions, please email them to TrainingInfo@NIGC.gov.

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