

RED FLAGS HANDOUT

Below is a list of Red Flags that may help regulators identify IGRA violations. When one or a combination of these are observed or reported, additional investigation will be needed to determine if there is actually a violation. This is not an exhaustive list and there will be other actions not listed that may constitute an IGRA violation.

Misuse of Gaming Revenue

- Is there a lack of policies and procedures in procurement and accounting?
- Has the TGRA encountered difficulty in promulgating policies and procedures to protect the gaming operation against fraud both internally and externally?
- Are all gaming revenue sources accounted for in the cage and vault and expensed through the casino accounting procedures?
- Is the casino distributing payments directly to tribal members or individuals under the guise of an undocumented tribal assistance programs or loan program, where there is no expectation of repayment?
- Are there proper policy and procedures in place for the issuance of complimentary, most notably discretionary complimentaries. (Who is issuing the comps? Do they have authority within policy to issue (dollar amounts and job titles of issuer)? Who are they issuing the comps too? Are they players, do have any association with vendors, are they issued to decision makers for the gaming facility or tribe?)
- Previous agreements and contracts handled by multiple parties are consolidated into one party at a higher rate of pay.
- Previous contract rates are greatly increased (x2, x10, x100) for no apparent reason when transferred to a new party.
- Fraudulent purchases by casino employee/management.
- Payment of ghost employees.
- Unauthorized write-off of player debt or NSF checks.
- Promotion fraud.
- Misuses of casino charge cards.
- Misuse of complementary services.
- Operating a casino without an approved budget makes misuse harder to track.

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Management Without an Approved Contract

- Operation managers appear not to be making management decisions or not to have the authority to make decisions. This may be for one part of the gaming or all gaming.
- Are policies and regulations written by outside parties or are approved by 3rd parties before implementation?
- Are 3rd parties present at the casino to consult on issues when not needed or outside agreement?
- Do 3rd parties direct employee activities, directly or indirectly?
- Do 3rd parties maintain close relationship with an elected official(s), or top management?
- Are 3rd parties available to meet with the regulators, or do they disappear when you are on site?
- Do 3rd parties have unescorted access to restricted areas like back of the house, gaming machines, financial information, etc.?
- Is the 3rd party's work consists of tasks that management would typically perform?
- Written documentation between the 3rd party "consultant" and the tribe is non-existent, limited, or off topic.
- The 3rd party is reviewing and approving promotions/marketing.
- Employees and regulators who do not agree with the 3rd party or attempt to regulate the 3rd party are demoted or terminated.
- Operation managers appear not to be making management decisions or not to have the authority to make decisions. This may be for one part of the gaming or all gaming.
- Does the 3rd party have unrestricted access/remote access to your games/gaming system(s) that will allow for changes to be made in relation to payout of the games/gaming system(s).
- Is the 3rd party deciding the payout percentages on your games/gaming systems?
- Is the 3rd party deciding what games will be offered and/or where they will be placed on the floor?
- Is a 3rd party giving final approval of changes to payout percentages, changes of games/gaming system(s) in the tribal facility?
- Does the 3rd party participate in or are they responsible for selecting other vendors at the casino? Including back off house accounting system, insurance, other EGM vendors.
- Does the 3rd party have to agree with management on the decisions above? Consensus is a form of management.
- If the gaming activity requires employees with specialized skills, are those skilled employees provided by a single 3rd party company?
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Sole Proprietary Interest

- Does the 3rd party have control physically or by approval of any of the casino accounts or expense payments?
- Does the manager get a paycheck or a lump sum based on a percentage of revenue?
- If manager receives a bonus based on a percentage of revenue, does their contract list what must be accomplished to achieve the bonus?
- Most common: are payments to the vendor excessive, based on a percentage of revenue, over a long period of time or indefinite? Vendor may have provided significant services in the beginning, but eventually is doing nothing to receive the payments.
- Does the agreement extend beyond 5 or 7 years or beyond the needs of the tribe?
- Does default of the agreement give the vendor land, buildings, or control over gaming?
- Does the vendor control payout, game placement, game selection?
- Does the agreement give the vendor the majority of the floor space or a high percentage of the revenue from each machine or system?
- Compensation that is out of proportion for work performed and/or is based on a percentage of net win, net gaming revenue or gross gaming revenue.
- 3rd party seldom present at the casino (1x week, 1x month, etc.), yet paid significant compensation.
- Previous agreements and contracts handled by multiple parties are consolidated into one party at a higher rate of pay.
- Previous contract rates are greatly increased (x2, x10, x100) for no apparent reason when transferred to a new party.
- Repayment to developer is unlimited or lengthy and based on a percentage of revenues.
- Termination of contract is in favor of vendor or difficult for tribe to terminate.
- Is the vendor paying the tribe game placement fees and retaining substantial control over the machines/systems?

Miscellaneous Red Flags

- No one has a copy of the agreement and the CO cannot find anyone who has reviewed it.
- TGRA or Operations attempt to defend the Parties presence and contributions prior to inquiry.
- Attempts to avoid licensing process or is not fully cooperative.
- Contract is overly simple and vague.
- Presents of new gaming machine vendors and product not typically seen in the market or appears to be substandard in performance.