

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

(a) Each Tribal gaming regulatory authority or gaming operation (**Tribal gaming regulatory authority approval recommended**) shall establish and the gaming operation shall comply with procedures for the authorization, issuance, and tracking of complimentary services and items **as defined in §542.2**, including cash and non-cash gifts. Such procedures ~~must be approved by the Tribal gaming regulatory authority~~ **and** shall include, but shall not be limited to, the procedures by which the gaming operation delegates to its employees the authority to approve the issuance of complimentary services and items, and the procedures by which conditions or limits, if any, which may apply to such authority are established and modified (including limits based on relationships between the authorizer and recipient), and shall further include effective provisions for audit purposes. **Each gaming operation shall maintain a written record of limits or conditions which may be placed on the authority of its employees to approve or issue complimentary services or items, and the specific job titles to which they apply.**

Justification: An audit finding of noncompliance with a recommendation becomes an advisory comment instead of an exception requiring remedy. Also, it is then left to the discretion of the TGRA to determine whether the risk associated with a control established by the gaming operation, which would be property specific, warrants regulatory review.

A written record of limits and conditions provides management with a tool for verifying proper authorization and approval of the issuance of complimentary items and services, provides employees with documented guidance, and provides a record for review by internal/external auditors.

Comment (October): Paragraph is too long, could be confusing to some readers. Suggest breaking out into separate sub-paragraphs under sub-section (a).

Response: Agree. See revised proposal (a).

Note: Based on industry comment, and on the inherent risk associated with comps, it was decided to reinstate the TGRA approval requirement in the proposed standard.

Revised proposal as a result of October comment and incorporating note:

(a) *Complimentary services and items procedures.* **(1)** Each Tribal gaming regulatory authority or gaming operation shall establish and the gaming operation shall comply with procedures for the authorization, issuance, and tracking of complimentary services and items **as defined in §542.2**, including cash and non-cash gifts.

(2) ~~Such~~ The procedures must be approved by the Tribal gaming regulatory authority and shall include, but not be limited to, the procedures by which the gaming operation delegates to its employees the authority to approve the issuance of complimentary services and items, and the procedures by which conditions or limits, if any, which may apply to such authority are established and modified (including limits based on relationships between the authorizer and recipient), and shall further include effective provisions for audit purposes.

(3) Each gaming operation shall maintain a written record of limits or conditions which may be placed on the authority of its employees to approve or issue complimentary services or items, and the specific job titles to which they apply.

Comment (December): Replace “must” with “shall” in paragraph (a) (2).

Response: Agree.

Revised proposal as a result of December comment:

(2) ~~Such~~ The procedures ~~must~~ **shall** be approved by the Tribal gaming regulatory authority and shall include, but not be limited to, the procedures by which the gaming

operation delegates to its employees the authority to approve the issuance of complimentary services and items, and the procedures by which conditions or limits, if any, which may apply to such authority are established and modified (including limits based on relationships between the authorizer and recipient), and shall further include effective provisions for audit purposes.

(3) Each gaming operation shall maintain a written record of limits or conditions which may be placed on the authority of its employees to approve or issue complimentary services or items, and the specific job titles to which they apply.

In addition, we are proposing the following changes to the definition of complimentary as follows:

Complimentary means a service or item provided at no cost, or at a reduced cost, to a customer **at the discretion of an employee authorized to issue complimentary services.** **These services and items are provided as an inducement to wager.**

Comment (October): Strike final sentence. Comps are not necessarily or always issued as an inducement to wager.

Response: Agree. See revised proposed definition.

Revised definition as a result of October comment:

Complimentary means a service or item provided at no cost, or at a reduced cost, **to a customer at the discretion of an employee authorized to issue such services or items.**

(b) Complimentary services and items shall include, but are not limited to, travel, lodging, food, beverages, or entertainment expenses provided directly to the customers and their guests by the gaming operation or indirectly to customers and their guests on behalf of the gaming operation by a third party. Complimentary cash gifts shall include, but are not limited to:

(1) Public relations payments made for the purpose of resolving complaints by or disputes with casino customers (appeasement payments);

(2) Travel or “walk money” payments made for the purpose of enabling a customer to return home.

Justification: Identification of complimentary items and services will better allow gaming operations to distinguish complimentary items and services from promotional activities.

~~(b) (c)~~ At least monthly, accounting, information technology, or audit personnel that cannot grant or receive complimentary privileges shall prepare reports that include the following information for all complimentary items and services: ~~equal to or exceeding \$100, or an amount established by the Tribal gaming regulatory authority, which shall not be greater than \$100:~~

Justification: The reporting threshold has been moved to new subsection (d) with other exemptions from the reporting requirement.

(1) Name of customer who received the complimentary service or item;

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

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

(i) A complimentary service or item provided directly to a customer in the normal course of a gaming operation’s business shall be recorded at the full retail price normally charged for such service or item by the gaming operation.

(ii) A complimentary service or item not offered for sale to customers in the normal course of a gaming operation’s business, but provided directly by the gaming operation, shall be recorded at the actual cost to the gaming operation of providing such service or item.

(iii) A complimentary service or item provided directly or indirectly to a customer

on behalf of a gaming operation by a third party not affiliated with the gaming operation shall be recorded at the actual cost to the gaming operation of having the third party provide such service or item.

(iv) A complimentary service or item provided directly or indirectly to a customer on behalf of a gaming operation by a third party who is affiliated with the gaming operation shall be recorded as if the affiliated third party were the gaming operation.

Justification: Provides valuation guidance for the purpose of determining compliance with the reporting threshold, on which the section was previously silent.

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

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

(d) Complimentary services or items exempt from paragraph (c) reporting requirements:

(1) A noncash complimentary service or item which has a value (as calculated in accordance with (c) (3) above) of \$150.00 or less, or an amount established by the Tribal gaming regulatory authority, which shall not be greater than \$150.

Comment (October): Paragraph is unnecessarily complex. Revise language to clarify.

Response: Agree. Revised accordingly.

Revised proposal as a result of October comment:

(1) A non-cash complimentary service or item which has a value no greater than \$150 (as calculated in accordance with (c) (3) above), or a lesser amount established by the Tribal gaming regulatory authority.

(2) A complimentary cash gift of \$100.00 or less, or an amount established by the Tribal gaming regulatory authority, which shall not be greater than \$100.

Justification: Based on a risk analysis and considering the regulatory requirements of other jurisdictions, a higher reporting threshold is recommended for noncash complimentary items or services, which the gaming operation can generally record at retail in accordance with new paragraph (c)(3)(i).

542.17(e) has been moved to proposed Revenue Audit 542.50 (h).

~~**(c) (c) The internal audit or accounting departments shall review the reports required in paragraph (b) (c) of this section at least monthly. These reports shall be made available to the Tribe, Tribal gaming regulatory authority, audit committee, other entity designated by the Tribe, and the Commission upon request.**~~