



## NOTICE OF CONSULTATION SESSIONS FOR 2017

November 22, 2016

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 the 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 consultation is 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.

### UPDATE ON 2015-2016 CONSULTATION

We invite you to join us in an information session regarding the status of the NIGC's 2015-16 consultation topics, and allow us to introduce you to 2017 consultation topics during a WebEx and telephone information session on **Thursday, December 15, 2016, at 1:00 p.m. Eastern Time.**

In 2015 and 2016, the NIGC consulted with Tribes on four distinct issues:

1. Updates to the NIGC's Privacy Act regulations;
2. Plans for a new categorical exclusion under the National Environmental Policy Act for the approval of management contracts;
3. Options for various approaches to provide guidance regarding Class III minimum internal control standards (MICS); and
4. Options by which the NIGC could give preference to Indian-owned businesses in agency purchasing decisions.

At the December 15 session, the NIGC would like to update you on the status of these listed issues and the NIGC's progress since receiving input from Indian Country.

### INTRODUCTION TO 2017 CONSULTATION TOPICS

In addition, we wish to introduce you to NIGC's 2017 consultation topics. Briefings on these consultation topics will be available on December 12, 2016, at <http://www.nigc.gov/commission/tribal-consultation-2017>.

Please note that the NIGC is providing this Notice in order to meet its commitment to announce its intentions for the 2017 Consultation Series before the end of 2016. This Notice also provides Tribal

leaders with as much opportunity as possible to plan and allocate resources for the coming year, and allows the NIGC to obtain Tribal input on the NIGC's plans before the year begins. Further, as a standing practice, the NIGC welcomes ongoing input at these sessions, as well as in any other forum, regarding appropriate topics or form of consultation.

The following is the list of the 2017 consultation topics:

**1. Draft guidance in accordance with Tribal comments received for voluntary non-binding Class III minimum internal control standards (MICS) and regulatory changes as a result of the 2015-16 consultation**

In 2015 and 2016, the Commission consulted with tribes concerning the Class III MICS. The Commission recognizes the importance of Class III MICS to a large section of the Tribal gaming industry. Accordingly, the NIGC proposes to suspend 25 C.F.R. Part 542, which will preserve the text of the regulation in the Code of Federal Regulations, but clarify that the regulation is not enforceable by the NIGC. In addition, the Commission will be proposing draft voluntary, non-binding guidance for Class III internal controls for tribal comment.

**2. Rural Outreach**

One of the Commission's initiatives is Rural Outreach. The NIGC seeks to increase its communications and enhance its regulatory partnerships with smaller rural gaming tribes. As determined by the 2015 Gross Gaming Revenue numbers, twenty percent of tribal gaming operations produce less than \$3 million per year. A total of 57% of tribes with gaming operations generate less than \$25 million per year in gross gaming revenue.

NIGC outreach to smaller tribal gaming operations in rural areas supports the purpose of the Indian Gaming Regulatory Act to protect tribal self-sufficiency and the integrity of the gaming industry. The Commission would like the opportunity to discuss with tribes current information about smaller operations, and hear ideas about how the NIGC can best provide technical assistance and training to smaller, rural operations.

Furthermore, the NIGC currently has seven regional offices that have been geographically determined for administrative purposes. The NIGC's St. Paul regional office currently covers 9 states, 59 tribes, and 144 gaming operations, and is the largest administrative region. In 2003, the Rapid City satellite office was added in the St. Paul region as a necessity to aid the region in reaching the tribal gaming operations in North and South Dakota, Wyoming, and Montana. The Commission is considering creating an eighth regional office in Rapid City. The St. Paul regional office would then cover only 5 states (Minnesota, Iowa, Wisconsin, Michigan and Nebraska), 37 tribes, and 95 tribal gaming operations. The new Rapid City regional office would cover 4 states (Montana, Wyoming, North Dakota and South Dakota), 22 tribes, and 45 tribal gaming operations. The Commission seeks feedback on this administrative change.

**3. Developing a Strong Tribal Workforce through Training**

One of NIGC's initiatives is maintaining a strong workforce both within the NIGC and among our tribal regulatory partners. In terms of supporting our regulatory partners, the tribal gaming workforce has a significant part to play in supporting tribal self-sufficiency and protecting tribal gaming revenues. To help foster that strong tribal work force, the NIGC seeks to develop its external training for tribal gaming commissioners, regulators and operators so that regulatory compliance is maintained.

The NIGC would like to share its latest plans for its training program, and seek feedback on how the NIGC can develop a better training program for tribal gaming commissioners, regulators, and operators to build a strong tribal gaming workforce. For example, we recently instituted knowledge reviews to measure retention of regulatory compliance. The Commission would like to hear feedback on whether there are additional ways to provide more targeted training to meet tribal needs and measure the efficacy of our trainings.

#### **4. Management Contract Regulations and Procedures**

Parts 531, 533, 535 and 537 of Title 25 of the Code of Federal Regulations contain the NIGC's regulations concerning the review and approval of management contracts, including background investigations of entities and individuals with an interest in management contracts. The Commission is seeking feedback on any recommended changes to the management contract and background investigation regulations. Specifically, we seek any input that may improve the NIGC's efficiency in processing management agreements, including changes to the regulations.

#### **5. Technical Standards for Mobile Gaming Devices**

The Commission is considering and will be proposing draft language to amend 25 C.F.R. Part 547, which would add technical standards for wireless gaming systems and communications between mobile communication devices and mobile gaming systems.

#### **6. Fees**

The Commission is considering changing requirements for Commission actions under 25 C.F.R. Part 514. The changes under consideration would remove the requirement to adopt a preliminary fee rate on March 1 and change the announcement date for the final fee rate from June 1 to November 1 of every year. This change is intended to improve the fee rate publication process so that it will coincide with the completion of the Commission budget for the fiscal year and the agency's annual release of the industry's Gross Gaming Revenue. Additionally, it is anticipated that this amendment would reduce the margin of error because the rate could only potentially be changed once within a fiscal year.

#### **7. 25 C.F.R. Part 547 Grandfathered Class II Gaming Systems**

The Commission initially implemented the Part 547 Class II technical standards in 2008 to mitigate certain risks it believed existed in the ever-advancing Class II gaming system technology. Recognizing that the standards were new, though, it allowed for non-compliant games developed before November 10, 2008, to become fully compliant within a set amount of time. The Commission extended that "grandfathering period" in 2012 and, pursuant to the current regulation, all Class II gaming systems must meet the minimum technical standards by November 10, 2018, two years from now. The Commission is interested in (1) any information related to the steps tribes have taken to comply with the grandfathering provision and any difficulties in implementing those provisions; (2) what risks, if any, the grandfathered games may pose to a gaming operation or the gaming public; and (3) how those risks may be mitigated by means other than Part 547.

#### **2017 CONSULTATION LOCATIONS AND DATES**

For the 2017 consultation topic numbers 1 through 6 above, the NIGC would like to hold consultation sessions at the following times and locations:

February TBD, 2017 in the Southwest area  
March TBD, 2017 in Tulsa, Oklahoma

April 10, 2017 in San Diego, California  
April 20, 2017, in Billings, Montana  
May 4, 2017 in Biloxi, Mississippi  
May TBD, 2017 in the Northwest area

For consultation topic number 7 regarding Grandfathered Class II gaming systems, the NIGC would like to consult at the following times and locations:

March TBD, 2017 in Tulsa, Oklahoma  
April 10, 2017 in San Diego, California

A teleconference call on all seven topics will be held at a time in May to be determined.

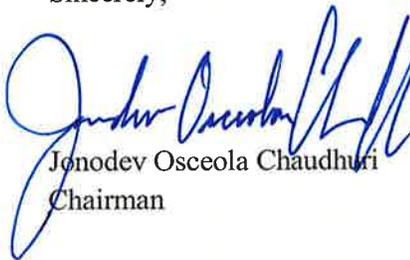
**RSVP AND CONTACT INFORMATION**

For additional information on the time and location of the consultation sessions, please refer to the NIGC's web site at <http://www.nigc.gov/commission/tribal-consultation-2017>. 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](mailto: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](mailto:Vannice_Doulou@nigc.gov) or by U.S. mail to; NIGC, Attn: Vannice Doulou, 1849 C St. NW, Mail Stop #1621, Washington, DC 20240. A timeframe for comments will be provided during the December 15, 2016 session, and available on our website after that date.

Thank you for your consideration and participation.

Sincerely,

  
Jonodev Osceola Chaudhuri  
Chairman

  
Kathryn Isom-Clause  
Vice Chair

  
E. Sequoyah Simermeyer  
Associate Commissioner