



## Steps to Ensure Compliance with September 14, 2023, Regulatory Updates to Part 502

### Sections 502.14(a-c) and 502.19(a-d) – Complying with Core KE & PMO Definitions

1. Review the Final Rule [88-FR-55370](#) including the comments and responses at the beginning.
2. Compare the definitions for key employee (KE) in Parts [502.14 \(a-c\)](#) to the tribe's current definitions and practice, noting any [gaming operation](#) employees performing those functions who currently are not being backgrounded and licensed.
3. Compare the definitions for primary management officials (PMO) [502.19 \(a-d\)](#) to the tribe's current definitions and practice, noting any General Manager (GM) or Chief Financial Officer (CFO) performing those functions who currently are not being backgrounded and licensed as well as positions with similar duties to a GM or a CFO who are not currently being backgrounded and licensed. These PMO may work for a management contractor, the gaming operation or the gaming enterprise.
4. Process those KE and PMO noted in #2 and #3 above in accordance with parts [556](#) and [558](#), within the time periods required.
  - a. Pay particular attention to [502.14 \(a\)\(10\)](#) and [502.14\(b\)](#), as there may be gaming operation employees undertaking these roles or with the requisite access who previously were not licensed as a KE but now must be under the new regulations.

### Sections 502.14(d) and 502.19(e) – Complying with the Tribe's Current Documentation

5. Review the current definitions of KE and PMO in the tribe's NIGC-approved [ordinance](#), as this is one way a tribe can document any other employee of the gaming enterprise as a KE or any other employed management official of the gaming enterprise as a PMO.
  - a. Review other tribal laws for documentation of KE or PMO, such as those laws that establish entities responsible for conducting gaming on Indian lands (e.g., an economic development board or gaming board).
6. If the tribe wants to keep these individuals as KE or PMO, process this group noted in #5 above in accordance with parts 556 and 558, within the time periods required.
7. If the tribe no longer wants to designate these individuals as KE or PMO, the tribe must modify its internal documents to remove the KE or PMO designations. And, if these individuals are designated as KE or PMO in the tribe's approved gaming ordinance, the tribe must amend the ordinance and submit such amendment to the NIGC Chair for review and approval.
  - a. For example, a tribe may continue to designate as KE gaming operation or gaming enterprise employees making a certain wage: "If not otherwise included, any other person whose total cash compensation is in excess of \$50,000 per year."

## Sections 502.14(d) and 502.19(e) – Exercising the Tribe’s Options

8. Review the definition of [gaming enterprise](#) and identify the tribal entities which conduct, regulate or secure gaming on Indian lands. Are there employees or management officials of these entities who are not already licensed as a result of the steps above? Does the tribe wish to document them as KE or PMO utilizing [502.14\(d\)](#) or [502.19\(e\)](#)?
9. Before documenting the position(s) and duties in #8 above, consider TGRA resources and the time periods required for backgrounding and licensing in parts 556 and 558. Determine if it is best to document all these positions at once or use a phased approach based on risk, group size or other factors.
  - a. For large groups, the tribe may consider breaking them into subgroups, documenting each job position as KE or PMO incrementally, staggering designations of KE or PMO using “effective by” dates or upcoming licensing renewal dates.
  - b. Choosing not to document and license additional employees as KE and PMO beyond what is required in 502.14 (a-c) or 502.19 (a-d) is also an option.
  - c. Please consider sharing any updated documentation with the NIGC Region Administrative Specialist to assist in the review of Notices of Results.

## Fingerprinting – Complying with Criminal Justice Information System (CJIS) Requirements

10. Fingerprints for employees/gaming license applicants who meet the definition of KE or PMO in [502.14 \(a-c\)](#) or [502.19 \(a-d\)](#) or who have been documented by the tribe as KE or PMO under [502.14 \(d\)](#) or [502.19 \(e\)](#) can be processed through the NIGC for FBI Criminal History Record Information (CHRI) in accordance with an executed [2021 CHRI MOU](#).
  - a. Do not process fingerprints for newly classified KE or PMO through the NIGC until the tribe designates and internally documents in writing the positions as KE or PMO.
  - b. The tribe can document employees as KE and PMO by several means including its tribal gaming ordinance, gaming regulations, tribal gaming commission orders, licensing procedures, written job positions, employee handbook and other written memoranda or lists.
  - c. To process fingerprints, notices of results, conduct licensing reviews and CJIS audits, the NIGC may request KE/PMO documentation to ensure compliance with parts 502, 556 and 558 and the 2021 CHRI MOU. FBI CJIS or NIGC may request documentation during a CJIS audit.
  - d. Designating KE or PMO who was not previously considered a KE or PMO will not require the tribe to enter a new CHRI MOU if the tribe has already executed the 2021 CHRI MOU.