## **Class II Gaming Regulation Proposals**

A work product of the

### Tribal Gaming Working Group

July 28, 2011

#### Statement of Stephanie Bryan

#### Vice-Chair of the Poarch Band of Creek Indians

#### On behalf of the

#### **Tribal Gaming Working Group**

Chairman Stevens, Distinguished Members of the Commission:

My name is Stephanie Bryan. I serve as the Vice-Chair of the Poarch Band of Creek Indians and the Chair of the Poarch Creek Gaming Commission. Since December 2006, I have had the pleasure of participating in the Tribal Gaming Working Group ("TGWG"), a coalition comprised of representatives of the Class II tribal gaming industry, including elected tribal officials, tribal gaming regulators and operators, gaming equipment manufacturers and suppliers, gaming laboratories, tribal organizations, gaming attorneys, and a broad spectrum of technical experts to prepare the documents we are submitting to you today.

Before expounding further on the TGWG's work, allow me to first commend you on the Commission's effort to reach out and conduct meaningful consultation with tribal governments and to elicit tribal input into this important regulatory review endeavor. Speaking on behalf of my Tribe, the Poarch Band of Creek Indians, and no doubt on behalf of many other tribal governments – particularly those who have gone on record supporting our efforts – we are heartened by the Commission's commitment to working collaboratively with tribal leaders and regulators to ensure that the regulatory framework for Class II gaming is strong and effective. As we all appreciate, a lawful, robust, and well-regulated Class II gaming environment serves both the tribal and federal interests.

On May 15, 2011, the TGWG forwarded the Commission a set of proposed Minimum Internal Control Standards for Class II gaming for its review and ultimate publication as proposed Class II MICS. In so doing it was our expectation, of course, that all tribal governments would have the opportunity to review, consult, and comment on this draft prior to promulgation of a final rule.

The TGWG did not undertake this effort lightly. As the Commission may already be aware, I served as Co-Chair of the TGWG MICS drafting process along with Matthew Morgan of the Chickasaw Nation and Jamie Hummingbird of the Cherokee Nation of Oklahoma. We all know that the current Part 543 is incomplete and largely mirrors Part 542, which is specific to Class III gaming. It is also largely derived from increasingly outdated Nevada gaming regulations. These Nevada regulations, of course, govern commercial gaming activities and are not reflective of Indian gaming. Try as one might, simply plunking a Class III state regulatory framework into the tribal Class II gaming environment is not a workable endeavor. The Class II regulatory framework, as you are well aware, is premised on a more limited federal role with tribal gaming regulatory agencies serving as the primary regulator.

It is, we assert, also apparent that both Parts 542 and 543 in their current form are difficult to use and apply due to duplication across multiple sections, dated terminology, and procedures that are obsolete and not reflective of current technology. The TGWG's proposed Class II MICS were drafted with the intent of ensuring that all controls are covered in Part 543, while at the same time removing some of the strict procedural steps and tasks not appropriately characterized as standards. Recognizing, however, that many tribal governments may find a certain degree of guidance helpful, these procedural steps and tasks were consolidated by the TGWG into a comprehensive set of guidance documents consistent with the MICS. These are the documents I submit today.

As a result, the TGWG proposal allows for appropriate flexibility for tribal gaming regulatory agencies and operations, subject to TGRA oversight, to establish specific controls, policies and procedures tailored to each operation's individual circumstances. Still, because of the use of both MICS and guidance documents, these controls, etc., are subject to basic common standards.

Prior to the end of the Commission's regulatory review, the TGWG will also submit a comprehensive set of checklists to complement each section of the proposed MICS. Taken together, we envision that these documents will provide a comprehensive set of unambiguous standards that will facilitate the establishment of sound procedures centered around best practices in the modern context of Class II gaming.

Before closing, I must note that this past Tuesday, July 26, 2011, the Treasury Department's Financial Crimes Enforcement Center, or FinCEN, issued a final rule containing revisions to the Title 31 or Bank Secrecy Act Regulations. These revisions may require a revision to the TGWG's proposed MICS, specifically Part 543.11, and the related guidance document. The TGWG considered delaying submission of the guidance documents until it had the opportunity to carefully review FinCEN's revisions and make any necessary edits. Ultimately, it was decided that the wisest course would be to get the work product into the NIGC's hands so that the Commission may commence its review. Be assured, however, that the TGWG will complete its review of the new Title 31 provisions and offer any necessary revisions to the MICS and MICS guidance documents within the next two weeks. It will also strive to finalize the attendant checklists and submit those as well.

Very quickly, I'd like to go over the content of package we are submitting. The core of the document consists of the guidance documents each of which contains the pertinent MICS section. There are two appendices, one containing the redline of the TGWG's proposed MICS revision and the other containing a redline version of the TGWG's proposed revisions to Part 547, the Class II technical standards. Please note that in completing the guidance documents, the TGWG discovered that some additional revisions to the MICS were necessary. The redline version reflects both the previous revisions made by the TGWG and the additional revisions made since our initial submission. We have also included a reference guide for the Commission's convenience. This reference guide contains a detailed explanation of the TGWG's objectives in relation to these proposed revisions and the guidance documents.

In closing, we again wish to commend the NIGC for providing Indian Country the opportunity to participate in this important endeavor.

### Contents

	Tab
Statement of Stephanie Bryan, Vice-Chair of the Poarch Band of Creek Indians	
Table of Contents	
Proposed Part 543 Minimum Internal Control Standards for Class II Gaming	А
Guidance for Complying with Proposed Part 543 Minimum Internal Control Standards	
543.7 Bingo	В
543.8 Pull Tabs	С
543.9 Card Games	D
543.10 Gaming Promotions	E
543.11 Patron Deposit Accounts and Cashless Systems	F
543.12 Player Tracking Systems Used in Conjunction with Class II Gaming	G
543.14 Cage, Vault, Cash and Cash Equivalents	Н
543.15 Lines of Credit	Ι
543.16 Security and Management of Server, Server Software, and Data Associated with Class II Gaming Systems	J
543.17 Complimentary Services or Items	Κ
543.19 Audit and Accounting	L
543.21 Drop and Count	М
543.23 Surveillance	Ν
Proposed MICS Reference Guide	0
Proposed Part 547 Minimum Technical Standards for Gaming Equipment Used with the Play of Class II Games – May 2011	Р
Appendices	
Proposed Part 543 (Redline since May 2011 Submission of TGWG Proposed Part 543)	1
Proposed Part 547 (Redline versus existing Part 547 – May 2011)	2

# TAB A

#### PROPOSED PART 543 – MINIMUM INTERNAL CONTROL STANDARDS FOR CLASS II GAMING

#### Sec.

- 543.1 What does this part cover?
- 543.2 What are the definitions for this part?
- 543.3 How do tribal governments comply with this part?
- 543.4 What are the rules of interpretation and of general application for this part?
- 543.5 [RESERVED]
- 543.6 Does this part apply to small and charitable gaming operations?
- 543.7 What are the minimum internal control standards for bingo?
- 543.8 What are the minimum internal control standards for pull tabs?
- 543.9 What are the minimum internal control standards for card games?
- 543.10 What are the minimum internal control standards for gaming promotions?
- 543.11 What are the minimum internal control standards for patron deposit accounts and cashless systems?
- 543.12 What are the minimum internal control standards for player tracking?
- 543.13 [RESERVED]
- 543.14 What are the minimum internal control standards for the cage, vault, cash and cash equivalents?
- 543.15 What are the minimum internal control standards for lines of credit?
- 543.16 What are the minimum internal control standards for security and management of server, server software and data associated with Class II gaming systems?
- 543.17 What are the minimum internal control standards for complimentary services or items?
- 543.18 How does a gaming operation apply for a variance from the standards of this part?
- 543.19 What are the minimum internal control standards for audit and accounting?
- 543.20 [RESERVED]
- 543.21 What are the minimum internal control standards for drop and count?
- 543.22 [RESERVED]
- 543.23 What are the minimum internal control standards for surveillance?

#### § 543.1 What does this part cover?

This part establishes the minimum internal control standards for the conduct of Class II games on Indian lands as described in 25 U.S.C. 2701 *et seq.* 

#### § 543.2 What are the definitions for this part?

The definitions in this section apply to all sections of this part unless otherwise noted.

*Accountability*. All financial instruments, receivables, and patron deposits constituting the total amount for which the bankroll custodian is responsible at a given time.

Accumulated credit payout. Credit accrued in a player interface that is paid to a patron manually in lieu of a player interface payout (i.e. hand pay, manual pay).

*Agent*. A person authorized by the gaming operation, as approved by the TGRA, to make decisions or perform assigned tasks or actions on behalf of the gaming operation. This definition permits the use of computer applications to perform the function(s) of an agent.

Bingo paper. A consumable physical object that has one or more bingo cards on its face.

*Bingo sales.* Sales transactions and/or the value of purchases made by players to participate in the game(s).

*Cage*. A secure work area within the gaming operation for cashiers which may include a storage area for the gaming operation bankroll.

Chairman. The Chairman of the National Indian Gaming Commission.

*Cash equivalents*. Documents, financial instruments other than cash, or anything else of representative value to which the gaming operation has assigned a monetary value. A cash equivalent includes, but is not limited to, tokens, chips, coupons, vouchers, payout slips and tickets, and other items to which a gaming operation has assigned an exchange value.

*Cashless system.* A system that performs cashless transactions and maintains records of those cashless transactions.

*Cashless transaction.* A movement of funds electronically from one component to another, often to or from a patron deposit account, or promotional account.

Chips. Cash substitutes, in various denominations, issued by a gaming operation.

Class II game. Class II gaming shall have the same meaning as defined in 25 U.S.C. 2703(7)(A).

*Class II Gaming System.* All components, whether or not technologic aids in electronic, computer, mechanical, or other technologic form, that function together to aid the play of one or more Class II games including accounting functions mandated by these regulations Part 547 of this chapter.

*Commission*. The National Indian Gaming Commission established by the Indian Gaming Regulatory Act, 25 U.S.C. 2701 *et seq*.

Complimentary. A service or item provided at no or reduced cost, to a patron.

*Count*. The act of counting and recording the drop and/or other funds. Also, the total funds counted for a particular game, player interface, shift, or other period.

*Count room.* A secured room location where the count is performed in which the cash and cash equivalents are counted.

*Credit line (see Lines of credit).* The privilege granted by a gaming operation to a patron to (1) defer payment of debt or (2) to incur debt and defer its payment under specific terms and conditions.

*Credit line limit*. The maximum dollar amount of credit assigned to a patron by the gaming operation.

Dedicated camera. A video camera that continuously records a specific activity.

Drop. The process of removing the drop boxes from the player interface or point of purchase.

Drop proceeds. The total amount of financial instruments removed from the drop boxes.

*Drop box.* A locked container in which cash or cash equivalents are placed at the time of the transaction.

*Exception Report.* A listing of occurrences, transactions or items that fall outside a predetermined range of acceptability.

*Financial instrument*. Any tangible item of value tendered in Class II game play, including, but not limited to bills, coins, vouchers, and coupons.

*Gaming Promotion*. A type of marketing activity conducted by a gaming operation which includes two, but not all three, of the following elements: prize, chance, consideration.

*Generally Accepted Accounting Principles (GAAP)*. A widely accepted set of rules, conventions, standards, and procedures for reporting financial information, as established by the Financial Accounting Standards Board (FASB), including but not limited to the standards for casino accounting published by the American Institute of Certified Public Accountant (AICPA).

*Governmental Accounting Standards Board (GASB)*. Generally accepted accounting principles used by state and local governments.

*Independent*. The separation of functions so that the person or process monitoring, reviewing or authorizing the controlled activity, function, transaction is separate from the persons or process performing the controlled activity, function, transaction.

*Lines of credit.* The privilege granted by a gaming operation to a patron to (1) defer payment of debt or (2) to incur debt and defer its payment under specific terms and conditions.

Manual payout. Hand payment to a player.

*Marker*. A document, signed by the patron promising to repay credit issued by the gaming operation.

MICS. Minimum internal control standards in this part.

*Patron.* A person who is a customer or guest of the gaming operation and may interact with a Class II game. Also may be referred to as a "player".

*Patron deposit account*. An account maintained on behalf of a patron, for the purpose of depositing and withdrawing funds for the primary purpose of interacting with a gaming activity.

*Permanent Record.* Those records that must be maintained for a minimum period of 5 years, including all documents that contain original signatures or represent audit papers.

*Player interface*. Any component(s) or components of a Class II gaming system, including an electronic or technological aid (not limited to terminals, player stations, handhelds, fixed units, etc.), that directly enables player interaction in a Class II game.

Prize payout. Payment to a player associated with a winning or qualifying event.

*Promotional progressive pots and/or pools*. Funds contributed to a game by and for the benefit of players and are distributed to players based on a predetermined event.

*Restricted patron deposit account*. An account that can be accessed only by a specific patron using a secured method.

SSAE. Standards for Attestation Engagements.

*Shift.* A time period, unless otherwise approved by the tribal gaming regulatory authority, not to exceed 24 hours.

Shill. An agent financed by the gaming operation and acting as a player.

Short pay. The payment of the unpaid balance of an incomplete payout.

*System of Internal Controls (SICS).* An overall operational framework for a gaming operation incorporating principles of independence and segregation of function comprised of written policies, procedures, and standard practices based on overarching regulatory standards specifically designed to create a system of checks and balances in order to safeguard the integrity of a gaming operation and protect its assets.

*Smart card*. A card with embedded integrated circuits that possesses the means to electronically store or retrieve account data, and is the only source of that data.

*Surveillance operation room(s)*. The secured area(s) where surveillance is taking place and/or where active surveillance equipment is located.

*Surveillance system.* A system of video cameras, monitors, recorders, video printers, switches, selectors, and other ancillary equipment used for surveillance.

*Tier A*. Gaming operations with annual gross gaming revenues of more than \$3 million but not more than \$8 million.

*Tier B*. Gaming operations with annual gross gaming revenues of more than \$8 million but not more than \$15 million.

Tier C. Gaming operations with annual gross gaming revenues of more than \$15 million.

*TGRA*. Tribal gaming regulatory authority which is the entity authorized by tribal law to regulate gaming conducted pursuant to the Indian Gaming Regulatory Act.

TICS. Tribal Internal Control Standards.

*Unrestricted patron deposit account*. An account that may be accessed by the holder of the account number.

Vault. A secure area where cash and cash equivalents are stored.

#### § 543.3 How do tribal governments comply with this part?

(a) Determination of Tier.

(1) The determination of tier level shall be made based upon the annual gross gaming revenues indicated within the gaming operation's audited financial statements.

(2) Gaming operations moving from one tier to another shall have nine (9) months from the date of the independent certified public accountant's audit report to achieve compliance with the requirements of the new tier. The TGRA may extend the deadline by an additional six (6) months if written notice is provided to the Commission no later than two (2) weeks before the expiration of the nine (9) month period.

(b) <u>TICS</u>. TGRAs shall ensure that TICS are established and implemented that provide a level of control that equals or exceeds those set forth in this part.

(1) Evaluation of Existing TICS. Each TGRA must, in accordance with the tribal gaming ordinance, determine whether and to what extent their TICS require revision to ensure compliance with this part.

(2) Compliance Date. All changes necessary to ensure compliance with this part shall be promulgated within twelve (12) months from the effective date of this part and implemented at the commencement at the next fiscal year. At the discretion of the

TGRA, gaming operations may have an additional six (6) months to come into compliance with the TICS.

(c) <u>SICS</u>. Each gaming operation must develop and implement a SICS that, at a minimum, complies with the TICS.

(1) Existing gaming operations. All gaming operations that are operating on or before the effective date of this part, must comply with this part within the time requirements established in paragraph (b) of this section. In the interim, such operations must continue to comply with existing TICS.

(2) New gaming operations. All gaming operations that commence operations after the effective date of this part, must comply with this part before commencement of operations.

(d) <u>Submission to Commission</u>. Tribal regulations promulgated pursuant to this part are not required to be submitted to the Commission pursuant to Sec. 522.3(b) of this chapter.

(e) Enforcement of Commission MICS.

(1) Each TGRA is required to establish and implement TICS pursuant to paragraph (b) of this section. Each gaming operation is then required, pursuant to paragraph (c) of this section, to develop and implement a SICS that complies with the TICS. Failure to do so may subject the tribal operator of the gaming operation, or the management contractor, to penalties under 25 U.S.C. 2713.

(2) Recognizing that tribes are the primary regulator of their gaming operation(s), enforcement action by the Commission will not be initiated under this part without first informing the tribe and TGRA of deficiencies in the SICS of its gaming operation and allowing a reasonable period of time to address such deficiencies. Such prior notice and opportunity for corrective action is not required where the threat to the integrity of the gaming operation is immediate and severe.

#### § 543.4 What are the rules of interpretation and of general application for this part?

(a) <u>Minimum Standards</u>. A TGRA may establish and implement additional technical standards that are as stringent as, or more stringent than, those set out in this part.

(b) <u>Only Applicable Standards Apply</u>. Gaming equipment and software used with Class II gaming systems shall meet all applicable requirements of this part. For example, if a gaming operation does not offer lines of credit, then any standards that govern credit do not apply.

(c) <u>No Limitation of Technology</u>. This part should not be interpreted to limit the use of technology or to preclude the use of technology not specifically referenced.

(d) <u>Severability</u>. If any provision of this part is declared invalid by a court of competent jurisdiction, such decision shall not affect the remainder of this part.

#### § 543.5 [RESERVED]

#### § 543.6 Does this part apply to small and charitable gaming operations?

(a) <u>Small Gaming Operations</u>. This part does not apply to small gaming operations provided that:

- (1) The TGRA permits the operation to be exempt from this part;
- (2) The annual gross gaming revenue of the operation does not exceed \$3 million; and
- (3) The TGRA develops and the operation complies with alternate procedures that:

(i) Protect the integrity of games offered;

(ii) Safeguard the assets used in connection with the operation; and

(iii) Create, prepare and maintain records in accordance with Generally Accepted Accounting Principles.

(b) <u>Charitable Gaming Operations</u>. This part does not apply to charitable gaming operations provided that:

(1) All proceeds are for the benefit of a charitable organization;

(2) The TGRA permits the charitable organization to be exempt from this part;

(3) The charitable gaming operation is operated wholly by the charitable organization's agents;

(4) The annual gross gaming revenue of the charitable operation does not exceed \$3 million; and

(5) The TGRA develops and the charitable gaming operation complies with alternate procedures that:

(i) Protect the integrity of the games offered;

(ii) Safeguard the assets used in connection with the gaming operation; and

(iii) Create, prepare and maintain records in accordance with Generally Accepted Accounting Principles. For more information please see www.fasb.gov or www.fasb.org.

(c) <u>Independent Operators</u>. Nothing in this section exempts gaming operations conducted by independent operators for the benefit of a charitable organization.

#### § 543.7 What are the minimum internal control standards for bingo?

(a) <u>Internal Control Procedures</u>. Subject to the approval and oversight of the TGRA, each gaming operation shall establish, implement and adhere to internal control policies and procedures that provide at least the level of control established by the standards of this section.

(b) <u>Computer Applications</u>. For any computer applications utilized, alternate documentation and/or procedures that provide at least the level of control established by the standards of this section, as approved in writing by the TGRA, will be acceptable.

(c) <u>Variances</u>. The TGRA shall establish the threshold level at which a variance shall be reviewed. Any such review shall be documented. (d) <u>Supervision</u>. Supervision shall be provided for bingo operations as needed by an agent(s) with authority equal to or greater than those being supervised.

(e) Bingo Cards.

(1) Physical Inventory.

(i) The bingo card inventory must be controlled in a manner designed to prevent unauthorized access, misappropriation, forgery, theft, or fraud. Such controls shall address bingo cards exchanged between agents, increases and decreases to inventory, and inventory reconciliation.

(2) Sales.

(i) The sale of bingo cards must be controlled in a manner to adequately record, track, and reconcile such sales, including voids.

(ii) When the sale of bingo cards is recorded manually, such sales must be verified by an independent agent.

(iii) No unauthorized person shall have access to bingo card sales records.

(f) <u>Draw</u>.

(1) Controls must be established requiring that all objects eligible for the draw are available to be drawn.

(2) The draw must be controlled in a manner that ensures random selection of the objects drawn.

(3) The draw must be controlled in a manner that ensures the identity of each object drawn is accurately recorded and transmitted to the participants.

#### (g) Payouts.

(1) Payouts must be controlled in a manner designed to verify winning events and prevent unauthorized access to, or misappropriation of, cash or cash equivalents. Such controls shall include, but not be limited to, the following:

- (i) Payout records;
- (ii) Validation and Verification;
- (iii) Authorization or signatures; and
- (iv) Voids.

(h) <u>Cash and Cash Equivalent Controls</u>. Cash and cash equivalents must be controlled in a manner designed to prevent unauthorized access, misappropriation, forgery, theft, or fraud. Such controls shall be in accordance with cash and cash equivalent controls established in sub part 543.14.

(i) Technologic Aids to the Play of Bingo. Internal control procedures must be established to safeguard the integrity of technologic aids to the play of bingo during installations, operations, modifications, and retirements. Such procedures must include, but not be limited to, the following:

- (1) Shipping and receiving;
- (2) Access credential control methods;
- (3) Record keeping and audit processes;
- (4) System software signature verification;
- (5) Testing;

(6) Display of rules and necessary disclaimers such as "Malfunctions void all pays and plays.", etc.

- (7) Dispute resolution;
- (8) Malfunctions; and
- (9) Removal, retirement, and/or destruction.

#### § 543.8 What are the minimum internal control standards for pull tabs?

(a) <u>Internal Control Procedures</u>. Subject to the approval and oversight of the TGRA, each gaming operation shall establish, implement and adhere to internal control policies and procedures that provide at least the level of control established by the standards of this section.

(b) <u>Computer Applications</u>. For any computer applications utilized, alternate documentation and/or procedures that provide at least the level of control established by the standards of this section, as approved in writing by the TGRA, will be acceptable.

(c) <u>Variances</u>. The TGRA shall establish the threshold level at which a variance shall be reviewed. Any such review shall be documented.

(d) <u>Supervision</u>. Supervision shall be provided during the pull tab operations and over the pull tab storage areas by an agent(s) with authority equal to or greater than those being supervised.

(e) <u>Pull Tab Inventory</u>. The pull tab inventory must be controlled in a manner designed to prevent unauthorized access, misappropriation, forgery, theft, or fraud. Such controls shall address tabs exchanged between agents, increases and decreases to inventory, and inventory reconciliation.

#### (f) Pull Tab Sales.

(1) Pull tab sales must be controlled in a manner to adequately record, track, and reconcile all pull tab sales and voids.

(2) When pull tab sales are recorded manually, total sales are verified by an agent independent of the pull tab sales being verified.

(3) No person shall have unrestricted access to pull tab sales records.

#### (g) <u>Winning Pull Tabs</u>.

(1) Redeemed pull tabs must be controlled in a manner to adequately record, track, and reconcile all pull tab payouts.

(2) The redeemed pull tabs shall be defaced so that they cannot be redeemed for payment again.

(h) <u>Cash and Cash Equivalent Controls</u>. Cash and cash equivalents must be controlled in a manner designed to prevent unauthorized access, misappropriation, forgery, theft, or fraud. Such controls shall be in accordance with cash and cash equivalent controls established in sub part 543.14.

#### § 543.9 What are the minimum internal control standards for card games?

(a) <u>Internal Control Procedures</u>. Subject to the approval and oversight of the TGRA, each gaming operation shall establish, implement and adhere to internal control policies and procedures that provide at least the level of control established by the standards of this section.

(b) <u>Computer Applications</u>. For any computer applications utilized, alternate documentation and/or procedures that provide at least the level of control established by the standards of this section, as approved in writing by the TGRA, will be acceptable.

(c) <u>Variances</u>. The TGRA shall establish the threshold level at which a variance shall be reviewed. Any such review shall be documented.

(d) <u>Supervision</u>. Supervision shall be provided during the card room operations by an agent(s) with authority equal to or greater than those being supervised.

(e) <u>Inventory of Playing Cards</u>. The playing card inventory must be controlled in a manner designed to prevent unauthorized access, misappropriation, forgery, theft, or fraud. Such controls shall address cards exchanged between agents, increases and decreases to inventory, and inventory reconciliation.

(f) <u>Shill Funds</u>. Issuance and return of shill funds shall be recorded and have the written approval of another agent.

(g) <u>Cash and Cash Equivalent Controls</u>. Cash and cash equivalents must be controlled in a manner designed to prevent unauthorized access, misappropriation, forgery, theft, or fraud. Such controls shall be in accordance with cash and cash equivalent controls established in sub part 543.14.

(h) <u>Posted Rules</u>. The rules shall be displayed or available for patron review at the gaming operation, including rules governing contests, prize payouts, fees, etc.

(i) <u>Promotional Progressive Pots and Pools such as Contests, Tournaments, Drawings and</u> <u>Giveaway Programs</u>. Funds contributed by patrons to prize pools shall be returned and documented in accordance with the posted rules. (1) Promotional pool contributions shall be controlled in a manner to properly distinguish between gaming revenue and promotional pool contributions.

(i) Promotional pool contributions shall be placed in a locked container;

(ii) Agents transporting the locked container shall be precluded from having access to the contents keys.

(2) At least once a week, increases and decreases to the promotional pool amount shall be verified, supported by documentation, recorded and reconciled to the cash by an agent independent of the card room.

#### § 543.10 What are the minimum internal control standards for gaming promotions?

(a) <u>Internal Control Procedures</u>. Subject to the approval and oversight of the TGRA, each gaming operation shall establish, implement and adhere to internal control policies and procedures that provide at least the level of control established by the standards of this section.

(b) <u>Computer Applications</u>. For any computer applications utilized, alternate documentation and/or procedures that provide at least the level of control established by the standards of this section, as approved in writing by the TGRA, will be acceptable.

(c) <u>Variances</u>. The TGRA shall establish the threshold level at which a variance shall be reviewed. Any such review shall be documented.

(d) <u>Supervision</u>. Supervision shall be provided for gaming promotions as needed by an agent(s) with authority equal to or greater than those being supervised.

(e) <u>Gaming Promotions</u>. Controls must be established in a manner designed to prevent unauthorized access, cheating, misappropriation, forgery, theft, or fraud. Such controls must include, but not be limited to, the following:

- (1) Rules of the gaming promotion;
- (2) Gaming promotion accounting; and
- (3) TGRA approval.

§ 543.11 What are the minimum internal control standards for patron deposit accounts and cashless systems?

#### New TGWG Proposed Part 543 as of 7/28/2011

(a) <u>Internal Control Procedures</u>. Subject to the approval and oversight of the TGRA, each gaming operation shall establish, implement and adhere to internal control policies and procedures that provide at least the level of control established by the standards of this section.

(b) <u>Computer Applications</u>. For any computer applications utilized, alternate documentation and/or procedures that provide at least the level of control established by the standards of this section, as approved in writing by the TGRA, will be acceptable.

(c) <u>Conflicts of Standards</u>. If there are any inconsistencies between these regulations and external standards incorporated by this provision, such as Title 31 and Credit Card Act, such other applicable standards shall prevail.

(d) <u>Variances</u>. The TGRA shall establish the threshold level at which a variance shall be reviewed. Any such review shall be documented.

(e) Patron Deposit Accounts and Cashless Systems.

(1) Patron deposit accounts and cashless systems must be controlled in a manner designed to prevent unauthorized access, misappropriation, forgery, theft, or fraud.

(2) All smart cards (i.e., cards that possess the means to electronically store or retrieve data) that maintain the only source of account data are prohibited.

(3) Patron deposit accounts may be unrestricted or restricted to a specific patron.

(4) Establishment of patron deposit accounts. The following standards apply when the patron establishes an account and optionally makes an initial deposit.

(i) For restricted patron deposit accounts:

(A) The patron must appear at the gaming operation in person, at a designated area of accountability, and present a valid government issued picture identification credential.

(B) An agent must examine the patron's identification and record, at a minimum, the following information:

(1) Type, number, and expiration date of the identification;

(2) Patron's name;

(3) A unique account identifier;

(4) Date the account was opened; and

(5) The agent's name.

(C) The agent must require the patron to sign the account documentation before the account is activated.

(D) The agent or cashless system shall provide the patron deposit account holder with a secure method of access.

(ii) For unrestricted patron deposit accounts:

(A) The patron must be informed of the unrestricted nature of the account, and the fact that the account may be accessible to anyone with the account number.

(B) The patron must acknowledge and accept the risks associated with unrestricted accounts.

(5) Patron deposits, withdrawals and adjustments.

(i) Prior to the patron making a deposit or a withdrawal from a patron deposit account, the agent or cashless system must verify the identity of the patron deposit account, the patron identity for restricted accounts, and availability of funds.Reliance on a secured personal identification number (PIN) entered by the patron is an acceptable method of verifying patron identity.

(ii) Adjustments made to the patron deposit accounts must be performed by an agent.

(iii) When a deposit, withdrawal or adjustment is processed by an agent, a multipart transaction record must be created containing the following information:

(A) Same document number on all copies;

(B) Type of transaction, (e.g., deposit, withdrawal, or adjustment);

(C) Name or other identifier of the patron for restricted patron deposit accounts;

(D) The unique account identifier;

(E) Patron signature for withdrawals, unless a secured method of access is utilized;

(F) Date and time of transaction;

(G) Dollar amount of transaction;

(H) Nature of deposit, withdrawal, or adjustment (e.g., cash, check, chips); and

(I) Signature of the agent processing the transaction.

(iv) When a patron deposits or withdraws funds from a patron deposit account electronically, the following shall be recorded and reported:

- (A) Date and time of transaction;
- (B) Location (e.g., player interface, kiosk);
- (C) Dollar amount of transaction; and
- (D) The unique account identifier.

(v) Detailed patron deposit account transaction records must be available to the patron upon reasonable request.

(vi) If electronic funds transfers are made to or from a gaming operation bank account for patron deposit account funds, the bank account must be dedicated and may not be used for any other types of transactions.

### § 543.12 What are the minimum internal control standards for player tracking systems used in conjunction with Class II gaming?

(a) <u>Internal Control Procedures</u>. Subject to the approval and oversight of the TGRA, each gaming operation shall establish, implement and adhere to internal control policies and procedures that provide at least the level of control established by the standards of this section.

(b) <u>Computer Applications</u>. For any computer applications utilized, alternate documentation and/or procedures that provide at least the level of control established by the standards of this section, as approved in writing by the TGRA, will be acceptable.

(c) <u>Variances</u>. The TGRA shall establish the threshold level at which a variance shall be reviewed. Any such review shall be documented.

(d) <u>Player Tracking Systems</u>. Controls must be established in a manner designed to prevent unauthorized access, cheating, misappropriation, forgery, theft, or fraud when a player tracking system is used in conjunction with Class II gaming. Such controls must include, but not be limited to, the following:

- (1) Operation of player tracking programs;
- (2) Security of player tracking accounts; and
- (3) Audit and accounting.

#### § 543.13 [RESERVED]

### § 543.14 What are the minimum internal control standards for the cage, vault, cash and cash equivalents?

(a) <u>Internal Control Procedures</u>. Subject to the approval and oversight of the TGRA, each gaming operation shall establish, implement and adhere to internal control policies and procedures that provide at least the level of control established by the standards of this section.

(b) <u>Computer Applications</u>. For any computer applications utilized, alternate documentation and/or procedures that provide at least the level of control established by the standards of this section, as approved in writing by the TGRA, will be acceptable.

(c) <u>Variances</u>. The TGRA shall establish the threshold level at which a variance shall be reviewed. Any such review shall be documented.

(d) <u>Supervision</u>. Provide supervision for cage, vault, and other operations using cash or cash equivalents as needed by an agent(s) with authority equal to or greater than those being supervised.

#### (e) Cash and Cash Equivalent Controls.

(1) Cash and cash equivalents must be controlled in a manner designed to prevent unauthorized access, misappropriation, forgery, theft, or fraud. Such controls must include, but not be limited to, the following actions:

- (i) Counting;
- (ii) Recording increases and decreases to inventory;
- (iii) Inventory reconciliation;
- (iv) Issuance and redemption;
- (v) Transfers;
- (vi) Inspecting, validating and verifying;
- (vii) Cancelations and voids;

(viii) Authorization; and

(ix) Document retention.

(f) <u>Check Cashing</u>. Check cashing must be controlled in a manner designed to prevent unauthorized access, misappropriation, forgery, theft, or fraud. Such controls must include, but not be limited to, the following:

(1) Acceptance of checks;

(2) Deposit of checks (Checks not deposited in the normal course of business are subject to § 543.15 Lines of Credit standards).

(3) Collecting and recording returned checks;

(4) Re-deposit; and

(5) Write-off authorization.

(6) If a third party check cashing or guarantee service is used, the examination and documentation procedures required by the service provider shall apply unless otherwise provided by tribal law or regulation.

#### (g) Cage and Vault Accountability.

(1) Increases and decreases to cage inventory shall be verified, supported by documentation, and recorded. Unverified transfers of cash and/or cash equivalents are prohibited.

(2) The cage and vault inventories (including coin rooms/vaults) shall be counted independently by at least two agents, attested to by signature, and recorded in ink or other permanent form at the end of each shift during which activity took place.

(h) <u>Chip(s) and Token(s)</u>. Controls must be established to ensure accountability of chip and token inventory. Such controls must include, but not be limited to, the following:

- (1) Purchase;
- (2) Receipt;
- (3) Inventory;
- (4) Storage; and
- (5) Destruction.

(i) <u>Cage and Vault Access</u>. Controls must be established in a manner designed to prevent unauthorized access, misappropriation, forgery or fraud. Such controls must include, but not be limited to, the following:

(1) Physical access to the cage to cage department agents, designated staff, and other persons authorized; and

(2) Transportation of extraneous items (e.g., personal belongings, tool boxes, beverage containers, etc.) into and out of the cage.

#### § 543.15 What are the minimum internal control standards for lines of credit?

(a) <u>Internal Control Procedures</u>. Subject to the approval and oversight of the TGRA, each gaming operation shall establish, implement and adhere to internal control policies and procedures that provide at least the level of control established by the standards of this section.

(b) <u>Computer Applications</u>. For any computer applications utilized, alternate documentation and/or procedures that provide at least the level of control established by the standards of this section, as approved in writing by the TGRA, will be acceptable.

(c) <u>Variances</u>. The TGRA shall establish the threshold level at which a variance shall be reviewed. Any such review shall be documented.

#### (d) Establishment of Lines of Credit Policy.

(1) If a gaming operation extends lines of credit, controls must be established to safeguard the assets of the gaming operation. Such controls must include the establishment of a lines of credit policy including the following:

(i) A process for the patron to apply for, modify, and/or re-establish lines of credit, to include required documentation and credit line limit;

- (ii) Credit issuer authorization levels;
- (iii) Identification of agents authorized to issue lines of credit;
- (iv) A process for verifying lines of credit worthiness of applicants;
- (v) A system for recording patron information; to include:
  - (A) Name, current address, and signature;
  - (B) Identification credential;
  - (C) Authorized credit line limit; and

(D) Approval by an agent authorized to approve credit line limits;

(vi) A process for issuing lines of credit to include the following:

(A) Notice to patron of lines of credit terms including patron written acknowledgment by signature;

(B) Completion of a uniquely identified, multi-part, lines of credit issuance form, such as a marker or counter check, which includes the terms of that lines of credit transaction;

(C) Signatory requirements;

(D) Determining the amount of the patron's available lines of credit;

(E) Creation and maintenance of current lines of credit balance record updated at the time of each transaction to assure that lines of credit issued is within the established limit and balance for that patron.

(F) Requirement that the agent issuing the lines of credit must be independent of the agent who authorized the lines of credit.

(vii) A policy establishing credit line limit exceptions to include the following:

(A) Identification of the agent(s) authorized to permit a credit line limit to be exceeded;

(B) Authorization thresholds; and

(C) Required documentation.

(viii) A policy governing increases and decreases to a patron's lines of credit account balances to include the following:

(A) Documentation and record keeping requirements;

(B) Independence between the department that receives the payment and the department that maintains custody of the credit balance for payments made by mail;

(C) Collections;

(D) Periodic audits and confirmation of balances; and

(E) If a collection agency is utilized, a process to ensure documentation of increases and decreases to the lines of credit account balances.

(ix) A policy governing write-offs and settlements to include:

(A) Identification of agent(s) authorized to approve write-offs and settlements;

(B) Authorization levels for write-offs and settlements of lines of credit instruments;

(C) Required documentation for write-offs and settlements;

(D) Independence between the agent who established the lines of credit and the agent writing off or settling the lines of credit instrument.

(E) Necessary documentation for the approval of write-offs and settlements and transmittal to the appropriate department for recording and deductibility.

## § 543.16 What are the minimum internal control standards for security and management of server, server software and data associated with Class II gaming systems?

(a) <u>Internal Control Procedures</u>. Subject to the approval and oversight of the TGRA, each gaming operation shall establish, implement and adhere to internal control policies and procedures that provide at least the level of control established by the standards of this section.

(b) <u>Computer Applications</u>. For any computer applications utilized, alternate documentation and/or procedures that provide at least the level of control established by the standards of this section, as approved in writing by the TGRA, will be acceptable.

(c) <u>Class II Gaming systems and Physical Controls</u>. Controls must be established to ensure:

(1) Control of physical and logical access to server, server software and data associated with Class II gaming systems, including accounting, voucher, cashless and player tracking, among others used in conjunction with Class II gaming;

(2) Physical and logical protection of storage media and its contents, including recovery procedures;

- (3) Access credential control methods;
- (4) Record keeping and audit processes; and

(5) Departmental independence, including, but not limited to, means to restrict agents that have access to server, server software and data from having access to financial instruments.

(d) <u>Independence</u>. All personnel having access to Class II gaming servers, server software and/or data are independent of and restricted from access to:

- (1) Financial instruments (e.g. cash, cash equivalents, vouchers, and coupons);
- (2) Signatory authority over financial instruments and payouts forms; and
- (3) Accounting, audit, and ledger entries.

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

(a) <u>Internal Control Procedures</u>. Subject to the approval and oversight of the TGRA, each gaming operation shall establish, implement and adhere to internal control policies and procedures that provide at least the level of control established by the standards of this section.

(b) <u>Computer Applications</u>. For any computer applications utilized, alternate documentation and/or procedures that provide at least the level of control established by the standards of this section, as approved in writing by the TGRA, will be acceptable.

(c) <u>Variances</u>. The TGRA shall establish the threshold level at which a variance shall be reviewed. Any such review shall be documented.

(d) <u>Supervision</u>. Supervision shall be provided for approval of complimentary services as needed by an agent(s) with authority equal to or greater than those being supervised.

(e) <u>Complimentary Services or Items</u>. Controls must be established in a manner designed to prevent unauthorized access, misappropriation, forgery, theft, or fraud. Such controls must include, but not be limited to, the following:

(1) How the gaming operation delegates to its personnel the authority to approve the issuance of complimentary services or items, including levels of authorization for the agents approving the issuance of complimentary services or items;

(2) Written limits and conditions on the approval and issuance of complimentary services or items, and how the conditions or limits of authority may be modified;

(3) Documentation and recordation requirements for the authorization, issuance, and tracking of complimentary services or items, including cash and non-cash gifts;

(i) Complimentary issuance records shall include the following for all complimentary items and services equal to or exceeding an amount established by the TGRA.

(A) Name of patron who received the complimentary service or item;

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

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

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

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

(ii) Reserved.

### **§ 543.18** How does a gaming operation apply for a variance from the standards of this part?

(a) Variance.

(1) Should a TGRA grant a variance to any provision of these MICS, the TGRA shall deliver a notice of the same to the Commission within ten (10) days of such approval.

(i) The notice shall contain a complete copy of the information presented to the TGRA and the variance as granted.

(ii) The notice shall be forwarded to the Commission within ten (10) days of the granting of the Variance.

(2) During a thirty (30) day period when the Commission first receives the notice required by this subpart, the Chairman may request additional information from the TGRA concerning the subject of variance. Such request shall suspend the thirty (30) day period until the Chairman receives the TGRA response.

#### (b) Commission Review.

(1) Within the thirty (30) day review period, the Commission may:

(i) Advise the TGRA, in writing, that it has no objection.

(ii) Provide the TGRA a written statement itemizing its objections.

(iii) Take no action, in which case, the TGRA's variance shall be final.

(2) If the Commission has provided the TGRA a statement itemizing objections to the variance:

(i) The TGRA shall reconsider the variance taking into account the objections itemized by the Commission.

(ii) The TGRA may seek reconsideration by submitting a request to the Chairman and members of the Commission.

(iii) Upon receipt of a request for reconsideration, the Commission shall conduct an informal hearing with the TGRA within 30 days, which may be conducted in person or through the exchange of documents, as requested by the TGRA.

(iv) After the informal hearing, the Commission must issue a written decision within 14 days. If the Commission disapproves the variance, such written decision must include an explanation of why the requested variance creates an imminent threat to the integrity of the tribal gaming operation.

#### § 543. 19 What are the minimum internal control standards for audit and accounting?

(a) <u>Internal Control Procedures</u>. Subject to the approval and oversight of the TGRA, each gaming operation shall establish, implement and adhere to internal control policies and procedures that provide at least the level of control established by the standards of this section.

(b) <u>Computer Applications</u>. For any computer applications utilized, alternate documentation and/or procedures that provide at least the level of control established by the standards of this section, as approved in writing by the TGRA, will be acceptable.

(c) <u>Conflicts of Standards</u>. When establishing SICS the gaming operation should review and consider incorporation of other external standards such as GAAP, SSAE, and standards promulgated by GASB and FASB. Accordingly, in the event of a conflict between the MICS and the incorporated external standards, the external standards prevail.

(d) Operational Audits (formerly "Revenue Audit"). Controls shall be established to ensure:

(1) All audits are designed in a manner to detect unauthorized access, misappropriation, forgery, theft, or fraud.

(2) All audits are performed within seven (7) days of the audited activity's occurrence as follows, unless otherwise specified:

(i) Gaming revenue and payouts;

(ii) Increases and decreases to inventory;

(iii) Cash equivalent inventory count;

(iv) Exceptions, overrides, and voids;

(v) Complimentary services and items records (Weekly);

(vi) Manual increases and decreases to/from player accounts (Weekly);

(vii) Promotions, contests, and tournaments (Weekly); and

(viii) Key control records (Quarterly).

(3) Minimum bankroll calculations are audited periodically to ensure that the gaming operation maintains cash in an amount sufficient to satisfy the gaming operation's obligations.

(4) At least bi-annually, an inventory of all drop, count, override, and panel keys are performed and increases and decreases in key inventory are reconciled.

(5) Audit results are summarized and recorded.

(6) Audit controlled inventories for recording the receipt, issuance, and use of controlled inventories (including but not limited to bingo cards, pull tabs, playing cards, keys, prenumbered and/or multi-part forms, etc.).

(7) Adjustments to original data are controlled to ensure all adjustments are properly completed and documented.

(8) Exceptions are reviewed for suspect and/or unusual transactions.

(9) Documentation must be generated and maintained evidencing the performance of audit procedures.

(10) If the audit is not performed by accounting agents, the agent(s) performing the audit are independent of the agents who performed the transactions being reviewed.

(e) Accounting. Controls must be established to ensure each gaming operation:

(1) Prepares accurate, complete, legible, and permanent records of all transactions pertaining to gaming revenue.

(2) Prepares general accounting records on a double-entry system of accounting, maintaining detailed, supporting, subsidiary records, and perform the following:

(i) Record gaming activity transactions in an accounting system to identify and track all revenues, expenses, assets, and liabilities;

(ii) Produce income and balance sheet statements;

(iii) Produce appropriate subsidiary ledgers to support the balance sheet;

(iv) Inventory and safeguard assets;

(v) Prepare, review, and maintain accurate financial statements;

(vi) Prepare minimum bankroll calculations; and

(vii) Maintain and preserve all financial books, records, and relevant supporting documentation.

(f) Internal Audit. Controls shall be established to ensure:

(1) Internal auditor(s) perform audits of each department of a gaming operation, at least annually, to review compliance with TICS, SICS, and these MICS.

(2) Internal auditor(s) are independent of the gaming operations with respect to the departments subject to audit (auditors internal to the operation, officers of the TGRA, or outside CPA firm may perform this function).

(3) Internal auditors report directly to the Tribe, TGRA, audit committee, or other entity designated by the Tribe.

(4) Documentation (e.g., checklists, programs, reports, etc.) is prepared to evidence all internal audit work and follow-up performed as it relates to compliance with TICS, SICS, and these MICS.

(5) Reports documenting audits performed are maintained and made available to the Commission upon request.

(6) All material exceptions resulting from internal audit work are investigated and resolved with the results documented.

(7) Internal audit findings are reported to management, responded to by management in the internal audit report stating corrective measures to be taken, and delivered to management, the Tribe, TGRA, audit committee, or other entity designated by the Tribe.

(g) Annual Audits.

(1) Agreed upon procedures. A CPA must be engaged to perform, in accordance with agreed upon procedures and the most recent versions of the Statements on Standards for Attestation Engagements and Agreed-Upon Procedures Engagements (collectively "SSAE's"), issued by the American Institute of Certified Public Accountants Inc., an assessment of whether the gaming operation is in compliance with these MICS, the TICS, and/or the SICS.

(2) The tribe must submit two copies of the agreed-upon procedures report to the Commission within 120 days of the gaming operation's fiscal year end in conjunction with the submission of the annual financial audit report required under 25 CFR Part 571.

(3) Require management to have sufficient knowledge and understanding of the purpose, nature, and scope of the agreed upon procedures to provide adequate oversight and participation in the process to ensure a meaningful and useful outcome.

(4) Reliance on Internal Audit.

(i) Agreed upon procedures are to be performed by the CPA to determine that the internal audit procedures performed during the fiscal year have been properly completed.

(ii) The CPA may rely on the work of internal audit for the completion of the MICS checklists as they relate to the standards covered by this Part.

(5) Report Format. The Statements on Standards for Attestation Engagements and Agreed-Upon Procedure Engagements (SSAE's) are applicable to agreed-upon procedures engagements required in this Part. All noted instances of noncompliance must be documented in the report with a narrative description, the number of exceptions and sample size tested.

#### § 543.20 [RESERVED]

#### § 543.21 What are the minimum internal control standards for drop and count?

(a) <u>Internal Control Procedures</u>. Subject to the approval and oversight of the TGRA, each gaming operation shall establish, implement and adhere to internal control policies and procedures that provide at least the level of control established by the standards of this section.

(b) <u>Computer Applications</u>. For any computer applications utilized, alternate documentation and/or procedures that provide at least the level of control established by the standards of this section, as approved in writing by the TGRA, will be acceptable.

(c) <u>Variances</u>. The TGRA shall establish the threshold level at which a variance shall be reviewed. Any such review shall be documented.

(d) <u>Supervision</u>. Supervision shall be provided for drop and count as needed by an agent(s) with authority equal to or greater than those being supervised.

(e) <u>Count Room Access</u>. Controls must be established to limit physical access to the count room to count team agents, designated staff, and other authorized persons. Such controls must include, but not be limited to, the following:

(1) Count team agents shall not be allowed to exit or enter the count room during the count except for emergencies or scheduled breaks.

(2) Surveillance shall be notified whenever count room agents exit or enter the count room during the count.

(3) The count team policy, at a minimum, shall address the transportation of extraneous items (e.g., personal belongings, tool boxes, beverage containers, etc.) into or out of the count room.

(f) <u>Count team</u>. Controls must be established in a manner designed to ensure security of the count and the count room to prevent unauthorized access, misappropriation of funds, forgery, theft, or fraud. Such controls must include, but not be limited to, the following:

(1) For Tier A and B operations, all counts shall be performed by a minimum of two (2) agents. For Tier C operations, all counts shall be performed by a minimum of three (3) agents.

(2) For Tier A and B operations, at no time during the count shall there be fewer than two (2) count team agents in the count room until the drop proceeds have been accepted into cage/vault accountability. For Tier C operations, at no time during the count shall there be fewer than three (3) count team agents in the count room until the drop proceeds have been accepted into cage/vault accountability.

(3) For Tier A and B operations, count team agents shall be rotated on a routine basis such that the count team is not consistently the same two (2) agents more than four (4) days per week. This standard shall not apply to gaming operations that utilize a count team of more than two (2) agents. For Tier C operations, count team agents shall be rotated on a routine basis such that the count team is not consistently the same three (3) agents more than four (4) days per week. This standard shall not apply to gaming operations that utilize a count team of more than four (4) days per week. This standard shall not apply to gaming operations that utilize a count team of more than four (3) agents.

(4) Functions performed by count team agents shall be rotated on a routine basis.

(5) Count team agents shall be independent of the department being counted and the cage/vault departments. An accounting agent may be used if there is an independent audit of all count documentation.

(g) <u>Drop</u>. Controls must be established in a manner designed to ensure security of the drop process to prevent unauthorized access to gaming equipment and the drop, misappropriation of funds, forgery, theft, or fraud. Such controls must include, but not be limited to, the following:

(1) Drop schedules and periods, including procedure to continue drop once started through completion.

(2) Security during transport of drop boxes, including escort by a minimum of two (2) agents, at least one of whom is independent of the revenue being dropped.

(3) All drop boxes shall be uniquely identified to correspond with the card table, player interface, and/or other location from which the drop box was removed.

- (4) Security over drop boxes removed and awaiting transport to the count room.
- (5) Security of drop boxes until the count takes place.
- (6) Notification to surveillance when a drop is to begin.
- (7) Provisions for emergency drop.

(h) <u>Count</u>. Controls must be established in a manner designed to ensure security of the count process to prevent unauthorized access to count equipment and the drop, misappropriation of funds, improper manipulation of financial records, forgery, theft, or fraud. Such controls must include, but not be limited to, the following:

- (1) Establishment of a dedicated count room;
- (2) Manual count process;
- (3) Utilization, testing, and calibration of counters and/or validation systems;
- (4) Verification of count;
- (5) Prevention of the comingling of funds until recorded per drop box;

(6) Accurate and permanent forms of recordation for all cash and cash equivalents and rejected cash or cash equivalents;

(7) For card game counts, additional controls, as applicable, shall be established and procedures implemented to ensure:

(i) Fills/credits, marker issue/payment slips are recorded and forwarded to the appropriate department for verification and reconciliation.

(ii) Opening/closing card table inventory forms are examined and traced to or recorded on the appropriate documentation with discrepancies investigated and results documented.

(8) The reconciliation of count records to the total drop, which shall address, but not be limited to:

(i) Signature of each agent of the count team attesting to their participation in the count;

(ii) Reconciliation of the total drop by a count team agent who shall not function as the sole recorder; and

(iii) Documentation of all unresolved variances.

(9) Transfer of the drop following the count.

(10) All cash and cash equivalent inventory stored in the count room shall be secured from unauthorized access at all times.

(11) Access to stored drop boxes, full or empty.

(i) <u>Controlled keys or equivalents</u>. Controls shall be established and procedures implemented to safeguard the use, access, and security of keys or other access methods in accordance with the following:

(1) Each of the following requires a separate and unique key lock or alternative secure access method:

(i) Drop cabinet;

(ii) Drop box release;

(iii) Drop box content; and

(iv) Storage racks and carts.

(2) Access to and return of keys or equivalents shall be documented with the date, time, and signature or other unique identifier of the agent accessing or returning the key(s).

(i) For Tier A and B operations, at least two (2) drop team agents are required to be present to access and return keys. For Tier C operations, at least three (3) drop team agents are required to be present to access and return keys.

(ii) For Tier A and B operations, at least two (2) count team agents are required to be present at the time count room and other count keys are issued for the count. For Tier C operations, at least three (two for card game drop box keys in operations with three tables or fewer) count team agents are required to be present at the time count room and other count keys are issued for the count.

(3) Where an alternative access method is utilized, the use of such method shall be controlled in a manner consistent with the objectives of this standard.

(4) Documentation of all keys, including duplicates, shall be maintained including:

(i) Unique identifier for each individual key;

(ii) Key storage location;

(iii) Number of keys made, duplicated, and destroyed; and

(iv) Authorization and access.

(5) Custody of all keys involved in the drop and count shall be maintained by a department independent of the count and drop agents and those departments being dropped and counted.

(6) Other than the count team, no agent shall have access to the drop box content keys while in possession of storage rack keys and/or release keys.

(7) Other than the count team, only agents authorized to remove drop boxes are allowed access to drop box release keys.

(8) Utilization of keys at times other than the scheduled drop and count must be properly authorized and documented.

(9) Emergency manual keys (i.e., override key) for computerized, electronic, and alternative key systems.

#### § 543.22 [RESERVED]

#### § 543.23 What are the minimum internal control standards for surveillance?

#### New TGWG Proposed Part 543 as of 7/28/2011

(a) <u>Internal Control Procedures</u>. Subject to the approval and oversight of the TGRA, each gaming operation shall establish, implement and adhere to internal control policies and procedures that provide at least the level of control established by the standards of this section.

(b) <u>Computer Applications</u>. For any computer applications utilized, alternate documentation and/or procedures that provide at least the level of control established by the standards of this section, as approved in writing by the TGRA, will be acceptable.

(c) <u>Surveillance Equipment and Control Room(s)</u>. Controls must be established in a manner designed to prevent unauthorized access and/or activities, misappropriation, forgery, theft, or fraud. Such controls must include, but not be limited to, the following:

(1) For Tier A, the surveillance system shall be maintained and operated from a secured location, such as a locked cabinet. For Tier B and C, the surveillance system shall be maintained and operated from a staffed surveillance operation room(s).

(2) The surveillance operation room(s) shall be secured to prevent unauthorized entry.

(3) Access to the surveillance operation room(s) shall be limited to surveillance agents and other persons authorized.

(4) Surveillance operation room(s) access logs shall be maintained.

(5) Surveillance operation room equipment shall have total override capability over all other satellite surveillance equipment located outside the surveillance operation room.

(6) Power loss to the surveillance system.

(i) For Tier A, in the event of power loss to the surveillance system, immediate alternative security measures, such as additional supervisory or security agents, shall be provided.

(ii) For Tier B and C, in the event of power loss to the surveillance system, an auxiliary or backup power source shall be available and capable of providing immediate restoration of power to all elements of the surveillance system that enable surveillance agents to observe all areas covered by dedicated cameras.

(7) The surveillance system shall record an accurate date and time stamp on recorded events. The displayed date and time shall not significantly obstruct the recorded view.

(8) All surveillance agents shall be trained in the use of the equipment, and be knowledgeable of the games and house rules.

(9) Each camera required by the standards in this section shall be installed in a manner that will prevent it from being readily obstructed, tampered with, or disabled.

(10) The surveillance system shall:

(i) Have the capability to display all camera views on a monitor;

(ii) Include sufficient numbers of recording devices to record the views of all cameras required by this section;

(iii) Record all camera views; and

(iv) For Tier B and C only, include sufficient numbers of monitors to simultaneously display gaming and count room activities.

(11) A periodic check of the surveillance systems shall be conducted. When a malfunction of the surveillance system is discovered, the malfunction and necessary repairs shall be documented and repairs initiated within seventy-two (72) hours.

(i) If a dedicated camera malfunctions, immediate alternative security measures, such as additional supervisory or security agents, shall be provided.

(ii) The TGRA shall be notified of any surveillance system and/or camera(s) that have malfunctioned for more than twenty-four (24) hours and the alternative security measures being provided.

(d) <u>Additional Surveillance Requirements</u>. With regard to the following functions, the additional specified controls shall be implemented:

(1) Bingo.

(i) For manual draws, the surveillance system shall monitor the bingo ball drawing device or mechanical random number generator, which shall be recorded during the course of the draw by a dedicated camera to identify the numbers or other designations drawn.

(ii) The surveillance system shall monitor and record the activities of the bingo game, including drawing, calling, and entering the balls, numbers or other designations drawn.

(2) Card games.

(i) Except for card game tournaments, a dedicated camera(s) shall be used to provide:

(A) An overview of the activities on each card table surface, including card faces and cash and/or cash equivalents;

(B) An overview of card game activities, including patrons and dealers; and

(C) An unobstructed view of all posted progressive pool amounts.

(ii) For card game tournaments, a dedicated camera(s) shall be used to provide an overview of tournament activities, including entrances/exits and any area where cash or cash equivalents are exchanged.

(3) Prize Winning Events. The TGRA shall establish standards for surveillance camera coverage of prize winning events. Dedicated camera coverage is required when the progressive base value or prize amount exceeds \$3,000,000.00. Recorded camera coverage shall include the activities of patrons and agents at the time and location of the prize winning event.

(4) Cash and Cash Equivalents.

(i) The surveillance system shall monitor and record:

(A) A view of the patron, cage agent, vault agent or count team agent(s) and the surrounding area and counting surface;

(B) Payouts of gaming winnings;

(C) Entry and exit doors to and from the cage, vault and other secured count areas;

(D) All count equipment including but not limited to reject bins, weigh scales, wrapping machines, currency and coin counters, and chips sorters;

(E) Any area where the manipulation of recorded data may occur;

(F) Drop and count while in process; for Tier A and B operations, if the count is not viewed live, the operation must establish controls to ensure a review of the recording within seven (7) days by an agent independent of the count operation and the count being reviewed. For Tier C operations, the count shall be viewed live.

(G) All drop boxes and storage racks by either a dedicated camera or a motion-detector activated camera.

(ii) During the count process a dedicated overhead camera(s) or motion-detector activated camera(s) must cover the:

(A) Transaction area with the ability to identify cash and cash equivalent values;

(B) All counting surfaces used during the count; and

(C) All drop boxes and their storage racks.

(e) <u>Recording Retention</u>. Controls must be established that include, but are not limited to, the following:

(1) All recordings required by this section shall be retained for a minimum of seven (7) days; and

(2) Suspected or confirmed gaming crimes, unlawful or suspicious activity, or detentions by security personnel discovered within the initial retention period shall be copied and retained for a time period, not less than one (1) year.

(f) Logs. Logs must be maintained and demonstrate the following:

(1) Compliance with the storage, identification, and retention standards required in this section;

(2) Each malfunction and repair of the surveillance system as defined in this section; and

(3) Activities performed by surveillance agents.

# TAB B

# Bingo

## Purpose

This section provides guidance on the development of internal controls, policies, and procedures for the operation of bingo. It has been compiled by tribal regulators, Class II gaming operators, and other industry resources. Using best practices, this guidance is specifically designed to accommodate a variety of ways to implement controls to comply with Part 543.7. Because each gaming operation is different and subject to varying tribal laws and regulations, each tribe is responsible for determining the specific controls and procedures that are most suitable for its gaming operations and compliant with the MICS.

Furthermore, internal controls, policies, and procedures should be established and updated in a manner that accommodates changes and advancements in technology. Nothing in this guidance document should be read to limit the use of technology, regardless of whether or not such technology is mentioned herein.

§ 543.7 What are the minimum internal control standards for bingo?

- (a) <u>Internal Control Procedures</u>. Subject to the approval and oversight of the TGRA, each gaming operation shall establish, implement and adhere to internal control policies and procedures that provide at least the level of control established by the standards of this section.
- (b) <u>Computer applications</u>. For any computer applications utilized, alternate documentation and/or procedures that provide at least the level of control established by the standards of this section, as approved in writing by the TGRA, will be acceptable.
- (c) <u>Variances</u>. The TGRA shall establish the threshold level at which a variance shall be reviewed. Any such review shall be documented.
- (d) <u>Supervision</u>. Supervision shall be provided for bingo operations as needed by an agent(s) with authority equal to or greater than those being supervised.
- (e) <u>Bingo Cards.</u>
  - (1) Physical inventory.
    - (i) The bingo card inventory must be controlled in a manner designed to prevent unauthorized access, misappropriation, forgery, theft, or fraud. Such controls shall address bingo cards exchanged between

§ 543.7 What are the minimum internal control standards for bingo?

agents, increases and decreases to inventory, and inventory reconciliation.

- (2) Sales.
  - (i) The sale of bingo cards must be controlled in a manner to adequately record, track, and reconcile such sales, including voids.
  - (ii) When the sale of bingo cards is recorded manually, such sales must be verified by an independent agent.
  - (iii) No unauthorized person shall have access to bingo card sales records.
- (f) Draw.
  - (1) Controls must be established requiring that all objects eligible for the draw are available to be drawn.
  - (2) The draw must be controlled in a manner that ensures random selection of the objects drawn.
  - (3) The draw must be controlled in a manner that ensures that the identity of each object drawn is accurately recorded and transmitted to the participants.
- (g) <u>Payouts.</u>
  - (1) Payouts must be controlled in a manner designed to verify winning events and prevent unauthorized access to, or misappropriation of, cash or cash equivalents. Such controls shall include, but not be limited to, the following:
    - (i) Payout records;
    - (ii) Validation and verification;
    - (iii) Authorization or signatures; and
    - (iv) Voids.
- (h) <u>Cash and Cash Equivalent Controls</u>. Cash and cash equivalents must be controlled in a manner designed to prevent unauthorized access, misappropriation, forgery, theft, or fraud. Such controls shall be in accordance with cash and cash equivalent controls established in subpart 543.14.
- (i) <u>Technologic Aids to the Play of Bingo</u>. Internal control procedures must be established to safeguard the integrity of technologic aids to the play of bingo during

§ 543.7 What are the minimum internal control standards for bingo? installations, operations, modifications, and retirements. Such procedures must include, but not be limited to, the following: (1)Shipping and receiving; (2)Access credential control methods; Record keeping and audit processes; (3) System software signature verification; (4) Testing; (5) Display of rules and necessary disclaimers such as "Malfunctions void all (6)pays and plays.", etc.; (7) Dispute resolution; (8) Malfunctions; and (9) Removal, retirement, and/or destruction.

- (a) <u>Internal Control Procedures</u>. The TGRA should ensure that the gaming operation establishes a system of internal control standards (SICS) that are applicable to Bingo operations. Such SICS should address, at a minimum, how the department operates, agents' responsibilities, and controls to protect assets. The TGRA should review and approve the SICS prior to implementation.
- (b) <u>Computer Applications</u>. A gaming operation may use computer applications, whether developed in-house or acquired externally, provided that controls are established in accordance with MICS and approved in writing by the TGRA. For any computer applications utilized, alternate documentation and/or procedures that provide at least the level of control established by the internal control standards shall be implemented. For example, where an agent or multiple agents are required in the control, a computer application could substitute for one or all of the agents. Another example would be where a log is required a computer application report could substitute for the log. If computer systems are used, procedures must be designed to account for computer system failure without compromising the effectiveness of the internal control standards.
- (c) <u>Variances</u>.
  - (1) The TGRA or the gaming operation as authorized by the TGRA should establish a threshold at which variances (i.e., exceptions against controls, inconsistencies

with established policies and procedures or deviations from expected outcomes) must be investigated.

- (2) Best practice suggests that when the relevant predetermined threshold is achieved, the controls should require agents – preferably supervisory agents – to conduct a variance investigation. Variance investigation controls/procedures should include, but are not be limited to:
  - (i) Transaction(s) document(s) review, including all department(s) records relating to the variance investigation;
  - (ii) Recalculating inventory, cash and cash equivalents, sales and payout amounts;
  - (iii) Re-verifying the winning event and prize payouts;
  - (iv) Recount of assets/inventory;
  - (v) Surveillance reviews;
  - (vi) Physical inspections; and
  - (vii) Agent interviews.
- (3) The investigation results must be supported by documentation and forwarded to the accounting department for review and retention. Best practice suggests that documentation should include copies of transaction forms, logs, and a description of the variance.
- (d) <u>Supervision</u>.
  - (1) Controls should identify the supervisory agent in the department or area ultimately responsible for ensuring that the department or area is operating in accordance with established policies and procedures.
  - (2) The reporting structure may permit a supervisory agent to function as a bingo agent without any other supervision. In such instances, however, a supervisory agent either independent of the transaction or independent of the relevant department or area must resolve disputes.
  - (3) Best practice suggests that the written system of internal controls should include:
    - (i) An organizational chart of the department or area;
    - (ii) Job descriptions; and

- (iii) A narrative description of the reporting structure, which is designed to ensure adequate supervision and segregation of function.
- (e) <u>Risk Assessments</u>. Risk assessments and periodic program reviews may be used to determine how often bingo operations and bingo card inventory should be audited. When an assessment and review is necessary, an agent independent of the organizational component responsible for bingo operations and bingo card inventory should perform it.
- (f) <u>Bingo Cards Physical Inventory</u>. To safeguard the integrity of the bingo card inventory, procedures must be established to control the physical inventory of bingo cards. Best practice suggests that physical inventory controls should address the placement of orders, receipt, storage, issuance, removal, and cancellation of bingo card inventory to ensure that: (i) the inventory can be accounted for at all times; (ii) an inventory of bingo cards is maintained sufficient to operate the games; and (iii) bingo cards have not been marked, altered, or otherwise manipulated.
  - (1) Receipt from supplier.
    - When bingo card inventory is initially received from the supplier, it should be inspected (without breaking the factory seals, if any), counted, inventoried, and secured by an authorized agent. Best practice suggests this agent should be independent of bingo card sales.
    - (ii) Inventory records should include the following information: date received, quantities received, and the name of the individual conducting the inspection.
  - (2) Storage.
    - (i) Bingo cards should be maintained in a secure location (i.e., controlled access, under lock and key), with appropriate surveillance coverage, which is accessible only to authorized agents to prevent unauthorized access and reduce the possibility of tampering.
    - (ii) For smaller operations, inventory can be stored in a cabinet, closet, or other similar area; however, such area should be a secured area separate from the working inventory.
  - (3) Issuance and Returns of Inventory.
    - (i) Controls must be established for the issuance and return of inventory. Such controls must provide for proper recordation on appropriate control logs signed by the issuer and receiver, at a minimum covering the following circumstances:

- (A) Issuance of inventory from storage to a staging area;
- (B) Issuance of inventory from a staging area to the cage or sellers;
- (C) Return of inventory from a staging area to storage; and
- (D) Return of inventory from cage or seller to staging area or storage.
- (ii) Inventory must be secured at all times with adequate controls for accountability and in a manner designed to prevent unauthorized access, tampering, and theft.
- (4) Cancellation and removal.
  - Bingo cards removed from inventory that are deemed out of sequence, flawed, or misprinted and not returned to the supplier, shall be properly cancelled to ensure that they are not utilized in the play of a bingo game. Bingo cards that are removed from inventory and returned to the supplier or cancelled must be properly logged as removed from inventory.
  - (ii) Cancellation methods may include, but are not limited to: shredding, drilling, and permanent ink marking. Cancelled cards may then be removed from inventory and recorded on the appropriate log. Best practice suggests that the cancellation process be under surveillance to ensure established controls have been followed.
  - (iii) In the event of an investigation, the bingo cards associated with the investigation must be retained intact outside of the established removal and cancellation policy. These bingo cards should be sealed and forwarded to an independent department responsible for investigations, such as a security or a surveillance supervisory agent.
- (5) Logs.
  - (i) The inventory of bingo cards should be tracked on a log(s) from original receipt from supplier into inventory, through use or permanent removal from inventory.
  - (ii) Management should determine, based on the size of the operation and inventory needs, where bingo card inventory logs are required to ensure the integrity of bingo cards offered for play.
  - (iii) The bingo card inventory log(s) should include:
    - (A) Date;

- (B) Shift;
- (C) Time;
- (D) Location;
- (E) Inventory received, issued, removed, and returned;
- (F) Signature of agent performing transaction;
- (G) Signature of agent performing the reconciliation;
- (H) Any variance;
- (I) Beginning and ending inventory; and
- (J) Description of inventory transaction being performed.

Examples of logs:

Log maintained in the bingo card storage room that shows inventory of all cards:

Inventory Log:

	From/to cashiers, floor sales. locked cabinet. etc.												
Beginning Inventory		(+) Returns	(-) Issued	(-) Removal		(-) Inventory Count		Agent Signature	Date	Shift	Time	Location	Description
100	5	0	10	1	94			Joe C. Bingo	1/1/11	Day	2:00PM	Storage 1	Issued to Cage
94	0	0	20	0	74			Sally C. Bingo	1/1/11	Swing	9:20PM	Storage 1	Issued to Cage
74	0	0	0	0	74	73	1	John D. Auditor	1/31/11	Day	6:00AM		Count

Bingo Card Record:

Best practice suggests that a log is maintained at each location (e.g., bank, booth, window, etc.) to record bingo card inventory received or returned.

Date	Shift	Activity	Inventory	Agent
1/1/11	Day	Received 20 packs	20	Bob Bingo
1/1/11	Day	Issued 15 packs	5	Bob Bingo
1/1/11	Swing	Received 20 packs	25	Pete Free Space
1/1/11	Swing	Returned 10 packs	35	Pete Free Space

## (g) <u>Bingo Card Sales</u>.

- (1) Controls should be established to segregate the functions of seller and payout verifier. Agents who sell bingo cards should not be the sole verifier of bingo cards for prize payouts. However, such agents may be permitted to announce the identifiers of the winning bingo cards to the verifier.
- (2) In order to adequately record, track and reconcile sales of bingo cards, the following information should be documented:
  - (i) Date;
  - (ii) Shift or session;
  - (iii) Number of bingo cards issued, sold, and returned;
  - (iv) Dollar amount of bingo card sales;
  - (v) Signature, initials, or identification number of the agent preparing the record;
  - (vi) Signature, initials, or identification number of an independent agent who verified the bingo cards returned to inventory and dollar amount of bingo card sales.
  - (3) Bingo card sale voids. Controls must be established for the voiding of bingo card sales. Bingo card voids must be processed in accordance with the rules of the game and established controls should include, but not be limited to, the following:
    - (i) Patron refunds;
    - (ii) Adjustments to bingo card sales to reflect voids;
    - (iii) Adjustments to bingo card inventory, which may include but be not limited to:
      - (A) Cancelling voided bingo cards and removing the returned bingo cards from inventory; or
      - (B) Returning the returned bingo cards to inventory, making such cards available for future games.
    - (iv) Document the reason for the void; and

- (v) Authorization for all voids.
- (h) <u>Draw</u>.
  - (1) Controls must be established to ensure that all eligible objects used in the conduct of the bingo game are available to be drawn and that the physical integrity of the objects has been verified. Verification of physical objects must be performed before the start of the first bingo game/session and be verified by two agents. Best practice suggests that one of the agents be either a supervisory agent or independent of the bingo games department. Where the objects are electronic, certification in accordance with 25 CFR Part 547 is acceptable for verifying the integrity of the objects.
  - (2) The draw must be controlled in a manner that ensures random selection of the objects drawn. Where the selection is electronic, certification in accordance with 25 CFR Part 547 is acceptable for verifying the randomness of the draw.
  - (3) Controls should be established over the draw to:
    - (i) Verify the identity of the objects as they are drawn;
    - (ii) Accurately record the drawn objects; and
    - (iii) Transmit the identity of the drawn objects to the participants. For example, each bingo blower/console should have a dedicated camera monitoring, and displaying to the participants, the balls as they are drawn.
  - (4) Controls should be established to provide a method of recall of the draw, which includes the order and identity of the objects drawn, for dispute resolution purposes.
- (i) <u>Verification and Prize Payout Records</u>.
  - (1) Payout records, including manual payouts records. Payout records and forms must be controlled in a manner designed to prevent unauthorized access, misappropriation, fraud or forgery.
    - (i) Best practice suggests that payout forms be multi-part (an electronic record may constitute one part) to ensure separate control of the cash accountability functions; and
    - (ii) Procedures should require funds issued for payouts to be witnessed and verified against the payout record or form by an agent other than the agent issuing the payout.

- (2) Payout forms should include the following:
  - (i) Date and time;
  - (ii) Amount of the payout (alpha and numeric);
  - (iii) Player interface identifier or bingo card identifier; and
  - (iv) Manual payouts should also include the following:
    - (A) Game name or number;
    - (B) Description of event (i.e., pattern covered, player interface malfunction, etc.) as applicable;
    - (C) Signature of all agents involved in the transaction;
      - (1) Best practice suggests that at least two agents perform the manual payout and sign the manual payout document.
    - (D) Override reason(s); and
      - (1) Best practice suggests the agent verifies the amount of the prize at the player interface to the accounting system amount. If the player interface amount is different than the accounting system amount an override may be necessary and, if so, should be properly documented. For example, if the player interface indicates a verified prize of \$1,250.00 but the accounting system reflects \$1,249.00, then the accounting system may require an override to process the manual payout.
    - (E) Any other information necessary to substantiate the payout.
- (3) Controls should be established to segregate the functions of seller and payout verifier. Agents who sell bingo cards should not be the sole verifier of bingo cards for prize payouts. However, such agents may be permitted to announce the numbers or designations on the winning bingo cards to the verifier.
- (4) Validation and Verification. Controls must include steps to verify the following is valid for the game in play prior to payment of a winning prize:
  - (i) Winning card(s);
  - (ii) Objects drawn; and

- (iii) The previously designated arrangement of numbers or designations on such cards, as described in 25 USC 2703(7)(A) (i.e., winning pattern).
- (iv) Best practice suggests at least two agents perform the validation and verification. Where an automated verification method (e.g., electronic verifier, software program, among others) is available, validation and verification by such method is acceptable.
- (5) Authorization or Signatures.
  - (i) Controls should be established in a manner designed to prevent unauthorized access or misappropriation of cash or cash equivalents by identifying the agent authorized (by position) to make a payout and at what levels.
  - (ii) In addition, controls should include how many agents are required for authorization or signature for each predetermined level of payout. This could be accomplished through the use of a matrix, an example of which is provided below.

Example of Authorization or Signature Matrix (The dollar amounts noted in this matrix are examples only. Each operation should perform a risk assessment to determine appropriate payout levels and authorizations.):

### Payouts up to \$1,199.99

Originator of Payout Funds:

Originator of Payout Document: Verifier of bingo card, pattern, & amount: Verifier of payment: Cage Cashier, Paymaster, Kiosk, or automated funds dispenser Automated payout method Automated verification method Automated payout method

### Payouts equal to or greater than to \$1,200.00

Originator of Payout Funds:	Cage Cashier or Paymaster
Originator of Payout Document:	Automated payout method
Verifier of bingo card, pattern, & amount:	Floor Person, Caller and/or automated
	verification method
Verifier of payment:	Floor Person and Floor Supervisor

Per current IRS regulations, a W-2G or 1042-S form is required to be completed for payouts \$1,200.00 and above. Such regulations are subject to change and controls should be updated accordingly.

### Manual Payouts up to \$4,999.99

Originator of Payout Funds:	Cage Cashier or Paymaster
Originator of Payout Document:	Paymaster
Verifier of bingo card, pattern, & amount:	Floor Supervisor, Floor Person,
	Security, or Technician
Verifier of payment:	Floor Supervisor and Security

Verifier of payment:

Per current IRS regulations, a W-2G or 1042-S form is required to be completed for payouts \$1,200.00 and above. Such regulations are subject to change and controls should be updated accordingly.

### Manual Payouts \$5,000.00 to \$19,999.99

Originator of Payout Funds:	Cage Cashier or Paymaster
Originator of Payout Document:	Floor Supervisor or Floor Person
Verifier of bingo card, pattern, & amount:	Floor Supervisor (other than originator)
	or Floor Person (other than originator)
	or Security or Technician; and
Verifier of Payment:	Shift Manager

Per current IRS regulations, a W-2G or 1042-S form is required. Such regulations are subject to change

### Manual Payouts \$20,000.00 and over

Originator of Payout Funds:	Cage Cashier
Originator of Payout Document:	Floor Supervisor or Floor Person
Verifier of bingo card, pattern, & amount:	Shift Manager and Floor Supervisor
	(other than originator) or Technician;
	and
Verifier of Payment:	Security Manager or Security
	Supervisor

Per current IRS regulations, a W-2G or 1042-S form is required to be completed. Such regulations are subject to change.

- (6) Voids. Documentation must include the reason for voids and signatures of both the originating agent and a supervisory agent. Best practice suggests that a supervisory agent process the voiding of manual payout forms.
- (i) Cash and Cash Equivalents. Controls should be established for cash and cash equivalents in accordance with MICS 543.14 (What are the minimum internal control standards for cage, vault, cash, and cash equivalents?) and the guidance provided in the associated document. Procedures should also comply with all applicable federal regulations (e.g., IRS code, Title 31, among others).
- (j) Technologic Aids to the Play of Bingo. Internal control procedures must be established to safeguard the integrity of technologic aids to the play of bingo during installations, operations, modifications, and retirements. Such procedures must include, but not be limited to, the following:

- (1) Shipping and receiving.
  - (i) A communication process must be established between the supplier, the gaming operation and the TGRA to properly control the shipping and receiving process. Such process should include:
    - (A) Establishing a notification procedure covering shipping dates and other TGRA requirements (e.g., 5-10 business days shipping notification for Class II Gaming System new installation, or 3-5 business days shipping notification for Class II game play software, same or next day delivery for repair and replacement parts). Such notification procedure is communicated to the gaming operation and suppliers.
      - (1) Best practice suggests that notification of pending shipments should be provided to the TGRA by the gaming operation.
      - (2) Certification in accordance with 25 CFR §547 and approval by TGRA prior to shipment.
      - (3) Supplier should provide notification to the TGRA, or the gaming operation as approved by the TGRA, of the shipping date and expected date of delivery. The shipping notification includes, but is not limited to:
        - (*i*) Name and address of the supplier;
        - (*ii*) Description of shipment;
        - (*iii*) For player interfaces: an identifier;
        - *(iv)* For software: program number and description of software;
        - (v) Method of shipment; and
        - (*vi*) Expected date of delivery.
      - (4) Procedures should be established for the exchange of Class II gaming system components for maintenance and replacement (e.g., bingo card minders, screens, printers, bill acceptors, etc.).

- (ii) Class II gaming system components must be shipped in a secure manner to deter unauthorized access.
- (iii) Best practice suggests the TGRA, or its designee, receives all Class II gaming system components and game play software, and verifies against the shipping notification.
- (2) Access Credential Control Methods.
  - (i) Controls should be established to restrict access to the Class II gaming system components. Such controls should ensure access is controlled through passwords, PINs, cards, or other credential controls. Refer to standards established under 543.16 Security and Management of Server, Server Software and Data Associated with Class II Gaming Systems.
- (3) Recordkeeping and Audit Processes.
  - (i) Best practice suggests that the gaming operation, subject to TGRA requirements, should maintain the following records, as applicable, related to installed game servers and player interfaces:
    - (A) Date placed into service;
    - (B) Date made available for play;
    - (C) Supplier;
    - (D) Game software version number;
    - (E) Unique identifier (i.e., serial number);
    - (F) Game title;
    - (G) Asset and/or location number;
    - (H) Seal number; and
    - (I) Initial meter reading.
  - (ii) Controls should establish procedures for auditing such records in accordance with MICS 543.19 (What are the minimum internal control standards for audit and accounting?) and associated guidance documents.
- (4) System Software Signature Verification.

- (i) Procedures should be established relating to system software verifications. These procedures should include comparing signatures generated by the verification programs to the signatures provided in the independent test laboratory letter for that software version.
- (ii) Agents, independent of the bingo operation, should perform system software signature verification(s) to verify that only approved software is installed.
- (iii) Procedures should be established relating to the investigation and resolution of any software verification variances encountered.
- (iv) Best practice suggests internal audits be conducted at intervals established by the TGRA. Such audits should be documented.
- (5) Testing
  - (i) Testing should be completed during the installation process to verify the player interface has been properly installed. This should include testing of the following as applicable:
    - (A) Communication to the Class II Gaming System;
    - (B) Communication to the accounting system;
    - (C) Communication to the player tracking system;
    - (D) Currency and vouchers to bill acceptor;
    - (E) Voucher printing;
    - (F) Meter incrementation;
    - (G) Verification of paytable;
    - (H) Verification of player interface denomination;
    - (I) Verification that all buttons are operational and programmed appropriately;
    - (J) System components are safely installed at location; and
    - (K) Ensuring that locks are secure and functioning.
- (6) Display of Rules and Necessary Disclaimers

(i) The TGRA, or the operation should verify that all game rules and disclaimers (i.e., "Malfunctions void all pays and plays.") shall at all times be displayed or made readily available to the player upon request as required by 25 CFR Part 547.

## (k) <u>Operations</u>.

- (1) Dispute Resolution.
  - (i) Controls and procedures must be established and approved by the TGRA, to investigate, document, and resolve patron disputes. Such procedures should include but not be limited to:
    - (A) Notifying upper management and/or the TGRA of the outstanding nature of the dispute;
    - (B) Collecting and securing all records of the dispute; and
    - (C) Providing patron(s) with instructions for available dispute resolution mechanisms.
- (2) Malfunctions.
  - (i) Procedures should be established to investigate, document and resolve malfunctions. Such procedures may address, but not be limited to, the following:
    - (A) Determination of the event causing the malfunction;
    - (B) Review of relevant records, game recall, reports, logs, surveillance records;
    - (C) Repair or replacement of the Class II gaming component;
    - (D) Verification of the integrity of the Class II gaming component before restoring it to operation; and
    - (E) Completion of requisite documentation.
- (3) Removal, Retirement and/or Destruction.
  - Procedures should be established to properly retire or remove any or all associated components of a Class II Gaming System from operation.
     Procedures may include, but are not limited to, the following:

- (A) For player interfaces and components that accept cash or cash equivalents:
  - (1) Coordinate with the drop team to perform a final drop;
  - (2) Collect final accounting information (e.g., meter readings, drop, payouts, etc.);
  - (3) Remove and/or secure any or all associated equipment from the retired or removed component (e.g., locks, card reader, ticket printer); and
  - (4) Complete requisite documentation.
- (B) For removal of software components:
  - (1) Purge and/or return the software to the license holder; and
  - (2) Complete requisite documentation.
- (C) For other related equipment (e.g., blowers, cards, interface cards, etc.):
  - (1) Remove and/or secure equipment; and
  - (2) Complete requisite documentation.
- (D) For all components:
  - (1) Verify that unique identifiers (i.e., serial numbers) and descriptions of removed/retired components are recorded on the retirement documentation; and
  - (2) Coordinate with the accounting department to properly retire the component in the system records.
- (ii) Where the TGRA authorizes destruction of any Class II Gaming System components, procedures should be developed to properly destroy such components. Such procedures should include but not be limited to the following:
  - (A) Methods of destruction;
  - (B) Witness or surveillance of destruction;
  - (C) Document all components destroyed; and

- (D) Signatures of agents destroying components attesting to destruction.
- (d) <u>Audit and Accounting</u>.
  - Controls must be established for audit and accounting in accordance with MICS 543.19 (What are the minimum internal control standards for audit and accounting?) and the guidance provided in the associated document.
  - (2) Best practice suggests that each operational area secure daily audit and accounting records, forms, and documents prior to audit. For example, a cashier may place records in a locked box for next-day delivery to accounting for audit.

# TAB C

# **Pull Tabs**

## Purpose

This section provides guidance on the development of internal controls, policies, and procedures for the operation of Class II pull tabs. It has been compiled by tribal regulators, Class II gaming operators, and other industry resources. Using best practices, this guidance is specifically designed to accommodate a variety of ways to implement controls to comply with Part 543.8. Because each gaming operation is different and subject to varying tribal laws and regulations, each tribe is responsible for determining the specific controls and procedures that are most suitable for its gaming operations and compliant with the MICS.

Furthermore, internal controls, policies, and procedures should be established and updated in a manner that accommodates changes and advancements in technology. Nothing in this guidance document should be read to limit the use of technology, regardless of whether or not such technology is mentioned herein.

§ 543.8 What are the minimum internal control standards for pull tabs.

- (a) <u>Internal Control Procedures</u>. Subject to the approval and oversight of the TGRA, each gaming operation shall establish, implement and adhere to internal control policies and procedures that provide at least the level of control established by the standards of this section.
- (b) <u>Computer applications</u>. For any computer applications utilized, alternate documentation and/or procedures that provide at least the level of control established by the standards of this section, as approved in writing by the TGRA, will be acceptable.
- (c) <u>Variances</u>. The TGRA shall establish the threshold level at which a variance shall be reviewed. Any such review shall be documented.
- (d) <u>Supervision</u>. Supervision shall be provided during the pull tab operations and over pull tab storage areas by an agent(s) with authority equal to or greater than those being supervised.
- (e) <u>Pull Tab Inventory</u>. The pull tab inventory must be controlled in a manner designed to prevent unauthorized access, misappropriation, forgery, theft, or fraud. Such controls shall address pull tabs exchanged between agents, increases and decreases to inventory, and inventory reconciliation.
- (f) <u>Pull Tab Sales</u>.

§ 543.8 What are the minimum internal control standards for pull tabs.

- (1) Pull tab sales must be controlled in a manner to adequately record, track, and reconcile all pull tab sales and voids.
- (2) When pull tab sales are recorded manually, total sales are verified by an agent independent of the pull tab sales being verified.
- (3) No person shall have unrestricted access to pull tab sales records.
- (g) <u>Winning Pull Tabs</u>.
  - (1) Redeemed pull tabs must be controlled in a manner to adequately record, track, and reconcile all pull tab payouts.
  - (2) The redeemed pull tabs shall be defaced so that they cannot be redeemed for payment again.
- (h) <u>Cash and Cash Equivalent Controls</u>. Cash and cash equivalents must be controlled in a manner designed to prevent unauthorized access, misappropriation, forgery, theft, or fraud. Such controls shall be in accordance with cash and cash equivalent controls established in sub part 543.14.
- (a) <u>Internal Control Procedures</u>. The TGRA should ensure that the gaming operation establishes a system of internal control standards (SICS) that are applicable to Pull Tabs. Such SICS should address, at a minimum, how the department operates, agents' responsibilities, and controls to protect assets. The TGRA should review and approve the SICS prior to implementation.
- (b) <u>Computer Applications</u>. A gaming operation may use computer applications, whether developed in-house or acquired externally, provided that controls are established in accordance with MICS and approved in writing by the TGRA. For any computer applications utilized, alternate documentation and/or procedures that provide at least the level of control established by the standards shall be implemented. For example, where an agent or multiple agents are required in the control, a computer application could substitute for one or all of the agents. Another example would be where a log is required a computer application report could substitute for the log. If computer systems are used, procedures must be designed to account for computer system failure without compromising the effectiveness of the internal control standards.
- (c) <u>Variances</u>.
  - (1) The TGRA or the gaming operation as authorized by the TGRA should establish a threshold at which variances (i.e., exceptions against controls, inconsistencies

with established policies and procedures or deviations from expected outcomes) must be investigated.

- (2) Best practice suggests that when the relevant predetermined variance threshold is achieved, the controls should require agents – preferably supervisory agents – to conduct a variance investigation. Variance investigation controls/procedures should include, but are not limited to:
  - (i) Transaction(s) document(s) review, including all department(s) records relating to the variance investigation;
  - (ii) Recount of assets/inventory;
  - (iii) Surveillance reviews;
  - (iv) Physical inspections; and
  - (v) Agent interviews.
- (3) The investigation results must be supported by documentation and forwarded to the accounting department for review and retention. Best practice suggests that documentation should include copies of transaction forms, logs, and a description of the variance.
- (d) <u>Supervision</u>.
  - (1) Controls should identify the supervisory agent in the department or area ultimately responsible for ensuring that the department or area is operating in accordance with established policies and procedures.
  - (2) The reporting structure may permit a supervisory agent to function as a pull tab agent without any other supervision. In such instances, however, a supervisory agent either independent of the transaction or independent of the relevant department or area must resolve disputes.
  - (3) Best practice suggests that the written system of internal controls should include:
    - (i) An organizational chart of the department or area;
    - (ii) Job descriptions; and
    - (iii) A narrative description of the reporting structure, which is designed to ensure adequate supervision and segregation of function.
- (e) <u>Risk Assessments</u>. Risk assessments and periodic program reviews may be used to determine how often pull tab operations and inventory should be audited. When an

#### FINAL DRAFT – TGWG 7/28/2011

assessment and review is necessary, an agent independent of the organizational component responsible for pull tab operations and inventory should perform it.

- (f) <u>Pull Tab Inventory</u>. To ensure the integrity of pull tabs, a process must be established to control the physical inventory of pull tabs at all times. Physical inventory controls should cover the order, receipt, storage, issuance, return, cancellation, and removal of pull tab inventory by ensuring the inventory can be accounted for at all times and the pull tab storage area has sufficient inventory to maintain the games.
  - Receipt from Vendor/Supplier. When received, pull tabs must be inventoried, documented, and secured by an authorized agent(s) independent of pull tab sales.
     Documentation should include the following:
    - (i) Date;
    - (ii) Time;
    - (iii) Agent receiving the pull tabs;
    - (iv) Game name;
    - (v) Serial number(s); and
    - (vi) Form number.
  - (2) Storage. Pull tabs (including unused pull tabs) must be kept in a secure location with restricted access (i.e., controlled access, under lock and key), with appropriate surveillance coverage, and accessible only by authorized agents to prevent unauthorized access and tampering.
    - (i) Best practice suggests that pull tab inventory should be stored in a pull tab storage room and under surveillance at all times.
    - (ii) For smaller pull tab operations, inventory can be stored in a pull tab cabinet in a separate secured area from the working inventory. Surveillance coverage of the pull tab inventory should be in place at all times.
  - (3) Issuances, Returns and Transfers. Issuances, returns and transfers of pull tab inventory can be to or from a storage room, a locked cabinet, cage, pull tab sales agent (i.e., cashier) and/or dispensers. Controls must be established for the following:
    - (i) Recording issuances, returns and transfers on the appropriate control log, including signatures from the issuing and receiving agents; and
    - (ii) Securing pull tabs at all times.

- (4) Cancellation and Removal.
  - (i) Controls must be established for the cancellation and removal of pull tabs, including but not limited to the following:
    - (A) Cancellation of damaged pull tabs (i.e., damaged by a dispensing machine or damaged in transit from supplier);
      - (1) Unsold or damaged pull tabs must not be opened by any agent.
      - (2) Cancellation methods may include perforation or the writing of void across the face of the pull tab, along with the date, time, and persons completing the void.
      - (3) Damaged winning pull tabs should be returned to the cage along with the winning documentation.
    - (B) Inventory of cancelled pull tabs;
    - (C) Retention and permanent removal procedures; and
    - (D) Destruction of permanently removed pull tabs.
  - (ii) Cancelled pull tabs should be removed from inventory, recorded on the appropriate log and then destroyed in accordance with established controls. Best practice suggests that at least two agent perform, document and attest to any destruction of pull tabs.
  - (iii) Controls should require that for each deal of pull tabs removed and discontinued from play that a summary report be completed explaining eliminating that deal from sellable inventory. The report must be sent to accounting and contain the following:
    - (A) Serial number and form number of deal;
    - (B) Original pull tab count;
    - (C) Pull tabs sold and unsold;
    - (D) Pull tabs redeemed;
    - (E) Pull tabs destroyed or cancelled; and
    - (F) Date placed into play;
    - (G) Date removed from play;

- (H) Agent performing the transaction.
- (iv) In the event of an investigation, other than for a damaged pull tab (i.e., damaged by a dispensing machine or damaged in transit from supplier), the pull tabs associated with the investigation must be retained intact outside of the established cancellation and removal policy. These pull tabs should be sealed and forwarded to a security or surveillance supervisory agent.
- (5) Inventory Control Logs.
  - (i) The inventory of pull tabs must be tracked on a inventory control log(s) through each step in the process, from original receipt (from vendor/supplier) into inventory through the permanent removal from inventory.
  - (ii) Controls should establish, based on the size of the pull tab operation and inventory needs, where pull tab inventory control logs are required to ensure the integrity of pull tabs in play.
  - (iii) Inventory control log(s) should include the following or equivalent information:
    - (A) Location (i.e., storage room, cabinet #, sales location);
    - (B) Game name;
    - (C) Serial number;
    - (D) Form number;
    - (E) Date;
    - (F) Shift;
    - (G) Time;
    - (H) Beginning balance;
    - (I) Inventory received;
    - (J) Inventory returned;
    - (K) Inventory issued;
    - (L) Inventory removed;
    - (M) Ending inventory;

- (N) Inventory count;
- (O) Variance; and
- (P) Signature of agent performing transaction.
- (iv) Pull tab inventory must be reconciled at specified intervals based on the outcome of the risk assessment and in accordance with the controls established for audit and accounting in accordance with MICS 543.19 (What are the minimum internal control standards for audit and accounting?) and the guidance provided in the associated document.
- (v) The pull tab inventory should be tracked through each step in the process on the pull tab log (i.e. upon receipt, issuance, return, and removal).

### **Examples:**

Log maintained in the pull tab storage room that shows inventory of all pull tabs:

		From/to ca sales. locked	shiers, floor cabinet. etc	. )									
Beginning Inventory		(+) Returns	(-) Issued	(-) Removal		(-) Inventory Count		Agent Signature	Date	Shift	Form#	Deal#	Serial#
100	3	0	0	0	103			Joe C. Control	1/1/11	1st	1234 3476 9979	986521 070643 424559	57BG8902 2154KH99 54878811
103	0	0	1	0	102			Joe C. Control	1/1/11	1st	3326	007813	89VX7420
102	0	1	0	0	112			Sally C. Control	1/20/11	Swing	8550	997002	AB890462
112	0	0	0	0	112	111	1	John D. Auditor	1/31/11	Day			

Log maintained in the locked cabinet that tracks pull tab movement:

Date	Shift	Activity	Inventory	Agent
1/1/11	7 <b>a</b> -3 <b>p</b>	Received 10 deals	10	Bob Pull Tab
1/1/11	3p-11p	Opened 5 registers	5	Bob Pull Tab
1/1/11	11p-7a	Received 20 deals	25	Mary Pull Tab
1/1/11	7p-3a	Relief Cashier returned 1 deal	26	Joe Pull Tab

- (g) <u>Pull Tab Sales</u>. Pull tab sales can be recorded manually or by point of sale system (i.e., centralized pull tab sale system, pull tab cash register). Controls must be established for pull tab sales in a manner to adequately record, track, and reconcile all pull tab sales and voids, including, but not limited, to the following:
  - (1) Cash, cash equivalents and pull tabs are secured at all times;
  - (2) Unsold or damaged pull tabs must not be opened by any agent; and

- (3) All pull tab sales are documented, including but not limited to the following:
  - (i) Location (e.g., booth, window);
  - (ii) Date;
  - (iii) Shift;
  - (iv) Name of agent performing pull tab sales;
  - (v) Game name;
  - (vi) Serial number;
  - (vii) Form number;
  - (viii) Ticket price, which must be identical to the ticket price on the flare;
  - (ix) Total pull tabs sales, including any pull tabs issued to patrons as payment for redeemed winning pull tabs;
  - (x) Total winning pulls tabs redeemed (i.e. total payouts);
  - (4) Bingo card sale voids. Controls must be established for the voiding of bingo card sales. Bingo card voids must be processed in accordance with the rules of the game and established controls should include, but not be limited to, the following:
    - (i) Patron refunds;
    - (ii) Adjustments to bingo card sales to reflect voids;
    - (iii) Adjustments to bingo card inventory, which may include but be not limited to:
      - (A) Cancelling voided bingo cards and removing the returned bingo cards from inventory; or
      - (B) Returning the returned bingo cards to inventory, making it available for future games.
    - (iv) Document the reason for the void; and
    - (v) Authorization for all voids.
- (h) <u>Winning Pull Tabs</u>.

- (1) When a winning pull tab prize exceeds a specified payout threshold, documentation (i.e., flare) should be available to the redemption agent for the purposes of verifying the authenticity of the winning pull tab. The documentation shall include the:
  - (i) Game name;
  - (ii) Serial number;
  - (iii) Form number;
  - (iv) Winning combinations;
  - (v) Prize value.
- (2) Winning pull tabs in excess of a specified amount should be compared against pertinent documentation (i.e., flare, prize schedule) by the redeeming agent prior to the payment of the prize. Such verification should include the following:
  - (i) Game name;
  - (ii) Serial number;
  - (iii) Form number;
  - (iv) Winning combination;
  - (v) Amount; and
  - (vi) Payout authorizations.
- (3) Winning pull tabs must be cancelled so that they cannot be presented for payment again.
- (i) <u>Statistical Reports</u>.
  - (1) Records must be maintained for each shift, each day, month to date and year to date or other specified fiscal periods as required, which include the following:
    - (i) Write (i.e., total sales);
    - (ii) Payouts (i.e., total prizes paid);
    - (iii) Win (i.e., net hold calculated as total sales minus total prizes paid); and
    - (iv) Win to write hold percentage (i.e., hold percentage calculated as net hold divided by total sales).

- (2) Controls must be established for audit and accounting to review reports for statistical fluctuations in accordance with MICS 543.19 (What are the minimum internal control standards for audit and accounting?) and the guidance provided in the associated document.
- (j) <u>Technologic Aids to the Play of Pull Tabs</u>. If technologic aids are used in the play of pull tabs, the following standards apply.
  - (1) If the technologic aid contains a bill acceptor, the bill acceptor should be tested upon initial installation and any modification.
  - (2) If the technologic aid uses a bar code or microchip reader, the reader should be tested upon initial installation and any modification, and thereafter, periodically to determine that it is correctly reading the bar code or microchip.
  - (3) If the technologic aid returns a voucher or payment slip (i.e., cash equivalents) to the patron then controls must be established in accordance with MICS 543.14 (What are the minimum internal control standards for cage, vault, cash and cash equivalents?) and the guidance provided in the associated document.
- (k) <u>Cash and Cash Equivalents</u>.
  - (1) Cash or cash equivalents must be controlled in a manner designed to prevent unauthorized access, misappropriation, forgery, theft or fraud and in accordance with MICS 543.14 (What are the minimum internal control standards for cage, vault, cash and cash equivalents?) and the guidance provided in the associated document.
  - (2) Best practice suggests that pull tab agent banks be issued from, and returned to, the cage/vault. If issued from and returned to another location(s) (i.e., within the pull tab operations) controls must be equivalent to those established in MICS 543.14 MICS 543.14 (What are the minimum internal control standards for cage, vault, cash and cash equivalents?) and the guidance provided in the associated document..
- (l) <u>Progressive Pull Tab Games</u>. Controls must be established for the operation of progressive pull tab games including requirements for the following:
  - (1) The progressive portion of the game must be from the same manufacturer and have the same form number and deal serial number as the pull tabs that make a patron eligible for the progressive prize;
  - (2) Each deal in a progressive pull tab game must contribute the same amount towards the progressive prize.

- (3) When the progressive pool reaches the progressive prize amount listed on the flare, no additional contribution is made to the progressive pool;
- (4) Patron(s) eligible for the progressive prize must be informed of the rules for playing for the progressive prize, including:
  - (i) Location, date, and time of progressive prize reveal;
  - (ii) Requirements for being present, if any, for the progressive prize reveal;
  - (iii) Requirements for providing personal contact information in the event the patron is not required to be present for the progressive prize reveal; and
  - (iv) Any other limitations or restrictions regarding eligibility for winning the progressive prize.
- (5) Procedures in the event the progressive prize is not won or claimed, including:
  - (i) Closing the pull tab game;
  - (ii) Claim notification to the eligible patron(s);
  - (iii) Accounting for unclaimed progressive prize; and
  - (iv) Distribution, if any, of patrons' contribution to the unpaid progressive prize.
- (6) Procedures for paying the winning progressive jackpot.

### (m) <u>Audit and Accounting</u>.

- Controls must be established for audit and accounting in accordance with MICS 543.19 (What are the minimum internal control standards for audit and accounting?) and the guidance provided in the associated document.
- (2) Best practice suggests that each operational area secure daily audit and accounting records, forms, and documents prior to audit. For example, a cashier may place records in a locked box for next-day delivery to accounting for audit.
- (3) While a pull tab deal is in play, all records, reports, and prize receipts for the deal must be maintained for accounting purposes, including the flare, with the bar code attached, all redeemed and unsold pull tabs separated by game serial number and form number. Unsold or damaged pull tabs must not be opened by any agent.

# TAB D

# **Card Games**

## Purpose

This section provides guidance on the development of internal controls, policies, and procedures for the operation of Class II card games. It has been compiled by tribal regulators, Class II gaming operators, and other industry resources. Using best practices, this guidance is specifically designed to accommodate a variety of ways to implement controls to comply with Part 543.9. Because each gaming operation is different and subject to varying tribal laws and regulations, each tribe is responsible for determining the specific controls and procedures that are most suitable for its gaming operations and compliant with the MICS.

Furthermore, internal controls, policies, and procedures should be established and updated in a manner that accommodates changes and advancements in technology. Nothing in this guidance document should be read to limit the use of technology, regardless of whether or not such technology is mentioned herein.

§ 543.9 What are the minimum internal control standards for card games?

- (a) <u>Internal Control Procedures</u>. Subject to the approval and oversight of the TGRA, each gaming operation shall establish, implement and adhere to internal control policies and procedures that provide at least the level of control established by the standards of this section.
- (b) <u>Computer Applications</u>. For any computer applications utilized, alternate documentation and/or procedures that provide at least the level of control established by the standards of this section, as approved in writing by the TGRA, will be acceptable.
- (c) <u>Variances</u>. The TGRA shall establish the threshold level at which a variance shall be reviewed. Any such review shall be documented.
- (d) <u>Supervision</u>. Supervision shall be provided during the card room operations by an agent(s) with authority equal to or greater than those being supervised.
- (e) <u>Inventory of Playing Cards</u>. The playing card inventory must be controlled in a manner designed to prevent unauthorized access, misappropriation, forgery, theft, or fraud. Such controls shall address cards exchanged between agents, increases and decreases to inventory, and inventory reconciliation.
- (f) <u>Shill Funds</u>. Issuance and return of shill funds shall be recorded and have the written

§ 543.9 What are the minimum internal control standards for card games?

approval of another agent.

- (g) <u>Cash and Cash Equivalent Controls</u>. Cash and cash equivalents must be controlled in a manner designed to prevent unauthorized access, misappropriation, theft, or fraud. Such controls shall be in accordance with cash and cash equivalent controls established in sub part 543.14.
- (h) <u>Posted Rules</u>. The rules shall be displayed or available for patron review at the gaming operation, including rules governing contests, prize payouts, fees, etc.
- (i) <u>Promotional Progressive Pots and Pools such as Contests, Tournaments, Drawings</u> <u>and Giveaway Programs</u>. Funds contributed by patrons to prize pools shall be returned and documented in accordance with the posted rules.
  - (1) Promotional pool contributions shall be controlled in a manner to properly distinguish between gaming revenue and promotional pool contributions.
    - (i) Promotional pool contributions shall be placed in a locked container;
    - (ii) Agents transporting the locked container shall be precluded from having access to the contents keys.
  - (2) At least once a week, increases and decreases to the promotional pool amount shall be verified, supported by documentation, recorded and reconciled to the cash by an agent independent of the card room.
- (a) <u>Internal Control Procedures</u>. The TGRA should ensure that the gaming operation establishes a system of internal control standards (SICS) that are applicable to Card Games. Such SICS should address, at a minimum, how the department operates, agents' responsibilities, and controls to protect assets. The TGRA should review and approve the SICS prior to implementation.
- (b) <u>Computer Applications</u>. A gaming operation may use computer applications, whether developed in-house or acquired externally, provided that controls are established in accordance with MICS and approved in writing by the TGRA. For any computer applications utilized, alternate documentation and/or procedures that provide at least the level of control established by the standards shall be implemented. For example, where an agent or multiple agents are required in the control, a computer application could substitute for one or all of the agents. Another example would be where a log is required a computer application report could substitute for the log. If computer systems are used, procedures must be designed to account for computer system failure without compromising the effectiveness of the internal control standards.

#### (c) <u>Variances</u>.

- (1) The TGRA or the gaming operation as authorized by the TGRA should establish a threshold at which variances (i.e., exceptions against controls, inconsistencies with established policies and procedures or deviations from expected outcomes) must be investigated, including card inventory, card room table inventory, and card room bank inventory.
- (2) Best practice suggests that when the relevant predetermined variance threshold is achieved, the controls should require agents – preferably supervisory agents – to conduct a variance investigation. Variance investigation controls/procedures should include, but are not limited to:
  - (i) Transaction(s) document(s) review, including all department(s) records relating to the variance investigation;
  - (ii) Recount of assets/inventory;
  - (iii) Surveillance reviews;
  - (iv) Physical inspections; and
  - (v) Agent interviews.
- (3) The investigation results must be supported by documentation and forwarded to the accounting department for review and retention. Best practice suggests that documentation should include copies of transaction forms, logs, and a description of the variance.
- (d) <u>Supervision</u>.
  - (1) Controls should identify the supervisory agent in the department or area ultimately responsible for ensuring that the department or area is operating in accordance with established policies and procedures.
  - (2) The reporting structure may permit a supervisory agent to function as a dealer without any other supervision. In such instances, however, a supervisory agent either independent of the transaction or independent of the relevant department or area must resolve disputes.
  - (3) Best practice suggests that the written system of internal controls should include:
    - (i) An organizational chart of the department or area;
    - (ii) Job descriptions; and

- (iii) A narrative description of the reporting structure, which is designed to ensure adequate supervision and segregation of function.
- (e) <u>Risk Assessments</u>. Risk assessments and periodic program reviews may be used to determine how often card games and card inventory should be audited. When an assessment and review is necessary, an agent independent of the organizational component responsible for conducting card games should perform it.
- (f) <u>Playing Cards</u>. To ensure the integrity of the card games, controls must be established to control the physical inventory of playing cards at all times. Physical inventory controls should address the orders, receipt, stocking, issuance, return, cancellation, and removal of playing card inventory and all items (i.e., shoes, dice and tiles) used in the play of card games to ensure that:
  - (1) Inventory can be accounted for at all times;
  - (2) The card room has sufficient inventory to maintain the games; and
  - (3) Playing cards have not been marked, altered or otherwise manipulated.
  - (4) Receipt from vendor.
    - (i) When playing cards are initially received from the vendor, they must be inspected (without breaking the factory seals), counted, inventoried, and secured by an authorized agent independent of card games.
    - (ii) Inventory records should include the following information: date received, quantities received and on hand, and the name of the individual conducting the inspection.
  - (5) Storage.
    - (i) New and used playing cards must be maintained in a secure location (i.e., under lock and key) with appropriate surveillance coverage, and accessible only to authorized agents to prevent unauthorized access and tampering.
    - (ii) Best practice suggests that card inventory should be stored in a card storage room, which is under surveillance at all times. For smaller card room operations, card inventory can be stored in a card room podium in a separate secured area from the working inventory. In this instance, a general overview of the card inventory should be covered by surveillance at all times.
  - (6) Issuance.

- (i) Issuance of inventory can be from a storage room/location to a podium and/or a table(s) or from podium to a table(s).
- (ii) When playing cards are issued to a table, best practice suggests that the card game supervisor:
  - (A) Opens the decks;
  - (B) Records the time and date issued and table number; and
  - (C) Initials the flap of the box.
- (iii) The dealer should inspect the front and back of the cards and look for completeness of the deck and any marks, alterations, or other indication of tampering.
- (7) Removal from Table.
  - (i) When playing cards are removed from a table, best practice suggests that the card games supervisor retrieves the original box, records the time and date returned, and initials the flap of the box. (This process provides a chain of custody when an investigation is required.)
- (8) Return of Inventory.
  - (i) Return of inventory can be from a podium and/or table to a storage room, a table to a podium, and should be recorded on the appropriate log.
  - (ii) Upon return to inventory, playing cards should be inspected to ensure that the playing cards have not been marked, altered or otherwise manipulated. If any marks, alterations, or other flaws are detected, an investigation should be performed to determine the origin (i.e., table number, date, shift, and dealer[s]) of the cards. Marked, altered, or otherwise flawed cards should be sealed and removed from inventory. Best practice suggests such cards, and investigation results, should be turned over to security (or other independent department) for further investigation, including surveillance review.
- (9) Cancellation and Removal.
  - (i) Used playing cards that are not to be re-used shall be properly cancelled and removed from service to prevent re-use of retired cards.
  - (ii) Cancellation methods may include: drilling, corner cutting, permanent ink marking, and edge shaving. These cancelled cards may then be removed

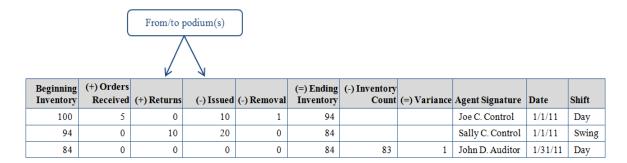
from inventory and recorded on the appropriate log. Best practice suggests that the cancellation process be under surveillance to permit verification that proper controls have been followed.

- (iii) In the event of an investigation, other than for a flawed card, the cards associated with the investigation must be retained intact outside of the established retention and cancellation policy. These cards should be sealed, recorded, and forwarded to the agent or department handling the investigation.
- (10) Logs. The playing card inventory should be tracked through each step in the process on a log(s).
  - (i) Management should determine, based on the size of the operation and inventory needs, where card inventory logs are required to ensure the integrity of playing cards in use.
  - (ii) The log(s) should include:
    - (A) Date;
    - (B) Shift;
    - (C) Time;
    - (D) Location;
    - (E) Inventory received, returned, issued, removed;
    - (F) Agent performing transaction;
    - (G) Agent performing the reconciliation;
    - (H) Any variance;
    - (I) Beginning and ending inventory; and
    - (J) Comments.

### Examples of logs:

.

Log maintained in the card storage room that shows inventory of all cards:



Log maintained in the podium that tracks card movement:

Date	Shift	Activity	Inventory	Agent
1/1/11	Day	Received 10 decks	10	Bob Poker
1/1/11	Day	Opened 5 tables	5	Bob Poker
1/1/11	Swing	Received 20 decks	25	Pete Poker
1/1/11	Swing	Returned 10 decks	15	Pete Poker

(11) Physical Count. At a specified interval (based on risk assessment) an agent independent of card games and the card storage room/location should perform a physical count and verify that count to the inventory log. If a variance is noted, it should be investigated by the agent who performed the physical count utilizing the methods contained in the variances section of this document.

#### (g) <u>Shill Funds</u>.

- (1) Controls should be developed and implemented regarding the use of shills. Such controls should address the following:
  - (i) When shills may be used;
  - (ii) Agent(s) authorized to make the decision to use a shill;
  - (iii) Shill rules of play;
  - (iv) Shill fund amounts;
  - (v) Obtaining shill funds;
  - (vi) Returning the funds; and
  - (vii) Monitoring and reviewing shill activities.

- (2) Best practice suggests that shill funds be issued from, and returned to, the cage. If properly documented, shill funds could be issued from, and returned to, the card room bank. Such transactions should be documented on a form signed by the cage agent performing the transaction and the "shill agent" accepting the funds. This form should include:
  - (i) Date;
  - (ii) Shift;
  - (iii) Time;
  - (iv) Location;
  - (v) Agents issuing/receiving funds;
  - (vi) Shill signature; and
  - (vii) Amount.
- (h) <u>Cash and Cash Equivalents</u>. Controls should be developed with respect to cash and cash equivalents designed to prevent unauthorized access, misappropriation, forgery, theft or fraud and in accordance with MICS 543.14 (What are the minimum internal control standards for cage, vault, cash and cash equivalents?) and the guidance provided in the associated document. Such controls should include the following transactions and events:
  - (1) Bank issuance/return;
  - (2) Even exchanges;
    - (i) Even exchanges between a table and the card room bank must be evidenced by the placement of a lammer on the table.
  - (3) Increases/decreases to bank inventory;
  - (4) Fills and credits; and
    - (i) Fills and credits must be authorized by a supervisory agent.
  - (5) Marker and marker payments.
    - (i) The issuance of markers and acceptance of marker payments must be authorized by a supervisory agent.
- (i) <u>Opening/Closing Count</u>. Two agents one of which must be a supervisory agent must independently count the table inventory at the opening and closing of the table. The result of the count must be recorded on a form which includes the following:

- (1) Date;
- (2) Shift;
- (3) Table number;
- (4) Amount by denomination;
- (5) Amount in total; and
- (6) Signatures of both agents.
- (j) <u>Rules for Card Games and Related Promotions and Tournaments.</u>
  - (1) General Rules. Controls must require rules to be posted or otherwise made available to patrons. Such rules must:
    - (i) Inform patrons of any conditions required for the patron to participate in the game (i.e., minimum buy in, rebuy, bankroll);
    - (ii) Fee schedules for the games offered and any related promotions (i.e., any contest, tournament, progressives); and
    - (iii) Best practice suggests that the process for resolving disputes should be posted or otherwise made available for patron review.
  - (2) Promotions. Controls must require that the rules including the conditions for participating in card game promotions are documented and made available for patron review. Such documentation should include the following:
    - (i) Rules of the promotion;
    - (ii) Name of the promotion;
    - (iii) Date(s) of the promotion;
    - (iv) Amount of funds to be contributed by patrons (i.e., entry fee, per pot contribution, buy-in);
    - (v) Administrative fees, if any;
    - (vi) Nature of qualifying hand to win;
    - (vii) List of available prizes;
    - (viii) Allocation of the promotional prize payout;

- (ix) Amount of each promotional pool; and
- (x) Aggregate amount of all pools.
- (3) Tournaments. Controls must require that the rules including the conditions for participating in card game tournaments are documented and made available for patron review. Such documentation should include the following;
  - (i) Rules of the tournament;
  - (ii) Name of the tournament;
  - (iii) Date(s) of the tournament;
  - (iv) Entry fee;
  - (v) Administrative fees, if any;
  - (vi) List of available prizes;
  - (vii) Allocation of the tournament prize payout;
  - (viii) Amount of each tournament pool; and
  - (ix) Aggregate amount of all pools.
- (k) <u>Promotional Progressive Pots and Pools</u>. Controls should be developed to properly account for the funds contributed by patrons to promotional pots or pools. These controls should include:
  - (1) Procedures for the collection of patron contributions. Such procedures must include:
    - (i) Security of the patron contributions.
      - (A) Patron contributions should be segregated from gaming funds and accounted for separately. For example, cash or cash equivalents may be converted into a non-redeemable promotional chip of the same value.
      - (B) When patron contributions are collected, the cash or cash equivalents should be placed in a locked container.
      - (C) Agents transporting the locked container must be prohibited from access to the content key.

- (2) Counting and Recording. Best practice suggests that the counting and recording of the promotional locked box contents should be performed by agents independent of the card game department, hosting department(s), and other sponsors. The count should be performed under a surveillance camera and the documentation forwarded to accounting.
- (l) <u>Audit and Accounting</u>.
  - Controls must be established for audit and accounting in accordance with MICS 543.19 (What are the minimum internal control standards for audit and accounting?) and the guidance provided in the associated document.
  - (2) Best practice suggests that each operational area secure daily audit and accounting records, forms, and documents prior to audit. For example a cashier may place records in a locked box for next-day delivery to accounting for audit.

# TAB E

### **Gaming Promotions**

#### Purpose

This section provides guidance on the development of internal controls, policies, and procedures for the operation of Gaming Promotions. It has been compiled by tribal regulators, Class II gaming operators, and other industry resources. Using best practices, this guidance is specifically designed to accommodate a variety of ways to implement controls to comply with Part 543.10. Because each gaming operation is different and subject to varying tribal laws and regulations, each tribe is responsible for determining the specific controls and procedures that are most suitable for its gaming operations and compliant with the MICS.

Furthermore, internal controls, policies, and procedures should be established and updated in a manner that accommodates changes and advancements in technology. Nothing in this guidance document should be read to limit the use of technology, regardless of whether or not such technology is mentioned herein.

§ 543.10 What are the minimum internal control standards for Gaming Promotions.

- (a) <u>Internal Control Procedures.</u> Subject to the approval and oversight of the TGRA, each gaming operation shall establish, implement and adhere to internal control policies and procedures that provide at least the level of control established by the standards of this section.
- (b) <u>Computer Applications.</u> For any computer applications utilized, alternate documentation and/or procedures that provide at least the level of control established by the standards of this section, as approved in writing by the TGRA, will be acceptable.
- (c) <u>Variances.</u> The TGRA shall establish the threshold level at which a variance shall be reviewed. Any such review shall be documented.
- (d) <u>Supervision</u>. Supervision shall be provided for gaming promotions as needed by an agent(s) with authority equal to or greater than those being supervised.
- (e) <u>Gaming Promotions.</u> Controls must be established in a manner designed to prevent unauthorized access, cheating, misappropriation, forgery, theft, or fraud. Such controls must include, but not be limited to, the following:
  - (1) Rules of the gaming promotion;
  - (2) Gaming promotion accounting; and

§ 543.10 What are the minimum internal control standards for Gaming Promotions.

- (3) TGRA approval.
- (a) <u>Internal Control Procedures</u>. The TGRA should ensure that the gaming operation establishes a system of internal control standards (SICS) that are applicable to Gaming Promotions. Such SICS should address, at a minimum, how the department operates, agents' responsibilities, and controls to protect assets. The TGRA should review and approve the SICS prior to implementation.
- (b) <u>Computer Applications</u>. A gaming operation may use computer applications, whether developed in-house or acquired externally, provided that controls are established in accordance with MICS and approved in writing by the TGRA. For any computer applications utilized, alternate documentation and/or procedures that provide at least the level of control established by the standards shall be implemented. For example, where an agent or multiple agents are required in the control, a computer application could substitute for one or all of the agents. Another example would be where a log is required a computer application report could substitute for the log. If computer systems are used, procedures must be designed to account for computer system failure without compromising the effectiveness of the internal control standards.
- (c) <u>Variances</u>.
  - (1) The TGRA or the gaming operation as authorized by the TGRA should establish a threshold at which variances (i.e., exceptions against controls, inconsistencies with established policies and procedures or deviations from expected outcomes) must be investigated.
  - (2) Best practice suggests that when the relevant predetermined variance threshold is achieved, the controls should require agents – preferably supervisory agents – to conduct a variance investigation. Variance investigation controls/procedures should include, but are not limited to:
    - (i) Transaction(s) document(s) review, including all department(s) records relating to the variance investigation;
    - (ii) Recount of assets/inventory;
    - (iii) Surveillance reviews;
    - (iv) Physical inspections; and

- (v) Agent interviews.
- (3) The investigation results must be supported by documentation and forwarded to the accounting department for review and retention. Best practice suggests that documentation should include copies of transaction forms, logs, and a description of the variance.
- (d) <u>Supervision</u>.
  - (1) Controls should identify the supervisory agent in the department or area ultimately responsible for ensuring that the department or area is operating in accordance with established policies and procedures.
  - (2) The reporting structure may permit a supervisory agent to function as a gaming promotions agent without any other supervision. In such instances, however, a supervisory agent either independent of the transaction or independent of the relevant department or area must resolve disputes.
  - (3) Best practice suggests that the written system of internal controls should include:
    - (i) An organizational chart of the department or area;
    - (ii) Job descriptions; and
    - (iii) A narrative description of the reporting structure, which is designed to ensure adequate supervision and segregation of function.
- (e) <u>Risk Assessments</u>. Risk assessments and periodic program reviews may be used to determine how often gaming promotions should be audited. When an assessment and review is necessary, an agent independent of the organizational component responsible for conducting gaming promotions (i.e., marketing) should perform it.
- (f) <u>Gaming Promotions Rules</u>. Rules of the gaming promotion should be displayed or made readily available to participants upon request. Gaming promotions rules should include, but not be limited to, the following:
  - (1) The rules of play;
  - (2) The nature and value of the associated prize(s) or cash award(s);
  - (3) Any restrictions or limitations on participant eligibility;
  - (4) The date(s), time(s), and location(s) for the associated promotional activity or activities;

- (5) Any other restrictions or limitations, including any related to the claim of prizes or cash awards;
- (6) The announcement date(s), time(s), and location(s) for the winning entry or entries; and
- (7) Rules governing promotions offered across multiple gaming operations, third party sponsored promotions, and joint promotions involving third parties.
- (g) <u>TGRA Approval</u>. The TGRA should approve the gaming promotions program to ensure that it is implemented in a fair manner and is compliant with all applicable regulations (e.g., MICS, TICS, laws on advertising, etc.). Best practice suggests that this approval should occur prior to any public release of a gaming promotion. TGRAs may find it is most efficient to approve promotions by type or by template and review the following for each gaming promotion:
  - (1) A narrative description of the proposed gaming promotion;
  - (2) The rules governing entry and eligibility, including any applicable restrictions or limitations on eligibility;
  - (3) The rules of play and method for selecting the winning entry or entries;
  - (4) Applicable restrictions or limitations on the date, time, location, and manner for claiming a prize or cash awards;
  - (5) Eligible prize(s) or cash award(s) and associated monetary value(s), including non-cash prizes' fair market value and cash substitution rules for non-cash prizes;
  - (6) The identity of any external sponsorship for the gaming promotion, including contact information;
  - (7) The date, time, and location where the gaming promotion will take place and the commencement and end dates of the promotion if it spans across multiple dates, including specific dates for each related event; and
  - (8) A copy of any applicable advertisement or other promotional literature.
- (h) <u>Conduct of Promotional Activities</u>.
  - (1) Gaming operations should conduct promotional activities in accordance with the rules and procedures as approved by the TGRA.
  - (2) If the promotional activity is open to the general public, the gaming operation should conspicuously post the date, time and location of the promotion. Further, a

complete copy of the rules related to play, eligibility, and claims should be made available to patrons upon request.

- (i) <u>Prize Payouts</u>.
  - (1) Controls should include procedures for recording prize payouts including, but not limited to:
    - (i) The name, address, and contact information of the winning patron(s);
    - (ii) The prize(s) awarded and the value of the prize(s); and
    - (iii) Any required IRS or other forms.
  - (2) Cash and cash equivalent payouts. When gaming promotions are used in conjunction with Class II gaming, controls should be established for payouts in accordance with MICS 543.14 (What are the minimum internal control standards for cage, vault, cash, and cash equivalents?) and the guidance provided in the associated document. Procedures should also comply with all applicable federal regulations (e.g., IRS code, Title 31, among others).
  - (3) Non-Cash Prizes. Best practice suggests that gaming operations utilize the following, or similar guidelines to ensure that non-cash prizes are properly distributed:
    - (i) Distribute non-cash prizes in accordance with the rules and procedures for the gaming promotion.
    - (ii) Do not allow substitution of non-monetary prizes for cash unless specifically authorized by the approved rules of the gaming promotion.
    - (iii) Do not authorize exceptions in the absence of extraordinary circumstances and only where proper accounting standards and operating procedures specifically addressing such circumstances are in place.
    - (iv) Prohibit substitution of non-cash prizes for cash payment for any amount other than the fair market value of the advertised non-cash prize as required by the Internal Revenue Code.
    - (v) Do not substitute an advertised non-cash prize or award for another noncash prize or award of a different type with a lesser value unless authorized by the rules.
- (j) <u>Audit and Accounting</u>.

- (1) When gaming promotions are used in conjunction with Class II gaming then controls must be established for audit and accounting in accordance with MICS 543.19 (What are the minimum internal control standards for audit and accounting?) and the guidance provided in the associated document.
- (2) Best practice suggests that each operational area secure daily audit and accounting records, forms, and documents prior to audit. For example a cashier may place records in a locked box for next-day delivery to accounting for audit.

# TAB F

# **Patron Deposit Accounts and Cashless Systems**

#### Purpose

This section provides guidance on the development of internal controls, policies, and procedures for the operation of patron deposit accounts and cashless systems in conjunction with Class II gaming. It has been compiled by tribal regulators, Class II gaming operators, and other industry resources. Using best practices, this guidance is specifically designed to accommodate a variety of ways to implement controls to comply with Part 543.11. Because each gaming operation is different and subject to varying tribal laws and regulations, each tribe is responsible for determining the specific controls and procedures that are most suitable for its gaming operations and compliant with the MICS.

Furthermore, internal controls, policies, and procedures should be established and updated in a manner that accommodates changes and advancements in technology. Nothing in this guidance document should be read to limit the use of technology, regardless of whether or not such technology is mentioned herein.

§ 543.11 What are the minimum internal control standards for Patron Deposit Accounts and Cashless Systems.

- (a) <u>Internal Control Procedures</u>. Subject to the approval and oversight of the TGRA, each gaming operation shall establish, implement and adhere to internal control policies and procedures that provide at least the level of control established by the standards of this section.
- (b) <u>Computer Applications</u>. For any computer applications utilized, alternate documentation and/or procedures that provide at least the level of control established by the standards of this section, as approved in writing by the TGRA, will be acceptable.
- (c) <u>Conflicts of Standards</u>. If there are any inconsistencies between these regulations and external standards incorporated by this provision, such as Title 31 and Credit Card Act, such other applicable standards shall prevail.
- (d) <u>Variances</u>. The TGRA shall establish the threshold level at which a variance shall be reviewed. Any such review shall be documented.
- (e) <u>Patron Deposit Accounts and Cashless Systems</u>.
  - (1) Patron deposit accounts and cashless systems must be controlled in a manner designed to prevent unauthorized access, misappropriation, forgery, theft, or

§ 543.11 What are the minimum internal control standards for Patron Deposit Accounts and Cashless Systems.

fraud.

- (2) All smart cards (i.e., cards that possess the means to electronically store or retrieve data) that maintain the only source of account data are prohibited.
- (3) Patron deposit accounts may be unrestricted or restricted to a specific patron.
- (4) Establishment of patron deposit accounts. The following standards apply when the patron establishes an account and optionally makes an initial deposit.
  - (i) For restricted patron deposit accounts:
    - (A) The patron must appear at the gaming operation in person, at a designated area of accountability, and present a valid government issued picture identification credential.
    - (B) An agent must examine the patron's identification and record, at a minimum, the following information:
      - (1) Type, number, and expiration date of the identification;
      - (2) Patron's name;
      - (3) A unique account identifier;
      - (4) Date the account was opened; and
      - (5) The agent's name.
    - (C) The agent must require the patron to sign the account documentation before the account is activated.
    - (D) The agent or cashless system shall provide the patron deposit account holder with a secure method of access.
  - (ii) For unrestricted patron deposit accounts:
    - (A) The patron must be informed of the unrestricted nature of the account, and the fact that the account may be accessible to anyone with the account number.
    - (B) The patron must acknowledge and accept the risks

§ 543.11 What are the minimum internal control standards for Patron Deposit Accounts and Cashless Systems.

associated with unrestricted accounts.

- (5) Patron deposits, withdrawals and adjustments.
  - (i) Prior to the patron making a deposit or a withdrawal from a patron deposit account, the agent or cashless system must verify the identity of the patron deposit account, the patron identity for restricted accounts, and availability of funds. Reliance on a secured personal identification number (PIN) entered by the patron is an acceptable method of verifying patron identity.
  - (ii) Adjustments made to the patron deposit accounts must be performed by an agent.
  - (iii) When a deposit, withdrawal or adjustment is processed by an agent, a multi-part transaction record must be created containing the following information:
    - (A) Same document number on all copies;
    - (B) Type of transaction, (e.g., deposit, withdrawal, or adjustment);
    - (C) Name or other identifier of the patron for restricted patron deposit accounts;
    - (D) The unique account identifier;
    - (E) Patron signature for withdrawals, unless a secured method of access is utilized;
    - (F) Date and time of transaction;
    - (G) Dollar amount of transaction;
    - (H) Nature of deposit, withdrawal, or adjustment (e.g., cash, check, chips); and
    - (I) Signature of the agent processing the transaction.
  - (iv) When a patron deposits or withdraws funds from a patron deposit account electronically, the following shall be recorded and reported:
    - (A) Date and time of transaction;

§ 543.11 What are the minimum internal control standards for Patron Deposit Accounts and Cashless Systems.

- (B) Location (e.g., player interface, kiosk);
- (C) Dollar amount of transaction; and
- (D) The unique account identifier.
- (v) Detailed patron deposit account transaction records must be available to the patron upon reasonable request.
- (vi) If electronic funds transfers are made to or from a gaming operation bank account for patron deposit account funds, the bank account must be dedicated and may not be used for any other types of transactions.
- (a) <u>Internal Control Procedures</u>. The TGRA should ensure that the gaming operation establishes a system of internal control standards (SICS) that are applicable to Patron Deposit Accounts and Cashless Systems. Such SICS should address, at a minimum, how the department operates, agents' responsibilities, and controls to protect assets. The TGRA should review and approve the SICS prior to implementation.
- (b) <u>Computer Applications</u>. A gaming operation may use computer applications, whether developed in-house or acquired externally, provided that controls are established in accordance with MICS and approved in writing by the TGRA. For any computer applications utilized, alternate documentation and/or procedures that provide at least the level of control established by the standards shall be implemented. For example, where an agent or multiple agents are required in the control, a computer application could substitute for one or all of the agents. Another example would be where a log is required a computer application report could substitute for the log. If computer systems are used, procedures must be designed to account for computer system failure without compromising the effectiveness of the internal control standards.
- (c) <u>Variances</u>.
  - (1) The TGRA or the gaming operation as authorized by the TGRA should establish a threshold at which variances (i.e., exceptions against controls, inconsistencies with established policies and procedures or deviations from expected outcomes) must be investigated.

- (2) Best practice suggests that when the relevant predetermined variance threshold is achieved, the controls should require agents – preferably supervisory agents – to conduct a variance investigation. Variance investigation controls/procedures should include, but are not limited to:
  - (i) Transaction(s) document(s) review, including all department(s) records relating to the variance investigation;
  - (ii) Recount of assets/inventory;
  - (iii) Surveillance reviews;
  - (iv) Physical inspections; and
  - (v) Agent interviews.
- (3) The investigation results must be supported by documentation and forwarded to the accounting department for review and retention. Best practice suggests that documentation should include copies of transaction forms, logs, and a description of the variance.
- (d) <u>Supervision</u>.
  - (1) Controls should identify the supervisory agent in the department or area ultimately responsible for ensuring that the department or area is operating in accordance with established policies and procedures.
  - (2) The reporting structure may permit a supervisory agent to function as a patron deposit account agent and/or a cashier without any other supervision. In such instances, however, a supervisory agent either independent of the transaction or independent of the relevant department or area must resolve disputes.
  - (3) Best practice suggests that the written system of internal controls should include:
    - (i) An organizational chart of the department or area;
    - (ii) Job descriptions; and
    - (iii) A narrative description of the reporting structure, which is designed to ensure adequate supervision and segregation of function.
- (e) <u>Risk Assessments</u>. Risk assessments and periodic program reviews may be used to determine how often patron deposit accounts and cashless systems should be audited. When an assessment and review is necessary, an agent independent of the organizational

component responsible for patron deposit accounts and cashless systems should perform it.

- (f) <u>Patron Deposit Accounts and Cashless Systems</u>.
  - (1) When patron deposit accounts and cashless systems are used in conjunction with Class II gaming, controls should be established to prevent unauthorized access, misappropriation, forgery or fraud, and to secure the system and accounts in accordance with MICS 543.16 (What are the minimum internal control standards for the Security and Management of Server, Server Software, and Data Associated with Class II Gaming Systems) and the guidance provided in the associated document.
  - (2) Each Patron Deposit Account must be uniquely identified with an account identifier ("Account ID") which is intended to serve as a secure method of access.
  - (3) Patron deposit accounts may be unrestricted or restricted to a specific patron and each must be controlled in the manner identified subsections (g) and (h) of this document respectively.
- (g) <u>Restricted Patron Deposit Accounts</u>.
  - (1) In the case of restricted patron deposit accounts, in return for giving personal details to the gaming operation (required for restricted accounts), the patron may acquire a patron deposit account that may be used to play Class II games.
  - (2) In the case of restricted patron deposit accounts, the account holder has greater redress in the case of a lost or stolen card.
  - (3) In order to acquire a restricted patron deposit account, the patron must appear at the gaming operation in person, at a designated area of accountability, and present a valid government issued picture identification credential.
  - (4) An agent must examine the patron's identification and record, at a minimum, the following information:
    - (i) Type, number, and expiration date of the identification;
    - (ii) Patron's name;
    - (iii) A unique account identifier;
    - (iv) Date the account was opened; and
    - (v) Agent's name.

- (5) The agent must require the patron to sign the account documentation before the account is activated. Signatures may be collected electronically or manually and should be maintained for the life of the patron deposit account including data retention periods.
- (6) The agent or cashless system shall provide the patron deposit account holder with a secure method of access such as an account ID and PIN or similarly secured access method.
- (h) <u>Unrestricted Patron Deposit Accounts</u>.
  - (1) Unrestricted patron deposit account holders do not have to provide personal details to acquire an account.
  - (2) In the case of an unrestricted patron deposit account, the account holder necessarily has less redress in the event of a lost card because it is treated in a manner similar to a voucher.
  - (3) Controls should require disclosure of the risks associated with the use of unrestricted patron deposit accounts, as required by 543.7(g) (i.e., lack of recourse, accessible by anyone with the account number, among others). Advising patrons of this information may be done in a variety of methods such as, by facility signage, posted rules, imprint on the account access medium (e.g., card, fob, among others), and/or a handout or receipt at the time the account is established.
  - (4) Controls should require patron acceptance of the risks associated with the use of unrestricted patron deposit accounts, as required by 543.7(g). Acknowledgement and acceptance of the risks may be accomplished in a variety of ways, i.e., by use of the account; by accepting a form advising the patron of same at the time the account is established; by accepting the means of account access; by verbalizing acceptance; or by signing an acknowledgment form, among other means.
  - (5) Patrons must be provided access to their accounts on the host system. Such access may be provided from the player interface or via some other mechanism or manner of access; e.g., by the insertion of a plastic card, with a machine-readable secure account ID number, into a Kiosk; by the manual input of the account number via a player interface onboard keypad; by the use of an account access medium; or in any other manner authorized.
  - (6) An account ID may be associated to an account access media such as magnetic striped cards or any other medium that allows the Patron to access or interact with their account.

- (7) Best practice suggests that the gaming operation should exercise care in selecting technology for accessing patron deposit accounts that is designed to protect the account ID from unauthorized access, fraud, and forgery.
  - (i) This may require that technical standards are in place to provide an adequate level of security.
  - (ii) At a minimum such standards should provide that the account ID must access the appropriate patron deposit account.
- (i) <u>Patron Deposits, Withdrawals and Adjustments</u>.
  - (1) Cash and cash equivalents. Controls should be established for patron deposit accounts and cashless system transactions involving cash or cash equivalents in accordance with MICS 543.14 (What are the minimum internal control standards for cage, vault, cash, and cash equivalents?) and the guidance provided in the associated document. Procedures should also comply with all applicable federal regulations (e.g., IRS code, Title 31, among others).
  - (2) Controls should be in place to govern patron deposit account deposits and withdrawals.
    - (i) Prior to the patron making a deposit into a patron deposit account, the agent or cashless system must verify the identity of the patron deposit account and, for restricted accounts, the patron's identity. Reliance on a secured personal identification number (PIN) entered by the patron is an acceptable method of verifying patron identity.
    - (ii) Prior to the patron making a withdrawal from a patron deposit account, the agent or cashless system must verify the identity of the patron deposit account and availability of funds for withdrawal.
  - (3) Adjustments made to the patron deposit accounts must be performed by an authorized agent.
  - (4) When a deposit, withdrawal or adjustment is processed by an agent, a multi-part transaction record must be created containing the following information:
    - (i) Same document number on all copies;
    - (ii) Type of transaction, (e.g., deposit, withdrawal, or adjustment);
    - (iii) Name or other identifier of the patron for restricted patron deposit accounts;

- (iv) The unique account identifier;
- (v) Patron signature for withdrawals, unless a secured method of access is utilized;
- (vi) Date and time of transaction;
- (vii) Dollar amount of transaction;
- (viii) Nature of deposit, withdrawal, or adjustment (e.g., cash, check, chips); and
- (ix) Signature of the agent processing the transaction.
- (5) When a patron deposits or withdraws funds from a patron deposit account electronically, the following shall be recorded and reported:
  - (i) Date and time of transaction;
  - (ii) Location (e.g., player interface, kiosk);
  - (iii) Dollar amount of transaction;
  - (iv) The unique account identifier;
  - (v) Detailed patron deposit account transaction records must be available to the patron upon reasonable request; and
  - (vi) If electronic funds transfers are made to or from a gaming operation bank account for patron deposit account funds, the bank account must be dedicated. To prevent commingling of gaming operation funds with patron fund the bank account may not be used for any other types of transactions.
- (j) <u>Audit and Accounting</u>.
  - (1) When Patron Deposit Accounts and Cashless Systems are used in conjunction with Class II gaming then controls must be established for audit and accounting in accordance with MICS 543.19 (What are the minimum internal control standards for Audit and Accounting?) and the guidance provided in the associated document.
  - (2) Best practice suggests that each operational area secure daily audit and accounting records, forms, and documents prior to audit. For example, a cashier may place records in a locked box for next-day delivery to accounting for audit.

# TAB G

### **Player Tracking Systems**

#### Purpose

This section provides guidance on the development of internal controls, policies, and procedures for the operation of player tracking systems used in conjunction with Class II gaming. It has been compiled by tribal regulators, Class II gaming operators, and other industry resources. Using best practices, this guidance is specifically designed to accommodate a variety of ways to implement controls to comply with Part 543.12. Because each gaming operation is different and subject to varying tribal laws and regulations, each tribe is responsible for determining the specific controls and procedures that are most suitable for its gaming operations and compliant with the MICS.

Furthermore, internal controls, policies, and procedures should be established and updated in a manner that accommodates changes and advancements in technology. Nothing in this guidance document should be read to limit the use of technology, regardless of whether or not such technology is mentioned herein.

§ 543.12 What are the minimum internal control standards for player tracking systems used in conjunction with Class II gaming?

- (a) <u>Internal Control Procedures</u>. Subject to the approval and oversight of the TGRA, each gaming operation shall establish, implement and adhere to internal control policies and procedures that provide at least the level of control established by the standards of this section.
- (b) <u>Computer Applications</u>. For any computer applications utilized, alternate documentation and/or procedures that provide at least the level of control established by the standards of this section, as approved in writing by the TGRA, will be acceptable.
- (c) <u>Variances</u>. The TGRA shall establish the threshold level at which a variance shall be reviewed. Any such review shall be documented.
- (d) <u>Player Tracking Systems</u>. Controls must be established in a manner designed to prevent unauthorized access, cheating, misappropriation, forgery, theft, or fraud when a player tracking system is used in conjunction with Class II gaming. Such controls must include, but not be limited to, the following:
  - (1) Operation of player tracking programs;
  - (2) Security of player tracking accounts; and

§ 543.12 What are the minimum internal control standards for player tracking systems used in conjunction with Class II gaming?

- (3) Audit and accounting.
- (a) <u>Internal Control Procedures</u>. The TGRA should ensure that the gaming operation establishes a system of internal control standards (SICS) that are applicable to the use of Player Tracking Systems in conjunction with Class II gaming. Such SICS should address, at a minimum, how the department operates, agents' responsibilities, and controls to protect assets. The TGRA should review and approve the SICS prior to implementation
- (b) <u>Computer Applications</u>. A gaming operation may use computer applications, whether developed in-house or acquired externally, provided that controls are established in accordance with MICS and approved in writing by the TGRA. For any computer applications utilized, alternate documentation and/or procedures that provide at least the level of control established by the standards shall be implemented. For example, where an agent or multiple agents are required in the control, a computer application could substitute for one or all of the agents. Another example would be where a log is required a computer application report could substitute for the log. If computer systems are used, procedures must be designed to account for computer system failure without compromising the effectiveness of the internal control standards.
- (c) <u>Variances</u>.
  - (1) The TGRA or the gaming operation as authorized by the TGRA should establish a threshold at which variances (i.e., exceptions against controls, inconsistencies with established policies and procedures or deviations from expected outcomes) must be investigated.
  - (2) Best practice suggests that when the relevant predetermined variance threshold is achieved, the controls should require agents – preferably supervisory agents – to conduct a variance investigation. Variance investigation controls/procedures should include, but are not limited to:
    - (i) Transaction(s) document(s) review, including all department(s) records relating to the variance investigation;
    - (ii) Recount of assets/inventory;
    - (iii) Surveillance reviews;
    - (iv) Physical inspections; and

- (v) Agent interviews.
- (3) The investigation results must be supported by documentation and forwarded to the accounting department for review and retention. Best practice suggests that documentation should include copies of transaction forms, logs, and a description of the variance.
- (d) <u>Supervision</u>.
  - (1) Controls should identify the supervisory agent in the department or area ultimately responsible for ensuring that the department or area is operating in accordance with established policies and procedures.
  - (2) The reporting structure may permit a supervisory agent to function as a player tracking or cashier agent without any other supervision. In such instances, however, a supervisory agent either independent of the transaction or independent of the relevant department or area must resolve disputes.
  - (3) Best practice suggests that the written system of internal controls should include:
    - (i) An organizational chart of the department or area;
    - (ii) Job descriptions; and
    - (iii) A narrative description of the reporting structure, which is designed to ensure adequate supervision and segregation of function.
- (e) <u>Risk Assessments</u>. Risk assessments and periodic program reviews may be used to determine how often player tracking systems should be audited. When an assessment and review is necessary, an agent independent of the organizational component responsible for player tracking systems should perform it.
- (f) <u>Operation of Player Tracking Programs</u>.
  - (1) Gaming operations must establish controls for player tracking activities. Procedures should include but not be limited to the following:
    - (i) Establishing player tracking membership;
    - (ii) Access to player tracking records;
    - (iii) Manual player tracking (e.g., card game player tracking, player tracking without automated systems, among others);
    - (iv) Issuing and redemption of benefits; and

- (A) Best practice suggests that patron identification should be required when redeeming benefits however, reliance on a secured PIN by the patron is an acceptable method of verifying patron identification. This does not apply to Unrestricted Patron Deposit Accounts; refer to MICS 543.11 (What are the minimum internal control standards for Patron Deposit Accounts and Cashless Systems?) and the associated guidance document for controls regarding all Patron Deposit Accounts.
- (v) Adjustments to player tracking activity and benefits. Adjustments made in the absence of the patron must be sufficiently documented, including substantiation of reasons for adjustment, by the agent performing the adjustment. This standard does not apply to the deletion of balances related to inactive or closed accounts through an automated process if the automated process is capable of generating a report of all adjustments made.
- (2) Best practice suggests that the gaming operation make readily available the eligibility requirements for player tracking participation. The information should also include the following:
  - (i) Eligibility criteria;
  - (ii) Any restrictions or limitations on participant eligibility and membership (e.g., must be at least 18/21 years of age to participate, must achieve a specified amount of activity in a specified period, and restrictions on holding multiple accounts, among others);
  - (iii) Description of potential benefits associated to participation, including participation and benefits offered across multiple gaming operations, third-party sponsored programs, and joint programs involving thirdparties; and
  - (iv) Any other restrictions or limitations, including any related to the claim of benefits (e.g., notice of expiration of benefits after a specified period of inactivity and rules for use of benefits by spouses or significant others, among others).
- (f) <u>Security of Player Tracking Accounts</u>. When player tracking systems are used in conjunction with Class II gaming then controls should be established for the security and management of server, server software and data in accordance with MICS 543.16 (What are the minimum internal control standards for the security and management of server, server software, and data associated to Class II gaming systems?) and the guidance provided in the associated document.

- (1) Controls must require that only authorized agents can access inactive or closed accounts.
- (g) <u>Audit and Accounting</u>.
  - (1) When player tracking systems are used in conjunction with Class II gaming, Controls must be established for audit and accounting in accordance with MICS 543.19 (What are the minimum internal control standards for audit and accounting?) and the guidance provided in the associated document.
  - (2) Best practice suggests that each operational area secure daily audit and accounting records, forms, and documents prior to audit. For example, a cashier may place records in a locked box for next-day delivery to accounting for audit.

# TAB H

# Cage, Vault, Cash and Cash Equivalents

#### Purpose

This section provides guidance on the development of internal controls, policies, and procedures for Cage, Vault, Cash and Cash Equivalents. It has been compiled by tribal regulators, Class II gaming operators, and other industry resources. Using best practices, this guidance is specifically designed to accommodate a variety of ways to implement controls to comply with Part 543.14. Because each gaming operation is different and subject to varying tribal laws and regulations, each tribe is responsible for determining the specific controls and procedures that are most suitable for its gaming operations and compliant with the MICS.

Furthermore, internal controls, policies, and procedures should be established and updated in a manner that accommodates changes and advancements in technology. Nothing in this guidance document should be read to limit the use of technology, regardless of whether or not such technology is mentioned herein.

§543.14 What are the minimum internal control standards for the cage, vault, cash and cash equivalents?

- (a) <u>Internal Control Procedures</u>. Subject to the approval and oversight of the TGRA, each gaming operation shall establish, implement and adhere to internal control policies and procedures that provide at least the level of control established by the standards of this section.
- (b) <u>Computer Applications</u>. For any computer applications utilized, alternate documentation and/or procedures that provide at least the level of control established by the standards of this section, as approved in writing by the TGRA, will be acceptable.
- (c) <u>Variances</u>. The TGRA shall establish the threshold level at which a variance shall be reviewed. Any such review shall be documented.
- (d) <u>Supervision</u>. Provide supervision for cage, vault, and other operations using cash or cash equivalents as needed by an agent(s) with authority equal to or greater than those being supervised.
- (e) <u>Cash and Cash Equivalent Controls</u>.
  - (1) Cash and cash equivalents must be controlled in a manner designed to prevent unauthorized access, misappropriation, forgery, theft, or fraud. Such controls must include, but not be limited to, the following actions:

\$543.14 What are the minimum internal control standards for the cage, vault, cash and cash equivalents?

- (i) Counting;
- (ii) Recording increases and decreases to inventory;
- (iii) Inventory reconciliation;
- (iv) Issuance and redemption;
- (v) Transfers;
- (vi) Inspecting, validating and verifying;
- (vii) Cancelations and voids;
- (viii) Authorization; and
- (ix) Document retention.
- (f) <u>Check Cashing</u>. Check cashing must be controlled in a manner designed to prevent unauthorized access, misappropriation, forgery, theft, or fraud. Such controls must include, but not be limited to, the following:
  - (1) Acceptance of checks;
  - (2) Deposit of checks (Checks not deposited in the normal course of business are subject to §543.15 Lines of Credit standards).
  - (3) Collecting and recording returned checks;
  - (4) Re-deposit; and
  - (5) Write-off authorization.
  - (6) If a third party check cashing or guarantee service is used, the examination and documentation procedures required by the service provider shall apply unless otherwise provided by tribal law or regulation.
- (g) <u>Cage and Vault Accountability</u>.
  - (1) Increases and decreases to cage inventory shall be verified, supported by documentation, and recorded. Unverified transfers of cash and/or cash equivalents are

\$543.14 What are the minimum internal control standards for the cage, vault, cash and cash equivalents?

prohibited.

- (2) The cage and vault inventories (including coin rooms/vaults) shall be counted independently by at least two agents, attested to by signature, and recorded in ink or other permanent form at the end of each shift during which activity took place.
- (h) <u>Chip(s) and Token(s)</u>. Controls must be established to ensure accountability of chip and token inventory. Such controls must include, but not be limited to, the following:
  - (1) Purchase;
  - (2) Receipt;
  - (3) Inventory;
  - (4) Storage; and
  - (5) Destruction.
- (i) <u>Cage and vault access</u>. Controls must be established to limit physical access to the cage and vault. The controls shall also address the transportation of extraneous items (e.g., personal belongings, tool boxes, beverage containers, etc.) into or out of the cage and vault.
- (a) <u>Internal Control Procedures</u>. The TGRA should ensure that the gaming operation establishes a system of internal control standards (SICS) that are applicable to Cage, Vault, Cash and Cash Equivalents. Such SICS should address, at a minimum, how the department operates, agents' responsibilities, and controls to protect assets. The TGRA should review and approve the SICS prior to implementation.
- (b) <u>Computer Applications</u>. A gaming operation may use computer applications, whether developed in-house or acquired externally, provided that controls are established in accordance with MICS and approved in writing by the TGRA. For any computer applications utilized, alternate documentation and/or procedures that provide at least the level of control established by the standards shall be implemented. For example, where an agent or multiple agents are required in the control, a computer application could substitute for one or all of the agents. Another example would be where a log is required a computer application report could substitute for the log. If computer systems are used,

procedures must be designed to account for computer system failure without compromising the effectiveness of the internal control standards.

#### (c) <u>Variances</u>.

- (1) The TGRA or the gaming operation as authorized by the TGRA should establish a threshold at which variances (i.e., exceptions against controls, inconsistencies with established policies and procedures or deviations from expected outcomes) must be investigated.
- (2) Best practice suggests that when the relevant predetermined variance threshold is achieved, the controls should require agents – preferably supervisory agents – to conduct a variance investigation. Variance investigation controls/procedures should include, but are not limited to:
  - (i) Transaction(s) document(s) review, including all department(s) records relating to the variance investigation;
  - (ii) Recount of assets/inventory;
  - (iii) Surveillance reviews;
  - (iv) Physical inspections; and
  - (v) Agent interviews.
- (3) The investigation results must be supported by documentation and forwarded to the accounting department for review and retention. Best practice suggests that documentation should include copies of transaction forms, logs, and a description of the variance.
- (d) <u>Supervision</u>.
  - (1) Controls should identify the supervisory agent in the department or area ultimately responsible for ensuring that the department or area is operating in accordance with established policies and procedures.
  - (2) The reporting structure may permit a supervisory agent to function as a cage or vault agent without any other supervision. In such instances, however, a supervisory agent either independent of the transaction or independent of the relevant department or area must resolve disputes.
  - (3) Best practice suggests that the written system of internal controls should include:

- (i) An organizational chart of the department or area;
- (ii) Job descriptions; and
- (iii) A narrative description of the reporting structure, which is designed to ensure adequate supervision and segregation of function.
- (d) <u>Risk Assessments</u>. Risk assessments and periodic program reviews may be used to determine how often cage and vault should be audited. When an assessment and review is necessary, an agent independent of the organizational component responsible for conducting cage/vault operations should perform it.
- (e) <u>Cash and Cash Equivalent Controls</u>. This section will cover controls for both 543.14(d) "Cash and cash equivalent controls" and 543.14(f) "Cage and vault accountability." Cash and cash equivalents must be controlled in a manner designed to prevent unauthorized access, misappropriation, forgery or fraud. Such controls must include, but not be limited to, the following actions:
  - (1) Counting.
    - (i) The cage, vault and satellite windows (including coin room) inventories must be counted by both incoming and outgoing agents.
    - (ii) To maintain individual accountability, each agent must perform independent counts and record such counts on an inventory document in ink or other permanent form to verify accuracy. Such counts should also be attested to by signature of each agent. These counts should be recorded at the start and end of each shift during which activity took place.
    - (iii) Cage and vault inventories may include but not be limited to the following:
      - (A) Loose, strapped and bundled currency, including mutilated and foreign currency;
      - (B) Loose, rolled and bagged coin;
      - (C) Personal checks, cash advances, casino checks, funds on deposit and safekeeping;
      - (D) Chips and tokens:
      - (E) All banks, such as cage banks, main bank floats, kiosk banks and kiosk fills.

- (f) <u>Recording Increases and Decreases to Cage/Vault Inventory</u>.
  - (1) All increases and decreases to inventory must be documented and summarized on a cage accountability document that includes but is not limited to:
    - (i) Date;
    - (ii) Shift;
    - (iii) Starting and ending inventory values;
    - (iv) Summary of like transactions recording the values in and out separately; and
    - (v) Variances.
  - (2) Best practice suggests that this be completed on a per shift basis with supporting documentation.
- (g) <u>Inventory Reconciliation</u>. Inventory reconciliations must be performed at the completion of each agent's shift. All variances must be noted and investigated. Best practice suggests that an agent independent of the agent responsible for the bank and preferably a supervisory agent perform the investigation.
- (h) <u>Issuance and Redemption</u>. Controls should be established that detail issuance and redemption procedures and should include the appropriate Title 31 logging and reporting requirements. Such controls should include procedures for but not limited to the following:
  - (1) Voucher redemptions;
  - (2) Check cashing;
  - (3) Chip or token exchanges;
  - (4) Player tracking accounts that offer redeemable cash and/or cash equivalents;
  - (5) Patron deposit accounts, deposits and withdrawals;
  - (6) Fills and credits;
  - (7) Bank issuance to other departments;
  - (8) Bank deposits;

- (9) Cash received from the bank;
- (10) Coupon redemptions;
- (11) Manual payouts;
- (12) Markers issued and payments;
- (13) Sales recordation; and
- (14) Other issuance or redemptions as required.
- (15) Best practice suggests that patrons redeem cash equivalents for cash at change booths, cages or other manned locations when patron identification is required. Alternatively, if a gaming operation utilizes a self-serve redemption kiosk(s), use of secured method of access is an acceptable method for verifying patron identification. Thresholds should be established for the maximum dollar amount of vouchers, coupons and patron account balances that can be redeemed in accordance with applicable IRS regulations or other thresholds established by the gaming operation or the TGRA.
- (16) Best practice suggests that when redemption systems are temporarily unavailable, agents may redeem the instrument after recording the following:
  - (i) Unique identifier number;
  - (ii) Date and time;
  - (iii) Dollar amount;
  - (iv) Issuing device number; and
  - (v) Marking ticket paid.
- (17) These instruments must remain in cage accountability for reconciliation purposes.
- (i) <u>Transfers</u>. A transfer is any issuance, return, or other transfer of cash and/or cash equivalents, including all banks and cash drawers that include cash or cash equivalents. Controls should be designed in a manner to prevent unauthorized access, misappropriation, forgery, theft or fraud for all transfers, including from count room to cage/vault. Such controls must include, but not be limited to, the following:
  - (1) Unverified transfers of cash and/or cash equivalents are prohibited;

- (2) Each transfer is counted and documented independently by each agent participating in the transfer including:
  - (i) Date;
  - (ii) Time;
  - (iii) Shift;
  - (iv) Location (e.g., table number, bank number, booth, among others);
  - (v) Amount;
  - (vi) Signature of agent issuing/returning funds; and
  - (vii) Signature of agent obtaining the funds.
- (3) Agents certify by signature the accuracy of the transfer;
- (4) All inventories/banks assigned to individual cage or vault agents are counted by the oncoming (or the agent to which accountability is transferred) and outgoing cage or vault agents; and
- (5) Any variances are documented and investigated.
- (j) <u>Floating Bank Increases/Decreases</u>. For any floating bank inventory (i.e., imprest), increases and decreases to inventory must be properly documented on multi-part forms. One part of the form should remain with the agent initiating the transaction, one part should remain with the agent issuing the funds, and if applicable, one part of the form should go with the agent delivering the funds (i.e., runner) and be returned with the signature of the agent who receives the funds. All copies are forwarded to accounting.
  - (1) General. The multi-part form should include:
    - (i) Date;
    - (ii) Time;
    - (iii) Shift;
    - (iv) Location;
    - (v) Amount (by denomination) being exchanged;
    - (vi) Signature of the agent releasing the funds;

- (vii) Signature of the agent transferring the funds (runner); and
- (viii) Signature of the agent exchanging the funds.
- (2) Card Games. In addition to the general documentation described in the previous section, the following controls must be established:
  - (i) Fill and credit transactions must be authorized by supervisory agents.
  - (ii) Marker and Marker Payments. Marker and marker payments must be authorized by supervisory agents and documented on a multi-part form with the following information:
    - (A) Name of the patron;
    - (B) Patron account number;
    - (C) Table number (if issued/paid at the table);
    - (D) Amount issued/paid, including the nature of payment (i.e., cash, chips, check);
    - (E) Patron signature (on issuance);
    - (F) Authorizing agent signature; and
    - (G) Date and time.
  - (iii) Upon re-payment, the original marker is returned to the patron and a copy is sent to accounting. If re-payment is made at the table, the copy should be placed in the drop box.
- (k) Exchanges.
  - (1) Even Exchanges. Even exchanges occur when a cash equivalent is exchanged for cash or vice versa, such as an exchange of chips for cash or cash for chips, for example. This can occur between a table and the card room bank, cage, or vault. All such transactions must be documented, and in the case of a card game, the exchange must be evidenced by the placement of a lammer on the card table.
  - (2) Best practice suggests even exchanges should be documented on a multi-part form. One part of the form should remain at the location where the funds were released until the exchange is complete. One part should accompany the funds during the exchange and be returned with the signature of the agent who

exchanged the funds. All copies should be forwarded to accounting. The multipart form should include:

- (i) Date;
- (ii) Time;
- (iii) Shift;
- (iv) Location;
- (v) Amount (by denomination) being exchanged;
- (vi) Signature of the agent releasing the funds;
- (vii) Signature of the agent transferring the funds (runner); and
- (viii) Signature of the agent exchanging the funds.
- (l) <u>Inspecting, Validating, and Verifying</u>. Best practice suggests that controls be established in a manner to detect forged or altered instruments and counterfeit currency. Such procedures should require an examination of cash and cash equivalents to determine authenticity and should include but not be limited to the following:
  - (1) Vouchers;
  - (2) Check cashing;
  - (3) Chip or token exchanges;
  - (4) Patron deposit accounts, deposits and withdrawals;
  - (5) Coupon redemptions; and
  - (6) Other issuance or redemptions as required.
- (m) <u>Cancellations and Voids</u>. Cancellations like voids invalidate a transaction or instrument and do not include cancellation of redeemed or paid instruments. Controls should be established for cancellations and voids that include but are not limited to:
  - (1) Authorization;
  - (2) Recording on system or manual logs;
  - (3) Void the physical instrument, including the following:

- (i) Mark an indication of void across the instrument's face (e.g., stamping "void" or cross-out);
- (ii) Signatures of agent(s), two agents should be required if manually cancelled or voided;
- (iii) Reason; and
- (iv) Date and time.
- (4) Independent review of cancellations and/or voids.
- (n) <u>Authorization</u>. Authorization thresholds must be established for all cash and cash equivalent transactions. Thresholds may be set for each agent, role or position. An example would be that a cashier must have a second authorization to process a chip exchange greater than \$3,000.00, but a supervisor might not.
- (o) <u>Document Retention</u>. Controls must be established to ensure that cage and vault documentation is properly secured until transferred to accounting. Best practice suggests that each cage and vault secure daily audit and accounting records, forms, and documents prior to audit. For example a cashier may place records in a locked box for next-day delivery to accounting for audit.
  - (1) Cage and vault records must be retained in accordance 543.19 (Audit and Accounting) and related guidance documents.
- (p) <u>Check Cashing</u>. Check cashing must be controlled in a manner designed to prevent unauthorized access, misappropriation, forgery or fraud. Such controls must include, but not be limited to, the following:
  - (1) Acceptance of checks. Controls should be established that include but are not limited to:
  - (2) Amount limits and authorization thresholds;
  - (3) Type of check (i.e., personal, business, payroll, third-party, counter, travelers etc.);
  - (4) Information that must be printed and/or recorded includes:
    - (i) Patron name;
    - (ii) Patron signature;

- (iii) Date check was cashed;
- (iv) Unique identifier (e.g., check number);
- (v) Patron's valid identification;
- (vi) Bank endorsement (e.g., deposit account stamp);
- (vii) Patron bank name, routing and account numbers; and
- (viii) Identity and/or signature of agent cashing the check.
- (5) If checks are cashed utilizing a third-party guarantee or check cashing service, controls must be established to ensure that all procedures required by such service are adhered to unless otherwise provided by Tribal law or regulation.
- (q) <u>Deposit of Checks</u>. Controls must be established for the timely deposit of checks to minimize the risk of returned checks. Best practice suggests that checks be deposited daily. Checks not deposited in the normal course of business, such as checks excluded from regular deposits (i.e., check hold), are subject to §543.15 Lines of Credit minimum internal control standards.
- (r) <u>Collecting and Recording Returned Checks</u>. Controls must be established for the accounting, recording and collecting of returned checks. Such controls should include but are not limited to:
  - (1) Documentation of returned check that includes but not limited to:
    - (i) Patron name;
    - (ii) Date of check;
    - (iii) Amount;
    - (iv) Reason for return (e.g., insufficient funds, frozen account, hold);
    - (v) Any fees associated with the return;
    - (vi) Payment amounts;
    - (vii) Dates of each transaction or event for that check; and
    - (viii) Outstanding balance.
  - (2) Suspension of patron check cashing privileges until returned checks are settled;

- (3) Payment procedures that include but are not limited to:
  - (i) Segregation of duties to ensure that all payments are processed by an agent(s) independent of the agent(s) who processed the deposits;
  - (ii) All payments are processed and recorded at an authorized location (i.e., cash payments made at the cage, payments received by mail posted by Accounting, among others);
  - (iii) Payments are recorded and the amount verified against outstanding balance owed on the returned check; and
  - (iv) Receipts are provided to the patron, which may include but not be limited to:
    - (A) Return of the original check;
    - (B) Receipts for any additional fees paid (i.e., bank and/or collection charges); and
    - (C) Receipts for all partial payments.
- (4) Reconciliation of records must be performed in accordance with §543.19 (What are the internal control standards for Audit and Accounting?) and related guidance documents.
- (s) <u>Re-Deposits</u>. If the gaming operation re-deposits returned checks, controls must be established for the re-deposit of those checks using the same controls described for collection and recording returned checks.
- (t) <u>Write-Off Authorization</u>. Controls must be established for write-offs that include but are not limited to:
  - (1) Policies that detail when a returned check should be written off. Best practice suggests that all means of collection should be exhausted prior to write-off;
  - (2) Write-off authorization limits and thresholds, which may be determined by agent, role or position;
  - (3) Signatures of at least two agents, with at least one of them being a supervisory agent; and
  - (4) Documentation, which includes reason for write-off.

- (u) <u>Check Cashing Services</u>. If a third-party check cashing or guarantee service is used, the examination and documentation procedures required by the service provider shall apply unless otherwise provided by Tribal law or regulation.
- (v) <u>Chip(s) and Token(s)</u>. Controls must be established to ensure accountability of chip and token inventory. Such controls must include, but not be limited to, the following requirements:
  - (1) Authorization of purchases;
  - (2) Proper receipt and recording of shipments;
  - (3) Periodic inventory counts to reconcile against the purchases and to determine liability of circulated chips and tokens. Best practice suggests that this reconciliation is performed monthly and if the inventory amounts exceed purchases, an investigation should be performed, documented and results forwarded to management and/or the TGRA. Notably, an incidence of more inventory than purchases could indicate that chips or tokens have been counterfeited;
  - (4) Secure storage of all chips and tokens;
  - (5) Use of destruction methods such as shredding, melting or concrete encasement that at minimum physically change the chips or tokens to indicate they have been removed from circulation in order to prevent the re-circulation of these chips or tokens; and
  - (6) Require that destruction of chips and tokens is authorized, documented and performed by at least two agents, preferably one of which is a supervisory agent. Best practice suggests that the destruction be performed under surveillance. All records of the destruction must be forwarded to accounting.
- (w) <u>Cage and Vault Access</u>. Controls must be established and procedures implemented to limit physical access to the cage and vault. The controls shall also address the transportation of extraneous items (e.g., personal belongings, tool boxes, beverage containers, etc.) into or out of the cage and vault.
  - (1) Access to the cage and vault areas must be limited to authorized agents. The controls should require the maintenance of a list that specifies the authorization levels and area(s) of access for each agent.
  - (2) Access by others not on the list must be approved, at minimum, by management of the area being accessed and recorded.

- (3) Cage and vault areas must be secured with locks and keys, card swipes, biometrics or other methods of secure access.
- (4) Best practice suggests the transportation of extraneous items into or out of the cage and vault should be strictly controlled. Such controls should include, but not be limited to, the following:
  - (i) Personal belongings should be placed in lockers and not transported into the cage or vault;
  - (ii) All trash is placed in clear plastic bags and perused by agents prior to removal from the cage or vault and by security prior to being placed in outside trash cans, compactors, or removal from the facility;
  - (iii) If food or beverage is allowed in the cage, it must be in transparent containers; and
  - (iv) Agents clear their hands when entering or leaving the cage or vault. The same should be performed if the agent has to reach into any areas not clearly visible to surveillance (i.e., pockets, the floor, shelves, etc.).
- (x) <u>Audit and Accounting</u>.
  - Controls must be established for audit and accounting in accordance with MICS 543.19 (What are the minimum internal control standards for audit and accounting?) and the guidance provided in the associated document.
  - (2) Best practice suggests that each operational area secure daily audit and accounting records, forms, and documents prior to audit. For example, a cashier may place records in a locked box for next-day delivery to accounting for audit.

# TAB I

## Lines of Credit

### Purpose

This section provides guidance on the development of internal controls, policies, and procedures for Class II gaming operations to issue credit to gaming patrons for wagering activities. It has been compiled by tribal regulators, Class II gaming operators, and other industry resources. Using best practices, this guidance is specifically designed to accommodate a variety of ways to implement controls to comply with Part 543.15. Because each gaming operation is different and subject to varying tribal laws and regulations, each tribe is responsible for determining the specific controls and procedures that are most suitable for its gaming operations and compliant with the MICS.

Furthermore, internal controls, policies, and procedures should be established and updated in a manner that accommodates changes and advancements in technology. Nothing in this guidance document should be read to limit the use of technology, regardless of whether or not such technology is mentioned herein.

§ 543.15 What are the minimum internal control standards for lines of credit?

- (a) <u>Internal Control Procedures</u>. Subject to the approval and oversight of the TGRA, each gaming operation shall establish, implement and adhere to internal control policies and procedures that provide at least the level of control established by the standards of this section.
- (b) <u>Computer Applications</u>. For any computer applications utilized, alternate documentation and/or procedures that provide at least the level of control established by the standards of this section, as approved in writing by the TGRA, will be acceptable.
- (c) <u>Variances</u>. The TGRA shall establish the threshold level at which a variance shall be reviewed. Any such review shall be documented.
- (d) Establishment of Lines of Credit Policy.
  - (1) If a gaming operation extends lines of credit, controls must be established to safeguard the assets of the gaming operation. Such controls must include the establishment of a lines of credit policy including the following:
    - (i) A process for the patron to apply for, modify, and/or re-establish lines of credit, to include required documentation and credit line

§ 543.15 What are the minimum internal control standards for lines of credit? limit; (ii) Credit issuer authorization levels; (iii) Identification of agents authorized to issue lines of credit; (iv) A process for verifying lines of credit worthiness of applicants; (v) A system for recording patron information; to include: (A) Name, current address, and signature; **(B)** Identification credential; (C) Authorized credit line limit; and (D) Approval by an agent authorized to approve credit line limits: (vi) A process for issuing lines of credit to include the following: (A) Notice to patron of lines of credit terms including patron written acknowledgment by signature; **(B)** Completion of a uniquely identified, multi-part, lines of credit issuance form, such as a marker or counter check, which includes the terms of that lines of credit transaction; (C) Signatory requirements; (D) Determining the amount of the patron's available lines of credit; (E) Creation and maintenance of current lines of credit balance record updated at the time of each transaction to assure that lines of credit issued is within the established limit and balance for that patron. (F) Requirement that the agent issuing the lines of credit must be independent of the agent who authorized the lines of credit. (vii) A policy establishing credit line limit exceptions to include the following:

§ 543.15 What are the minimum internal control standards for lines of credit? (A) Identification of the agent(s) authorized to permit a credit line limit to be exceeded: (B) Authorization thresholds; and (C) Required documentation. (viii) A policy governing increases and decreases to a patron's lines of credit account balances to include the following: (A) Documentation and record keeping requirements; **(B)** Independence between the department that receives the payment and the department that maintains custody of the credit balance for payments made by mail; (C) Collections; Periodic audits and confirmation of balances; and (D) (E) If a collection agency is utilized, a process to ensure documentation of increases and decreases to the lines of credit account balances. (ix) A policy governing write-offs and settlements to include: (A) Identification of agent(s) authorized to approve write-offs and settlements; **(B)** Authorization levels for write-offs and settlements of lines of credit instruments; (C) Required documentation for write-offs and settlements; (D) Independence between the agent who established the lines of credit and the agent writing off or settling the lines of credit instrument. (E) Necessary documentation for the approval of write-offs and settlements and transmittal to the appropriate department for recording and deductibility.

- (a) <u>Internal Control Procedures</u>. The TGRA should ensure that the gaming operation establishes a system of internal control standards (SICS) that are applicable to Lines of Credit. Such SICS should address, at a minimum, how the department operates, agents' responsibilities, and controls to protect assets. The TGRA should review and approve the SICS prior to implementation
- (b) <u>Computer Applications</u>. A gaming operation may use computer applications, whether developed in-house or acquired externally, provided that controls are established in accordance with MICS and approved in writing by the TGRA. For any computer applications utilized, alternate documentation and/or procedures that provide at least the level of control established by the standards shall be implemented. For example, where an agent or multiple agents are required in the control, a computer application could substitute for one or all of the agents. Another example would be where a log is required a computer application report could substitute for the log. If computer systems are used, procedures must be designed to account for computer system failure without compromising the effectiveness of the internal control standards.
- (c) <u>Variances</u>.
  - (1) The TGRA or the gaming operation as authorized by the TGRA should establish a threshold at which variances (i.e., exceptions against controls, inconsistencies with established policies and procedures or deviations from expected outcomes) must be investigated.
  - (2) Best practice suggests that when the relevant predetermined variance threshold is achieved, the controls should require agents – preferably supervisory agents – to conduct a variance investigation. Variance investigation controls/procedures should include, but are not limited to:
    - (i) Transaction(s) document(s) review, including all department(s) records relating to the variance investigation;
    - (ii) Recount of assets/inventory;
    - (iii) Surveillance reviews;
    - (iv) Physical inspections; and
    - (v) Agent interviews.
  - (3) The investigation results must be supported by documentation and forwarded to the accounting department for review and retention. Best practice suggests that documentation should include copies of transaction forms, logs, and a description of the variance.

#### (d) <u>Supervision</u>.

- (1) Controls should identify the supervisory agent in the department or area ultimately responsible for ensuring that the department or area is operating in accordance with established policies and procedures.
- (2) The reporting structure may permit a supervisory agent to function as a lines of credit agent without any other supervision. In such instances, however, a supervisory agent either independent of the transaction or independent of the relevant department or area must resolve disputes.
- (3) Best practice suggests that the written system of internal controls should include:
  - (i) An organizational chart of the department or area;
  - (ii) Job descriptions; and
  - (iii) A narrative description of the reporting structure, which is designed to ensure adequate supervision and segregation of function.
- (e) <u>Risk Assessments</u>. Risk assessments and periodic program reviews may be used to determine how often lines of credit should be audited. When an assessment and review is necessary, an agent independent of the organizational component responsible for authorizing lines of credit.
- (f) <u>Establishment of Lines of Credit Policy</u>. By extending credit to patrons, the gaming operation takes the risk that the patron will be unable or unwilling to settle the debt in a timely manner. Credit standards must be designed to minimize this risk while maintaining the ability to offer credit to patrons in a timely manner.
  - (1) Agents involved in the credit program must be adequately trained to detect suspicious or criminal activity. In particular, agents must be trained to detect forgery, fraud, and money laundering.
  - (2) Agents involved in the credit program should be prohibited from applying for and receiving credit from the gaming operation.
  - (3) Credit may only be issued to patrons and used for gaming purposes within the casino and at amounts appropriate to the patron's financial means and level of play.
  - (4) Oversight of the credit program must be maintained by persons, such as a committee, as approved by the TGRA, and should not be automated. Such persons shall be responsible for monitoring credit policy compliance.

- (i) An oversight committee may include the General Manager, Chief Financial Officer, Compliance Manager, Director of Marketing, and other upper level management personnel.
- (ii) Gaming operation management should report unresolved exceptions to the credit program policy to the oversight committee at least monthly.
- (5) Management shall establish a minimum dollar amount for credit lines and cage markers. For example, a typical credit line minimum might be \$1,000, and a typical cage marker minimum might be \$500.
- (6) Credit application. A primary purpose of the credit application is to record information needed to obtain the patron's credit history, contact information, and record of the patron's request for credit.
  - (i) It is strongly recommended that the credit application form indicate that the patron consents to the dispute resolution mechanism preferred by the TGRA.
  - (ii) At minimum, the following information must be recorded prior to processing an application for credit:
    - (A) Patron's full name;
    - (B) Patron's current residential address;
    - (C) Patron's signature; and
    - (D) Verification of Patron's identity, which may consist of:
      - (1) Valid US Driver's License;
      - (2) State issued ID cards;
      - (*3*) Military ID cards;
      - (4) Government issued Driver's License;
      - (5) Passports; or
      - (6) Verified check copy or deposit slip.
  - (iii) Additional information may also be recorded prior to processing an application for credit:
    - (A) Home phone number and cellular phone number;

- (B) Date of birth;
- (C) Copy of the Social Security Card;
- (D) Copy of a completed W-9 form;
- (E) Business information name, address and phone number; or
- (F) Bank name, account number, and ABA number;
  - (1) If bank information is used to secure a line of credit, the account used must be one that checks can be written against.
  - (2) If more than one account is provided, the account against which the credit will be debited when it becomes due shall be verified, and the balance found to be supportive of the credit requested before credit is issued.
- (7) Credit application processing.
  - (i) Prior to extending credit, the patron's gaming operation credit record and other available documentation shall be examined to determine the patron's:
    - (A) Properly authorized credit limit:
      - (1) The patron's current gaming report must be printed and examined before credit is issued.
        - Management shall utilize a gaming information & services company that provides patron credit information compiled from other gaming operations.
      - (2) Credit authorizers must ensure that a patron is not banned, barred, or subject to any gaming facility exclusions before credit is issued.
      - (3) Credit lines shall not exceed the amount that has been issued at other casinos without documented justification and approvals.
      - (4) Extension of credit should not exceed a specified period of time (e.g., thirty days) without executive management approval.

- (5) A credit agency report shall be generated upon a patron's first application for credit, and for extensions of credit.
- (B) Past credit issuances and payments:
  - (1) Derogatory information on the patron's gaming operation credit record requires review by management before issuance of credit.
  - (2) Best practice suggests a patron with a negative payment history with the gaming operation should not be extended credit.
- (C) Whether remaining credit is sufficient to cover the credit issuance; and
- (D) Verification of the identity of the patron.
- (8) Credit authorization. Management shall establish a chart of credit authorizers detailing job title and the associated maximum dollar amount able to be authorized by that position.
  - (i) Credit must be approved only after careful consideration of all the information outlined in the credit program policy. Considerations include:
    - (A) Patron's credit balance across all gaming operations;
    - (B) Current credit history;
    - (C) Payment history across all gaming operations;
    - (D) Amount of credit actually used by patron in the past;
    - (E) Current employment or business information;
    - (F) Current bank information; and
    - (G) Personal knowledge of patron's ability to pay.
  - (ii) Credit may only be granted or extended by a credit authorizer who is authorized to grant or extend credit of an amount equal to or higher than the amount of credit to be authorized.
  - (iii) All approvals of credit extensions over ten percent of the previously established limit shall be documented.

- (iv) The job functions of credit approval (i.e., establishing the patron's credit worthiness) and credit extension (i.e., advancing patron's credit) shall be segregated for credit extensions to a single patron of a specified amount (e.g., not to exceed \$5,000 per day).
- (v) If credit is extended to a single patron exceeding a specified amount (e.g., \$5,000), appropriate gaming personnel shall be notified on a timely basis of the patron's playing on credit, the applicable amount of credit issued, and the available balance.
- (9) Cage marker forms. Cage marker forms must be at least two parts (the original marker and a payment slip), and pre-numbered by the printer or concurrently numbered by the computerized system, and utilized in numerical sequence.
  - (i) The completed original cage marker shall contain at least the following information:
    - (A) Marker number;
    - (B) Patron's name and signature; and
    - (C) Amount of credit issued (both alpha and numeric).
  - (ii) It is the responsibility of the credit authorizer to be certain that all required information has been received.
  - (iii) After the patron has completed the credit application, the credit authorizer shall enter the following on the permanent record of the application:
    - (A) Total amount of credit authorized;
    - (B) Date of authorization;
    - (C) Credit authorizer's printed name; and
    - (D) Credit authorizer's signature.
- (g) <u>Payments</u>. Internal controls must be established which clearly document the receipt of payments, including partial payments, and ensure that they are properly credited to the patron's credit account.
  - (1) The total amount of payments received by mail shall be reconciled on a random basis with the total receipts recorded by the cage to ensure proper application to the patron's credit account, best practice suggests at a minimum three days a month.

- (2) All payments received on outstanding credit instruments shall be recorded in ink or other permanent form of recordation in the gaming operation's records.
  - (i) The completed payment slip shall include:
    - (A) The same marker number as the original;
    - (B) Date and time of payment;
    - (C) Amount of payment;
    - (D) Nature of settlement (cash, chips, check, etc.); and
    - (E) Signature of cashier receiving the payment.
- (3) Credit line payment dispositions. Management shall establish a chart of deposit dates based on the total amount of the credit line.
- (4) When partial payments are made on credit instruments, they shall be evidenced by a multi-part receipt (or another equivalent document) that contains:
  - (i) The same preprinted number on all copies;
  - (ii) Patron's name;
  - (iii) Date of payment;
  - (iv) Dollar amount of payment (or remaining balance if a new marker is issued), and nature of settlement;
  - (v) Signature of agent receiving payment; and
  - (vi) Number of credit instrument on which partial payment is being made.
- (5) Check cashing. Checks cashed are to be applied against a patron's credit line. Best practice suggests the following:
  - (i) Business checks should only be accepted if the check has the patron's full name and business address on the bank-issued check.
  - (ii) Corporate, partnership, or other non-individual checks should be prohibited.
  - (iii) Business checks should not be accepted from newly established patrons.
- (6) Unless account balances are routinely confirmed on a random basis by the accounting or internal audit departments, or statements are mailed by a person

independent of the credit transactions and collections thereon, and the department receiving payments cannot access cash, then the following standards should apply:

- (i) The routing procedures for payments by mail require that a department independent of credit instrument custody and collection receive such payments;
- (ii) Such receipts by mail shall be documented on a listing indicating the patron's name, amount of payment, nature of payment (if other than a check), and date payment is received; and
- (iii) The total amount of the listing of mail receipts shall be reconciled with the total mail receipts recorded on the appropriate accountability form by the accounting department on a random basis (best practice suggests that this be completed for at least three (3) days per month).
- (h) <u>Access to Credit Documentation</u>. Internal control standards must be developed that reflect the highly confidential nature of patron credit information and evaluations.
  - (1) The gaming operation's opinion relative to any credit risk must be expressed only by and limited to those who are responsible for the administration of the credit function.
  - (2) It is the responsibility of the credit department to protect the confidentiality of credit information and to ensure that only those entitled have access to credit records.
  - (3) Credit statements. Credit statements shall only be provided to patrons upon request after verification of their identity. If by mail, the patron's request must be notarized, and the statement mailed only to the address identified on the credit application.
- (i) <u>Maintenance of Credit Documentation</u>. All documentation required by the credit program policies and procedures must be maintained while a credit account is active and for a reasonable duration thereafter. This includes documentation not contained on gaming operation forms or computer systems, such as credit reports, correspondence with the patron, and credit authorizer notes.
  - (1) All extensions of credit and subsequent payments shall be documented on a credit instrument control form.
  - (2) Records of all correspondence, transfers to and from outside agencies, and other documents related to issued credit instruments shall be maintained.

- (3) Account codes. Management shall establish a chart of account codes for use by the credit department. These account codes may only be changed or updated by authorized agents. For example:
  - (i) Active: Signifies that the account is ready to be used by the patron and that no information is needed for the file.
  - (ii) Pending: Signifies that additional information must be provided before the status may be changed to Active.
  - (iii) Inactive: Signifies that the patron has not used their credit line for a lengthy period of time and the credit line has been removed.
  - (iv) Credit Suspended: Signifies that the patron lost their credit line due to negative history.
- (j) <u>Write-Offs and Settlements</u>. Management must establish clear standards defining when and by whom a patron's credit account balance may be settled for less than the full amount, or written-off as uncollectable.
  - (1) Written-off or settled credit instruments shall be authorized in writing.
  - (2) Such authorizations shall be made by at least two management agents who are from departments independent of the credit transaction.
  - (3) Settlements.
    - After all collection efforts have been exhausted or special conditions exist, management may request the credit committee or TGRA, if applicable, to authorize settlement for a lesser amount. The consideration of settlement offers include the following reasons:
      - (A) The settlement is the only cost effective way to induce partial payment.
      - (B) The settlement is the result of a dispute with the patron regarding the existence of the debt.
      - (C) The settlement is required to retain the patron's future business.
      - (D) The settlement is required to obtain the patron's business and obtain timely payment.
    - (ii) Where possible, all parties involved in the settlement, including the patron, shall sign the settlement document.

- (4) Write-offs.
  - (i) After all collection efforts have been exhausted, the decision may be made to write off a credit account.
  - (ii) A list of marker numbers and amounts are recorded along with a grand total amount.
  - (iii) The markers are flagged as written off and taken out of the cage inventory.
  - (iv) A copy of the write-off paperwork is sent to the appropriate department.
  - (v) Any write-offs in excess of a certain amount will require documented approval in accordance with established policy.
- (k) <u>Collection Agency Use</u>. Utilizing a collection agency does not relieve the gaming operation of its responsibilities to maintain documentation of the patron's credit account.
  - (1) When outstanding credit instruments are transferred to a collection agency, or other collection representatives, a copy of the credit instrument and a receipt from the collections representative shall be obtained and maintained until such a time as the credit instrument is returned or payment is received.
  - (2) Best practice suggests at least quarterly an agent independent of credit transactions should routinely confirm on a random basis all collection account balances and records.
  - (3) Best practice suggests that at least quarterly the appropriate department should examine credit records to determine that appropriate collections efforts are being made and payments are being properly recorded.
- (l) <u>Audit and Accounting.</u>
  - (1) When lines of credit are issued for Class II gaming activities, controls must be established for audit and accounting in accordance with MICS 543.19 (What are the minimum internal control standards for audit and accounting?) and the guidance provided in the associated document.
  - (2) Best practice suggests that each operational area secure daily audit and accounting records, forms, and documents prior to audit. For example a cashier may place records in a locked box for next-day delivery to accounting for audit.

# TAB J

## Security and Management of Server, Server Software and Data Associated with Class II Gaming Systems

### Purpose

This section provides guidance on the development of internal controls, policies, and procedures for the operation of Class II information systems. It has been compiled by tribal regulators, Class II gaming operators, and other industry resources. Using best practices, this guidance is specifically designed to accommodate a variety of ways to implement controls to comply with Part 543.16. Because each gaming operation is different and subject to varying tribal laws and regulations, each tribe is responsible for determining the specific controls and procedures that are most suitable for its gaming operations and compliant with the MICS.

Furthermore, internal controls, policies, and procedures should be established and updated in a manner that accommodates changes and advancements in technology. Nothing in this guidance document should be read to limit the use of technology, regardless of whether or not such technology is mentioned herein.

§ 543.16 What are the minimum internal control standards for Security and Management of Server, Server Software and Data Associated with Class II Gaming Systems?

- (a) <u>Internal Control Procedures</u>. Subject to the approval and oversight of the TGRA, each gaming operation shall establish, implement and adhere to internal control policies and procedures that provide at least the level of control established by the standards of this section.
- (b) <u>Computer Applications</u>. For any computer applications utilized, alternate documentation and/or procedures that provide at least the level of control established by the standards of this section, as approved in writing by the TGRA, will be acceptable.
- (c) <u>Class II Gaming Systems and Physical Controls</u>. Controls must be established to ensure:
  - (1) Control of physical and logical access to server, server software and data associated with Class II gaming systems, including accounting, voucher, cashless and player tracking, among others used in conjunction with Class II gaming;
  - (2) Physical and logical protection of storage media and its contents, including recovery procedures;
  - (3) Access credential control methods;

§ 543.16 What are the minimum internal control standards for Security and Management of Server, Server Software and Data Associated with Class II Gaming Systems?

- (4) Record keeping and audit processes; and,
- (5) Departmental independence, including, but not limited to, means to restrict agents that have access to server, server software and data from having access to financial instruments.
- (d) <u>Independence</u>. All personnel having access to Class II gaming servers, server software and/or data are independent of and restricted from access to:
  - (1) Financial instruments (e.g., cash, cash equivalents, vouchers, and coupons);
  - (2) Signatory authority over financial instruments and payouts forms; and
  - (3) Accounting, audit, and ledger entries.
- (a) <u>Internal Control Procedures</u>. The TGRA should ensure that the gaming operation establishes a system of internal control standards (SICS) that are applicable to the Security and Management of Server, Server Software, and Data Associated with Class II Gaming Systems. Such SICS should address, at a minimum, how the department operates, agents' responsibilities, and controls to protect assets. The TGRA should review and approve the SICS prior to implementation.
- (b) <u>Computer Applications</u>. A gaming operation may use computer applications, whether developed in-house or acquired externally, provided that controls are established in accordance with MICS and approved in writing by the TGRA. For any computer applications utilized, alternate documentation and/or procedures that provide at least the level of control established by the standards shall be implemented. For example, where an agent or multiple agents are required in the control, a computer application could substitute for one or all of the agents. Another example would be where a log is required a computer application report could substitute for the log. If computer systems are used, procedures must be designed to account for computer system failure without compromising the effectiveness of the internal control standards.
- (c) <u>Variances</u>.
  - (1) The TGRA or the gaming operation as authorized by the TGRA should establish a threshold at which variances (i.e., exceptions against controls, inconsistencies with established policies and procedures or deviations from expected outcomes) must be investigated.

- (2) Best practice suggests that when the relevant predetermined variance threshold is achieved, the controls should require agents – preferably supervisory agents – to conduct a variance investigation. Variance investigation controls/procedures should include, but are not limited to:
  - (i) Transaction(s) document(s) review, including all department(s) records relating to the variance investigation;
  - (ii) Recount of assets/inventory;
  - (iii) Surveillance reviews;
  - (iv) Physical inspections; and
  - (v) Agent interviews.
- (3) The investigation results must be supported by documentation and forwarded to the accounting department for review and retention. Best practice suggests that documentation should include copies of transaction forms, logs, and a description of the variance.
- (d) <u>Supervision</u>.
  - (1) Controls should identify the supervisory agent in the department or area responsible for ensuring that the department or area is operating in accordance with established policies and procedures.
  - (2) The supervisory agent should be independent of the operation of Class II games. Best practice suggests when assigning supervisory responsibilities to the agent(s) holding this position(s), the following duties should be considered:
    - (i) Developing an organizational chart of the department or area;
    - (ii) Defining job descriptions;
    - (iii) Developing a narrative description of the reporting structure, which is designed to ensure adequate supervision and segregation of function;
    - (iv) Establishing systems security management policies and controls;
    - Monitoring and enforcing compliance with security and internal control standards;
    - (vi) Assigning security roles, responsibilities, and specifying required skills, and access privileges;

- (vii) Assessing potential risks to the security and integrity to the Systems, establishing risk thresholds, and actively managing risk mitigation;
- (viii) Ensuring implementation of security requirements for strategic partners and other third parties;
- (ix) Identifying and classifying information assets;
- (x) Protecting the physical environment;
- (xi) Ensuring internal and external audits of the information security program with timely follow-up; and
- (xii) Establishing a comprehensive Systems security program and oversight of, including but not limited to, the following:
  - (A) User access controls and privileges;
  - (B) Configuration management;
  - (C) Event and activity logging and monitoring;
  - (D) Communications and remote access security;
  - (E) Malicious code protection, including viruses, worms, and Trojans;
  - (F) Software installation and change management;
  - (G) Firewalls;
  - (H) Data encryption; and
  - (I) Backup and recovery.
- (3) Controls should ensure that duties are adequately segregated and monitored to detect procedural errors and prevent the concealment of fraud.
- (4) Internal controls must require that all personnel having access to Class II gaming Systems have no signatory authority over financial instruments and payout forms and are independent of and restricted from access to:
  - (i) Financial instruments (e.g., cash, cash equivalents, vouchers, and coupons); and
  - (ii) Accounting, audit, and ledger entries.

- (e) <u>Risk Assessments</u>. Risk assessments and periodic program reviews may be used to determine how often the security and management of server, server software, and data associated with Class II gaming should be audited. When an assessment and review is necessary, an agent independent of the organizational component responsible for the security and management of server, server software, and data associated with Class II gaming should perform it.
- (f) <u>Physical Security</u>.
  - (1) Internal controls must require that all servers, server software and data associated with Class II gaming be stored in a secured physical location such that access is restricted to authorized agents only.
  - (2) Access devices (e.g., keys, cards, fobs) to the Systems secured physical location should be controlled by an independent agent (e.g., security, audit).
  - (3) Access to the Systems' secured physical location must be restricted to agents only. Vendors may be authorized access as agents in accordance with established policies and procedures. A record of agents granted access privileges must be maintained and updated. The records should be verified prior to allowing physical access to the Systems.
  - (4) Communications to and from Systems via wires, switches, hubs, wireless, telephone and/or any other technology must be physically secured from unauthorized access.
- (g) <u>Logical Security</u>.
  - (1) Internal controls should require that security standards and procedures are designed and operate to protect all Systems and are documented and enforced to ensure:
    - (i) Access to Systems software and application programs is restricted and secured from unauthorized access;
    - (ii) Access to data associated to Class II gaming is restricted and secured from unauthorized access;
    - (iii) Access to communications facilities, systems, and information transmissions associated to Class II gaming systems is restricted and secured from unauthorized access; and
    - (iv) Unused services and non-essential ports are disabled whenever possible.
       The manufacturer/supplier of the System must be consulted prior to the deactivation of any service or ports to ensure that an essential service/port

is not inadvertently disabled. For example, many essential services only run sporadically, so usage by itself is not always a reliable measure of importance or necessity.

- (2) Procedures are in place to ensure that all activity performed on Systems is restricted, secured from unauthorized access, and logged. Authorized agents may include vendors and other client and/or host systems but only in accordance with established policies and procedures.
- (3) Communications to and from Systems via wires, switches, hubs, modems, routers, wireless access points, telephone and/or any other technology must be logically secured from unauthorized access.
- (h) <u>User Controls</u>.
  - (1) Systems, including application software, must be secured with passwords or other approved means as applicable.
  - (2) Internal controls should require that management personnel or persons independent of the department being controlled should assign and control access to system functions.
  - (3) Access credentials (e.g., passwords, PINs, cards) should be controlled as follows:
    - (i) Each user should have their own individual access credential;
    - (ii) Access credentials should be changed at established intervals but not less than quarterly; and
    - (iii) Access credential records should be maintained either manually or by systems that automatically record access changes and force access credential changes, including the following information for each user:
      - (A) User's name;
      - (B) Date the user was given access and/or password change; and
      - (C) Description of the access rights assigned to user. Many system and operators manage access rights per user profile or position. This method aids in assuring all users of the same position have access controls based on the same user profile.
  - (4) Controls and procedures should ensure that when an individual has multiple user profiles, only one user profile per application is used at a time.

- (5) Patrons may also be "users" of a Class II gaming system, including player tracking systems used in association with Class II gaming, and patron access is subject to the operation controls and procedures.
- (6) Lost or compromised access credentials must be deactivated as soon as possible, generally within 24 hours if not immediately.
  - (i) Security or destruction of access credentials (e.g., cards, fobs, etc.) found meets the deactivation requirement.
  - Unrestricted Patron Deposit Account access credentials (e.g., card, fob, etc.) should be secured and not destroyed for a specified period of time sufficient to provide accounting to account for any remaining balances.
- (7) Controls should require that the access credentials of terminated users must be deactivated within a specified period of time. Best practice suggests that such deactivation should be completed immediately upon an agent's termination, where possible, but within 24 to 72 hours of termination at most. When determining the allowable time period for deactivation, the level of risk for the access held by the terminated user should be considered.
- (8) Controls must require that only authorized agents can access inactive or closed accounts of other users, such as player tracking accounts and terminated employee accounts, among others.
- (i) <u>Installations & Modifications</u>.
  - (1) Controls must mandate that only TGRA authorized or approved systems and modifications can be installed.
  - (2) Internal controls must require recordkeeping of all new installations and/or modifications to Class II gaming systems. These records should include, at a minimum:
    - (i) The date of the installation or change;
    - (ii) The nature of the installation or change (e.g., new software, database update, server repair, significant configuration changes [e.g., such as player tracking point structure changes]);
    - (iii) Evidence of verification that the installation or the changes are approved (i.e., checksums, versions); and
    - (iv) The identity of the agent(s) performing the installation/modification.

- (3) Except for emergencies, best practice suggests procedures should be implemented to plan installations and modifications in advance and to minimize interruption of gaming activity and service to patrons.
- (4) Documentation should be maintained (e.g., manuals, user guides) describing the systems in use and the operation, including hardware.
- (5) Best practice suggests that changes to the Systems should be done in consultation with the manufacturer and/or supplier to prevent damage, both physical and logical, or compliance concerns to the approved system.
- (j) <u>Remote Access</u>.
  - (1) Remote access to Systems should be governed by a detailed set of policies and procedures. Remote access may be allowed by agents for system support as long as each access is documented and maintained at the place of authorization, including:
    - (i) Name of agent authorizing access;
    - (ii) Name of agent accessing system;
    - (iii) Verification of the agent's authorization;
    - (iv) Reason for remote access;
    - (v) Description of work performed; and
    - (vi) Date, time, and use start and end of access.
  - (2) Controls must require that all remote access is performed via a secured method.
- (k) <u>Incident Response</u>.
  - (1) Controls should require documented procedures for responding to, investigating, resolving, documenting, and reporting security incidents associated with Systems.
  - (2) Procedure should require timely response to all security incidents, be formally documented and tested at specified intervals not less than annually.
- (l) <u>Backups and Disaster Recovery</u>.
  - (1) Controls should include adequate backup and disaster recovery procedures including, but not limited to, the following:
    - (i) Daily backup of all data;

- (ii) Backup of all programs or the ability to reinstall the exact programs as needed;
- (iii) Secured storage of all backup data files and programs, or other adequate protection. Backup data files and programs should be stored in a secured manner in another building that is physically separated from the building where the system's hardware and software are located. Backup data files and programs may also be stored in the same building as the hardware/software as long as such files and programs are secured in a fireproof safe or some other manner that will ensure the safety of the files and programs in the event of a fire or other disaster;
- (iv) Mirrored or redundant data source; and
- (v) Redundant and/or backup hardware.
- (2) Controls should include disaster recovery procedures, including but not limited to, the following.
  - (i) Data backup restoration;
  - (ii) Program restoration; and
  - (iii) Redundant or backup hardware restoration.
- (3) Disaster recovery procedures should be tested on a sample basis at specified intervals not less than annually with test results documented.
- (4) Backup data files and disaster recovery components should be managed with the same security and access controls as the System for which they are designed to support.
- (m) <u>Audit and Accounting</u>.
  - (1) When servers, server software, and data are used in conjunction with Class II gaming, controls must be established for audit and accounting in accordance with MICS 543.19 (What are the minimum internal control standards for audit and accounting?) and the guidance provided in the associated document.
  - (2) Best practice suggests that each operational area secure daily audit and accounting records, forms, and documents prior to audit. For example, a cashier may place records in a locked box for next-day delivery to accounting for audit.

## TAB K

### **Complimentary Services or items**

### Purpose

This section provides guidance on the development of internal controls, policies, and procedures for complimentary services or items. It has been compiled by tribal regulators, Class II gaming operators, and other industry resources. Using best practices, this guidance is specifically designed to accommodate a variety of ways to implement controls to comply with Part 543.17. Because each gaming operation is different and subject to varying tribal laws and regulations, each tribe is responsible for determining the specific controls and procedures that are most suitable for its gaming operations and compliant with the MICS.

Furthermore, internal controls, policies, and procedures should be established and updated in a manner that accommodates changes and advancements in technology. Nothing in this guidance document should be read to limit the use of technology, regardless of whether or not such technology is mentioned herein.

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

- (a) <u>Internal Control Procedures.</u> Subject to the approval and oversight of the TGRA, each gaming operation shall establish, implement and adhere to internal control policies and procedures that provide at least the level of control established by the standards of this section.
- (b) <u>Computer Applications.</u> For any computer applications utilized, alternate documentation and/or procedures that provide at least the level of control established by the standards of this section, as approved in writing by the TGRA, will be acceptable.
- (c) <u>Variances.</u> The TGRA shall establish the threshold level at which a variance shall be reviewed. Any such review shall be documented.
- (d) <u>Supervision</u>. Supervision shall be provided for approval of complimentary services as needed by an agent(s) with authority equal to or greater than those being supervised.
- (e) <u>Complimentary Services or Items</u>. Controls must be established in a manner designed to prevent unauthorized access, misappropriation, forgery, theft, or fraud. Such controls must include, but not be limited to, the following:
  - (1) How the gaming operation delegates to its personnel the authority to approve

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

the issuance	of compliment	ary services	or items,	including	levels of
authorization	for the agents	approving the	the issuanc	e of comp	plimentary
services or items;					

- (2) Written limits and conditions on the approval and issuance of complimentary services or items, and how the conditions or limits of authority may be modified,
- (3) Documentation and recordation requirements for the authorization, issuance, and tracking of complimentary services or items, including cash and non-cash gifts;
  - (i) Complimentary issuance records shall include the following for all complimentary items and services equal to or exceeding an amount established by the TGRA.
    - (A) Name of patron who received the complimentary service or item;
    - (B) Name(s) of issuer of the complimentary service or item;
    - (C) The actual cash value of the complimentary service or item;
    - (D) The type of complimentary service or item (i.e., food, beverage, etc.); and
    - (E) Date the complimentary service or item was issued.
  - (ii) Reserved.
- (a) <u>Internal Control Procedures</u>. The TGRA should ensure that the gaming operation establishes a system of internal control standards (SICS) that are applicable to Complimentary Services or Items. Such SICS should address, at a minimum, how the department operates, agents' responsibilities, and controls to protect assets. The TGRA should review and approve the SICS prior to implementation.
- (b) <u>Computer Applications</u>. A gaming operation may use computer applications, whether developed in-house or acquired externally, provided that controls are established in accordance with MICS and approved in writing by the TGRA. For any computer

applications utilized, alternate documentation and/or procedures that provide at least the level of control established by the standards shall be implemented. For example, where an agent or multiple agents are required in the control, a computer application could substitute for one or all of the agents. Another example would be where a log is required a computer application report could substitute for the log. If computer systems are used, procedures must be designed to account for computer system failure without compromising the effectiveness of the internal control standards.

- (c) <u>Variances</u>.
  - (1) The TGRA or the gaming operation as authorized by the TGRA should establish a threshold at which variances (i.e., exceptions against controls, inconsistencies with established policies and procedures or deviations from expected outcomes) must be investigated.
  - (2) Best practice suggests that when the relevant predetermined variance threshold is achieved, the controls should require agents – preferably supervisory agents – to conduct a variance investigation. Variance investigation controls/procedures should include, but are not limited to:
    - (i) Transaction(s) document(s) review, including all department(s) records relating to the variance investigation;
    - (ii) Recount of assets/inventory;
    - (iii) Surveillance reviews;
    - (iv) Physical inspections; and
    - (v) Agent interviews.
  - (3) The investigation results must be supported by documentation and forwarded to the accounting department for review and retention. Best practice suggests that documentation should include copies of transaction forms, logs, and a description of the variance.
- (d) <u>Supervision</u>. Controls should identify the supervisory agent in the department or area ultimately responsible for ensuring that the department or area is operating in accordance with established policies and procedures.
  - (1) Controls should identify the supervisory agent in the department or area ultimately responsible for ensuring that the department or area is operating in accordance with established policies and procedures.

- (2) The reporting structure may permit a supervisory agent to function as a complementary services or items agent without any other supervision. In such instances, however, a supervisory agent either independent of the transaction or independent of the relevant department or area must resolve disputes.
- (3) Best practice suggests that the written system of internal controls should include:
  - (i) An organizational chart of the department or area;
  - (ii) Job descriptions; and
  - (iii) A narrative description of the reporting structure, which is designed to ensure adequate supervision and segregation of function.
- (e) <u>Risk Assessments</u>. Risk assessments and periodic program reviews may be used to determine how often complimentary services or items should be audited. When an assessment and review is necessary, an agent independent of the organizational component issuing complimentary services or items (i.e., marketing or gaming department) should perform it.
- (f) <u>Complimentary Services or Items</u>. Complimentary services or items must be controlled in a manner designed to prevent unauthorized access, misappropriation, forgery or fraud. Such controls must include the establishment of comp limits, authorization levels, issuance criteria, inventory controls, tracking of complimentary services or items, and audit and accounting procedures, as well as the following:
  - (1) The procedures by which the gaming operation delegates to its agents the authority to approve the issuance of complimentary services or items;
  - (2) The procedures by which conditions or limits, if any, may apply to such authority are established and modified (including limits based on relationships between the authorizer and recipient), and must also include audit procedures in accordance with 543.19 and related guidance documents; and
  - (3) The written procedures must include, at a minimum, the following controls:
    - (i) Only authorized agents may issue complimentary services or items.
    - (ii) Functions should be adequately segregated to prevent misappropriation of complimentary services or items. For example, the gaming operation agents entering manual player ratings resulting in additional comps for a patron must obtain approval from a supervisory agent prior to issuing complimentary services or items to that patron. Conversely, if the agent is simply performing a data entry function and did not perform the manual

rating, a requirement for additional authorization to issue complimentary services or items is typically not required.

- (iii) Complimentary services or items may only be issued to eligible patrons. Because comps may only be issued to patrons, best practice suggests that if the comp process and forms are used to issue employee incentives, gifts, or for other business expenses, the form should provide for the appropriate tracking for proper accounting. The following examples are illustrative of this point:
  - (A) For example, if management wishes to reward an employee with a gift of a free meal in the steakhouse and comp forms are used to do so, the form should have an "Employee Incentives" checkbox or other notation so that the expense may be properly entered into the general ledger.
  - (B) Similarly, if management wishes to honor a celebrity with a gift of a free night stay at the hotel and comp forms are used to do so, the form should have a "Business Expense" checkbox or other notation so that the expense may be properly entered into the general ledger.
- (iv) Records for each comp issuance must include the following:
  - (A) Patron name and any additional information required;
  - (B) Authorizing agent's name;
  - (C) Signature of the authorizing agent(s) (electronic signature will suffice);
  - (D) Cash value of complimentary services or items;
  - (E) Type of complimentary services or items given (i.e., food, beverage, t-shirt, hotel, travel, etc.);
  - (F) Date issued; and
  - (G) Expiration date, if any.
- (v) Maintaining justification for issuance such as patron loyalty programs, dispute resolutions, and special occasions, among others.

- (vi) Best practice suggests that manual comp forms should be issued in at least duplicate, with one (1) copy forwarded directly to accounting, and one (1) copy issued to the patron or point of sale agent for processing.
- (vii) Sending redeemed comps and forms to accounting daily for auditing purposes.
- (viii) Perform audit of comp transactions in accordance with 543.19 (Audit and Accounting) and related guidance documents.
- (g) <u>Audit and Accounting</u>.
  - (1) When complimentary services or items are used in conjunction with Class II gaming then controls must be established for audit and accounting in accordance with MICS 543.19 (What are the minimum internal control standards for audit and accounting?) and the guidance provided in the associated document.
  - (2) Best practice suggests that each operational area secure daily audit and accounting records, forms, and documents prior to audit. For example a cashier may place records in a locked box for next-day delivery to accounting for audit.

# TAB L

## **Audit and Accounting**

### Purpose

This section provides guidance on the development of internal controls, policies, and procedures for gaming operation audit and accounting activities. It has been compiled by tribal regulators, Class II gaming operators, and other industry resources. Using best practices, this guidance is specifically designed to accommodate a variety of ways to implement controls to comply with Part 543.19. Because each gaming operation is different and subject to varying tribal laws and regulations, each tribe is responsible for determining the specific controls and procedures that are most suitable for its gaming operations and compliant with the MICS.

Furthermore, internal controls, policies, and procedures should be established and updated in a manner that accommodates changes and advancements in technology. Nothing in this guidance document should be read to limit the use of technology, regardless of whether or not such technology is mentioned herein.

§ 543.19 What are the minimum internal control standards for audit and accounting?

- (a) <u>Internal Control Procedures.</u> Subject to the approval and oversight of the TGRA, each gaming operation shall establish, implement and adhere to internal control policies and procedures that provide at least the level of control established by the standards of this section.
- (b) <u>Computer Applications.</u> For any computer applications utilized, alternate documentation and/or procedures that provide at least the level of control established by the standards of this section, as approved in writing by the TGRA, will be acceptable.
- (c) <u>Conflicts of Standards</u>. When establishing SICS the gaming operation should review and consider incorporation of other external standards such as GAAP, SSAE, and standards promulgated by GASB and FASB. Accordingly, in the event of a conflict between the MICS and the incorporated external standards, the external standards prevail.
- (d) <u>Operational Audits (formerly "Revenue Audit").</u> Controls shall be established to ensure:
  - (1) All audits are designed in a manner to detect unauthorized access,

§ 543.19 Wh	§ 543.19 What are the minimum internal control standards for audit and accounting?				
	misappropriation, forgery, theft, or fraud.				
(2)	All audits are performed within seven (7) days of the audited activity's occurrence as follows, unless otherwise specified:				
	(i) Gaming revenue and payouts;				
	(ii) Increases and decreases to inventory;				
	(iii) Cash equivalent inventory count;				
	(iv) Exceptions, overrides, and voids;				
	(v) Complimentary services and items records (Weekly);				
	(vi) Manual increases and decreases to/from player accounts (Weekly);				
	(vii) Promotions, contests, and tournaments (Weekly); and				
	(viii) Key control records (Quarterly).				
(3)	Minimum bankroll calculations are audited periodically to ensure that the gaming operation maintains cash in an amount sufficient to satisfy the gaming operation's obligations.				
(4)	At least bi-annually, an inventory of all drop, count, override, and panel keys are performed and increases and decreases in key inventory are reconciled.				
(5)	Audit results are summarized and recorded.				
(6)	Audit controlled inventories for recording the receipt, issuance, and use of controlled inventories (including but not limited to bingo cards, pull tabs, playing cards, keys, pre-numbered and/or multi-part forms, etc.).				
(7)	Adjustments to original data are controlled to ensure all adjustments are properly completed and documented.				
(8)	Exceptions are reviewed for suspect and/or unusual transactions.				
(9)	Documentation must be generated and maintained evidencing the performance of audit procedures.				
(10)	If the audit is not performed by accounting agents, the agent(s) performing the audit are independent of the agents who performed the transactions being				

§ 543.19 What are the minimum internal control standards for audit and accounting?

#### reviewed.

- (e) <u>Accounting.</u> Controls must be established to ensure each gaming operation:
  - (1) Prepares accurate, complete, legible, and permanent records of all transactions pertaining to gaming revenue.
  - (2) Prepares general accounting records on a double-entry system of accounting, maintaining detailed, supporting, subsidiary records, and perform the following:
    - (i) Record gaming activity transactions in an accounting system to identify and track all revenues, expenses, assets, and liabilities;
    - (ii) Produce income and balance sheet statements;
    - (iii) Produce appropriate subsidiary ledgers to support the balance sheet.
    - (iv) Inventory and safeguard assets;
    - (v) Prepare, review, and maintain accurate financial statements;
    - (vi) Prepare minimum bankroll calculations; and
    - (vii) Maintain and preserve all financial books, records, and relevant supporting documentation.
- (f) <u>Internal Audit</u>. Controls shall be established to ensure:
  - (1) Internal auditor(s) perform audits of each department of a gaming operation, at least annually, to review compliance with TICS, SICS, and these MICS.
  - (2) Internal auditor(s) are independent of the gaming operations with respect to the departments subject to audit (auditors internal to the operation, officers of the TGRA, or outside CPA firm may perform this function).
  - (3) Internal auditors report directly to the Tribe, TGRA, audit committee, or other entity designated by the Tribe.
  - (4) Documentation (e.g., checklists, programs, reports, etc.) is prepared to evidence all internal audit work and follow-up performed as it relates to compliance with TICS, SICS, and these MICS.
  - (5) Reports documenting audits performed are maintained and made available to

§ 543.19 What are the minimum internal control standards for audit and accounting?

the Commission upon request.

- (6) All material exceptions resulting from internal audit work are investigated and resolved with the results documented.
- (7) Internal audit findings are reported to management, responded to by management in the internal audit report stating corrective measures to be taken, and delivered to management, the Tribe, TGRA, audit committee, or other entity designated by the Tribe.

#### (g) <u>Annual Audits.</u>

- (1) Agreed upon procedures. A CPA must be engaged to perform, in accordance with agreed upon procedures and the most recent versions of the Statements on Standards for Attestation Engagements and Agreed-Upon Procedures Engagements (collectively "SSAE's"), issued by the American Institute of Certified Public Accountants Inc., an assessment of whether the gaming operation is in compliance with these MICS, the TICS, and/or the SICS.
- (2) The tribe must submit two copies of the agreed-upon procedures report to the Commission within 120 days of the gaming operation's fiscal year end in conjunction with the submission of the annual financial audit report required under 25 CFR Part 571.
- (3) Require management to have sufficient knowledge and understanding of the purpose, nature, and scope of the agreed upon procedures to provide adequate oversight and participation in the process to ensure a meaningful and useful outcome.
- (4) Reliance on Internal Audit.
  - (i) Agreed-upon procedures are to be performed by the CPA to determine that the internal audit procedures performed during the fiscal year have been properly completed.
  - (ii) The CPA may rely on the work of internal audit for the completion of the MICS checklists as they relate to the standards covered by this Part.
- (5) Report Format. The Statements on Standards for Attestation Engagements and Agreed-Upon Procedure Engagements (SSAE's) are applicable to agreed-upon procedures engagements required in this Part. All noted instances of noncompliance must be documented in the report with a narrative

§ 543.19 What are the minimum internal control standards for audit and accounting?

description, the number of exceptions and sample size tested.

- (a) <u>Internal Control Procedures</u>. The TGRA should ensure that the gaming operation establishes a system of internal control standards (SICS) that are applicable to Audit and Accounting. Such SICS should address, at a minimum, how the department operates, agents' responsibilities, and controls to protect assets. The TGRA should review and approve the SICS prior to implementation
- (b) <u>Computer Applications</u>. A gaming operation may use computer applications, whether developed in-house or acquired externally, provided that controls are established in accordance with MICS and approved in writing by the TGRA. For any computer applications utilized, alternate documentation and/or procedures that provide at least the level of control established by the standards shall be implemented. For example, where an agent or multiple agents are required in the control, a computer application could substitute for one or all of the agents. Another example would be where a log is required a computer application report could substitute for the log. If computer systems are used, procedures must be designed to account for computer system failure without compromising the effectiveness of the internal control standards.
- (c) <u>Variances</u>.
  - (1) The TGRA or the gaming operation as authorized by the TGRA should establish a threshold at which variances (i.e., exceptions against controls, inconsistencies with established policies and procedures or deviations from expected outcomes) must be investigated.
  - (2) Best practice suggests that when the relevant predetermined variance threshold is achieved, the controls should require agents – preferably supervisory agents – to conduct a variance investigation. Variance investigation controls/procedures should include, but are not limited to:
    - (i) Transaction(s) document(s) review, including all department(s) records relating to the variance investigation;
    - (ii) Recount of assets/inventory;
    - (iii) Surveillance reviews;
    - (iv) Physical inspections; and

- (v) Agent interviews.
- (3) The investigation results must be supported by documentation and forwarded to the accounting department for review and retention. Best practice suggests that documentation should include copies of transaction forms, logs, and a description of the variance.
- (d) <u>Supervision</u>.
  - (1) Controls should identify the supervisory agent in the department or area ultimately responsible for ensuring that the department or area is operating in accordance with established policies and procedures.
  - (2) Best practice suggests that the written system of internal controls should include:
    - (i) An organizational chart of the department or area;
    - (ii) Job descriptions; and
    - (iii) A narrative description of the reporting structure, which is designed to ensure adequate supervision and segregation of function.
- (e) <u>Risk Assessments</u>. Risk assessments and periodic program reviews may be used to determine how often operations should be audited. When an assessment and review is necessary, an agent independent of the organizational component responsible for conducting the audited operations should perform it.
- (f) <u>Conflicts of Standards</u>. When establishing SICS, gaming operations should review and consider incorporation of other external standards such as GAAP, SSAE, and standards promulgated by GASB and FASB. Accordingly, in the event of a conflict between the MICS and the incorporated external standards, the external standards prevail.
- (g) <u>Operational Audits (formerly "Revenue Audit")</u>.
  - (1) General. Audits must be performed by agent(s) independent of the transactions being audited. Controls must be established to require each of the following operational areas to be audited in accordance with a specific audit checklist:
    - (i) Bingo;
    - (ii) Pull tabs;
    - (iii) Card games;
    - (iv) Gaming promotions;

- (v) Patron deposit accounts and cashless systems;
- (vi) Player tracking;
- (vii) Cage, vault, cash and cash equivalents;
- (viii) Lines of credit;
- (ix) Security and management of server, server software, and data associated with Class II gaming systems;
- (x) Complimentary services or items; and
- (xi) Drop and count.
- (2) Daily Audits.
  - Daily audit checklists should be generated and maintained to ensure all appropriate audit procedures are performed. Daily audit checklists should include but are not limited to the following:
    - (A) Audit date, business date, and operational area;
    - (B) Recalculation of supporting records and documents to reconcile to summarized paperwork (e.g., total sales and payouts per shift and/or day and for each operational area);
    - (C) Review of metered amounts for reasonableness;
    - (D) Verification of metered amounts to actual amounts;
    - (E) Investigation of variances from actual to meter amounts;
    - (F) Correction of any meter variances;
    - (G) Verification that all copies of multi-part forms are secure, complete, and unaltered;
      - (1) Best practice suggests that each operational area secure daily audit and accounting records, forms, and documents prior to audit. For example, a cashier may place records in a locked box for next-day delivery to accounting for audit.
    - (H) Recalculation of any manually prepared inventory forms;

- (I) Verify that any inventory variances have been investigated and documented;
- (J) Verification of beginning balances to previous ending balances;
- (K) Documentation of all adjustments to any system generated information;
- (L) Verification of the integrity of all exception information (i.e., voids, overrides);
- (M) Verification of signatures on documents;
- (N) Verify compliance with established authorization thresholds, if applicable;
- (O) Verify the integrity of any manually prepared forms;
- (P) Account for pre-numbered sequential forms;
- (Q) Verify that adjustments to original data are properly completed and documented; and
- (R) Review key control logs for proper issuance and return.
- (ii) At the end of the daily audit, the financial information should be summarized in the accounting records. Daily audit reports should be compared and reconciled to the monthly general ledger balances before closing each month.
- (3) Weekly Audits. Audits must be performed by agent(s) independent of the transactions being audited. Controls must be established to ensure that each of the following is audited in accordance with a specific audit checklist at least weekly. Weekly audits should include:
  - (i) Complimentary services and items records should be summarized and reviewed for proper authorization and compliance with established authorization thresholds. If the actual amounts exceed authorization thresholds or an improper authorization exists, then the variance should be investigated, documented and forwarded to management for review.
    - (A) A detailed reporting of comp transactions that meet a specified threshold should be prepared not less than weekly. Best practice suggests that the threshold is not more than \$100. The detailed report should be forwarded to management for review.

- Best practice suggests that all patron account activity be summarized and reconciled. Additionally, all manual increases and decreases to patron accounts should be summarized and reviewed including but not limited to the following account types:
  - (A) Patron Deposit Accounts;
  - (B) Player tracking benefits earned and redeemed, including:
    - (1) Points;
    - (2) Comps; and/or
    - (3) Other player tracking awards.
  - (C) Lines of Credit, including:
    - (1) Verifying compliance with credit limits and other established credit issuance procedures;
    - (2) Reconciling accounts receivable balances, of both active and inactive accounts, against individual credit records and physical instruments;
    - (3) The audit shall examine records to determine that appropriate collection efforts are being made and payments are being properly recorded; and
    - (4) The following additional audits should be performed at specified intervals.
      - Account balances are confirmed on a random basis.
         Best practice suggests quarterly but at least three times a year;
      - ii. Partial payments are reconciled to total payments recorded by the cage for the day and ensure that such partial payments are numerically accounted for. Best practice suggests five days per month but at least weekly.
  - (D) Safekeeping.

- (iii) Promotions, contests, and tournaments should have a weekly reconciliation between cash received, cash returned to the patrons, and pool balances. This weekly reconciliation should also include:
  - (A) Verify that any information posted for patron review on promotional pool balances is accurate;
  - (B) Review of tax information;
  - (C) Verify that prizes were distributed in accordance with the rules of the event; and
  - (D) If the gaming operation holds entry fees on behalf of players, establishing and reconciling a liability (i.e., if the event is not held within the same month the funds are received).
- (4) Monthly Audits. The following audits should be performed not less than monthly:
  - (i) Reconcile inventory records to the amount of revenue recognized;
  - (ii) Verify inventory balances; and
  - (iii) Review reports at specified intervals (i.e., shift, day, but not less than monthly) for statistical fluctuations exceeding a specified threshold (best practice suggests using a 3% threshold), including:
    - (A) Investigate and document variances; and
    - (B) Report variances to management and the TGRA upon request.
- (5) Quarterly Audits. Quarterly audits of keys and key controls should be performed. This audit should include:
  - (i) If using a computerized key system, a review of the access issued to agents to verify proper authorization has been granted; and
  - (ii) For manual key systems, management should determine (based on the risk assessment) how many days to review the sign in/out logs for completeness and to verify agents are complying with key control procedures.
- (6) Periodic Audit of Cash. Best practice suggests a review of gaming operations cash on hand and cash in bank at specified intervals based on the outcome of the risk assessment. Such review should include:

- (i) Verification that the gaming operation maintains liquid cash in an amount sufficient to satisfy the gaming operation's immediate obligations; and
- (ii) Performance of a bank reconciliation to verify that:
  - (A) Deposits are recorded properly and timely;
  - (B) Cleared casino checks are compared to check registers;
  - (C) All cash purchases from the bank are reviewed;
  - (D) Variances are investigated and documented; and
  - (E) Other charges/charge backs (i.e., returned checks) are substantiated.
- (7) Bi-annual Audits. At least twice a year the following key inventory procedures must be performed:
  - (i) An actual inventory count of active keys, keys waiting for destruction, and duplicate (inactive) keys; and
  - (ii) A reconciliation of keys made and destroyed during the period being audited.
- (8) Independence of Agents. There must be independence between the agent(s) performing the audit and the agent(s) who performed the transactions being audited and reviewed.
- (9) All audit and accounting records, including investigations and variances, must be made available upon request to the TGRA and other authorized entities as required.
- (h) <u>Accounting</u>.
  - (1) Controlled Inventories. For any inventories that accounting maintains for proper segregation, controls should be developed to account for the following:
    - (i) Receipt of Inventory. When inventory is received it should be counted and recorded on a log.
    - (ii) Storage of Inventory. Storage of inventory should be secured and recorded on the appropriate log.
    - (iii) Issuance of Inventory. Issuance of inventory should be performed by an accounting agent, and should be recorded on the appropriate log.

- (iv) Use of Inventory. Accounting should perform a reconciliation between inventory used and inventory issued. Variances should be investigated and documented, with results forwarded to management.
- (v) Return of Inventory. Return of inventory should be performed by an accounting agent, and should be recorded on the appropriate log.
- (vi) Audit of Accounting Managed Inventory. Controls should require an agent independent of accounting to audit any inventories managed by accounting.
- (2) Preparation of Records.
  - (i) The gaming operation must conform to generally accepted accounting principles (GAAP) when preparing financial statements, including subsidiary ledgers.
  - (ii) Best practice suggests the gaming operation should record all transactions pertaining to gaming revenue in an automated or computerized accounting system. This will help ensure preparation of accurate, complete, legible, and permanent records of those transactions.
  - (iii) The accounting system should be designed to prepare general accounting records on a double-entry system of accounting.
  - (iv) The accounting system should have the capability to record gaming activity transactions to identify and track all revenues, expenses, assets, and liabilities in order to produce income and balance sheet statements.
  - (v) Appropriate subsidiary ledgers should be prepared and maintained to support balance sheet items. Subsidiary ledgers should be reviewed on a monthly basis for completeness and accuracy to affirm inventory, asset valuation, and liabilities. Subsidiary ledgers should also be verified to the general ledger balances monthly and all variances investigated and documented.
  - (vi) The accounting system should have the capability to prepare and maintain accurate financial statements. These financial statements must be reviewed after preparation. Best practice suggests that management agents independent of accounting perform the review.
- (3) Minimum Bankroll Calculation. The gaming operation should coordinate with the TGRA to determine the frequency for preparation of a minimum bankroll calculation. The gaming operation should further coordinate with the TGRA to

determine, based on the needs of the operation, what minimum bankroll calculation to perform to ensure the gaming operation maintains cash (on hand and in bank) in an amount sufficient to satisfy obligations to patrons as they are incurred.

- (4) Maintenance and Preservation of Books, Records, and Documentation. The gaming operation must develop controls to ensure that all financial books, records, and relevant supporting documentation, are maintained and preserved as required.
- (i) <u>Internal Audit</u>.
  - (1) Internal Auditors. Best practice suggests the internal audit function be performed in accordance with the Professional Practices Framework established by the Institute of Internal Auditors. This function can be performed by auditors internal to the operation, officers of the TGRA, or an outside services firm (i.e., CPA firm).
  - (2) Scope and Frequency of Audits.
    - (i) Internal audits must be performed for each gaming department of the operation at least annually.
    - (ii) The internal auditor(s) should coordinate with the TGRA and gaming operation to determine the frequency of these and additional audits, as well as the departments to be audited outside of the scope of each gaming department.
    - (iii) Audits must be performed to review for compliance with the MICS, TICS, and SICS. Additionally, the internal auditor should coordinate with the TGRA and the gaming operation to determine if a review of compliance to additional policies is suggested.
  - (3) Independence. There should be independence between the agent(s) performing the internal audit and the department(s) subject to the audit(s). Controls should be in place specifying to whom internal auditors report.
  - (4) Reports. Reports documenting audits performed are maintained and made available to the Commission pursuant to 25 USC §2706(b)(1)-(4).
  - (5) Material Exceptions.
    - (i) The internal auditor should coordinate with management and the TGRA to determine a definition of material exception for each gaming area.

- (ii) The audit program for each area should include the scope of the audit work tested and material exception thresholds for each of the testing items.
- (iii) All material exceptions resulting from internal audit work should be investigated and resolved with the results documented.
- (6) Internal Audit Findings.
  - (i) Internal audit findings are reported to management. Management must prepare a response specifying corrective measures to be taken, if any, which should be included in the internal audit report and distributed to designated entities.
  - (ii) Internal auditors should verify that corrective measures have been put in place and effectively resolve any material exceptions.

## (j) <u>Annual Audits</u>.

- (1) Agreed Upon Procedures.
  - (i) A CPA must be engaged to perform an assessment of whether the gaming operation is in compliance with the MICS, the TICS, and/or the SICS. Such assessment should be made in substantial accordance with agreed upon procedures and the most recent versions of the Statements on Standards for Attestation Engagements and Agreed-Upon Procedures Engagements (collectively "SSAE's") issued by the American Institute of Certified Public Accountants, Inc.
  - Best practice suggests that management should have a basic understanding of the procedures the CPA should be performing in the engagement. The items or areas that should be addressed include:
    - (A) An organizational chart depicting segregation of duties or independence of department functions or responsibilities;
    - (B) A description of the duties, responsibilities and reporting obligations of the internal auditor(s);
    - (C) A copy of the SICS and other operating policy and procedure manuals, as needed;
    - (D) A discussion of known fraud at the gaming operation;
    - (E) Completion of the MICS compliance checklist for at least one unannounced observation of drop and count;

- (F) Interviews with gaming operation agents and management responsible for performing the audit function;
- (G) Compliance testing of various documents related to the audit functions;
- (H) Discussion of changes in management, including revisions in policies and procedures affected by the management change;
- (I) Discussion of risks and opportunities;
- (J) Understanding of ongoing issues of concern; and
- (K) A review of randomly selected contracts.
- (2) Submissions of Agreed-Upon Procedures Report to the Commission. The tribe must submit two copies of the agreed-upon procedures report to the Commission within 120 days of the gaming operation's fiscal year end in conjunction with the submission of the annual financial audit report required under 25 CFR Part 571.
- (3) Reliance on Internal Audit.
  - (i) Agreed-upon procedures are to be performed by the CPA to determine that the internal audit procedures performed during the fiscal year have been properly completed. This can be performed by the CPA looking at the audit reports generated by the internal audit department to ensure an audit was completed during the fiscal year for all gaming areas.
  - (ii) The CPA may rely on the work of internal audit for the completion of the MICS checklists as they relate to the standards covered by Part 543. Best practice suggests, based on the CPA review of audit reports and MICS checklists completed by internal audit, testing may be expanded where material exceptions were not corrected.

# TAB M

## **Drop and Count**

## Purpose

This section provides guidance on the development of internal controls, policies, and procedures for the operation of Drop and Count. It has been compiled by tribal regulators, Class II gaming operators, and other industry resources. Using best practices, this guidance is specifically designed to accommodate a variety of ways to implement controls to comply with Part 543.21. Because each gaming operation is different and subject to varying tribal laws and regulations, each tribe is responsible for determining the specific controls and procedures that are most suitable for its gaming operations and compliant with the MICS.

Furthermore, internal controls, policies, and procedures should be established and updated in a manner that accommodates changes and advancements in technology. Nothing in this guidance document should be read to limit the use of technology, regardless of whether or not such technology is mentioned herein.

§ 543.21 What are the minimum internal control standards for drop and count?

- (a) <u>Internal Control Procedures.</u> Subject to the approval and oversight of the TGRA, each gaming operation shall establish, implement and adhere to internal control policies and procedures that provide at least the level of control established by the standards of this section.
- (b) <u>Computer Applications.</u> For any computer applications utilized, alternate documentation and/or procedures that provide at least the level of control established by the standards of this section, as approved in writing by the TGRA, will be acceptable.
- (c) <u>Variances.</u> The TGRA shall establish the threshold level at which a variance shall be reviewed. Any such review shall be documented.
- (d) <u>Supervision</u>. Supervision shall be provided for drop and count as needed by an agent(s) with authority equal to or greater than those being supervised.
- (e) <u>Count Room Access.</u> Controls must be established to limit physical access to the count room to count team agents, designated staff, and other authorized persons. Such controls must include, but not be limited to, the following:
  - (1) Count team agents shall not be allowed to exit or enter the count room during the count except for emergencies or scheduled breaks.
  - (2) Surveillance shall be notified whenever count room agents exit or enter the

§ 543.21 What are the minimum internal control standards for drop and count?

count room during the count.

- (3) The count team policy, at a minimum, shall address the transportation of extraneous items (e.g., personal belongings, tool boxes, beverage containers, etc.) into or out of the count room.
- (f) <u>Count team</u>. Controls must be established in a manner designed to ensure security of the count and the count room to prevent unauthorized access, misappropriation of funds, forgery, theft, or fraud. Such controls must include, but not be limited to, the following:
  - For Tier A and B operations, all counts shall be performed by a minimum of two (2) agents. For Tier C operations, all counts shall be performed by a minimum of three (3) agents.
  - (2) For Tier A and B operations, at no time during the count shall there be fewer than two (2) count team agents in the count room until the drop proceeds have been accepted into cage/vault accountability. For Tier C operations, at no time during the count shall there be fewer than three (3) count team agents in the count room until the drop proceeds have been accepted into cage/vault accountability.
  - (3) For Tier A and B operations, count team agents shall be rotated on a routine basis such that the count team is not consistently the same two (2) agents more than four (4) days per week. This standard shall not apply to gaming operations that utilize a count team of more than two (2) agents. For Tier C operations, count team agents shall be rotated on a routine basis such that the count team is not consistently the same three (3) agents more than four (4) days per week. This standard shall not apply to gaming operations that utilize a count team of more than three (3) agents more than four (4) days per week. This standard shall not apply to gaming operations that utilize a count team of more than three (3) agents.
  - (4) Functions performed by count team agents shall be rotated on a routine basis.
  - (5) Count team agents shall be independent of the department being counted and the cage/vault departments. An accounting agent may be used if there is an independent audit of all count documentation.
- (g) <u>Drop.</u> Controls must be established in a manner designed to ensure security of the drop process to prevent unauthorized access to gaming equipment and the drop, misappropriation of funds, forgery, theft, or fraud. Such controls must include, but not be limited to, the following:
  - (1) Drop schedules and periods, including procedure to continue drop once started through completion.

§ 543.21 What are the minimum internal control standards for drop and count?

- (2) Security during transport of drop boxes, including escort by a minimum of two (2) agents, at least one of whom is independent of the revenue being dropped.
- (3) All drop boxes shall be uniquely identified to correspond with the card table, player interface, and/or other location from which the drop box was removed.
- (4) Security over drop boxes removed and awaiting transport to the count room.
- (5) Security of drop boxes until the count takes place.
- (6) Notification to surveillance when a drop is to begin.
- (7) Provisions for emergency drop.
- (h) <u>Count.</u> Controls must be established in a manner designed to ensure security of the count process to prevent unauthorized access to count equipment and the drop, misappropriation of funds, improper manipulation of financial records, forgery, theft, or fraud. Such controls must include, but not be limited to, the following:
  - (1) Establishment of a dedicated count room;
  - (2) Manual count process;
  - (3) Utilization, testing, and calibration of counters and/or validation systems;
  - (4) Verification of count;
  - (5) Prevention of the comingling of funds until recorded per drop box;
  - (6) Accurate and permanent forms of recordation for all cash and cash equivalents and rejected cash or cash equivalents;
  - (7) For card game counts, additional controls, as applicable, shall be established and procedures implemented to ensure:
    - (i) Fills/credits, marker issue/payment slips are recorded and forwarded to the appropriate department for verification and reconciliation.
    - (ii) Opening/closing card table inventory forms are examined and traced to or recorded on the appropriate documentation with discrepancies investigated and results documented.
  - (8) The reconciliation of count records to the total drop, which shall address, but

§ 543.21 What are the minimum internal control standards for drop and count? not be limited to: (i) Signature of each agent of the count team attesting to their participation in the count; (ii) Reconciliation of the total drop by a count team agent who shall not function as the sole recorder; and (iii) Documentation of all unresolved variances. (9) Transfer of the drop following the count. (10)All cash and cash equivalent inventory stored in the count room shall be secured from unauthorized access at all times. (11)Access to stored drop boxes, full or empty. Controlled Keys or Equivalents. Controls shall be established and procedures (i) implemented to safeguard the use, access, and security of keys or other access methods in accordance with the following: (1)Each of the following requires a separate and unique key lock or alternative secure access method: Drop cabinet; (i) (ii) Drop box release; (iii) Drop box content; and (iv) Storage racks and carts. (2)Access to and return of keys or equivalents shall be documented with the date, time, and signature or other unique identifier of the agent accessing or returning the key(s). For Tier A and B operations, at least two (2) drop team agents are (i) required to be present to access and return keys. For Tier C operations, at least three (3) drop team agents are required to be present to access and return keys. (ii) For Tier A and B operations, at least two (2) count team agents are required to be present at the time count room and other count keys are issued for the count. For Tier C operations, at least three (two for card game drop box keys in operations with three tables or fewer) count team agents are required to be present at the time count room

§ 543.21 What are the minimum internal control standards for drop and count?				
and other count keys are issued for the count.				
(3)	Where an alternative access method is utilized, the use of such method shall be controlled in a manner consistent with the objectives of this standard.			
(4)	Documentation of all keys, including duplicates, shall be maintained including:			
	(i) Unique identifier for each individual key;			
	(ii) Key storage location;			
	(iii) Number of keys made, duplicated, and destroyed; and			
	(iv) Authorization and access.			
(5)	Custody of all keys involved in the drop and count shall be maintained by a department independent of the count and drop agents and those departments being dropped and counted.			
(6)	Other than the count team, no agent shall have access to the drop box content keys while in possession of storage rack keys and/or release keys.			
(7)	Other than the count team, only agents authorized to remove drop boxes are allowed access to drop box release keys.			
(8)	Utilization of keys at times other than the scheduled drop and count must be properly authorized and documented.			
(9)	Emergency manual keys (i.e., override key) for computerized, electronic, and alternative key systems.			

- (a) <u>Internal Control Procedures</u>. The TGRA should ensure that the gaming operation establishes a system of internal control standards (SICS) that are applicable to Drop and Count. Such SICS should address, at a minimum, how the department operates, agents' responsibilities, and controls to protect assets. The TGRA should review and approve the SICS prior to implementation.
- (b) <u>Computer Applications</u>. A gaming operation may use computer applications, whether developed in-house or acquired externally, provided that controls are established in accordance with MICS and approved in writing by the TGRA. For any computer applications utilized, alternate documentation and/or procedures that provide at least the level of control established by the standards shall be implemented. For example, where an agent or multiple agents are required in the control, a computer application could

substitute for one or all of the agents. Another example would be where a log is required a computer application report could substitute for the log. If computer systems are used, procedures must be designed to account for computer system failure without compromising the effectiveness of the internal control standards.

- (c) <u>Variances</u>.
  - (1) The TGRA or the gaming operation as authorized by the TGRA should establish a threshold at which variances (i.e., exceptions against controls, inconsistencies with established policies and procedures or deviations from expected outcomes) must be investigated.
  - (2) Best practice suggests that when the relevant predetermined variance threshold is achieved, the controls should require agents – preferably supervisory agents – to conduct a variance investigation. Variance investigation controls/procedures should include, but are not limited to:
    - (i) Transaction(s) document(s) review, including all department(s) records relating to the variance investigation;
    - (ii) Recount of assets/inventory;
    - (iii) Surveillance reviews;
    - (iv) Physical inspections; and
    - (v) Agent interviews.
  - (3) The investigation results must be supported by documentation and forwarded to the accounting department for review and retention. Best practice suggests that documentation should include copies of transaction forms, logs, and a description of the variance.
- (d) <u>Supervision.</u>
  - (1) Controls should identify the supervisory agent in the department or area ultimately responsible for ensuring that the department or area is operating in accordance with established policies and procedures.
  - (2) Best practice suggests that the written system of internal controls should include:
    - (i) An organizational chart of the department or area;
    - (ii) Job descriptions; and

- (iii) A narrative description of the reporting structure, which is designed to ensure adequate supervision and segregation of function.
- (e) <u>Risk Assessments</u>. Risk assessments and periodic program reviews may be used to determine how often drop and count functions should be audited. When an assessment and review is necessary, an agent independent of the organizational component responsible for conducting drop and count functions should perform it.
- (f) <u>Count Room Access</u>. Controls should be established for count room access that include, but are not limited to:
  - (1) Procedures restricting the exiting and entering of the count room by count agents during the count. The procedures should also cover entering and exiting during emergencies and scheduled breaks. Additionally, the procedures should specify who and when persons or agents other than count agents can enter the count room, such as authorized observers, auditors, supervisors for resolution of problems, and authorized maintenance agents.
  - (2) Notification to an independent party such as surveillance or security if count room or other authorized agents need to exit or enter the count room during the count.
  - (3) The transportation of extraneous items (e.g., personal belongings, tool boxes, beverage containers, etc.) into or out of the count room. Best practice suggests that unnecessary items are prohibited and necessary items are inspected upon exit.
  - (4) The security of the count room when storing cash or cash equivalents (e.g., coins, tokens, chips, currency, and vouchers).
- (g) <u>Count Team</u>. Controls should be established in a manner designed to ensure security of the count and the count room to prevent unauthorized access, misappropriation of funds, forgery, theft, or fraud. Such controls must include, but not be limited to, the following:
  - (1) Based on the gaming operation's Tier, counts must be performed by a count team that consists of at least the minimum number of agents required by the MICS.
  - (2) The minimum number of count team agents must be present at all times during the count until all drop proceeds are transferred to the cage/vault accountability.
  - (3) Controls must include procedures to ensure that if the count team consists of the minimum number of agents required by the MICS, that the agents are sufficiently rotated to prevent the same count team from working together more than four (4) days a week to mitigate against the potential for collusive fraud or theft.
  - (4) Controls must require that count team agents rotate functions performed during the count on a routine basis. An example is the count agent who removed drop

box content yesterday will be counting today and another count agent will conduct the removal.

- (5) The count team must be independent of transactions being counted as well as independent of the cage/vault departments. An accounting representative may be used if there is an independent audit of all count documentation.
- (h) <u>Drop</u>. Controls must be established for the drop process and be designed in a manner to identify and prevent misappropriation of funds, forgery, theft, and/or fraud during the drop. Such controls should include, but not be limited to:
  - (1) Procedures to ensure that the drop process continues through completion once started.
  - (2) Notification to surveillance when a drop process is to begin, including emergency drops. Best practice suggests that surveillance is notified no later than when the first drop box is dropped.
  - (3) Best practice suggests that the TGRA should be notified of established and any changes to the drop schedule.
  - (4) Security of empty drop boxes transported to the floor, drop boxes dropped and drop boxes awaiting transport to the count room, including escorts as required by the MICS. Best practice suggests that at least one (1) escort is a Security agent and that these controls also cover emergency drops. The presence of an independent agent helps prevent possible collusion.
  - (5) Security of drop boxes awaiting count and emergency drop boxes.
  - (6) Controls must ensure that drop agent(s) are independent of the department being dropped.
    - (i) A system in which all drop boxes are uniquely identified to correspond with the card table, player interface, and/or other location from which the drop box was removed. This will prevent possible commingling of funds and ensure proper recording of the drop. An example is labeling each drop box with a number corresponding to a permanent number on the player interface or card game table. Generally, card game drop boxes are also labeled to indicate game, table number, and shift.
- (i) <u>Count</u>. Controls must be established for the Count process including, but not limited to:
  - (1) Designation of a count room or other secure area with identical controls.
  - (2) Controls to cover all aspects of count and equipment used, including manual counts.

- (3) Procedures to prevent the commingling of funds from different revenue centers during the emptying and counting of drop box until the content of each drop box is recorded.
- (4) Count equipment and systems should be tested, with the results documented, at minimum before the first count begins to ensure the accuracy of the equipment. Such procedures may include but not be limited to:
  - (i) At least two (2) count agents should verify the test results.
  - (ii) The test should be performed with test currency and coin (in all denominations), vouchers, and other financial instruments to verify that the equipment is functioning properly.
  - (iii) If currency counters are utilized, at least one count agent who is not loading or unloading the currency counter should observe the loading and unloading of all currency at the currency counter, including rejected currency.
  - (iv) If currency counters are utilized, controls should be established to ensure all rejected cash or cash equivalents are counted and recorded to the drop box for which it was being counted.
  - (v) If the currency counter does not automatically count the currency twice, then it should be run through the counter a second time.
  - (vi) For counts that do not utilize a currency counter, a count agent who did not perform the initial count should perform a second count.
  - (vii) If a currency counter interface is used, it should be adequately restricted (e.g., password, keys, etc.) to prevent unauthorized access.
- (5) The test results must be delivered to the accounting department.
- (6) The count team must not have access to bill-in meter amounts for the count being performed. This does not prohibit count team members from performing tasks that involve access to bill-in meter amounts when such members are not performing a count for those metered values.
- (7) Access to stored drop boxes, full or empty, is restricted to authorized agents.
- (8) Coin, cash, and cash equivalents must be controlled in a manner that precludes the commingling with the count from another revenue area. Best practice suggests that when the count for a revenue area is complete it is transferred to the cage/vault prior to another count being started.

- (9) The minimum number of count agents, per Tier as defined in the MICS, shall be present throughout the bundling, strapping, or sacking of the drop proceeds. Tiers A and B require a minimum of two (2) count agents at all times. Tier C requires a minimum of three (3) count agents at all times.
- (10) Requirements for permanent forms of recordation.
  - (i) Procedures to correct information originally recorded by count team agents on count documentation should be established, including but not be limited to, the following.
    - (A) All corrections should be made with a permanent ink pen;
    - (B) A single line should be drawn through the error;
    - (C) The correct figure should be entered above the original figure;
    - (D) The correction should be initialed by at least two (2) count team agents verifying the change;
    - (E) If a currency interface is used, corrections to count data may be made using one of the following:
      - (1) During the count process, correct the error in the currency interface and enter the authorization (e.g., passwords, key, etc.) of at least two (2) count team agents.
      - (2) An exception report should be generated identifying the drop box identifier, the incorrect value, the correct value, and the identity of count team agents attesting to the correction.
    - (F) All documentation and records for corrections must be forwarded to the accounting department.
- (11) Verification that each drop box is emptied during the count. Two (2) agents must participate in the verification process. A surveillance agent may serve as one of these two (2) agents if verification is monitored in its entirety with good clarity by surveillance cameras. A person independent of the agent who removed the contents from the drop box may also serve as one of the two (2) required agents to verify the drop box is empty.
- (12) Count results must be recorded for each drop box.
- (13) For card game counts, additional controls, as applicable, shall be established and

procedures implemented to ensure the security and delivery of any card table fills/credits, marker issues/payments, opening/closing inventory forms to accounting. Some gaming operations record these forms in the count room and then forward to accounting while others may only forward these forms to accounting for recording. In either situation the forms must be controlled, secured and forwarded to accounting.

- (14) Procedures must require that at least one (1) agent who is not the sole recorder of the count reconcile the count results in total.
- (15) Coupons or other promotional items not included in gross revenue may be recorded on a supplemental document by either the count team members or accounting personnel. All single-use coupons should be cancelled daily by an authorized agent to prevent improper recirculation.
- (16) All count team agents must sign the report attesting to their participation in the count.
- (17) A final verification of the total drop proceeds, before transfer to cage/vault, must be performed by the at least two (2) agents, preferably a supervisory agent and one (1) count team agent. The verification of transferred funds is required by the Part 543.14 (d)(1)(v).
  - (i) Final verification should include the comparison of currency counted totals against the currency counter/system report, if any counter/system is used.
  - (ii) Any unresolved variances are documented and the documentation remains part of the final count record forwarded to accounting.
  - (iii) This verification does not require a complete recount of the drop proceeds but does require a review sufficient to verify the total drop proceeds being transferred.
  - (iv) The two (2) agents must sign the report attesting to the accuracy of the total drop proceeds verified.
- (18) The drop proceeds are transferred to the cage/vault, where it is recounted and verified.
  - (i) The count documentation and records must not be transferred to the cage/vault with the drop proceeds.
  - (ii) The cage/vault agent should have no knowledge or record of the drop proceeds total before it is verified. Best practice suggests that the agent

should perform what is known as a "blind count."

- (iii) All count records should be forwarded to accounting. Alternatively, it may be adequately secured (e.g., locked container to which only accounting agents can gain access).
- (19) The cage/vault agent receiving the transferred drop proceeds must sign the report attesting to the verification of the total received.
- (20) Controls should be established to require all verification, recount, and signatory requirements for partial transfers in accordance with the same controls that are applicable to the transfer of the total drop proceeds. To prevent commingling of funds, best practice suggests that partial transfers should be properly segregated from any funds still being counted.
- (21) Any unresolved variances between total drop proceeds recorded on the count room report and the cage/vault final verification during transfer must be documented and investigated.
- (22) Best practice suggests that each operational area secure daily audit and accounting records, forms, and documents prior to audit. For example a cashier may place records in a locked box for next-day delivery to accounting for audit
- (i) <u>Controlled Keys or Equivalent</u>.
  - (1) All drop and count keys must be secured and controlled by agents independent of the operational areas or departments for which the keys provide access, including the following:
    - (i) Player interfaces for any Class II game;
    - (ii) Card games;
    - (iii) Kiosks;
    - (iv) Drop;
    - (v) Count; and
    - (vi) Cage/vault.
  - (2) Each of the following requires a separate and unique key lock or alternative secure access method:
    - (i) Drop cabinet;

- (ii) Drop box release;
- (iii) Drop box content; and
- (iv) Storage racks and carts.
- (3) All controlled drop and count keys or equivalents must be secured in a manner designed to prevent unauthorized access.
  - (i) Controls must prohibit any one agent from having simultaneous access to the cabinet, release, content, and storage racks keys. The count team agents may have access to release, content, and storage racks keys only during a count.
- (4) All key or equivalent issuances and returns, including emergency manual/override keys, must be performed by the minimum number of agents in accordance with the MICS, be documented and maintained by a key control agent including, but not be limited to:
  - (i) Date issued/returned;
  - (ii) Time issued/returned;
  - (iii) Unique identifier for the key issued/returned;
  - (iv) Name of the agent the key was issued to/returned by; and
  - (v) Reason for access to the key(if a key watch system is not in use and/or emergency key access is made the reason should be recorded).
- (5) Emergency manual keys (a.k.a. override keys) for computerized, electronic, and/or alternative key systems must be secured and controlled. Best practice suggests that at least three (3) agents, two (2) from independent departments, be involved in the issuance and return of the emergency manual/override keys.
- (6) When controls require physical involvement of more than one agent in the key control process, including for the entire duration of drop and count, surveillance may not act as one of those agents. If physically present, security agents may act as part of the minimum number of agents required by the MICS.
- (7) All duplicate keys should be maintained in a manner that provides the same degree of control as is required for the original keys.
- (8) Documentation of all keys, including duplicates and emergency manual/override keys, shall be maintained by a key control agent including, but not be limited to:

- (i) Unique identifier for each individual key;
- (ii) Key storage location;
- (iii) Number of keys made, duplicated, and destroyed;
- (iv) Issuance and return; and
- (v) Authorization and access.
- (9) An agent independent of the drop, count, cage/vault, and key control must audit key access records periodically, in accordance with Part 543.19, and for propriety.
- (10) Any suspicious or unusual activity discovered in the audit of key access records must be reported to management and/or the TGRA.

# (i) <u>Audit and Accounting</u>.

- Controls must be established for audit and accounting in accordance with MICS 543.19 (What are the minimum internal control standards for audit and accounting?) and the guidance provided in the associated document.
- (2) Best practice suggests that each operational area secure daily audit and accounting records, forms, and documents prior to audit. For example, a cashier may place records in a locked box for next-day delivery to accounting for audit.

# TAB N

# Surveillance

# Purpose

This section provides guidance on the development of internal controls, policies, and procedures for gaming operation surveillance activities. It has been compiled by tribal regulators, Class II gaming operators, and other industry resources. Using best practices, this guidance is specifically designed to accommodate a variety of ways to implement controls to comply with Part 543.23. Because each gaming operation is different and subject to varying tribal laws and regulations, each tribe is responsible for determining the specific controls and procedures that are most suitable for its gaming operations and compliant with the MICS.

Furthermore, internal controls, policies, and procedures should be established and updated in a manner that accommodates changes and advancements in technology. Nothing in this guidance document should be read to limit the use of technology, regardless of whether or not such technology is mentioned herein.

§ 543.23 What are the minimum internal control standards for surveillance?

- (a) <u>Internal Control Procedures.</u> Subject to the approval and oversight of the TGRA, each gaming operation shall establish, implement and adhere to internal control policies and procedures that provide at least the level of control established by the standards of this section.
- (b) <u>Computer Applications.</u> For any computer applications utilized, alternate documentation and/or procedures that provide at least the level of control established by the standards of this section, as approved in writing by the TGRA, will be acceptable.
- (c) <u>Surveillance Equipment and Control Room(s)</u>. Controls must be established in a manner designed to prevent unauthorized access and/or activities, misappropriation, forgery, theft, or fraud. Such controls must include, but not be limited to, the following:
  - (1) For Tier A, the surveillance system shall be maintained and operated from a secured location, such as a locked cabinet. For Tier B and C, the surveillance system shall be maintained and operated from a staffed surveillance operation room(s).
  - (2) The surveillance operation room(s) shall be secured to prevent unauthorized entry.

- (3) Access to the surveillance operation room shall be limited to surveillance agents and other authorized persons.
- (4) Surveillance operation room(s) access logs shall be maintained.
- (5) Surveillance operation room equipment shall have total override capability over all other satellite surveillance equipment located outside the surveillance operation room.
- (6) Power loss to the surveillance system.
  - (i) For Tier A, in the event of power loss to the surveillance system, immediate alternative security measures, such as additional supervisory or security agents, shall be provided.
  - (ii) For Tier B and C, in the event of power loss to the surveillance system, an auxiliary or backup power source shall be available and capable of providing immediate restoration of power to all elements of the surveillance system that enable surveillance agents to observe all areas covered by dedicated cameras.
- (7) The surveillance system shall record an accurate date and time stamp on recorded events. The displayed date and time shall not significantly obstruct the recorded view.
- (8) All surveillance agents shall be trained in the use of the equipment, and be knowledgeable of the games and house rules.
- (9) Each camera required by the standards in this section shall be installed in a manner that will prevent it from being readily obstructed, tampered with, or disabled.
- (10) The surveillance system shall:
  - (i) Have the capability to display all camera views on a monitor;
  - (ii) Include sufficient numbers of recording devices to record the views of all cameras required by this section;
  - (iii) Record all camera views; and
  - (iv) For Tier B and C only, include sufficient numbers of monitors to simultaneously display gaming and count room activities.
- (11) A periodic check of the surveillance systems shall be conducted. When a

malfunction of the surveillance system is discovered, the malfunction and necessary repairs shall be documented and repairs initiated within seventy-two (72) hours.

- (i) If a dedicated camera malfunctions, immediate alternative security measures, such as additional supervisory or security agents, shall be provided.
- (ii) The TGRA shall be notified of any surveillance system and/or camera(s) that have malfunctioned for more than twenty-four (24) hours and the alternative security measures being provided.
- (d) <u>Additional Surveillance Requirements</u>. With regard to the following functions, the additional specified controls shall be implemented:
  - (1) Bingo.
    - (i) For manual draws, the surveillance system shall monitor the bingo ball drawing device or mechanical random number generator, which shall be recorded during the course of the draw by a dedicated camera to identify the numbers or other designations drawn.
    - (ii) The surveillance system shall monitor and record the activities of the bingo game, including drawing, calling, and entering the balls, numbers or other designations drawn.
  - (2) Card games.
    - (i) Except for card game tournaments, a dedicated camera(s) shall be used to provide:
      - (A) An overview of the activities on each card table surface, including card faces and cash and/or cash equivalents;
      - (B) An overview of card game activities, including patrons and dealers; and
      - (C) An unobstructed view of all posted progressive pool amounts.
    - (ii) For card game tournaments, a dedicated camera(s) shall be used to provide an overview of tournament activities, including entrances/exits and any area where cash or cash equivalents are exchanged.

(3)	camer requir \$3,000	ize Winning Events. The TGRA shall establish standards for surveillance mera coverage of prize winning events. Dedicated camera coverage is quired when the progressive base value or the prize amount exceeds ,000,000.00. Recorded camera coverage must include the activities of trons and agents at the time and location of the prize winning event.		
(4)	Cash a	and Cash	nd Cash Equivalents.	
	(i)	The su	rveillance system shall monitor and record:	
		(A)	A view of the patron, cage agent, vault agent or count team agent(s) and the surrounding area and counting surface;	
		(B)	Payouts of gaming winnings;	
		(C)	Entry and exit doors to and from the cage, vault and other secured count areas;	
		(D)	All count equipment including but not limited to reject bins, weigh scales, wrapping machines, currency and coin counters, and chips sorters;	
		(E)	Any area where the manipulation of recorded data may occur;	
		(F)	Drop and count while in process; for Tier A and B operations, if the count is not viewed live, the operation must establish controls to ensure a review of the recording within seven (7) days by an agent independent of the count operation and the count being reviewed. For Tier C operations, the count shall be viewed live.	
		(G)	All drop boxes and storage racks by either a dedicated camera or a motion-detector activated camera.	
	(ii)	-	g the count process a dedicated overhead camera(s) or motion or activated camera(s) must cover the:	
		(A)	Transaction area with the ability to identify cash and cash equivalent values;	
		(B)	All counting surfaces used during the count; and	
		(C)	All drop boxes and their storage racks.	

- (e) <u>Recording Retention</u>. Controls must be established that include, but are not limited to, the following:
  - (1) All recordings required by this section shall be retained for a minimum of seven (7) days; and
  - (2) Suspected or confirmed gaming crimes, unlawful or suspicious activity, or detentions by security personnel discovered within the initial retention period shall be copied and retained for a time period, not less than one (1) year.
- (f) <u>Logs</u>. Logs must be maintained and demonstrate the following:
  - (1) Compliance with the storage, identification, and retention standards required in this section;
  - (2) Each malfunction and repair of the surveillance system as defined in this section; and
  - (3) Activities performed by surveillance agents.
- (a) <u>Internal Control Procedures</u>. The TGRA should ensure that the gaming operation establishes a system of internal control standards (SICS) that are applicable to Surveillance. Such SICS should address, at a minimum, how the department operates, agents' responsibilities, and controls to protect assets. The TGRA should review and approve the SICS prior to implementation.
- (b) <u>Computer Applications</u>. A gaming operation may use computer applications, whether developed in-house or acquired externally, provided that controls are established in accordance with MICS and approved in writing by the TGRA. For any computer applications utilized, alternate documentation and/or procedures that provide at least the level of control established by the standards shall be implemented. For example, where an agent or multiple agents are required in the control, a computer application could substitute for one or all of the agents. Another example would be where a log is required; a computer application report could substitute for the log. If computer systems are used, procedures must be designed to account for computer system failure without compromising the effectiveness of the internal control standards.
- (c) <u>Variances</u>.

- (1) The TGRA or the gaming operation as authorized by the TGRA should establish a threshold at which variances (i.e., exceptions against controls, inconsistencies with established policies and procedures or deviations from expected outcomes) must be investigated.
- (2) Best practice suggests that when the relevant predetermined variance threshold is achieved, the controls should require agents – preferably supervisory agents – to conduct a variance investigation. Variance investigation controls/procedures should include, but are not limited to:
  - (i) Transaction(s) documents(s) review, including all department(s) records relating to the variance investigation;
  - (ii) Recount of assets/inventory;
  - (iii) Surveillance reviews;
  - (iv) Physical inspections; and
  - (v) Agent interviews.
- (3) The investigation results must be supported by documentation and forwarded to the accounting department for review and retention. Best practice suggests that documentation should include copies of transaction forms, logs, and a description of the variance.
- (d) <u>Supervision</u>.
  - (1) Controls should identify the supervisory agent in the department or area ultimately responsible for ensuring that the department or area is operating in accordance with established policies and procedures.
  - (2) The reporting structure may permit a supervisory agent to function as a surveillance agent without any other supervision. In such instances, however, a supervisory agent either independent of the transaction or independent of the relevant department or area must resolve disputes.
  - (3) Best practice suggests that the written system of internal controls should include:
    - (i) An organizational chart of the department or area;
    - (ii) Job descriptions; and
    - (iii) A narrative description of the reporting structure, which is designed to ensure adequate supervision and segregation of function.

- (e) <u>Risk Assessments</u>. Risk assessments and periodic program reviews may be used to determine how often surveillance operations should be audited. When an assessment and review is necessary, an agent independent of the organizational component responsible for conducting surveillance should perform it.
- (f) <u>Surveillance Operation Room/Location</u>. For Tiers B and C, the operation must have a dedicated surveillance operation room. For Tier A, the surveillance system shall be maintained and operated from a secured location, such as, a locked cabinet, a locked storage room, or a secure server room.
  - (1) The surveillance operation room should be a room dedicated to the surveillance system and, for Tiers B and C, manned 24 hours a day by surveillance agents that have been properly trained in surveillance techniques and casino operations.
  - (2) For Tiers B and C, the surveillance operation room should be in the back of the house (i.e., an area in which access by the general public is prohibited) or offsite, and locked at all times. For Tier A operations, the area or location housing the surveillance system must be locked at all times.
  - (3) Access.
    - (i) Access to the surveillance operation room should be governed by a detailed set of internal control policies and procedures. Best practice includes developing a chart or matrix that outlines, by position, who can access the surveillance operation room, surveillance reports, surveillance equipment and surveillance recordings. The matrix should include, but not be limited to those persons requiring routine access, such as regulatory agents, credentialed auditors, and supervisory agents (see example below).
      - (A) Access is generally limited to surveillance agents and surveillance supervisors.
      - (B) If other persons need access, an approval process should be in place that provides for an evaluation of their need for access.
    - (ii) Before anyone not listed on the access chart/matrix may gain entry into the surveillance room, best practice suggests surveillance agents obtain authorization from the TGRA. Such TGRA authorization should be documented on the sign-in log.
    - (iii) All access made to the surveillance operation room should be recorded through the use of a sign-in/access log. This log should include: date, room entry time, name of person accessing the room, reason for access,

department/position, signature of the agent who authorized access, and room exit time.

Example of Access Matrix:

#### ACCESS TO SENSITIVE AREAS/ASSETS CHART

	Surveillance Room	Surveillance Reports	Surveillance Recordings
General Manager	Unlimited	Unlimited	Unlimited
Security Dir/Mgr/Supv	Unlimited	Unlimited	Unlimited
Surveillance Dir/Mgr/Supv	Unlimited	Unlimited	Unlimited
Surveillance Agents	Unlimited	Unlimited	Unlimited
Bingo Dir/Mgr	Denied	(4)	(3/4)
Card Room Dir/Mgr	Denied	(4)	(3/4)
Card Room Lead Floorperson	Denied	(4)	(3/4)
TGRA Agents	Unlimited	Unlimited	Unlimited
Surveillance Equipment Vendors	(2)	Denied	(2)
Human Resources Dir/Mgr	(1)	(4)	(3/4)
Housekeeping Agents	(1)	Denied	Denied
Maintenance Agents	(1)	Denied	Denied
NIGC Agents	(1)	(3)	(3/4)
Local Law Enforcement Officers	(1)	(4)	(3/4)

Restrictions/Conditions:

(1) May access the area/asset when accompanied by surveillance agents.

(2) May access the area/asset for maintenance/installation when accompanied by surveillance agents.

(3) May view under supervision of a Surveillance or Security Supervisors.

(4) May check out or be issued copies of reports and/or recordings.

### (g) <u>Surveillance System, Equipment, and Operations Requirements</u>.

(1) Control of Surveillance Equipment. Surveillance operation room agents must have the ability and/or authority to add, remove, or change the settings and capabilities of any satellite surveillance equipment. The primary objective of this control is to ensure that the surveillance agents have the ability to utilize the surveillance system at all times without delay or interference.

- (2) Power Loss.
  - (i) For Tiers B and C, if power is lost to the surveillance system, an auxiliary or backup power source must be capable of providing immediate restoration of power to all elements of the surveillance system that are required in the internal controls. Best practice suggests that UPS (uninterruptable power supply) bridging and generator are available as backup power sources.
  - (ii) For Tier A operations, and in the event the auxiliary or back up power source fails in a Tier B or C operation, immediate alternative security measures (i.e., security agents) must be provided.
- (3) Date/Time Stamp.
  - (i) Best practice suggests surveillance systems should be synchronized with a standard time service (i.e., naval observatory).
  - (ii) Surveillance agents should test the date/time used by the surveillance system against a standard time service at intervals established by management.
  - (iii) Best practice suggests cameras should be purposely focused or positioned in a fashion that allows for the date/time stamp to be recorded without obscuring the recorded view.
- (4) Surveillance Agent Qualifications. All surveillance agents must be proficient in the use of the surveillance room equipment and have knowledge of all casino games offered to the public for play. Such knowledge must be sufficient to identify inappropriate behaviors and compliance concerns. Surveillance agents must also possess a comprehensive understanding of established standard operating procedures for the departments subject to surveillance.
- (5) Cameras.
  - (i) Best practice suggests that cameras be installed in a housing unit to obscure the camera itself from public view and help ensure it is not physically tampered with.
  - (ii) Best practice suggests that surveillance agents periodically review each camera to ensure the view has not been obstructed, and the camera has not been tampered with or disabled.
- (6) Monitors/Recording Devices.

- (i) All camera views required by the MICS must be capable of being displayed on a monitor(s) and recorded.
- (ii) Based on the size of the operation, surveillance management must determine the number of: (i) monitors necessary for the surveillance agent(s) to be able to observe more than one activity at a time; and (ii) recording devices necessary to ensure that all camera views required by the MICS are recorded.
- (7) Surveillance System Checks.
  - Based on the size of the operation, surveillance management must determine proper intervals to perform a check of the surveillance system. Best practice suggests once every shift. This periodic check should include visual confirmation that all cameras, monitors, and recording devices are in working order.
  - (ii) When a malfunction of the surveillance system is discovered, the following procedures should apply:
    - (A) If immediate correction is possible, correction should be performed and documented on the activity log as to what measures were taken to correct the malfunction. Example – VCR #1 not operational, replaced with new VCR.
    - (B) If not immediately correctable, the agent who discovered the malfunction should report the malfunction to surveillance management.
    - (C) Management should determine the necessary immediate steps for alternative security measures to be performed until the malfunction is corrected. Alternative security measures include: repositioning another camera, posting additional security agents, and changing the location of gaming activity.
    - (D) Management should then identify the source of the malfunction and the necessary steps to perform to correct the malfunction. Corrective measures must be initiated within 72 hours. Upon completion, corrective measures should be documented.
- (h) <u>Additional Surveillance Requirements</u>. The gaming operation must implement additional surveillance controls for the following gaming areas:
  - (1) Bingo. Surveillance coverage for manual bingo draws should include:

- (i) Dedicated cameras that provide sufficient coverage to view the ball draw with at least two views to verify winning balls, blower showing ball number or other designation as drawn, or rabbit ears showing all balls drawn, and/or game board showing numbers or other designations drawn.
- (ii) At least one of these views, or a separate view, should show the agent performing the ball draw.
- (2) Card Games.
  - (i) Best practice suggests that a dedicated camera be positioned over each card game table to allow a general overview of card game activities, including patrons and dealers. The general overview is intended to assist in the safeguarding of the table chip tray, ensure the dealer is placing the rake in the drop box, maintain security of the patrons' funds, observe the functionality of the game, and protect the integrity of the play of the game.
  - (ii) Best practice suggests that camera coverage be provided over any card room bank. This coverage should include a dedicated camera to provide a general overview of the agents, patrons, and activities associated with card room transactions.
  - (iii) PTZ (pan, tilt, and zoom) cameras should be positioned throughout the card room with the ability to allow for observation of activities and events. Surveillance management should determine, based on the size of the operation, how many PTZ cameras are required to provide adequate supplemental support.
- (3) Prize Winning Events.
  - (i) Based on the size of the operation, management, as approved by the TGRA, must determine the threshold at which prize winning events must be covered by surveillance cameras. For prizes and progressive base values in excess of \$3 million, dedicated camera coverage is mandatory.
    - (A) For prize payouts that are supported by system documentation or where a gaming system determines the outcome of the game play, camera coverage should give an overview of the activities of the patrons and agents at the time and location of the winning event.
    - (B) For contests or drawings, where the prize payout is not supported by system documentation, adequate camera coverage and monitoring should include:

- (1) Any storage component maintaining patron's entries;
- (2) The winning event;
- (3) Agents and patrons involved; and
- (4) Any event that requires validation of the outcome to maintain confidence and trust that the contest has been conducted fairly.
- (4) Cash and Cash Equivalents.
  - (i) Best practice suggests that the surveillance system has coverage of the activities occurring in all cage, vault, and count room areas to monitor the activities of agents within these areas. Dedicated cameras should also be placed over each transaction area to view exchanges of cash and cash equivalents. Additional cameras should provide coverage of the patrons and agents involved in these exchange transactions.
  - Based on the gaming operation's risk assessment, determine what additional camera coverage is needed over cash and cash equivalents stored in cabinets, safes, vaults, drawers, etc., to safeguard those assets. For example:
    - (A) The operation requires a \$3M cash on hand inventory, three people work in the cage operation area at all times so management determines one camera is sufficient coverage over the storage area.
    - (B) The operation requires a \$3M cash on hand inventory, one person works in the cage operation area at any given time so management determines three cameras are necessary.
  - (iii) For surveillance coverage during the count process, cameras should be placed in a manner that provides an overview of the count room operations to ensure that:
    - (A) There are no blind spots in the room;
    - (B) All procedures and activities being performed by the count team can be viewed;
    - (C) Irregularities can be detected during the count process; and
    - (D) Assets are safeguarded.

- (iv) Best practice suggests that the surveillance system has the capability of monitoring and recording audio of the count room while the count is in process. This is to enhance investigations into possible misappropriation of funds.
- (i) <u>Recording Retention</u>.
  - (1) The surveillance system shall be designed to retain all recordings of coverage provided by the required dedicated cameras for at least seven days, however, a seven-day period may be insufficient for investigatory and other purposes. To accommodate investigatory and other needs, best practice suggests that the retention period be set at 21 days or longer (including the supporting non-dedicated camera recordings).
  - (2) For incidents and investigations, best practice suggests a review of all applicable statutes of limitation to aid in establishing minimum archiving practices based on incident type.
- (j) <u>Logs</u>.
  - (1) Logs must be developed to show compliance with the standards required in this section.
  - (2) Best practice suggests maintaining at least two logs for recording retention. One for the minimum retention period and one for investigations and other incidents.
  - (3) The minimum retention log can be a manual log, matrix, or chart, and should include date, shift or times, brief description of recorded activity and camera/recorder identifier.
  - (4) The investigation/incident log can be a manual log and should include date and time of the incident, a brief description of the incident, camera/recorder identifier, and a unique investigation identifier (i.e., investigation report number).
  - (5) The logs for malfunctions and repairs of the surveillance system should include the date, time, and nature of the malfunction, efforts expended to resolve the malfunction, the date of each effort, the reason for any delays in repairs (if applicable), date of repair, and alternative security measures taken (if applicable).
  - (6) For the surveillance activity log, best practice suggests the operation maintain a daily activity report that lists all proactive, reactive, and regulated functions performed by the surveillance agents.
- (k) <u>Audit and Accounting</u>.

- Controls must be established for audit and accounting in accordance with MICS 543.19 (What are the minimum internal control standards for audit and accounting?) and the guidance provided in the associated document.
- (2) Best practice suggests that each operational area secure daily audit and accounting records, forms, and documents prior to audit. For example a cashier may place records in a locked box for next-day delivery to accounting for audit.

# TAB O

# **Proposed MICS Reference Guide**

A work product of the

# Tribal Gaming Working Group

July 28, 2011

# Introduction

This document is intended to be a reference guide to support the proposed changes to the Part 543 Minimum Internal Control Standards for Class II Gaming submitted to NIGC on May 15, 2011 (includes updated proposal submitted at the end of July 2011) by the Tribal Gaming Working Group (TGWG).

This document includes a section by section recap of the objectives and intent of the changes proposed by the TGWG. Comparative references are between the NIGC Proposed Part 543 MICS (dates vary) and the TGWG Proposed MICS (May 13, 2011). Comments from the TGWG on why a proposed change is recommended are included and directly associated to section numbers for easy reference.

# Contents

Introductio	n	2
Proposed N	1ICS Overview	4
TGWG Tra	ansmittal Memo 5/15/11	.5
General Ch	anges1	.2
Proposed C	hanges by Section1	.3
543.1	What does this part cover?1	13
543.2	What are the definitions for this part?1	4
543.3	How do tribal governments comply with this part?1	4
543.4	[Reserved]1	15
543.5	[Reserved]1	15
543.6	Does this party apply to small and charitable gaming operations?1	15
543.7	What are the minimum internal control standards for bingo?1	15
543.8	What are the minimum internal control standards for pull tabs?1	6
543.9	What are the minimum internal control standards for card games?1	6
543.10	What are the minimum internal control standards for gaming promotions?	6
543.11	What are the minimum internal control standards for patron deposit accounts and cashless systems?	6
543.12 gaming?	What are the minimum internal control standards for player tracking systems used in conjunction with Class II	
543.13	[Reserved]1	17
543.14	What are the minimum internal control standards for cage, vault, cash and cash equivalents?	17
543.15	What are the minimum internal control standards for lines of credit?1	17
543.16 data asso	What are the minimum internal control standards for security and management of server, server software, an ciated with Class II gaming systems?	

# TGWG Proposed MICS Reference Guide

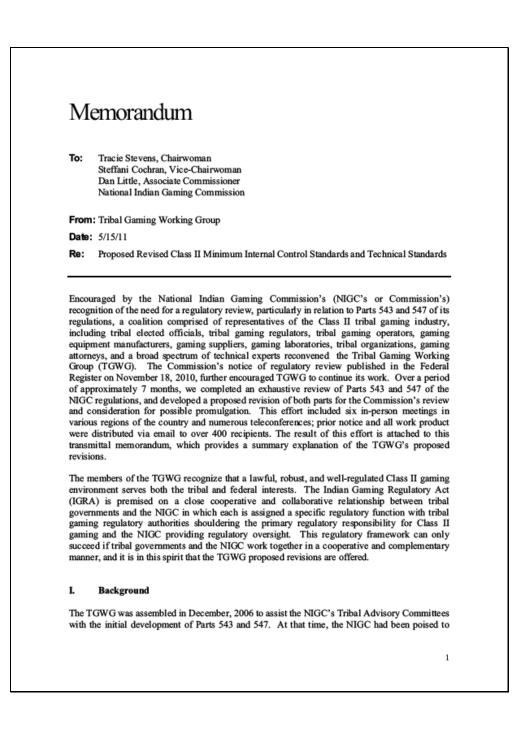
543.17	What are the minimum internal control standards for complimentary services or items?	
543.18	How does a gaming operation apply for a variance from the standards of this part?	
543.19	What are the minimum internal control standards for audit and accounting?	18
543.20	[Reserved]	19
543.21	What are the minimum internal control standards for drop and count?	19
543.22	[Reserved] – Combined with 543.19	19
543.23	What are the minimum internal control standards for surveillance?	19
543.30	Moved to 543.2	19
543.31	Combined with 543.21	20
543.32	Combined with 543.19	20
543.33	Combined with 543.23	20
543.40	Moved to 543.2	20
543.41	Combined with 543.21	20
543.42	Combined with 543.19	21
543.43	Combined with 543.23	21
543.50	Combined with 543.19	21
Guidance		22
Checklists .		24

# **Proposed MICS Overview**

The following letter was submitted with the TGWG's Proposed Part 543 MICS and Part 547 Technical Standards. This letter provides an overview of the intent and objectives that the TGWG had for their submission of the proposed changes to Part 543 Minimum Internal Control Standards for Class II Gaming. It also provides a description of the work effort that the TGWG put into the review, research, and writing of the proposed changes submitted to the NIGC. Some of the objectives are listed below.

- Ensuring that all controls are covered in Part 543
- Eliminating duplication across multiple sections
- Consolidating controls and simplifying language so MICS are easier to understand and implement
- Minimizing procedural steps and tasks to provide TGRA and gaming operations with needed flexibility to establish appropriate controls, policies and procedures for a variety of operations
- Ensure effective regulation of Class II gaming without causing undo financial hardship on tribes
- Ensuring consistency across all sections to eliminate confusion

# TGWG Transmittal Memo 5/15/11



promulgate Class II regulations that the technical working group believed would be devastating to the continued viability of Class II gaming. As reported in the NIGC's preamble to its publication of 25 C.F.R. § 547: "The tribal representatives to the advisory committee formed a working group, which met at various times, in person and telephonically, from the end of 2006 through the middle of 2007 to draft this new set of technical standards. The Commission did not participate in the establishment of this working group or in most of its work. On some occasions, the tribal representatives invited the participation of Commission staff members to answer questions and to provide explanation about the Commission's regulatory goals." 73 Fed. Reg. 60509 (October 10, 2008) The Commission's technical standards, as promulgated, incorporated the vast majority of the TGWG's recommendations.

Following the working group's submission of its technical standards product to the NIGC, the group continued active work with the NIGC's tribal advisory committees to assist in providing expertise to the crafting of Class II technical standards and MICS. The TGWG continued to meet in association with the Tribal Advisory Committees working on those regulations, and continued to solicit input from sources encompassing tribal operators and regulators as well as manufacturers and gaming laboratories involved with Class II gaming.

The TGWG expressed concern with the Class II MICS as promulgated by the NIGC, and continued developing analyses and alternative proposals better suited to protect the integrity of Class II gaming. In this context, the NIGC's deferral of the effective date of its Class II regulations, followed closely by the Commission's announced intention to review existing regulations, spurred the TGWG to heightened activity. The TGWG was reactivated, overseen by tribal regulators, to provide the best possible input for the NIGC's effort to review and improve its Class II regulations. This product is the result.

#### II. Overview - Part 543. Minimum Internal Control Standards for Class II Gaming

The stated purposes of IGRA are to ensure that tribal gaming revenues may be used to strengthen tribal governments, to protect tribal gaming revenue, and to prevent unsuitable or corrupt persons from participating in the operation and management of tribal gaming activities. The very success of the tribal gaming industry is dependent upon ensuring integrity in the operation of tribal gaming activities, which, in turn, is dependent upon the existence of a strong regulatory framework consistent with the provisions of IGRA. Parts 543 and 547 of the NIGC's regulations apply exclusively to Class II gaming activities where the regulatory relationship between the NIGC and tribal governments is strongest. Ironically, it is in the Class II arena that the clash between tribal and federal views has been the most contentious.

A major goal of the TGWG has been to develop a revised set of Class II regulations that accord with the respective regulatory roles of the NIGC and tribal governments consistent with the regulatory framework set forth in IGRA. The revised MICS for example reflect the NIGC's authority to establish baseline or minimum standards for Class II gaming, while respecting the role of tribal gaming regulatory authorities to promulgate more detailed and/or comprehensive standards (tribal internal control standards or TICS) upon which each gaming operation will develop and operate under a comprehensive system of internal controls subject to the regulatory authority of tribal gaming regulatory authorities and, where appropriate, that of the NIGC.

A major concern with the NIGC's Minimum Internal Control Standards (MICS) from the tribal perspective has long been that the MICS were mixed up, so to speak. In other words, the provisions were lacking in "standards" and heavy on procedure. Borrowed largely from the regulations and guidance documents promulgated by the Nevada Gaming Control Board, the NIGC MICS were not reflective of the tribal environment upon which they were appended nor did they reflect the nature of the NIGC's more limited oversight role. Try as one might, simply plunking a state regulatory framework into the tribal Class II gaming environment is not a workable endeavor. The Nevada regulations are premised upon a direct relationship between the State and commercial gaming operations. The Class II regulatory framework is premised on a much more limited federal role with tribal gaming regulatory authorities serving the primary regulatory role. This, however, is not to say that the Nevada regulations are lacking in utility, and the Commission should note that the TGWG's revised draft MICS do not significantly deviate from the basic structure or subject matter contained in Parts 542 and 543 of the current MICS. No sections of the current MICS were deleted, though some sections were added and some sections were re-arranged. We noted, for example, that in some cases provisions pertaining to certain kinds of functions were scattered throughout several subparts. The Cage subpart, for instance, contained provisions relating to surveillance. Since the responsibility for meeting the standard fell to the surveillance function, those provisions were moved from the cage subpart and were incorporated into the surveillance subpart. Some subparts were brought together to form a new subpart. Audit and accounting standards, for instance, were grouped together due to the interrelatedness of the two functions. Another issue tackled by the TGWG was the vernacular used in the present Class II MICS. The source of the problem in this regard is that much of Part 543 was simply lifted out of Part 542 and dropped in. Part 542, of course, pertains to Class III gaming which by definition is distinct and separate from Class II gaming. Since many terms applicable to Class III gaming are simply not applicable in the Class II arena, they were removed from the definition section. In some cases, the current regulation contained definitions that were not used at all in the body of the regulations. These definitions were deleted as well. In some instances definitions not included in the existing rule were added and other definitional revisions were made to ensure that those used in Part 543 were consistent with definitions contained in Part 547. The Commission will note that the TGWG proposed revision to part 543 is more condensed than the existing rule. A major factor for this is that although the tier system is retained, the proposed revision does not contain separate subparts for each tier; rather the exceptions or alternatives for tiers A and B are simply referenced in the applicable provisions. This revision significantly reduces redundancies in the regulation and makes it a more concise and more readily understandable document. Another factor is that a considerable amount of the procedural provisions were deleted from the proposed revision. However, the TGWG is in the process of incorporating these procedural provisions in detailed sets of guidance documents, which provide explanations as well as additional provisions that can be adopted or adapted by tribal gaming regulatory authorities as Tribal Internal Control Standards (TICS). The TGWG is also preparing checklists to go along with the guidance documents, which may then be issued by the NIGC in the form of bulletins or "best practices" guidance documents for possible publication on the NIGC website. 3

The TGWG is confident that the approach described will solve the longstanding imbalance in the existing MICS, which is overly detailed and prescriptive in some sections while somewhat vague and unclear in others. The TGWG approach will help ensure that those tribal governments in need of greater guidance due to size, experience, or other factors will be able to take advantage of comprehensive guidance documents. The TGWG is in the process of completing work on these guidance documents and checklists, and will be submitting the work products to the NIGC shortly.

Hearkening briefly back to the proposed new audit and accounting section, one of the developments in the NIGC's previous MICS revisions was the incorporation of certain professional or industry standards into the MICS, such as GASB, GAAP, FASB, and SSAE. It was the TGWG's view that since these standards have been incorporated by reference into the MICS, and since they independently apply to accounting and auditing professionals, it is unnecessary to restate these standards in the MICS. Doing so needlessly expands the size of the MICS and could create conflicts between the language included and future revisions of these standards; although we did include language making clear that any conflict between the text of the MICS and such standards will be resolved in favor of the incorporated standards in order to maintain currency.

Another feature of the new proposed audit and accounting standards is that the TGWG added some additional terminology to better reflect the nature of the audits performed on tribal gaming operations. It's important to note that in many instances, the internal audit function is performed by tribal gaming regulatory authorities rather than internally by the gaming operation itself. We believe that this circumstance provides far greater independence in relation to the function than a gaming operation could achieve on its own. Also, we revised the term "revenue audit," substituting the term "operational audits." The reason for this is to distinguish between this type of function, which is in the nature of an accounting function performed by the accounting or finance departments of a gaming operation and the performance of periodic independent audits.

Another issue with the MICS addressed by the TGWG was the inclusion of a new subpart specifically addressing promotions. Some language pertaining to promotions is contained in the existing MICS in the Bingo Subpart. However, Part 543 pertains to other types of Class II gaming and it was the TGWG's view that the provisions pertaining to parton accounts should not be limited solely to Bingo. Similarly, the provisions pertaining to parton accounts and cashless systems was removed from the Bingo section and given its own subpart. Two types of patron accounts are reflected in the proposed revision - restricted and unrestricted - as a means of ensuring that technology used to operate certain Class II gaming systems is covered by the MICS.

The existing MICS contains a subpart entitled IT, which refers to "Information Technology." Use of this terminology is confusing because the standards are actually related to the security and management of servers, server software and data associated with Class II Garming Systems rather than the management of data storage alone. Hence use of the term "IT" is a misnomer, which the TGWG corrected in its proposed revision by creating a new subpart entitled, "What are the Minimum Internal Control Standards for the Security and Management of Servers, Server Software and Data associated with Class II Garming Systems?"

Another improvement offered by the TGWG was the inclusion of a variance subpart. The existing Part 543 incorporates by reference the variance subpart in 542 which is applicable only to Class III gaming. In the view of the TGWG this operates to make Part 543 more difficult to use as it requires the user to flip back and forth between two separate and unrelated parts. All references to Part 542 were replaced to make this regulation easier to use.

Finally, the TGWG endeavored to incorporate standards that are clear, concise, technically correct with regard to terminology, and which make clear the harm the controls are intended to prevent. At the beginning of each subpart standard provisions are included, including language explaining the intent of such controls. With regard to complimentary services and items, for example, the language reads, "Controls must be established in a manner designed to prevent unauthorized access, misappropriation, forgery or fraud. Such controls must include, but not be limited to...." It is the TGWG's view that it is important to the proper implementation of the standards that tribal gaming regulators clearly understand the purpose and intent of each control standard. Such understanding will further operate to ensure that such understanding will aid tribal gaming regulators in developing and enforcing comprehensive tribal internal control standards.

III. PART 547 - Class II Technical Standards

In the words of the NIGC as stated in the preamble to Part 547 as initially published in the Federal Register, the purpose of the regulation is to establish technical standards to ensure the security and integrity of Class II games played with technologic aids, to ensure the auditability of the gaming revenue that those games earn, and to account and allow for evolving and new technology. With the assistance of a tribal advisory committee supported by a technical working group, the NIGC succeeded in the promulgation of a regulation designed to achieve such purposes.

Overall, Part 547 represents a sound regulation that has brought increased stability and clarity with regard to electronically aided Class II gaming. Accordingly, the TGWG's proposed revisions of Part 547 are largely technical in nature and tailored to render increased clarity, particularly in relation to terminology. The definition of "reflexive software" in the proposed revision, for example, was enhanced to make the definition more consistent with the industry understanding of the term and to more clearly identify the harm the regulatory prohibition is intended to prevent. The definition now reads, "Any software that has the ability to manipulate and/or replace a randomly generated outcome for the purpose of changing the results of a Class II game 'or deprives a player of a prize to which the player is otherwise entitled based on the random outcome of the game.'" Similar clarifying language or examples were added to several definitions for this same purpose.

A substantive proposed revision offered by the TGWG concerns the "grandfather provision," which establishes a five year limit on the use of grandfathered Class II gaming systems. In the TGWG's view, this provision is severely problematic. In the first place, most, if not all, of these grandfathered gaming systems have been operating without safety or integrity issues for many years. Moreover, to qualify for grandfathering status, the gaming software systems were required to be submitted to independent game testing laboratories for certification that the gaming software was compliant with non-waiveable provision governing the integrity of the

grandfathered systems set forth in subpart 547.4. Under these circumstances, it strikes the TGWG as arbitrary and capricious for an agency to require the removal of such gaming systems from the market after five years. Accordingly, the TGWG's proposed revisions remove the sunset language.

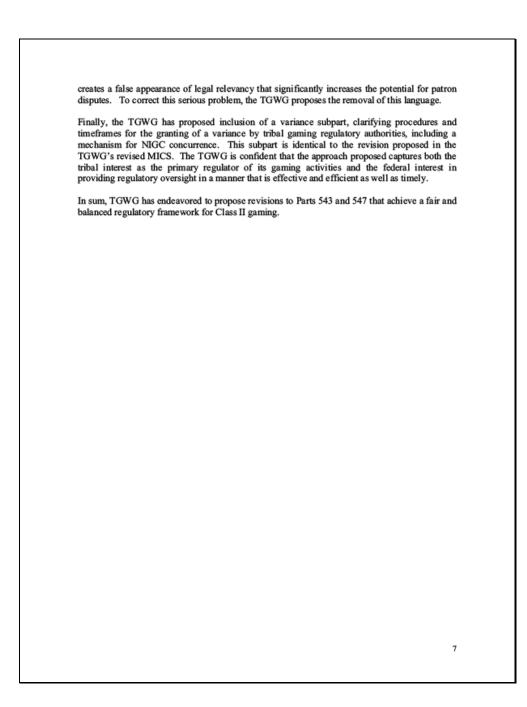
Additionally, submission under the grandfather provision was restricted to TGRAs and only provided grandfather status for games in active operation on the effective date. Accordingly, any manufacturer who may have had inactive games that would otherwise qualify for grandfather status, would not have been able to qualify such games for grandfather status. To ensure that tribes are able to take advantage of all Class II systems eligible for grandfather status, the TGWG has proposed a revision to this subpart.

Another substantive revision proposed by the TGWG concerns the inclusion of the provision requiring Underwriter's Laboratory testing of player interfaces in the existing regulation. Again, we note that we are unaware of any evidence that grandfathered Class II gaming systems pose a safety threat. Moreover, there is no support in IGRA for the proposition that the NIGC is authorized to establish or enforce electrical product safety standards, which is the province of other federal agencies, and, even if the NIGC had such authority, we question the propriety of an agency to specify a particular laboratory to conduct such product safety testing. Therefore, the TGWG proposed the removal of this provision. However, the TGWG does find it appropriate for the regulation to reflect that it is common industry practice for testing laboratories to make note or include other laboratory certifications as provided by the manufacturer in their report, hence language was inserted in the section concerning the content of laboratory reports.

Another issue with the existing rule is its restriction on tribal utilization of its own testing laboratory. The issue in this regard is not tribal ownership of testing labs, but rather one of independence and the appropriate segregation of function. In the view of the TGWG, it is not only unreasonable, but also imprudent to discourage tribes from developing greater capacity and utilizing it in this field given the sophistication of gaming technology. The proposed revision corrects this problem, while at the same time retaining provisions ensuring appropriate independence and segregation of function.

A major concern with regard to the existing regulation is the inclusion of a mathematical probability standard or "odds." In the existing rule the NIGC included an admittedly arbitrary probability standard that unfairly operates to limit game design and is not consistent with the probability standards applicable to most, if not all, charitable bingo operations and state lotteries. While the TGWG is of the view that it is appropriate to require Class II game manufacturers to disclose to TGRAs the mathematical expectations of the game and to have the laboratories verify such mathematical expectations, it does not view it appropriate for the NIGC to set arbitrary odds for bingo games. Accordingly, the TGWG offers a proposed revision to this subpart.

Another flaw in the existing regulation concerns provisions related to the "entertaining display" found on most Class II player interfaces. In Bingo gaming systems, game outcome is displayed on the bingo card located on the player interface which is independent of, and separate from, the entertaining display, which cannot in anyway affect the outcome of the game. Entertaining displays, therefore are irrelevant for regulatory purposes and operate solely to further the enjoyment of the player. Inclusion of regulatory language concerning entertaining displays



# **General Changes**

The TGWG found in their work sessions and consultations with tribal regulators, gaming operators and other industry experts that the existing Part 543 and the NIGC proposed MICS seemed to mandate specific procedures. Some of the specific procedures may have originated from other jurisdictions and/or mandated only a single way to comply, often with out-dated procedures. This was found to be very limiting where different procedures could comply with the intent of the control and sometimes created unnecessary financial hardship.

For this reason proposed changes throughout the MICS focus on what must be controlled and to what extent it must be controlled rather than what method must be used to control it. For instance where the existing MICS may require a particular department or job position to perform a task, the proposed changes focus on the function and controls the task must be performed under. Example; "... must be placed in a locked box, or in the case of a cashier, in the appropriate place in the cashier's cage ..." versus "... must be secured at all times ... ". This was done to make the MICS easier to use and with the intent of providing the primary regulator (TGRA) the flexibility to establish controls and approve procedures appropriate to each gaming operation.

The following changes were also applied consistently across multiple or all sections of the proposed MICS.

- The primary objectives to be met in establishing tribal internal control standards, policies, and procedures
- Support for alternate computer applications and technology in the presence of equivalent controls
- Enhanced controls for the audit and investigation of variances
- Consistent inventory controls
- Mandated supervision over all Class II gaming

For instance, controls for inventoried items were consolidated and simplified to provide flexibility in the method which tribes may comply without eliminating the primary controls to prevent unauthorized access, misappropriation, forgery, theft or fraud and mandate the control of exchanges and inventory management. The same controls are included in all sections that require inventory controls. This provides flexibility and consistency.

Other changes proposed are intended to eliminate confusion by reorganizing related information into fewer sections. For instance, the bingo section currently has audit and accounting controls in addition to several other sections for internal audit, accounting and revenue audit. This made the MICS more difficult to use and could cause confusion when TGRAs are trying to ensure coverage for all audit and accounting controls while implementing TICS and SICS. Therefore the TGWG proposed moving and consolidating these scattered controls into a single related section and believe that the reorganized MICS will be much easier to reference.

# **Proposed Changes by Section**

The following provides an overview by section of the TGWG changes proposed. References compare the TGWG proposed changes with those proposed by the NIGC. In some instances the existing adopted Part 543 may also be referenced.

# 543.1 What does this part cover?

TGWG proposed changes to this section are primarily focused on an objective to ensure that Part 543 contains all controls required to support Class II gaming and to eliminate any confusion that has been experienced in the past by having references to Part 542 Minimum Internal Control Standards for Class III Gaming.

Consistent with the changes proposed by the NIGC, with only a couple exceptions, the TGWG proposed that sections currently referenced in 543.1 from Part 542 be replaced with new sections in 543.

The exceptions:

- TGWG proposes that the same be done for the controls currently referenced in 542.18 (How does a gaming operation apply for a variance from the standards of this part?)
- The TGWG combined the following sections to eliminate confusion and make the MICS easier to use, consolidating 11 sections into 3
  - 543.19 covers internal audit for all Tiers, accounting and revenue audit; consolidating 5 sections into 1
  - 543.21 covers drop and count controls for all Tiers; consolidating 3 sections into 1
  - 543.23 cover surveillance controls for all Tiers; consolidating 3 sections into 1

The chart below lists each section from Part 542 referenced in the existing adopted Part 543, the changes proposed by NIGC, and the changes proposed by TGWG. This information is provided as a quick reference for section movement from Part 542 and consolidation of the same within the TGWG proposal.

Existing Part 543	NIGC Proposed MICS	TGWG Proposed MICS	TGWG Comments
542.14	543.14	543.14	Consistent with NIGC proposal
542.15	543.15	543.15	Consistent with NIGC proposal
542.17	543.17	543.17	Consistent with NIGC proposal
542.18	542.18	543.18	New section; recommendation is consistent with NIGC proposal for moving other sections from Part 542 to this part
542.20	543.2	543.2	Consistent with NIGC proposal the definition for a Tier A gaming operation has been moved to the definitions section (543.2); section 543.20 [Reserved]
542.21	543.21	543.21	Consistent with NIGC proposal as a new section in 543, the TGWG also proposes the consolidation of 543.21, 543.31, and 543.41 to eliminate confusion and make the MICS easier to use for all Tiers

Existing Part 543	NIGC Proposed MICS	TGWG Proposed MICS	TGWG Comments
542.22	543.22	543.19	TGWG proposes that internal audit controls for all Tiers be covered in 543.19 along with all other audit and accounting controls
542.23	543.23	543.23	Consistent with NIGC proposal as a new section in 543, the TGWG also proposes the consolidation of 543.23, 543.33, and 543.43 to eliminate confusion and make the MICS easier to use for all Tiers
542.30	543.2	543.2	Consistent with NIGC proposal the definition for a Tier B gaming operation has been moved to the definitions section (543.2)
542.31	543.31	543.21	Drop and count controls for all Tiers consolidated into 543.21 to eliminate confusion and make the MICS easier to use
542.32	543.32	543.19	Internal audit controls for all Tiers be covered in 543.19 along with all other audit and accounting controls
542.33	543.33	543.23	Surveillance controls for all Tiers consolidated into 543.23 to eliminate confusion and make the MICS easier to use
542.40	543.2	543.2	Consistent with NIGC proposal the definition for a Tier C gaming operation has been moved to the definitions section (543.2)
542.41	543.41	543.21	Drop and count controls for all Tiers consolidated into 543.21 to eliminate confusion and make the MICS easier to use
542.42	543.42	543.19	Internal audit controls for all Tiers be covered in 543.19 along with all other audit and accounting controls
542.43	543.43	543.23	Surveillance controls for all Tiers consolidated into 543.23 to eliminate confusion and make the MICS easier to use

#### **TGWG Proposed MICS Reference Guide**

# 543.2 What are the definitions for this part?

The definitions section was updated to be consistent with the proposed MICS changes. Definitions for terms that are not used in the proposed MICS were eliminated to avoid confusion. Other terms were added to ensure clarity for new terms and consistency throughout the entire part. Commonly used acronyms were also defined to support simplifier language within the controls, such as TICS for tribal internal control standards.

# 543.3 How do tribal governments comply with this part?

Consistent with the NIGC proposed changes, the TGWG proposed changes reflect the mandate for tribes to implement Tribal Internal Control Standards (TICS) and gaming operation to implement a System of Internal Controls (SICS) that fully support compliance with Part 543. References to TICS, SICS, and TGRA were added to simplify the language.

#### **TGWG Proposed MICS Reference Guide**

Internal and external audit controls were moved to 543.19 with audit and accounting controls to eliminate duplicated content, minimize confusion and to make the MICS easier to use. The new section 543.19 also includes new references to other industry standards that apply to audit and accounting such as GAAP.

# 543.4 [Reserved]

This section has been reserved and is consistent with the NIGC proposal.

# 543.5 [Reserved]

This section has been reserved and is consistent with the NIGC proposal.

# 543.6 Does this party apply to small and charitable gaming operations?

All changes proposed by TGWG for this section are consistent with those proposed by NIGC.

# 543.7 What are the minimum internal control standards for bingo?

The TGWG added new controls in this section to strengthen the intent for establishing internal controls for bingo. Additional controls were added for alternate computer applications and managing variances. These additions are common throughout the proposed MICS.

Controls for the inventory of bingo cards were consolidated and simplified to provide flexibility in the method which tribes may employ to comply without eliminating the primary controls that prevent unauthorized access, misappropriation, forgery, theft, or fraud and mandate the control of exchanges and inventory management.

Other changes to this section are proposed to eliminate confusion. For instance, this section currently has audit and accounting controls in addition to other sections for internal audit and revenue audit specifically. This could be quite confusing when trying to ensure coverage while implementing TICS and SICS. Hence, the TGWG proposed moving and consolidating these scattered controls into a single related section. The following controls were moved from this section to other sections as listed below.

NIGC Proposed MICS	TGWG Comments
(d) Operational controls	This section primarily dealt with controls for handling cash and cash equivalents; the TGWG proposes that these controls be moved to 543.14 (Cage, vault, cash and cash equivalents)
(e) Gaming equipment	These controls were consolidated into the proposed "543.7 (i) Technologic Aids to the Play of Bingo" section
(f) Voucher systems	Since vouchers are cash equivalents these controls were covered to 543.14 (Cage, vault, cash and cash equivalents) and a consolidated section "543.7 (h) Cash and cash equivalents"
(g) Patron accounts and cashless systems	These controls moved to a separate section, 543.11 (Patron deposit accounts and cashless systems)

NIGC Proposed MICS	TGWG Comments
(h) Promotions	These controls moved to a separate section, 543.10 (Gaming promotions)
(i) Accounting	While the NIGC proposed a new section (543.50 Revenue Audit) for these controls, TGWG believes it is less confusing and easier to use when moved to 543.19 (Audit and accounting) as proposed

# 543.8 What are the minimum internal control standards for pull tabs?

Consistent with the NIGC proposal, the TGWG proposes this new section to cover pull tabs. Changes were proposed similar to those made in the bingo section to consolidate, simplify and provide tribes with the flexibility to establish appropriate procedures for each operation. Other controls in this section were clarified to include electronic equivalents and support technology.

# 543.9 What are the minimum internal control standards for card games?

Also consistent with the NIGC proposal, the TGWG proposes this new section to cover card games. Changes proposed in the bingo and pull tab sections are similar in this section for consistency. For instance, all audit and accounting controls for card games were moved to 543.19 (Audit and accounting).

The TGWG believes that using consistent wording and controls throughout the Part helps tribes and gaming operations understand the regulations intent without having to learn different nomenclature and conventions from section to section. This is reflected in controls for inventory management in all sections that include inventory controls.

# 543.10 What are the minimum internal control standards for gaming promotions?

This is a new section proposed by the TGWG to address promotions for Class II games. This topic was previously covered in the existing and proposed NIGC MICS for bingo only in 543.7 (h), but the TGWG felt that these controls apply to all Class II games and warranted a separate section.

# 543.11 What are the minimum internal control standards for patron deposit accounts and cashless systems?

This is a new section proposed by the TGWG to address patron deposit accounts and cashless systems for Class II games. This topic was previously covered in the existing and proposed NIGC MICS for bingo only in 543.7 (g), but the TGWG felt that these controls apply to all Class II games and warranted a separate section.

The new proposed MICS include controls for both restricted and unrestricted patron deposit accounts. To ensure consistency with other industries and regulations, considerable research was done in this area including reviews of the Credit Card Act and how prepaid and gift cards are regulated throughout the country.

# 543.12 What are the minimum internal control standards for player tracking systems used in conjunction with Class II gaming?

This is a new section proposed by the TGWG to address the use of player tracking systems in conjunction with Class II games. This topic was previously covered in the existing and proposed NIGC MICS for bingo only in 543.7 (g)(3)(ii)(A)-(C), but the TGWG felt that these controls apply to all Class II games and warranted a separate section.

# 543.13 [Reserved]

This section has been reserved and is consistent with the NIGC proposal.

# 543.14 What are the minimum internal control standards for cage, vault, cash and cash equivalents?

This section reflects a new name and an expanded scope with the consolidation of controls from other sections. This was done to eliminate confusion and organize the controls in a manner that is consistent with most gaming operations and mandates accountability regardless of location or department.

One of the areas expanded in the TGWG proposal is "Variances". The TGWG feels strongly that tribes and gaming operations must establish strong controls for the review of all types of transactions and investigate all variances and exceptions. Another area that was expanded was check cashing. The proposed MICS now cover the entire lifecycle of the check cashing and deposit process.

The management of payouts was consolidated in this section to eliminate confusion between types of transactions (e.g. manual payouts vs. short pays) since the TGWG believes that all payouts processed must meet the same requirements.

Controls from other sections were moved to this section to ensure that wherever the accountability for a particular asset or transaction is assigned the controls are centralized and consistent.

Controls were added to other sections (e.g., Bingo, Pull Tabs, Card Games) referencing these controls to ensure consistency and eliminate confusion.

# 543.15 What are the minimum internal control standards for lines of credit?

This section reflects a new name to distinguish it from check cashing which is covered in the proposed 543.14 (Cage, vault, cash, and cash equivalents) section. The TGWG has expanded the controls required for lines of credit to minimize risk for financial loss and consolidated similar controls for consistency and to make the controls easier to use.

# 543.16 What are the minimum internal control standards for security and management of server, server software, and data associated with Class II gaming systems?

This section reflects a new name to focus the content on Class II gaming systems. TGWG found that the MICS previously referring to Information Technology could cause confusion as to which systems the controls were applicable.

Proposed changes reflect consolidating similar controls for consistency and to make the controls easier to use and allowing flexibility in how a tribe and gaming operation can comply with the MICS.

# 543.17 What are the minimum internal control standards for complimentary services or items?

Consistent with the NIGC proposal, the TGWG proposes this new section to cover complimentary services or items. Along with a proposed change to the definition for "complimentary services or items" to cover all comps versus only those issued " at the discretion of...", the proposed controls are applicable to all complimentary services or items. Supervision controls are also proposed to ensure greater oversight.

Changes were proposed similar to those made throughout Part 543 to consolidate, simplify and provide tribes with the flexibility to establish appropriate procedures for each operation.

# 543.18 How does a gaming operation apply for a variance from the standards of this part?

TGWG proposed this new section with the objective to ensure that Part 543 contains all controls required to support Class II gaming and to eliminate any confusion that has been experienced in the past by having references to Part 542 Minimum Internal Control Standards for Class III Gaming.

In addition to moving these controls into a new section in Part 543 other changes were proposed to consolidate, simplify, and provide flexibility in TGRAs establishing appropriate variance controls for their gaming operations.

# 543.19 What are the minimum internal control standards for audit and accounting?

Consistent with the NIGC proposal, the TGWG proposes this new section to cover controls for accounting. The TGWG proposes that the controls NIGC proposed in 543.22, 543.32, 543.42, and 543.50 should be consolidated into this new section to eliminate duplication and potential confusion. This recommendation consolidates all controls for audit and accounting into a single section and makes it much easier for TGRAs and gaming operations to effectively use the information and ensure coverage when implementing TICS and SICS.

Another significant improvement included in the TGWG proposed controls for audit and accounting is the clear references to and support for external standards promulgated by GASB and GASB, such as GAAP.

Changes were proposed similar to those made in other sections to consolidate, simplify and provide tribes with the flexibility to establish appropriate procedures for each gaming operation.

# 543.20 [Reserved]

This section has been reserved and is consistent with the NIGC proposal.

In both the NIGC and TGWG proposed MICS this section, the definition of Tier A gaming operations, was moved to the definitions section (543.2) and this section reserved.

# 543.21 What are the minimum internal control standards for drop and count?

Similar to the NIGC proposal, the TGWG proposes this new section to cover controls for drop and count. The NIGC proposal maintained the existing convention that each Tier requires a separate section. The TGWG proposal consolidates the drop and count controls for all Tiers into this section. Controls that are specific to a Tier are called out clearly throughout this section. As with other sections this change makes the MICS significantly easier to use and eliminates the potential for confusion with three sections (543.21, 543.31, and 543.41) now combined into one section.

New controls were also proposed to ensure supervision of all drop and count operations, ensuring greater oversight.

# 543.22 [Reserved] - Combined with 543.19

This section has been reserved.

In the NIGC proposed MICS this section covered controls for internal audit for Tier A gaming operations only. Those controls have been included in the proposed audit and accounting section (543.19) of these MICS.

# 543.23 What are the minimum internal control standards for surveillance?

Similar to with the NIGC proposal, the TGWG proposes this new section to cover controls for surveillance. The NIGC proposal maintained the existing convention that each Tier requires a separate section. The TGWG proposal consolidates the surveillance controls for all Tiers into this section. Controls that are specific to a Tier are called out clearly throughout this section. As with other sections this change makes the MICS significantly easier to use and eliminates potential confusion with three sections (543.23, 543.33, and 543.43) combined into one section.

# 543.30 Moved to 543.2

This section has been moved and is consistent with the NIGC proposal.

#### **TGWG Proposed MICS Reference Guide**

In the proposed NIGC MICS this section, the definition of Tier B gaming operations, was moved to the definitions section (543.2) and this section reserved. The TGWG proposal also moved this content to definitions (543.2), but saw no need to reserve this section number for future use.

# 543.31 Combined with 543.21

This section has been moved and is no longer used.

In the NIGC proposed MICS this section covered controls for drop and count for Tier B gaming operations only. Those controls have been included in the proposed drop and count section (543.21).

#### 543.32 Combined with 543.19

This section has been moved and is no longer used.

In the NIGC proposed MICS this section covered controls for internal audit for Tier B gaming operations only. Those controls have been included in the proposed audit and accounting section (543.19).

#### **543.33 Combined with 543.23**

This section has been moved and is no longer used.

In the NIGC proposed MICS this section covered controls for surveillance for Tier B gaming operations only. Those controls have been included in the proposed surveillance section (543.23).

# 543.40 Moved to 543.2

This section has been moved and is consistent with the NIGC proposal.

In the proposed NIGC MICS this section was moved to definitions (543.2) and reserved. The TGWG proposal also moved this content to definitions (543.2), but saw no need to reserve this section number for future use.

#### 543.41 Combined with 543.21

This section has been moved and is no longer used.

In the NIGC proposed MICS this section covered controls for drop and count for Tier C gaming operations only. Those controls have been included in the proposed drop and count section (543.21).

# 543.42 Combined with 543.19

This section has been moved and is no longer used.

In the NIGC proposed MICS this section covered controls for internal audit for Tier C gaming operations only. Those controls have been included in the proposed audit and accounting section (543.19).

# 543.43 Combined with 543.23

This section has been moved and is no longer used.

In the NIGC proposed MICS this section covered controls for surveillance for Tier C gaming operations only. Those controls have been included in the proposed surveillance section (543.23).

# 543.50 **Combined with 543.19**

This section has been moved and is no longer used.

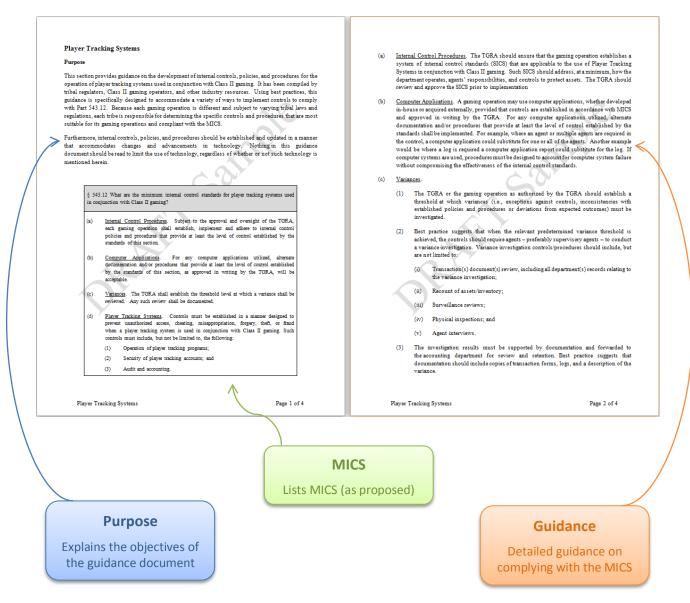
In the NIGC proposed MICS this section covered controls for revenue audit. Those controls been included in the proposed audit and accounting section (543.19).

# Guidance

The TGWG has written guidance documents to aid tribes, TGRAs, and gaming operators in understanding the MICS intent and how to comply with each section. There is a significant focus throughout the guidance documents on consistency. Comprehensive information is provided that offers procedural options and other useful guidance. Industry standards, best practices, other related regulations and standards in addition to the proposed MICS are referenced as appropriate to provide tribes information and sources that they may need to consider and/or must comply with when developing their internal controls, policies, and procedures.

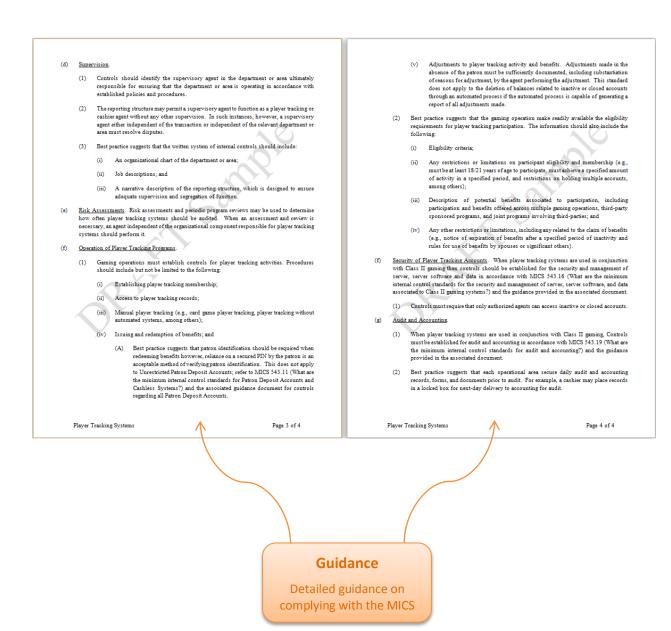
Some guidance documents also include samples to be sure that the content is understood and is demonstrated. The guidance documents will be submitted to NIGC for consideration.

Below is a DRAFT sample of a checklist.



# Sample Guidance Document - Pages 1 & 2 of 4

# Sample Guidance Document – Pages 3 & 4 of 4



# **Checklists**

The TGWG is currently drafting sample checklists for the proposed MICS to aid the NIGC and tribes in implementing standardized compliance checklists for the MICS once adopted. The checklists will be submitted to the NIGC for consideration upon completion. Below is a DRAFT sample of a checklist.

Auditor Name:				
		Audi	t Period:	
		auditor in determining whether the operat Standards (MICS) for Card Games (Secti		compliance with
ICS Variances and Con	puterized App	lications:		
sed when performing au erform additional proce Copies of approval letter	idit checklist s dures, as appli s for computer plications utiliz	ized applications for use in this gaming as zed to perform procedures in the audit ch	described in the approval letter to rea should be obtained and docu	modify and/or umented in the grid
Dete	TICS	Developing of	Charlie Oracian	W/P Ref.
Date Variances/Approval s Granted		Description of Variances Granted and Computerized Application version number	Checklist Question Number(s) of Procedure Modified or Added	(if appl.)
		number		
Checklist Completion N	otes:			
personnel, or throug interview and the ind the date of documen	h observation of lividual's job t tation and doo	procedures were confirmed through example of procedures. For inquiry of personnel, to itle should be documented in the commer cument information should be listed in	the name of the person interview at section. For examination/review the comment section. For observ	ved, the date of the w of documentation rvation, the date of
observation and spe defined.	rific location o	bserved should be listed in the comment :	section. Tickmarks used in the c	hecklist should be
not satisfy due dilig	ence complia	s require additional referencing and/or co nce with the MICS, the "No" answer sh int as to the reason the procedure is not	nould be cited as an exception.	
) All exceptions noted	l should be carr	ried to the internal auditor's report for ti	imely follow-up.	
,				
Verified per Ob	servation			

Sample MICS Compliance Checklist – Card Games – Page 1 of 10

# Sample MICS Compliance Checklist – Card Games – Page 2 of 10

				PLIANCE CHECKLIST DEPARTMENT
Scope:				
The following checklist is recommended. <sup>1</sup>	This che	cklist n	austbe	completed once in each fiscal year.
-				
Questions	Yes	No	N/A	Comments, W/P Reference
<ol> <li>Review TICS and SICS, and cross reference them to ensure</li> </ol>				
completeness. Check for changes to				
TICS and SICS from prior audit.				
2. Review prior internal audit report.				
Document any relevant exceptions				
cited, and include in scope of audit increased testing/examination/inquiry				
for exceptions noted.				
Computerized Applications				
(543.9(b))				
<ol><li>For Computerized Applications listed in the grid above, perform</li></ol>				
procedures to ensure the approved				
applications are in use in the gaming area.				
alea.				
4. Do Organizational Charts and Job				
descriptions outline proper segregation of duties?			-	
segregation of daties.				
(Obtain copies of gaming area				
organizational chart and job descriptions. Review to ensure proper		1		
segregation of duties.)				
5. If an agent performs multiple	<i>p</i>			
functions, does the operation have a				
policy in place to ensure proper				
segregation of duties?				
	•	•	•	•
				used without a careful review of the needs of the particular gaming cklist, the MICS, TICS, and SICS to ensure any checklist meets the
specific needs of that gaming operation.	ity review	- une sai	upie cite	anno, mennico, 1100, and 5105 to ensure any theorist meets the
Verified per Observation				
Verified per Review/Examination	ofdocu	ments		
Verified per Inquiry				

# TAB P

# PART 547 – MINIMUM TECHNICAL STANDARDS FOR GAMING EQUIPMENT USED WITH THE PLAY OF CLASS II GAMES

Sec.

- 547.1 What is the purpose of this part?
- 547.2 How do these regulations affect state jurisdiction?
- 547.3 What are the definitions for this part?
- 547.4 How does a tribal government, TGRA, or tribal gaming operation comply with this part?
- 547.5 What are the rules of interpretation and of general application for this part?
- 547.6 What are the minimum technical standards for enrolling and enabling Class II gaming system components?
- 547.7 What are the minimum technical hardware standards applicable to Class II gaming systems?
- 547.8 What are the minimum technical software standards applicable to Class II gaming systems?
- 547.9 What are the minimum technical standards for Class II gaming system accounting functions?
- 547.10 What are the minimum standards for Class II gaming system critical events?
- 547.11 What are the minimum technical standards for money and credit handling?
- 547.12 What are the minimum technical standards for downloading on a Class II gaming system?
- 547.13 What are the minimum technical standards for program storage media?
- 547.14 What are the minimum technical standards for electronic random number generation?
- 547.15 What are the minimum technical standards for electronic data communications between system components?
- 547.16 What are the minimum standards for game artwork, glass, and rules?
- 547.17 How does a TGRA grant a variance from these standards?

Authority: 25 U.S.C. 2706(b).

#### § 547.1 What is the purpose of this part?

The Indian Gaming Regulatory Act, 25 U.S.C. 2703(7)(A)(i), permits the use of electronic, computer, or other

technologic aids in connection with the play of Class II games. This part establishes the minimum technical standards

governing the use of such aids.

#### § 547.2 How do these regulations affect state jurisdiction?

Nothing in this part shall be construed to grant to a state jurisdiction over Class II gaming or to extend a state's

jurisdiction over Class III gaming.

#### § 547.3 What are the definitions for this part?

For the purposes of this part, the following definitions apply:

Account access component. A component within a Class II gaming system that reads or recognizes account access media and gives a patron the ability to interact with an account.

*Account access medium.* A magnetic stripe card or any other medium inserted into, or otherwise made to interact with, an account access component in order to give a patron the ability to interact with an account.

*Audit mode*. The mode where it is possible to view Class II gaming system accounting functions, statistics, etc. and perform non-player-related functions.

*Agent*. A person authorized by the gaming operation, as approved by the TGRA, to make decisions, tasks or actions on the behalf of the gaming operation. This definition permits the use of computer applications to perform the function(s) of an agent.

*Cancel credit.* An action initiated by the Class II gaming system where some or all of a player's credits are removed by an attendant and paid to the player.

*Cashless system*. A system that performs cashless transactions and maintains records of those cashless transactions.

*Cashless transaction.* A movement of funds electronically from one component to another, often to or from a patron deposit account, or promotional account.

CD-ROM. Compact Disc – Read Only Memory.

Chairman. The Chairman of the National Indian Gaming Commission.

Class II game. Class II gaming shall have the same meaning as defined in 25 U.S.C. 2703(7)(A).

*Class II gaming system*. All components, whether or not technologic aids in electronic, computer, mechanical, or other technologic form, that function together to aid the play of one or more Class II games, including accounting functions mandated by these regulations.

*Commission.* The National Indian Gaming Commission established by the Indian Gaming Regulatory Act, 25 U.S.C. 2701 *et seq.* 

*Coupon*. A financial instrument of fixed wagering value, usually paper, that can only be used to acquire noncashable credits through interaction with a voucher system. This does not include instruments such as printed advertising material that cannot be validated directly by a voucher system.

Critical memory. Memory locations storing data essential to the functionality of the Class II gaming system.

DLL. A Dynamic-Link Library file.

*Download package*. Approved data sent to a component of a Class II gaming system for such purposes as changing the component software.

DVD. Digital Video Disk or Digital Versatile Disk.

*EPROM*. Erasable Programmable Read Only Memory – a storage area that may be filled with data and information, that once written is not modifiable, and that is retained even if there is no power applied to the machine.

*Fault*. An event that when detected by a Class II gaming system causes a discontinuance of game play or other component functions.

*Financial instrument*. Any tangible item of value tendered in Class II game play, including, but not limited to, bills, coins, vouchers and coupons.

Financial instrument acceptor. Any component that accepts financial instruments, such as a bill validator.

Financial instrument dispenser. Any component that dispenses financial instruments, such as a ticket printer.

Financial instrument storage component. Any component that stores financial instruments, such as a drop box.

Flash memory. Non-volatile memory that retains its data when the power is turned off and that can be

electronically erased and reprogrammed without being removed from the circuit board.

*Game software*. The operational program or programs that govern the play, display of results, and/or awarding of prizes or credits for Class II games.

*Gaming equipment*. All electronic, electro-mechanical, mechanical, or other physical components utilized in the play of Class II games.

Hardware. Gaming equipment.

Interruption. Any form of mis-operation, component failure, or interference to the Class II gaming equipment.

Modification. A revision to any hardware or software used in a Class II gaming system.

*Non-cashable credit.* Credits given by an operator to a patron; placed on an Class II gaming system through a coupon, cashless transaction or other approved means; and capable of activating play but not being converted to cash.

*Patron.* A person who is a customer or guest of the gaming operation and may interact with a Class II game. Also may be referred to as a "player".

*Patron deposit account*. An account maintained on behalf of a patron, for the purpose of depositing and withdrawing cashable funds for the primary purpose of interacting with a gaming activity.

*Player interface*. Any component or components of a Class II gaming system, including an electronic or technologic aid (not limited to terminals, player stations, handhelds, fixed units, etc.), that directly enables player interaction in a Class II game.

Prize schedule. The set of prizes available to players for achieving pre-designated patterns in the Class II game.

*Program storage media*. An electronic data storage component, such as a CD-ROM, EPROM, hard disk, or flash memory on which software is stored and from which software is read.

*Progressive prize*. A prize that increases by a selectable or predefined amount based on play of a Class II game. *Random number generator (RNG)*. A software module, hardware component or combination of these designed to

produce outputs that are effectively random.

*Reflexive software*. Any software that has the ability to manipulate and/or replace a randomly generated outcome for the purpose of changing the results of a Class II game or deprives a player of a prize to which the player is otherwise entitled based on the random outcome of the game.

*Removable/rewritable storage media.* Program or data storage components that can be removed from gaming equipment and be written to, or rewritten by, the gaming equipment or by other equipment designed for that purpose.

Server. A computer that controls one or more applications or environments within a Class II gaming system.

*Test/diagnostics mode.* A mode on a component that allows various tests to be performed on the Class II gaming system hardware and software.

Testing laboratory. An organization recognized by a TGRA pursuant to § 547.4(f).

*TGRA*. Tribal gaming regulatory authority, which is the entity authorized by tribal law to regulate gaming conducted pursuant to the Indian Gaming Regulatory Act.

*Voucher*. A financial instrument of fixed wagering value, usually paper, that can only be used to acquire an equivalent value of cashable credits or cash through interaction with a voucher system.

*Voucher system.* A component of the Class II gaming system or an external system that securely maintains records of vouchers and coupons; validates payment of vouchers; records successful or failed payments of vouchers and coupons; and controls the purging of expired vouchers and coupons.

#### § 547.4 How does a tribal government, TGRA, or tribal gaming operation comply with this part?

#### (a) Limited immediate compliance. A TGRA shall:

(1) Require that all Class II gaming system software that affects the play of the Class II game and were in operation prior to November 10, 2008 be submitted, together with the signature verification required by § 547.8(f), to a testing laboratory recognized pursuant to paragraph (f) of this section.

(2) Require that the testing laboratory test the submission to the standards established by § 547.8(b), § 547.8(f), § 547.14, § 547.5(c), and to any additional technical standards adopted by the TGRA;

(3) Require that the testing laboratory provide the TGRA with a formal written report setting forth and certifying to the findings and conclusions of the test;

(i) The testing laboratory's written report shall note the submission of any other compliance with applicable federal laws or regulations.

(ii) [Reserved]

(4) Make a finding, in the form of a certificate provided to the supplier or manufacturer of the Class II gaming system, that the Class II gaming system qualifies for grandfather status under the provisions of this section, but only upon receipt of a testing laboratory's report that the Class II gaming system is compliant with § 547.8(b), § 547.8(f), § 547.5(c), § 547.14, and any other technical standards adopted by the TGRA. If the TGRA does not issue the certificate, or if the testing laboratory finds that the Class II gaming system is not compliant with § 547.8(b), § 547.8(f), §

547.5(c), § 547.14, or any other technical standards adopted by the TGRA, then the gaming system shall immediately be removed from play and not be utilized.

(5) Retain a copy of any testing laboratory's report so long as the Class II gaming system that is the subject of the report remains available to the public for play;

(6) Retain a copy of any certificate of grandfather status so long as the Class II gaming system that is the subject of the certificate remains available to the public for play; and

(7) Require the supplier of any player interface to designate with a permanently affixed label each player interface with an identifying number and the date of manufacture or a statement that the date of manufacture was on or before the effective date of this part. The TGRA shall also require the supplier to provide a written declaration or affidavit affirming that the date of manufacture was on or before November 10, 2008.

(b) *Grandfather provisions*. All Class II gaming systems manufactured or placed in a tribal facility on or before the effective date of this part and certified pursuant to paragraph (a) of this section are grandfathered Class II gaming systems for which the following provisions apply:

(1) Grandfathered Class II gaming system shall be available for use at any tribal gaming facility subject to approval by the TGRA, which shall transmit its notice of that approval, identifying the grandfathered Class II gaming system and its components, to the Commission.

(2) As permitted by the TGRA, individual hardware or software components of a grandfathered Class II gaming system may be repaired or replaced to ensure proper functioning, security, or integrity of the grandfathered Class II gaming system.

(3) All modifications that affect the play of a grandfathered Class II gaming system must be approved pursuant to paragraph (c) of this section, except for the following:

(i) Any software modifications that the TGRA finds will maintain or advance the system's overall compliance with this part or any applicable provisions of part 543 of this chapter, after receiving a new testing laboratory report that the modifications are compliant with the standards established by § 547.8(b), § 547.5(c), § 547.14, and any other standards adopted by the TGRA;

6

(ii) Any hardware modifications that the TGRA finds will maintain or advance the system's overall compliance with this part or any applicable provisions of part 543 of this chapter; and

(iii) Any other modification to the software of a grandfathered Class II gaming system that the TGRA finds will not detract from, compromise or prejudice:

(A) The proper functioning, security, or integrity of the Class II gaming system, and

(B) The gaming system's overall compliance with the requirements of this part or any applicable provisions of part543 of this chapter.

(iv) No such modification may be implemented without the approval of the TGRA. The TGRA shall maintain a record of the modification so long as the Class II gaming system that is the subject of the modification remains available to the public for play and shall make the record available to the Commission upon request. The Commission will only make available for public review records or portions of records subject to release under the Freedom of Information Act, 5 U.S.C. 552; the Privacy Act of 1974, 5 U.S.C. 552a; or the Indian Gaming Regulatory Act, 25 U.S.C. 2716(a).

(c) *Submission, testing, and approval – generally*. Except as provided in paragraphs (b) and (d) of this section, no TGRA shall permit in a tribal gaming operation the use of any Class II gaming system, or any associated cashless system or voucher system or any modification thereto, unless:

(1) The Class II gaming system, cashless system, voucher payment system, or modification has been submitted to a testing laboratory;

(2) A TGRA shall require a testing laboratory to test the submission to the standards established by:

(i) This part;

(ii) Any applicable provisions of part 543 of this chapter that are testable by the testing laboratory; and

(iii) The TGRA;

(3) The testing laboratory provides a formal written report to the party making the submission, setting forth and certifying to its findings and conclusions; and

(4)(i) Following receipt of the testing laboratory's report, the TGRA makes a finding that the Class II gaming system, cashless system, or voucher system conforms to the standards established by:

(A) This part;

(B) Any applicable provisions of part 543 of this chapter that are testable by the testing laboratory; and

(C) The TGRA.

(ii) The TGRA shall retain a copy of the testing laboratory's report so long as the Class II gaming system, cashless system, voucher system, or modification thereto that is the subject of the report remains available to the public for play in its gaming operation.

(d) Emergency hardware and software modifications.

(1) A TGRA, in its discretion, may permit modified hardware or software to be made available for play without prior laboratory testing or review if the modified hardware or software is:

(i) Necessary to correct a problem affecting the fairness, security, or integrity of a game or accounting system or any cashless system, or voucher system; or

(ii) Unrelated to game play, an accounting system, a cashless system, or a voucher system.

(2) If a TGRA authorizes new or modified software or hardware to be made available for play or use without prior testing laboratory review, the TGRA shall thereafter require the hardware or software manufacturer to:

(i) Immediately advise other users of the same hardware or software of the importance and availability of the update;

(ii) Immediately submit the new or modified hardware or software to a testing laboratory for testing and verification of compliance with this part and any applicable provisions of part 543 of this chapter that are testable by the testing laboratory; and

(iii) Immediately provide the TGRA with a software signature verification tool meeting the requirements of §547.8(f) for any new or modified software.

(3) If a TGRA authorizes a software or hardware modification under this paragraph, it shall maintain a record of the modification and a copy of the testing laboratory report so long as the Class II gaming system that is the subject of

the modification remains available to the public for play and shall make the record available to the Commission upon request. The Commission will only make available for public review records or portions of records subject to release under the Freedom of Information Act, 5 U.S.C. 552; the Privacy Act of 1974, 5 U.S.C. 552a; or the Indian Gaming Regulatory Act, 25 U.S.C. 2716(a).

(e) *Compliance by charitable gaming operations*. This part shall not apply to charitable gaming operations, provided that:

(1) The tribal government determines that the organization sponsoring the gaming operation is a charitable organization;

(2) All proceeds of the charitable gaming operation are for the benefit of the charitable organization;

(3) The TGRA permits the charitable organization to be exempt from this part;

(4) The charitable gaming operation is operated wholly by the charitable organization's employees or volunteers;

and

(5) The annual gross gaming revenue of the charitable gaming operation does not exceed \$1,000,000.

(f) Testing laboratories. (1) A testing laboratory may provide the examination, testing, evaluating and reporting

functions required by this section provided that:

(i) It demonstrates its integrity, independence and financial stability to the TGRA.

(ii) It demonstrates its technical skill and capability to the TGRA.

(iii) If the testing laboratory is owned or operated by the tribe, the testing laboratory must be independent from the manufacturer and gaming operator for whom it is providing the testing, evaluating, and reporting functions required by this section.

(iv) The TGRA:

(A) Makes a suitability determination of the testing laboratory based upon standards no less stringent than those set out in §§ 533.6(b)(1)(ii) through (v) of this chapter and based upon no less information than that required by § 537.1 of this chapter, or (B) Accepts, in its discretion, a determination of suitability for the testing laboratory made by any other gaming regulatory authority in the United States.

(v) After reviewing the suitability determination and the information provided by the testing laboratory, the TGRA determines that the testing laboratory is qualified to test and evaluate Class II gaming systems.

(2) The TGRA shall:

(i) Maintain a record of all determinations made pursuant to paragraphs (f)(1)(iii) and (f)(1)(iv) of this section for a minimum of three years and shall make the records available to the Commission upon request. The Commission will only make available for public review records or portions of records subject to release under the Freedom of Information Act, 5 U.S.C. 552; the Privacy Act of 1974, 5 U.S.C. 552a; or the Indian Gaming Regulatory Act, 25 U.S.C. 2716(a).

(ii) Place the testing laboratory under a continuing obligation to notify it of any adverse regulatory action in any jurisdiction where the testing laboratory conducts business.

(iii) Require the testing laboratory to provide notice of any material changes to the information provided to the TGRA.

#### § 547.5 What are the rules of interpretation and of general application for this part?

(a) *Minimum standards*. A TGRA may establish and implement additional technical standards that are as stringent as, or more stringent than, those set out in this part.

(b) *Only applicable standards apply*. Gaming equipment and software used with Class II gaming systems shall meet all applicable requirements of this part. For example, if a Class II gaming system lacks the ability to print or accept vouchers, then any standards that govern vouchers do not apply.

(c) *Fairness*. No Class II gaming system shall cheat or mislead users. All prizes advertised shall be available to win during the game. Test laboratory shall calculate and/or verify the mathematical expectations of game play, where applicable, in accordance with the manufacturer stated submission. The results shall be included in the test laboratory's report to the TGRA.

(d) *Approved equipment and software only*. All gaming equipment and software used with Class II gaming systems shall be identical in all respects to a prototype reviewed and tested by a testing laboratory and approved for use by the TGRA pursuant to § 547.4(a) through (c). Unapproved software shall not be loaded onto or stored on any program storage medium used in a Class II gaming system, except as provided in § 547.4(d).

(e) *Proper functioning*. All gaming equipment and software used with Class II gaming systems shall perform according to the manufacturer's design and operating specifications.

(f) *No Limitation of Technology*. This part should not be interpreted to limit the use of technology or to preclude the use of technology not specifically referenced.

(g) *Severability*. If any provision of this part is declared invalid by a court of competent jurisdiction, such decision shall not affect the remainder of this part.

# § 547.6 What are the minimum technical standards for enrolling and enabling Class II gaming system components?

(a) General requirements. Class II gaming systems shall provide a method to:

- (1) Enroll and unenroll system components;
- (2) Enable and disable specific system components.
- (b) Specific requirements. Class II gaming systems shall:
- (1) Ensure that only enrolled and enabled system components participate in gaming; and
- (2) Ensure that the default condition for components shall be unenrolled and disabled.

#### § 547.7 What are the minimum technical hardware standards applicable to Class II gaming systems?

(a) Printed circuit boards.

(1) Printed circuit boards that have the potential to affect the outcome or integrity of the game, and are specially manufactured or proprietary and not off-the-shelf, shall display a unique identifier such as a part number and/or revision number, which shall be updated to reflect new revisions or modifications of the board.

(2) Switches or jumpers on all circuit boards that have the potential to affect the outcome or integrity of any game, progressive award, financial instrument, cashless transaction, voucher transaction, or accounting records shall be capable of being sealed.

(b) *Electrostatic discharge*. Class II gaming system components accessible to the public shall be constructed so that they exhibit immunity to human body electrostatic discharges on areas exposed to contact. Static discharges of  $\pm 15$  kV for air discharges and  $\pm 7.5$  kV for contact discharges may not cause damage, or inhibit operation or integrity of the Class II gaming system.

(c) *Physical enclosures*. Physical enclosures shall be of a robust construction designed to resist determined illegal entry. All protuberances and attachments such as buttons, identification plates, and labels shall be sufficiently robust to avoid unauthorized removal.

(d) Player interface. The player interface shall include a method or means to:

- (1) Display information to a player; and
- (2) Allow the player to interact with the Class II gaming system.

(e) Account access components. A Class II gaming system component that reads account access media shall be located within a secure, locked or tamper-evident area or in a cabinet or housing that is of a robust construction designed to resist determined illegal entry and to protect internal components. In addition, the account access component:

(1) Shall be constructed so that physical tampering leaves evidence of such tampering; and

(2) Shall provide a method to enable the Class II gaming system to interpret and act upon valid or invalid input or error condition.

(f) *Financial instrument storage components*. Any Class II gaming system components that store financial instruments and that are not designed to be operated under the direct control of a gaming operation employee or agent shall be located within a secure and locked area or in a locked cabinet or housing that is of a robust construction designed to resist determined illegal entry and to protect internal components.

(g) *Financial instrument acceptors*. (1) Any Class II gaming system components that handle financial instruments and that are not designed to be operated under the direct control of an agent shall:

(i) Be located within a secure, locked and tamper-evident area or in a locked cabinet or housing that is of a robust construction designed to resist determined illegal entry and to protect internal components;

(ii) Be able to detect the entry of valid or invalid financial instruments and to provide a method to enable the ClassII gaming system to interpret and act upon valid or invalid input or error condition; and

(iii) Be constructed to permit communication with the Class II gaming system of the accounting information required by § 547.9(a) and by applicable provisions of any Commission and tribal gaming regulatory regulations governing minimum internal control standards.

(2) Prior to completion of a valid financial instrument transaction by the Class II gaming system, no monetary amount related to that instrument shall be available for play. For example, credits shall not be available for play until currency or coupon inserted into an acceptor is secured in the storage component.

(3) The monetary amount related to all valid financial instrument transactions by the Class II gaming system shall be recorded as required by § 547.9(a) and the applicable provisions of any Commission and TGRA regulations governing minimum internal control standards.

(h) Financial instrument dispensers.

(1) Any Class II gaming system components that dispense financial instruments and that are not designed to be operated under the direct control of a gaming operation employee or agent shall:

(i) Be located within a secure, locked and tamper-evident area or in a locked cabinet or housing that is of a robust construction designed to resist determined illegal entry and to protect internal components;

(ii) Provide a method to enable the Class II gaming system to interpret and act upon valid or invalid input or error condition; and

(iii) Be constructed to permit communication with the Class II gaming system of the accounting information required by § 547.9(a) and by applicable provisions of any Commission and tribal gaming regulatory regulations governing minimum internal control standards.

(2) The monetary amount related to all valid financial instrument transactions by the Class II gaming system shall be recorded as required by § 547.9(a), the applicable provisions of part 543 of this chapter, and any TGRA regulations governing minimum internal control standards.

(i) *Game Outcome Determination Components*. Any Class II gaming system logic components that affect the game outcome and that are not designed to be operated under the direct control of a gaming operation employee or agent shall be located within a secure, locked and tamper-evident area or in a locked cabinet or housing that is of a robust construction designed to resist determined illegal entry and to protect internal components. DIP switches or jumpers that can affect the integrity of the Class II gaming system must be capable of being sealed by the TGRA.

(j) *Door access detection*. All components of the Class II gaming system that are locked in order to meet the requirements of this part shall include a sensor or other methods to monitor an open door. A door open sensor, and its components or cables, shall be secure against attempts to disable them or interfere with their normal mode of operation.

(k) *Separation of functions/no limitations on technology*. Nothing herein shall prohibit the account access component, financial instrument storage component, financial instrument acceptor, and financial instrument dispenser from being included within the same component, or separated into individual components.

#### § 547.8 What are the minimum technical software standards applicable to Class II gaming systems?

This section provides general software standards for Class II gaming systems for the play of Class II games, including, where applicable, games similar to bingo.

(a) *Player interface displays*. (1) If not otherwise provided to the player, the player interface shall display the following:

- (i) The purchase or wager amount;
- (ii) Game results; and
- (iii) Any player credit balance.

(2) Between plays of any game and until the start of the next play, or until the player selects a new game option such as purchase or wager amount or card selection, whichever is earlier, if not otherwise provided to the player, the player interface shall display:

(i) The total purchase or wager amount and all prizes and total credits won for the last game played;

(ii) The final results for the last game played; and

(iii) Any default purchase or wager amount for the next play.

(b) *Game initiation and play.* (1) Each game played on the Class II gaming system shall follow and not deviate from a constant set of rules for each game provided to players pursuant to § 547.16.

(2) The Class II gaming system shall not alter or allow to be altered the card permutations used for play of a Class II game unless specifically chosen by the player prior to commitment to participate in the game. No duplicate cards shall be sold for any common draw.

(3) No game play shall commence and, no financial instrument or credit shall be accepted on the affected player interface, in the presence of any fault condition that affects the outcome of the game, open door, or while in test, audit, or lock-up mode.

(4) The player must choose to participate in the play of a game.

(c) *Audit Mode*. (1) If an audit mode is provided, the Class II gaming system shall provide, for those components actively involved in the audit:

(i) All accounting functions required by § 547.9, by applicable provisions of any Commission regulations governing minimum internal control standards, and by any internal controls adopted by the tribe or TGRA;

(ii) Display player interface identification; and

(iii) Display software version or game identification;

(2) Audit mode shall be accessible by a secure method such as an employee or agent PIN, key or other auditable access control.

(3) Accounting function data shall be accessible by an agent at any time, except during a payout, during a handpay, or during play.

(4) The Class II gaming system shall disable financial instrument acceptance on the affected player interface while in audit mode, except during financial instrument acceptance testing.

(d) Last bingo game play recall. The last bingo game play recall function shall:

(1) Be retrievable at all times, other than when the recall component is involved in the play of a game, upon the operation of an external key-switch, entry of an audit card, or a similar method;

(2) Display the results of recalled bingo game play as originally displayed or in text representation so as to enable the TGRA or operator to clearly identify the bingo game play sequences and results that occurred;

(3) Allow the Class II gaming system component providing bingo game play recall, upon return to normal game play mode, to restore any affected display to the positions, forms and values displayed before access to the bingo game play recall information; and

(4) Provide the following information for the current and previous four bingo game plays and shall display:

- (i) Play start time, end time, and date;
- (ii) The total number of credits at the start of play;
- (iii) The purchase or wager amount;
- (iv) The total number of credits at the end of play; and

(v) The total number of credits won as a result of the bingo game play recalled, and the value in dollars and cents for progressive prizes, if different.

(vi) For bingo games and, where applicable, games similar to bingo, also display:

- (A) The card(s) used by the player;
- (B) The identifier of the game played;
- (C) The numbers or other designations drawn, in the order that they were drawn;
- (D) The numbers or other designations and prize patterns covered on each card;
- (E) All prizes won by the player, including winning patterns, if any; and
- (F) The unique identifier of the card on which prizes were won;
- (vii) For pull-tab games only, also display:

(A) The result(s) of each pull-tab, displayed in the same pattern as on the tangible pull-tab;

- (B) All prizes won by the player;
- (C) The unique identifier of each pull tab; and

(D) Any other information necessary to fully reconstruct the current and four previous plays.

(e) *Voucher and credit transfer recall*. Notwithstanding the requirements of any other section in this part, a Class II gaming system shall have the capacity to:

(1) Display the information specified in § 547.11(b)(5)(ii) through (vi) for the last five vouchers or coupons printed and the last five vouchers or coupons accepted; and

(2) Display a complete transaction history for the last five cashless transactions made and the last five cashless transactions accepted.

(f) *Software signature verification*. The manufacturer or developer of the Class II gaming system must provide to the testing laboratory and to the TGRA an industry-standard methodology, acceptable to the TGRA, for verifying the Class II gaming system game software. By way of illustration, for game software stored on rewritable media, such methodologies include signature algorithms and hashing formulas such as SHA-1.

(g) *Test, diagnostic, and demonstration modes*. If test, diagnostic, and/or demonstration modes are provided, the Class II gaming system shall, for those components actively involved in the test, diagnostic, or demonstration mode:

- (1) Clearly indicate when that component is in the test, diagnostic, or demonstration mode;
- (2) Not alter financial data on that component other than temporary data;
- (3) Only be available after entering a specific mode;
- (4) Disable credit acceptance and payment unless credit acceptance or payment is being tested; and
- (5) Terminate all mode-specific functions upon exiting a mode.
- (h) Multigame. If multiple games are offered for player selection at the player interface, the player interface shall:
- (1) Provide a display of available games;
- (2) Provide the means of selecting among them;
- (3) Display the full amount of the player's credit balance;

(4) Identify the game selected or being played; and

(5) Not force the play of a game after its selection.

(i) Program interruption and resumption. The Class II gaming system software shall be designed so that upon

resumption following any interruption, the system:

(1) Is able to return to a known state;

- (2) Shall check for any fault condition upon resumption;
- (3) Shall verify the integrity of data stored in critical memory;
- (4) Shall return the purchase or wager amount to the player in accordance with the rules of the game; and
- (5) Shall detect any change or corruption in the Class II gaming system software.

(j) *Class II gaming system components acting as progressive controllers*. This paragraph applies to progressive controllers and components acting as progressive controllers in Class II gaming systems.

(1) Modification of progressive parameters shall be conducted in a secure manner approved by the TGRA. Such parameters may include:

- (i) Increment value;
- (ii) Secondary pool increment(s);
- (iii) Reset amount(s);
- (iv) Maximum value(s); and
- (v) Identity of participating player interfaces.

(2) The Class II gaming system component or other progressive controller shall provide a means of creating a progressive balancing report for each progressive link it controls. At a minimum, that report shall provide balancing of the changes of the progressive amount, including progressive prizes won, for all participating player interfaces versus current progressive amount(s), plus progressive prizes. In addition, the report shall account for, and not be made inaccurate by, unusual events such as:

- (i) Class II gaming system critical memory clears;
- (ii) Modification, alteration, or deletion of progressive prizes;

- (iii) Offline equipment; or
- (iv) Multiple site progressive prizes.

(k) *Critical memory*. (1) Critical memory may be located anywhere within the Class II gaming system. Critical memory is any memory that maintains any of the following data:

- (i) Accounting data;
- (ii) Current credits;
- (iii) Configuration data;
- (iv) Last game play recall information required by § 547.8(d);
- (v) Game play recall information for the current game play, if incomplete;
- (vi) Software state (the last normal state software was in before interruption);
- (vii) RNG seed(s), if necessary for maintaining integrity;
- (viii) Encryption keys, if necessary for maintaining integrity;
- (ix) Progressive prize parameters and current values;
- (x) The five most recent financial instruments accepted by type, excluding coins and tokens;
- (xi) The five most recent financial instruments dispensed by type, excluding coins and tokens; and
- (xii) The five most recent cashless transactions paid and the five most recent cashless transactions accepted.
- (2) Critical memory shall be maintained using a methodology that enables errors to be identified and acted upon.

All accounting and recall functions shall be verified as necessary to ensure their ongoing integrity.

- (3) The validity of affected data stored in critical memory shall be checked after each of the following events:
- (i) Every restart;
- (ii) Each attendant paid win;
- (iii) Each attendant paid progressive win;
- (iv) Each sensored door closure; and

(v) Every reconfiguration, download, or change of prize schedule or denomination requiring operator intervention or action.

(l) Secured access. Class II gaming systems that use a logon or other means of secured access shall include a user account lockout after a predetermined number of consecutive failed attempts to access system.

#### § 547.9 What are the minimum technical standards for Class II gaming system accounting functions?

This section provides standards for accounting functions used in Class II gaming systems.

(a) *Required accounting data*. The following minimum accounting data, however named, shall be maintained by the Class II gaming system.

(1) Amount In: The total value of all financial instruments and cashless transactions accepted by the Class II gaming system. Each type of financial instrument accepted by the Class II gaming system shall be tracked independently per financial instrument acceptor, and as required by applicable requirements of the TGRA regulations governing minimum internal control standards.

(2) Amount Out: The total value of all financial instruments and cashless transactions paid by the Class II gaming system, plus the total value of attendant pay. Each type of financial instrument paid by the Class II Gaming System shall be tracked independently per financial instrument dispenser, and as required by applicable requirements of the TGRA regulations governing minimum internal control standards.

(b) Accounting data storage. If the Class II gaming system electronically maintains accounting data:

(1) Accounting data shall be stored with at least eight decimal digits.

(2) Credit balances shall have sufficient digits to accommodate the design of the game.

(3) Accounting data displayed to the player may be incremented or decremented using visual effects, but the internal storage of this data shall be immediately updated in full.

(4) Accounting data shall be updated upon the occurrence of the relevant accounting event.

(5) Modifications to accounting data shall be recorded, including the identity of the person(s) making the modifications, and be reportable by the Class II gaming system.

(c) *Rollover*. Accounting data that rolls over to zero shall not corrupt data.

(d) Credit balance display and function. (1) Any credit balance maintained at the player interface shall be

prominently displayed at all times except:

- (i) In audit, configuration, recall and test modes; or
- (ii) Temporarily, during entertaining displays of game results.
- (2) Progressive prizes may be added to the player's credit balance provided:
- (i) The player credit balance is maintained in dollars and cents;
- (ii) The progressive accounting data is incremented in number of credits; or
- (iii) The prize in dollars and cents is converted to player credits or transferred to the player's credit balance in a

manner that does not mislead the player or cause accounting imbalances.

(3) If the player credit balance displays in credits, but the actual balance includes fractional credits, the Class II

gaming system shall display the fractional credit when the player credit balance drops below one credit.

#### § 547.10 What are the minimum standards for Class II gaming system critical events?

This section provides standards for events such as system critical faults, deactivation, door open or other changes

of states, and lockup within the Class II gaming system.

Events	Definition and action to be taken
(i) Component fault	Reported when a fault on a component is detected. When possible, this event message should indicate what the nature of the fault is.
(ii) Financial storage component full	Reported when a financial instrument acceptor or dispenser includes storage, and it becomes full. This event message should indicate what financial storage component is full.
(iii) Financial output component empty	Reported when a financial instrument dispenser is empty. The event message should indicate which financial output component is affected, and whether it is empty.
(iv) Financial component fault	Reported when an occurrence on a financial component results in a known fault state.
(v) Critical memory error	Some critical memory error has occurred. When a non-correctable critical memory error has occurred, the data on the Class II gaming system component can no longer be considered reliable. Accordingly, any game play on the affected component shall cease immediately, and an appropriate

	message shall be displayed, if possible.
(vi) Progressive communication fault	If applicable; when communications with a progressive controller component is in a known fault state.
(vii) Program storage medium fault	The software has failed its own internal security check or the medium itself has some fault.
	Any game play on the affected component shall cease immediately, and an appropriate message shall be displayed, if possible.

(2) The occurrence of any event identified in paragraph (a)(1) of this section shall be recorded.

(3) Upon clearing any event identified in paragraph (a)(1) of this section, the Class II gaming system shall:

(i) Record that the fault condition has been cleared;

(ii) Ensure the integrity of all related accounting data; and

(iii) In the case of a malfunction, return a player's purchase or wager according to the rules of the game.

(b) Door open/close events. (1) In addition to the requirements of paragraph (a)(1) of this section, the Class II

gaming system shall perform the following for any component affected by any sensored door open event:

(i) Indicate that the state of a sensored door changes from closed to open or opened to closed;

(ii) Disable all financial instrument acceptance, unless a test mode is entered;

(iii) Disable game play on the affected player interface;

(iv) Disable player inputs on the affected player interface, unless test mode is entered; and

(v) Disable all financial instrument disbursement, unless a test mode is entered.

(2) The Class II gaming system may return the component to a ready to play state when all sensored doors are

closed.

(c) *Non-fault events*. (1) The following non-fault events are to be treated as described below, if applicable:

Events	Definition and action to be taken

(i) Player interface power off during play	This condition is reported by the affected component(s) to indicate power has been lost during game play.
(ii) Player interface power on	This condition is reported by the affected component(s) to indicate it has been turned on.
<ul> <li>(iii) Financial instrument storage component container/ stacker removed</li> </ul>	This condition is reported when a financial instrument storage container has been removed. The event message should indicate which storage container was removed.

#### § 547.11 What are the minimum technical standards for money and credit handling?

This section provides standards for money and credit handling by a Class II gaming system.

(a) Credit acceptance, generally. (1) Upon any credit acceptance, the Class II gaming system shall register the

correct number of credits on the player's credit balance.

(2) The Class II gaming system shall reject financial instruments deemed invalid.

(b) Credit redemption, generally. (1) For cashable credits on a player interface, players shall be allowed to cash out

and/or redeem those credits at the player interface except when that player interface is:

- (i) Involved in the play of a game;
- (ii) In audit mode, recall mode or any test mode;
- (iii) Detecting any sensored door open condition;
- (iv) Updating the player credit balance or total win accounting data; or
- (v) Displaying a fault condition that would prevent cash-out or credit redemption. In this case a fault indication

shall be displayed.

(2) For cashable credits not on a player interface, the player shall be allowed to cash out and/or redeem those credits at any time.

(3) A Class II gaming system shall not automatically pay an award subject to mandatory tax reporting or withholding.

(4) Credit redemption by voucher or coupon shall conform to the following:

(i) A Class II gaming system may redeem credits by issuing a voucher or coupon when it communicates with a voucher system that validates the voucher or coupon.

(ii) A Class II gaming system that redeems credits by issuing vouchers and coupons shall either:

(A) Maintain an electronic record of all information required by paragraphs (b)(5)(ii) through (vi) of this section;

or

(B) Generate two identical copies of each voucher or coupon issued, one to be provided to the player and the other to be retained within the machine for audit purposes.

(5) Valid vouchers and coupons shall contain the following:

(i) Gaming operation name and location;

(ii) The identification number of the Class II gaming system component or the player interface number, as applicable;

(iii) Date and time of issuance;

(iv) Alpha and numeric dollar amount;

(v) A sequence number;

(vi) A validation number that:

(A) Is produced by a means specifically designed to prevent repetition of validation numbers; and

(B) Has some form of checkcode or other form of information redundancy to prevent prediction of subsequent

validation numbers without knowledge of the checkcode algorithm and parameters;

(vii) For machine-readable vouchers and coupons, a bar code or other form of machine readable representation of the validation number, which shall have enough redundancy and error checking to ensure that 99.9% of all misreads are flagged as errors;

(viii) Transaction type or other method of differentiating voucher and coupon types; and

(ix) Expiration period or date.

(6) Transfers from an account may not exceed the balance of that account.

(7) For Class II gaming systems not using dollars and cents accounting and not having odd cents accounting, the Class II gaming system shall reject any transfers from voucher payment systems or cashless systems that are not even multiples of the Class II gaming system denomination.

(8) Voucher redemption systems shall include the ability to report redemptions per redemption location or user.

#### § 547.12 What are the minimum technical standards for downloading on a Class II gaming system?

This section provides standards for downloading on a Class II gaming system.

(a) *Downloads*. (1) Downloads are an acceptable means of transporting approved content, including but not limited to software, files, data, and prize schedules.

(2) Downloads of software, games, prize schedules, or other download packages shall be conducted only as authorized by the TGRA.

(3) Downloads shall use secure methodologies that will deliver the download data without alteration or modification, in accordance with § 547.15(a).

(4) Downloads conducted during operational periods shall be performed in a manner that will not affect game play.

(5) Downloads shall not affect the integrity of accounting data.

(6) The Class II gaming system or the TGRA shall log each download of any download package. Each log record shall contain as a minimum:

(i) The time and date of the initiation of the download;

(ii) The time and date of the completion of the download;

(iii) The Class II gaming system components to which software was downloaded;

(iv) The version(s) of download package and any software downloaded. Logging of the unique software signature will satisfy this requirement;

(v) The outcome of any software verification following the download (success or failure); and

(vi) The name and identification number, or other unique identifier, of any individual(s) conducting or scheduling a download.

(b) *Verifying downloads*. Downloaded software on a Class II gaming system shall be verified by the Class II gaming system using a software signature verification method that meets the requirements of § 547.8(f).

#### § 547.13 What are the minimum technical standards for program storage media?

This section provides minimum standards for removable, (re-)writable, and nonwritable storage media in Class II gaming systems.

(a) *Removable program storage media*. All removable program storage media shall maintain an internal checksum or signature of its contents. Verification of this checksum or signature is to be performed after every restart. If the verification fails, the affected Class II gaming system component(s) shall lock up and enter a fault state.

(b) *Nonrewritable program storage media*. (1) All EPROMs and Programmable Logic Devices (PLDs) that have erasure windows shall be fitted with covers over their erasure windows.

(2) All unused areas of EPROMs shall be written with the inverse of the erased state (*e.g.*, zero bits (00 hex) for most EPROMs), random data, or repeats of the program data.

(3) Flash memory storage components intended to have the same logical function as ROM, *i.e.* not to be dynamically written, shall be write-protected or otherwise protected from unauthorized modification.

(4) The write cycle shall be closed or finished for all CD-ROMs such that it is not possible to write any further data to the CD.

(5) Write protected hard disks are permitted if the hardware means of enabling the write protect is easily viewable and can be sealed in place Write protected hard disks are permitted using software write protection verifiable by a testing laboratory.

(c) *Writable and rewritable program storage media*. (1) Writable and rewritable program storage, such as hard disk drives, Flash memory, writable CD-ROMs, and writable DVDs, may be used provided that the software stored thereon may be verified using the mechanism provided pursuant to § 547.8(f).

(2) Program storage shall be structured so there is a verifiable separation of fixed data (*e.g.* program, fixed parameters, DLLs) and variable data.

(d) Identification of program storage media. All program storage media that is not rewritable in circuit, (e.g.

EPROM, CD-ROM) shall be uniquely identified, displaying:

- (1) Manufacturer;
- (2) Program identifier;
- (3) Program version number(s); and
- (4) Location information, if critical (e.g. socket position 3 on the printed circuit board).

#### § 547.14 What are the minimum technical standards for electronic random number generation?

This section provides minimum standards for electronic RNGs in Class II gaming systems.

- (a) Properties. All RNGs shall produce output having the following properties:
- (1) Statistical randomness;
- (2) Unpredictability; and
- (3) Non-repeatability.

(b) *Statistical Randomness*. (1) Numbers or other designations produced by an RNG shall be statistically random individually and in the permutations and combinations used in the application under the rules of the game. For example, if a bingo game with 75 objects with numbers or other designations has a progressive winning pattern of the five numbers or other designations on the bottom of the card and the winning of this prize is defined to be the five numbers or other designations are matched in the first five objects drawn, the likelihood of each of the 75C5 combinations are to be verified to be statistically equal.

(2) Numbers or other designations produced by an RNG shall pass the statistical tests for randomness to a 99% confidence level.

- (i) Mandatory statistical tests for randomness to include:
- (A) Chi-square test;
- (B) Runs test (patterns of occurrences shall not be recurrent); and

(C) Serial correlation test potency and degree of serial correlation (outcomes shall be independent from the

previous game).

(ii) Optional statistical tests for randomness may include:

(A) Equi-distribution (frequency) test;

(B) Gap test;

(C) Poker test;

(D) Coupon collector's test;

(E) Permutation test;

(F) Spectral test; or

(G) Test on subsequences.

(c) *Unpredictability*. (1) It shall not be feasible to predict future outputs of an RNG, even if the algorithm and the past sequence of outputs are known.

(2) Unpredictability shall be ensured by reseeding or by continuously cycling the RNG, and by providing a

sufficient number of RNG states for the applications supported.

(3) Re-seeding may be used where the re-seeding input is at least as statistically random as, and independent of, the output of the RNG being re-seeded.

(d) Non-repeatability. The RNG shall not be initialized to reproduce the same output stream that it has produced

before, nor shall any two instances of an RNG produce the same stream as each other. This property shall be ensured by initial seeding that comes from:

(1) A source of "true" randomness, such as a hardware random noise generator; or

(2) A combination of timestamps, parameters unique to a Class II gaming system, previous RNG outputs, or other, similar method.

(e) *General requirements*. (1) Software that calls an RNG to derive game outcome events shall immediately use the output returned in accordance with the game rules.

(2) The use of multiple RNGs is permitted as long as they operate in accordance with this section.

(3) RNG outputs shall not be arbitrarily discarded or selected.

(4) Where a sequence of outputs is required, the whole of the sequence in the order generated shall be used in accordance with the game rules.

(5) The Class II gaming system shall neither adjust the RNG process or game outcomes based on the history of prizes obtained in previous games nor use any reflexive software or secondary decision that affects the results shown to the player or game outcome. In no event shall the Class II gaming system deprive a player of a prize to which the player is otherwise entitled based on the random outcome of the game. Nothing in this paragraph shall prohibit the use of entertaining displays.

(f) Scaling algorithms and scaled numbers. An RNG that provides output scaled to given ranges shall:

(1) Be independent and uniform over the range;

(2) Provide numbers scaled to the ranges required by game rules, and notwithstanding the requirements of paragraph (e)(3) of this section, may discard numbers that do not map uniformly onto the required range but shall use the first number in sequence that does map correctly to the range; and

(3) Be capable of producing every possible outcome of a game according to its rules.

## § 547.15 What are the minimum technical standards for electronic data communications between system components?

This section provides minimum standards for electronic data communications with gaming equipment or components used with Class II gaming systems.

(a) Sensitive data. Communication of sensitive data shall be secure from eavesdropping, access, tampering,

intrusion or alteration unauthorized by the TGRA. Sensitive data shall include, but not be limited to:

- (1) RNG seeds and outcomes;
- (2) Encryption keys, where the implementation chosen requires transmission of keys;
- (3) PINs;
- (4) Passwords;

(5) Financial instrument transactions;

- (6) Transfers of funds;
- (7) Player tracking information;
- (8) Download Packages; and
- (9) Any information that affects game outcome.

(b) Wireless communications. (1) Wireless access points shall not be accessible to the general public.

(2) Open or unsecured wireless communications are prohibited.

(3) Wireless communications shall be secured using a methodology that makes eavesdropping, access, tampering, intrusion or alteration impractical. By way of illustration, such methodologies include encryption, frequency hopping, and code division multiplex access (as in cell phone technology).

(c) Methodologies shall be used that will ensure the reliable transfer of data and provide a reasonable ability to detect and act upon any corruption of the data.

(d) Class II gaming systems shall record detectable, unauthorized access or intrusion attempts.

(e) Remote communications shall only be allowed if authorized by the TGRA. Class II gaming systems shall have

the ability to enable or disable remote access, and the default state shall be set to disabled.

(f) Failure of data communications shall not affect the integrity of critical memory.

(g) The Class II gaming system shall log the establishment, loss, and re-establishment of data communications

between sensitive Class II gaming system components.

#### § 547.16 What are the minimum standards for game artwork, glass, and rules?

This section provides standards for the display of game artwork, the displays on belly or top glass, and the display and disclosure of game rules, whether in physical or electronic form.

(a) *Rules, instructions, and prize schedules, generally.* The following shall at all times be displayed or made readily available to the player upon request:

(1) Game name, rules, and options such as the purchase or wager amount stated clearly and unambiguously;

(2) Denomination;

(3) Instructions for play on, and use of, the player interface, including the functions of all buttons; and

(4) A prize schedule or other explanation, sufficient to allow a player to determine the correctness of all prizes awarded, including;

(i) The range and values obtainable for any variable prize;

(ii) Whether the value of a prize depends on the purchase or wager amount; and

(iii) The means of division of any pari-mutuel prizes; but

(iv) For Class II Gaming Systems, the prize schedule or other explanation need not state that subsets of winning patterns are not awarded as additional prizes (*e.g.* five in a row does not also pay three in a row or four in a row), unless there are exceptions, which shall be clearly stated.

(b) Disclaimers. The Class II gaming system shall continually display:

(1) "Malfunctions void all prizes and plays" or equivalent; and

(2) "Actual Prizes Determined by Bingo [or other applicable Class II game] Play. Other Displays for Entertainment Only." or equivalent.

#### § 547.17 How does a gaming operation apply for a variance from the standards of this part?

(a) Variance.

(1) Should a TGRA grant a variance to any provision of these standards, the TGRA shall deliver a notice of the same to the Commission within ten (10) days of such approval.

(i) The notice shall contain a complete copy of the information presented to the TGRA and the variance as granted.

(ii) The notice shall be forwarded to the Commission within ten (10) days of the granting of the Variance.

(2) During a thirty (30) day period when the Commission first receives the notice required by this subpart, the

Chairman may request additional information from the TGRA concerning the subject of variance. Such request shall

suspend the thirty (30) day period until the Chairman receives the TGRA response.

(b) Commission Review.

(1) Within the thirty (30) day review period, the Commission may:

(i) Advise the TGRA, in writing, that it has no objection.

(ii) Provide the TGRA a written statement itemizing its objections.

(iii) Take no action, in which case, the TGRA's variance shall be final.

(2) If the Commission has provided the TGRA a statement itemizing objections to the variance:

(i) The TGRA shall reconsider the variance taking into account the objections itemized by the Commission.

(ii) The TGRA may seek reconsideration by submitting a request to the Chairman and members of the

Commission.

(iii) Upon receipt of a request for reconsideration, the Commission shall conduct an informal hearing with the

TGRA within 30 days, which may be conducted in person or through the exchange of documents, as requested by the TGRA.

(iv) After the informal hearing, the Commission must issue a written decision within 14 days. If the Commission disapproves the variance, such written decision must include an explanation of why the requested variance creates an imminent threat to the integrity of the tribal gaming operation.

# **APPENDIX 1**

#### PROPOSED PART 543 – MINIMUM INTERNAL CONTROL STANDARDS FOR CLASS II GAMING

#### Sec.

- 543.1 What does this part cover?
- 543.2 What are the definitions for this part?
- 543.3 How do tribal governments comply with this part?
- 543.4 What are the rules of interpretation and of general application for this part?
- 543.5 [RESERVED]
- 543.6 Does this part apply to small and charitable gaming operations?
- 543.7 What are the minimum internal control standards for bingo?
- 543.8 What are the minimum internal control standards for pull tabs?
- 543.9 What are the minimum internal control standards for card games?
- 543.10 What are the minimum internal control standards for gaming promotions?
- 543.11 What are the minimum internal control standards for patron deposit accounts and cashless systems?
- 543.12 [RESERVED] What are the minimum internal control standards for player tracking?
- 543.13 [RESERVED]
- 543.14 What are the minimum internal control standards for the cage, vault, cash and cash equivalents?
- 543.15 What are the minimum internal control standards for lines of credit?
- 543.16 What are the minimum internal control standards for security and management of server, server software and data associated with Class II gaming systems?
- 543.17 What are the minimum internal control standards for complimentary services or items?
- 543.18 How does a gaming operation apply for a variance from the standards of this part?
- 543.19 What are the minimum internal control standards for audit and accounting?
- 543.20 [RESERVED]
- 543.21 What are the minimum internal control standards for drop and count?
- 543.22 [RESERVED]
- 543.23 What are the minimum internal control standards for surveillance?

#### § 543.1 What does this part cover?

This part establishes the minimum internal control standards for the conduct of Class II games on Indian lands as described in 25 U.S.C. 2701 *et seq.* 

#### § 543.2 What are the definitions for this part?

The definitions in this section apply to all sections of this part unless otherwise noted.

*Accountability*. All financial instruments, receivables, and patron deposits constituting the total amount for which the bankroll custodian is responsible at a given time.

Accumulated credit payout. Credit accrued in a player interface that is paid to a patron manually in lieu of a player interface payout (i.e. hand pay, manual pay).

*Agent*. A person authorized by the gaming operation, as approved by the TGRA, to make decisions or perform assigned tasks or actions on behalf of the gaming operation. This definition permits the use of computer applications to perform the function(s) of an agent.

Bingo paper. A consumable physical object that has one or more bingo cards on its face.

*Bingo sales.* Sales transactions and/or the value of purchases made by players to participate in the game(s).

*Cage*. A secure work area within the gaming operation for cashiers which may include a storage area for the gaming operation bankroll.

Chairman. The Chairman of the National Indian Gaming Commission.

*Cash equivalents*. Documents, financial instruments other than cash, or anything else of representative value to which the gaming operation has assigned a monetary value. A cash equivalent includes, but is not limited to, tokens, chips, coupons, vouchers, payout slips and tickets, and other items to which a gaming operation has assigned an exchange value.

*Cashless system.* A system that performs cashless transactions and maintains records of those cashless transactions.

*Cashless transaction.* A movement of funds electronically from one component to another, often to or from a patron deposit account, or promotional account.

Chips. Cash substitutes, in various denominations, issued by a gaming operation.

Class II game. Class II gaming shall have the same meaning as defined in 25 U.S.C. 2703(7)(A).

*Class II Gaming System.* All components, whether or not technologic aids in electronic, computer, mechanical, or other technologic form, that function together to aid the play of one or more Class II games including accounting functions mandated by these regulations part-Part\_547 of this chapter.

*Commission*. The National Indian Gaming Commission established by the Indian Gaming Regulatory Act, 25 U.S.C. 2701 *et seq*.

*Complimentary.* A service or item provided at no or reduced cost, to a patron-at the discretion of an agent authorized to issue such services or items.

*Count*. The act of counting and recording the drop and/or other funds. Also, the total funds counted for a particular game, player interface, shift, or other period.

*Count room.* A secured room location where the count is performed in which the cash and cash equivalents are counted.

*Credit line (see Lines of credit).* The privilege granted by a gaming operation to a patron to (1) defer payment of debt or (2) to incur debt and defer its payment under specific terms and conditions.

*Credit line limit*. The maximum dollar amount of credit assigned to a patron by the gaming operation.

Dedicated camera. A video camera that continuously records a specific activity.

Drop. The process of removing the drop boxes from the player interface or point of purchase.

Drop proceeds. The total amount of financial instruments removed from the drop boxes.

*Drop box.* A locked container in which cash or cash equivalents are placed at the time of the transaction.

*Exception Report.* A listing of occurrences, transactions or items that fall outside a predetermined range of acceptability.

*Financial instrument*. Any tangible item of value tendered in Class II game play, including, but not limited to bills, coins, vouchers, and coupons.

*Gaming Promotion*. A type of marketing activity conducted by a gaming operation which includes two, but not all three, of the following elements: prize, chance, consideration.

*Generally Accepted Accounting Principles (GAAP).* A widely accepted set of rules, conventions, standards, and procedures for reporting financial information, as established by the Financial Accounting Standards Board (FASB), including but not limited to the standards for casino accounting published by the American Institute of Certified Public Accountant (AICPA).

*Governmental Accounting Standards Board (GASB)*. Generally accepted accounting principles used by state and local governments.

*Independent*. The separation of functions so that the person or process monitoring, reviewing or authorizing the controlled activity, function, transaction is separate from the persons or process performing the controlled activity, function, transaction.

*Lines of credit*. The privilege granted by a gaming operation to a patron to (1) defer payment of debt or (2) to incur debt and defer its payment under specific terms and conditions.

Manual payout. Hand payment to a player.

*Marker*. A document, signed by the patron promising to repay credit issued by the gaming operation.

MICS. Minimum internal control standards in this part.

*Patron.* A person who is a customer or guest of the gaming operation and may interact with a Class II game. Also may be referred to as a "player".

*Patron deposit account*. An account maintained on behalf of a patron, for the purpose of depositing and withdrawing funds for the primary purpose of interacting with a gaming activity.

*Permanent Record.* Those records that must be maintained for a minimum period of 5 years, including all documents that contain original signatures or represent audit papers.

*Player interface*. Any component(s) or components of a Class II gaming system, including an electronic or technological aid (not limited to terminals, player stations, handhelds, fixed units, etc.), that directly enables player interaction in a Class II game.

Prize payout. Payment to a player associated with a winning or qualifying event.

*Promotional progressive pots and/or pools*. Funds contributed to a game by and for the benefit of players and are distributed to players based on a predetermined event.

*Restricted patron deposit account*. An account that can be accessed only by a specific patron using a secured method.

SSAE. Standards for Attestation Engagements.

*Shift.* A time period, unless otherwise approved by the tribal gaming regulatory authority, not to exceed 24 hours.

Shill. An agent financed by the gaming operation and acting as a player.

Short pay. The payment of the unpaid balance of an incomplete payout.

*System of Internal Controls (SICS).* An overall operational framework for a gaming operation incorporating principles of independence and segregation of function comprised of written policies, procedures, and standard practices based on overarching regulatory standards specifically designed to create a system of checks and balances in order to safeguard the integrity of a gaming operation and protect its assets.

*Smart card*. A card with embedded integrated circuits that possesses the means to electronically store or retrieve account data, and is the only source of that data.

*Surveillance operation room(s)*. The secured area(s) where surveillance is taking place and/or where active surveillance equipment is located.

*Surveillance system.* A system of video cameras, monitors, recorders, video printers, switches, selectors, and other ancillary equipment used for surveillance.

*Tier A*. Gaming operations with annual gross gaming revenues of more than \$3 million but not more than \$8 million.

*Tier B*. Gaming operations with annual gross gaming revenues of more than \$8 million but not more than \$15 million.

Tier C. Gaming operations with annual gross gaming revenues of more than \$15 million.

*TGRA*. Tribal gaming regulatory authority which is the entity authorized by tribal law to regulate gaming conducted pursuant to the Indian Gaming Regulatory Act.

TICS. Tribal Internal Control Standards.

*Unrestricted patron deposit account*. An account that may be accessed by the holder of the account number.

Vault. A secure area where cash and cash equivalents are stored.

#### § 543.3 How do tribal governments comply with this part?

(a) Determination of Tier.

(1) The determination of tier level shall be made based upon the annual gross gaming revenues indicated within the gaming operation's audited financial statements.

(2) Gaming operations moving from one tier to another shall have nine (9) months from the date of the independent certified public accountant's audit report to achieve compliance with the requirements of the new tier. The TGRA may extend the deadline by an additional six (6) months if written notice is provided to the Commission no later than two (2) weeks before the expiration of the nine (9) month period.

(b) <u>TICS</u>. TGRAs shall ensure that TICS are established and implemented that provide a level of control that equals or exceeds those set forth in this part.

(1) Evaluation of Existing TICS. Each TGRA must, in accordance with the tribal gaming ordinance, determine whether and to what extent their TICS require revision to ensure compliance with this part.

(2) Compliance Date. All changes necessary to ensure compliance with this part shall be promulgated within twelve (12) months from the effective date of this part and implemented at the commencement at the next fiscal year. At the discretion of the TGRA, gaming operations may have an additional six (6) months to come into compliance with the TICS.

(c) <u>SICS</u>. Each gaming operation must develop and implement a SICS that, at a minimum, complies with the TICS.

(1) Existing gaming operations. All gaming operations that are operating on or before the effective date of this part, must comply with this part within the time requirements established in paragraph (b) of this section. In the interim, such operations must continue to comply with existing TICS.

(2) New gaming operations. All gaming operations that commence operations after the effective date of this part, must comply with this part before commencement of operations.

(d) <u>Submission to Commission</u>. Tribal regulations promulgated pursuant to this part are not required to be submitted to the Commission pursuant to Sec. 522.3(b) of this chapter.

#### (e) Enforcement of Commission MICS.

(1) Each TGRA is required to establish and implement TICS pursuant to paragraph (b) of this section. Each gaming operation is then required, pursuant to paragraph (c) of this section, to develop and implement a SICS that complies with the TICS. Failure to do so may subject the tribal operator of the gaming operation, or the management contractor, to penalties under 25 U.S.C. 2713.

(2) Recognizing that tribes are the primary regulator of their gaming operation(s), enforcement action by the Commission will not be initiated under this part without first informing the tribe and TGRA of deficiencies in the SICS of its gaming operation and allowing a reasonable period of time to address such deficiencies. Such prior notice and opportunity for corrective action is not required where the threat to the integrity of the gaming operation is immediate and severe.

#### § 543.4 What are the rules of interpretation and of general application for this part?

(a) <u>Minimum Standards</u>. A TGRA may establish and implement additional technical standards that are as stringent as, or more stringent than, those set out in this part.

(b) <u>Only Applicable Standards Apply</u>. Gaming equipment and software used with Class II gaming systems shall meet all applicable requirements of this part. For example, if a gaming operation does not offer lines of credit, then any standards that govern credit do not apply.

(c) <u>No Limitation of Technology</u>. This part should not be interpreted to limit the use of technology or to preclude the use of technology not specifically referenced.

(d) <u>Severability</u>. If any provision of this part is declared invalid by a court of competent jurisdiction, such decision shall not affect the remainder of this part.

#### § 543.5 [RESERVED]

#### § 543.6 Does this part apply to small and charitable gaming operations?

(a) Small Gaming Operations. This part does not apply to small gaming operations provided that:

- (1) The TGRA permits the operation to be exempt from this part;
- (2) The annual gross gaming revenue of the operation does not exceed \$3 million; and
- (3) The TGRA develops and the operation complies with alternate procedures that:
  - (i) Protect the integrity of games offered;
  - (ii) Safeguard the assets used in connection with the operation; and
  - (iii) Create, prepare and maintain records in accordance with Generally Accepted Accounting Principles.

(b) <u>Charitable Gaming Operations</u>. This part does not apply to charitable gaming operations provided that:

- (1) All proceeds are for the benefit of a charitable organization;
- (2) The TGRA permits the charitable organization to be exempt from this part;

(3) The charitable gaming operation is operated wholly by the charitable organization's agents;

(4) The annual gross gaming revenue of the charitable operation does not exceed \$3 million; and

(5) The TGRA develops and the charitable gaming operation complies with alternate procedures that:

(i) Protect the integrity of the games offered;

(ii) Safeguard the assets used in connection with the gaming operation; and

(iii) Create, prepare and maintain records in accordance with Generally Accepted Accounting Principles. For more information please see www.fasb.gov or www.fasb.org.

(c) <u>Independent Operators</u>. Nothing in this section exempts gaming operations conducted by independent operators for the benefit of a charitable organization.

#### § 543.7 What are the minimum internal control standards for bingo?

(a) <u>Internal Control Procedures</u>. Subject to the approval and oversight of the TGRA, each gaming operation shall establish, implement and adhere to internal control policies and procedures that provide at least the level of control established by the standards of this section.

(b) <u>Computerized Applications</u>. For any computer applications utilized, alternate documentation and/or procedures that provide at least the level of control established by the standards of this section, as approved in writing by the TGRA, will be acceptable.

(c) <u>Variances</u>. The TGRA shall establish the threshold level at which a variance shall be reviewed. Any such review shall be documented.

(d) Supervision. Supervision shall be provided for bingo operations as needed by an agent(s) with authority equal to or greater than those being supervised.

#### (de) Bingo Cards.

(1) <u>Physical</u> Inventory of bingo paper.

(i) The bingo <u>paper card</u> inventory must be controlled in a manner designed to prevent unauthorized access, misappropriation, <u>forgery, theft</u>, or fraud. Such controls shall address bingo <u>paper cards</u> exchanged between <del>two</del> agents, increases and decreases to inventory, and inventory reconciliation.

(2) Bingo salesSales.

(i) <u>Bingo-The</u> sales of bingo cards must be controlled in a manner to adequately record, track, and reconcile <u>all bingosuch</u> sales, including <u>but not limited to</u> voids of bingo cards.

(ii) When the sale of bingo <u>cards sales areis</u> recorded manually, total such sales are <u>must be</u> verified by an agent-independent <u>agent of the bingo sales being</u> verified.

(iii) No <u>unauthorized</u> person shall have <del>unrestricted</del> access to bingo <u>card</u> sales records.

#### (ef) Draw.

(1) The draw must be controlled in a manner that ensures the identity of each object drawn is accurately recorded and transmitted to the participants.

(21) Controls must be present to ensureestablished requiring that all objects eligible for the draw are available to be drawn.

(2) The draw must be controlled in a manner that ensures random selection of the objects drawn.

(<u>+3</u>) The draw must be controlled in a manner that ensures the identity of each object drawn is accurately recorded and transmitted to the participants.

(fg) Manual Payouts.

(1) <u>Manual payouts Payouts must be controlled in a manner designed to verify winning</u> <u>events and prevent unauthorized access to, or misappropriation of, cash or cash</u> equivalents. Such controls shall include, but not be limited to, the following:

(i) Manual payout Payout documents records;

(ii) Validation and Verification;

(iii) Authorization and or signatures; and

\_(iv) Changes to Prize Payout amounts;

(v) Manually paid promotional prize payouts; and

(viiv) Voids.

(gh) <u>Cash or and Cash Equivalent</u> <u>Controls</u>. Cash <u>or and</u> cash equivalents must be controlled in a manner designed to prevent unauthorized access, misappropriation, forgery, <u>theft</u>, or fraud. Such controls shall be in accordance with cash and cash equivalent controls established in sub part 543.14.

(hi) Class II Gaming systems Technologic Aids to the Play of Bingo. Internal control procedures must be established to safeguard the integrity of all or part of a Class II gaming systemtechnologic aids to the play of bingo during installations, operations, modifications, and retirements. Such procedures must include, but not be limited to, the following:

- (1) Shipping and receiving;
- (2) Access credential control methods;
- (3) Record keeping and audit processes;
- (4) System software signature verification;
- (5) Testing;

(6) Display of rules and necessary disclaimers such as "Malfunctions void all prizes and pays<u>and plays</u>", etc.

- (7) Dispute resolution;
- (8) Malfunctions; and
- (9) Removal, retirement, and/or destruction.

#### § 543.8 What are the minimum internal control standards for pull tabs?

(a) <u>Internal Control Procedures</u>. Subject to the approval and oversight of the TGRA, each gaming operation shall establish, implement and adhere to internal control policies and procedures that provide at least the level of control established by the standards of this section.

(b) <u>Computerized Applications</u>. For any computer applications utilized, alternate documentation and/or procedures that provide at least the level of control established by the standards of this section, as approved in writing by the TGRA, will be acceptable.

(c) <u>Variances</u>. The TGRA shall establish the threshold level at which a variance shall be reviewed. Any such review shall be documented.

(d) Supervision. Supervision shall be provided during the pull tab operations and over the pull tab storage areas by an agent(s) with authority equal to or greater than those being supervised.

(de) <u>Pull Tab Inventory of pull tabs</u>. The pull tab inventory must be controlled in a manner designed to prevent unauthorized access, misappropriation, <u>forgery, theft</u>, or fraud. Such controls shall address tabs exchanged between <del>two</del>-agents, increases and decreases to inventory, and inventory reconciliation.

#### (ef) Pull Tab Sales.

(1) Pull tab sales must be controlled in a manner to adequately record, track, and reconcile all pull tab sales and voids.

(2) When pull tab sales are recorded manually, total sales are verified by an agent independent of the pull tab sales being verified.

(3) No person shall have unrestricted access to pull tab sales records.

(dg) <u>Winning Pull Tabs</u>.

(1) Redeemed pull tabs must be controlled in a manner to adequately record, track, and reconcile all pull tab payouts.

(2) The redeemed pull tabs shall be defaced so that they cannot be redeemed for payment again.

(eh) Cash or and Cash Equivalent Controls. Cash or and cash equivalents must be controlled in a manner designed to prevent unauthorized access, misappropriation, forgery, theft, or fraud. Such controls shall be in accordance with cash and cash equivalent controls established in sub part 543.14.

#### § 543.9 What are the minimum internal control standards for card games?

(a) <u>Internal Control Procedures</u>. Subject to the approval and oversight of the TGRA, each gaming operation shall establish, implement and adhere to internal control policies and procedures that provide at least the level of control established by the standards of this section.

(b) <u>Computerized Applications</u>. For any computer applications utilized, alternate documentation and/or procedures that provide at least the level of control established by the standards of this section, as approved in writing by the TGRA, will be acceptable.

(c) <u>Variances</u>. The TGRA shall establish the threshold level at which a variance shall be reviewed. Any such review shall be documented.

(d) <u>Supervision</u>. Supervision shall be provided during the card room operations by an agent(s) with authority equal to or greater than those being supervised.

(e) <u>Inventory of Playing Cards</u>. The playing card inventory must be controlled in a manner designed to prevent unauthorized access, misappropriation, <u>forgery, theft</u>, or fraud. Such controls shall address <u>tabs-cards</u> exchanged between <u>two-</u>agents, increases and decreases to inventory, and inventory reconciliation.

(f) <u>Shill Funds</u>. Issuance and return of shill funds shall be recorded and have the written approval of another agent.

(g) <u>Cash or and Cash Equivalent Controls</u>. Cash <u>or and cash equivalents must be controlled in a</u> manner designed to prevent unauthorized access, misappropriation, forgery<u>, theft</u>, or fraud. Such controls shall be in accordance with cash and cash equivalent controls established in sub part 543.14.

(h) <u>Posted Rules</u>. The rules shall be displayed or available for patron review at the gaming operation, including rules governing contests, prize payouts, fees, etc.

(i) <u>Promotional Progressive Pots and Pools such as Contests, Tournaments, Drawings and</u> <u>Giveaway Programs</u>. Funds contributed by patrons to prize pools shall be returned and documented in accordance with the posted rules.

(1) Promotional pool contributions shall be controlled in a manner to properly distinguish between gaming revenue and promotional pool contributions.

(i) Promotional pool contributions shall be placed in a locked container;

(ii) Agents transporting the locked container shall be precluded from having access to the contents keys.

(2) At least once a <u>dayweek</u>, increases and decreases to the promotional pool amount shall be verified, supported by documentation, recorded and reconciled to the cash by an agent independent of the card room.

#### § 543.10 What are the minimum internal control standards for gaming promotions?

(a) <u>Internal Control Procedures</u>. Subject to the approval and oversight of the TGRA, each gaming operation shall establish, implement and adhere to internal control policies and procedures that provide at least the level of control established by the standards of this section.

(b) <u>Computer Applications</u>. For any computer applications utilized, alternate documentation and/or procedures that provide at least the level of control established by the standards of this section, as approved in writing by the TGRA, will be acceptable.

(c) <u>Variances</u>. The TGRA shall establish the threshold level at which a variance shall be reviewed. Any such review shall be documented.

(d) Supervision. Supervision shall be provided for gaming promotions as needed by an agent(s) with authority equal to or greater than those being supervised.

(e) <u>Gaming Promotions</u>. Controls must be established in a manner designed to prevent unauthorized access, cheating, misappropriation, forgery, theft, or fraud. Such controls must include, but not be limited to, the following:

- (1) Rules of the gaming promotion;
- (2) Gaming promotion accounting; and
- (3) TGRA approval.

### § 543.11 What are the minimum internal control standards for patron deposit accounts and cashless systems?

(a) <u>Internal Control Procedures</u>. Subject to the approval and oversight of the TGRA, each gaming operation shall establish, implement and adhere to internal control policies and procedures that provide at least the level of control established by the standards of this section.

(b) <u>Computer Applications</u>. For any computer applications utilized, alternate documentation and/or procedures that provide at least the level of control established by the standards of this section, as approved in writing by the TGRA, will be acceptable.

(c) <u>Conflicts of Standards</u>. If there are any inconsistencies between these regulations and external standards incorporated by this provision, such as Title 31 and Credit Card Act, such other applicable standards shall prevail.

(d) <u>Variances</u>. The TGRA shall establish the threshold level at which a variance shall be reviewed. Any such review shall be documented.

(e) Patron Deposit Accounts and Cashless Systems.

(1) Patron deposit accounts and cashless systems must be controlled in a manner designed to prevent unauthorized access, misappropriation, forgery, theft, or fraud.

(2) All smart cards (i.e., cards that possess the means to electronically store or retrieve data) that maintain the only source of account data are prohibited.

(3) Patron deposit accounts may be unrestricted or restricted to a specific patron.

(4) Establishment of patron deposit accounts. The following standards apply when the patron establishes an account and optionally makes an initial deposit.

(i) For restricted patron deposit accounts:

(A) The patron must appear at the gaming operation in person, at a designated area of accountability, and present a valid government issued picture identification credential.

(B) An agent must examine the patron's identification and record, at a minimum, the following information:

- (1) Type, number, and expiration date of the identification;
- (2) Patron's name;
- (3) A unique account identifier;
- (4) Date the account was opened; and
- (5) The agent's name.

(C) The agent must require the patron to sign the account documentation before the account is activated.

(D) The agent or cashless system shall provide the patron deposit account holder with a secure method of access.

(ii) For unrestricted patron deposit accounts:

(A) The patron must be informed of the unrestricted nature of the account, and the fact that the account may be accessible to anyone with the account number.

(B) The patron must acknowledge and accept the risks associated with unrestricted accounts.

(5) Patron deposits, withdrawals and adjustments.

(i) Prior to the patron making a deposit or a withdrawal from a patron deposit account, the agent or cashless system must verify the identity of the patron deposit account, the patron identity for restricted accounts, and availability of funds.Reliance on a secured personal identification number (PIN) entered by the patron is an acceptable method of verifying patron identity.

(ii) Adjustments made to the patron deposit accounts must be performed by an agent.

(iii) When a deposit, withdrawal or adjustment is processed by an agent, a multipart transaction record must be created containing the following information: (A) Same document number on all copies;

(B) Type of transaction, (e.g., deposit, withdrawal, or adjustment);

(C) Name or other identifier of the patron for restricted patron deposit accounts;

(D) The unique account identifier;

(E) Patron signature for withdrawals, unless a secured method of access is utilized;

(F) Date and time of transaction;

(G) Dollar amount of transaction;

(H) Nature of deposit, withdrawal, or adjustment (e.g., cash, check, chips); and

(I) Signature of the agent processing the transaction.

(iv) When a patron deposits or withdraws funds from a patron deposit account electronically, the following shall be recorded and reported:

(A) Date and time of transaction;

(B) Location (e.g., player interface, kiosk);

(C) Dollar amount of transaction; and

(D) The unique account identifier.

(v) Detailed patron deposit account transaction records must be available to the patron upon reasonable request.

(vi) If electronic funds transfers are made to or from a gaming operation bank account for patron deposit account funds, the bank account must be dedicated and may not be used for any other types of transactions.

#### § 543.12 [RESERVED]What are the minimum internal control standards for player tracking systems used in conjunction with Class II gaming?

(a) Internal Control Procedures. Subject to the approval and oversight of the TGRA, each gaming operation shall establish, implement and adhere to internal control policies and procedures that provide at least the level of control established by the standards of this section.

(b) Computer Applications. For any computer applications utilized, alternate documentation and/or procedures that provide at least the level of control established by the standards of this section, as approved in writing by the TGRA, will be acceptable.

(c) Variances. The TGRA shall establish the threshold level at which a variance shall be reviewed. Any such review shall be documented.

(d) Player Tracking Systems. Controls must be established in a manner designed to prevent unauthorized access, cheating, misappropriation, forgery, theft, or fraud when a player tracking system is used in conjunction with Class II gaming. Such controls must include, but not be limited to, the following:

(1) Operation of player tracking programs;

(2) Security of player tracking accounts; and

(3) Audit and accounting.

#### § 543.13 [RESERVED]

### § 543.14 What are the minimum internal control standards for the cage, vault, cash and cash equivalents?

(a) <u>Internal Control Procedures</u>. Subject to the approval and oversight of the TGRA, each gaming operation shall establish, implement and adhere to internal control policies and procedures that provide at least the level of control established by the standards of this section.

(b) <u>Computer Applications</u>. For any computer applications utilized, alternate documentation and/or procedures that provide at least the level of control established by the standards of this section, as approved in writing by the TGRA, will be acceptable.

(c) <u>Variances</u>. The TGRA shall establish the threshold level at which a variance shall be reviewed. Any such review shall be documented.

(d) Supervision. Provide supervision for cage, vault, and other operations using cash or cash equivalents as needed by an agent(s) with authority equal to or greater than those being supervised.

(de) Cash or and Cash Equivalent Controls.

(1) Cash <u>or-and</u> cash equivalents must be controlled in a manner designed to prevent unauthorized access, misappropriation, forgery<u>, theft</u>, or fraud. Such controls must include, but not be limited to, the following actions:

(i) Counting;

(ii) Recording increases and decreases to inventory;

(iii) Inventory reconciliation;

(iv) Issuance and redemption;

(v) Transfers;

(v<u>vi</u>) Inspecting, validating and verifying;

(vivii) Cancelations and voids;

(viiviii) Authorization; and

(viiiix) Document retention.

(ef) <u>Check Cashing</u>. Check cashing must be controlled in a manner designed to prevent unauthorized access, misappropriation, forgery, theft, or fraud. Such controls must include, but not be limited to, the following:

(1) Acceptance of checks;

(2) Deposit of checks (Checks not deposited in the normal course of business are subject to § 543.15 Lines of Credit standards).

(3) Collecting and recording returned checks;

(4) Re-deposit; and

(5) Write-off authorization.

(6) If a third party check cashing or guarantee service is used, the examination and documentation procedures required by the service provider shall apply unless otherwise provided by <u>Tribal tribal</u> law or regulation.

(fg) Cage and Vault Accountability.

(1) Increases and decreases to cage inventory shall be verified, supported by documentation, and recorded. Unverified transfers of cash and/or cash equivalents are prohibited.

(2) The cage and vault inventories (including coin rooms/vaults) shall be counted independently by at least two agents, attested to by signature, and recorded in ink or other permanent form at the end of each shift during which activity took place.

(gh) <u>Chip(s) and Token(s)</u>. Controls must be established to ensure accountability of chip and token inventory. Such controls must include, but not be limited to, the following:

- (1) Purchase;
- (2) Receipt;
- (3) Inventory;
- (4) Storage; and
- (5) Destruction.

(hi) <u>Cage and Vault Access</u>. Controls must be established in a manner designed to prevent unauthorized access, misappropriation, forgery or fraud. Such controls must include, but not be limited to, the following:

(1) Physical access to the cage to cage department agents, designated staff, and other persons authorized; and

(2) Transportation of extraneous items (e.g., personal belongings, tool boxes, beverage containers, etc.) into and out of the cage.

#### § 543.15 What are the minimum internal control standards for lines of credit?

(a) <u>Internal Control Procedures</u>. Subject to the approval and oversight of the TGRA, each gaming operation shall establish, implement and adhere to internal control policies and procedures that provide at least the level of control established by the standards of this section.

(b) <u>Computer Applications</u>. For any computer applications utilized, alternate documentation and/or procedures that provide at least the level of control established by the standards of this section, as approved in writing by the TGRA, will be acceptable.

(c) <u>Variances</u>. The TGRA shall establish the threshold level at which a variance shall be reviewed. Any such review shall be documented.

(d) Establishment of Lines of Credit Policy.

(1) If a gaming operation extends lines of credit, controls must be established to safeguard the assets of the gaming operation. Such controls must include the establishment of a lines of credit policy including the following:

(i) A process for the patron to apply for, modify, and/or re-establish lines of credit, to include required documentation and credit line limit;

- (ii) Credit issuer authorization levels;
- (iii) Identification of agents authorized to issue lines of credit;
- (iv) A process for verifying lines of credit worthiness of applicants;
- (v) A system for recording patron information; to include:
  - (A) Name, current address, and signature;
  - (B) Identification credential;
  - (C) Authorized credit line limit; and
  - (D) Approval by an agent authorized to approve credit line limits;
- (vi) A process for issuing lines of credit to include the following:

(A) Notice to patron of lines of credit terms including patron written acknowledgment by signature;

(B) Completion of a uniquely identified, multi-part, lines of credit issuance form, such as a marker or counter check, which includes the terms of that lines of credit transaction;

- (C) Signatory requirements;
- (D) Determining the amount of the patron's available lines of credit;

(E) Creation and maintenance of current lines of credit balance record updated at the time of each transaction to assure that lines of credit issued is within the established limit and balance for that patron.

(F) Requirement that the agent issuing the lines of credit must be independent of the agent who authorized the lines of credit.

(vii) A policy establishing credit line limit exceptions to include the following:

(A) Identification of the agent(s) authorized to permit a credit line limit to be exceeded;

- (B) Authorization thresholds; and
- (C) Required documentation.

(viii) A policy governing increases and decreases to a patron's lines of credit account balances to include the following:

(A) Documentation and record keeping requirements;

(B) Independence between the department that receives the payment and the department that maintains custody of the credit balance for payments made by mail;

(C) Collections;

(D) Periodic audits and confirmation of balances; and

(E) If a collection agency is utilized, a process to ensure documentation of increases and decreases to the lines of credit account balances.

(ix) A policy governing write-offs and settlements to include:

(A) Identification of agent(s) authorized to approve write-offs and settlements;

(B) Authorization levels for write-offs and settlements of lines of credit instruments;

(C) Required documentation for write-offs and settlements;

(D) Independence between the agent who established the lines of credit and the agent writing off or settling the lines of credit instrument.

(E) Necessary documentation for the approval of write-offs and settlements and transmittal to the appropriate department for recording and deductibility.

### § 543.16 What are the minimum internal control standards for security and management of server, server software and data associated with Class II gaming systems?

(a) <u>Internal Control Procedures</u>. Subject to the approval and oversight of the TGRA, each gaming operation shall establish, implement and adhere to internal control policies and procedures that provide at least the level of control established by the standards of this section.

(b) <u>Computerized Applications</u>. For any computer applications utilized, alternate documentation and/or procedures that provide at least the level of control established by the standards of this section, as approved in writing by the TGRA, will be acceptable.

(c) <u>Class II Gaming systems and Physical Controls</u>. Controls must be established to ensure:

(1) Control of physical and logical access to server, server software and data associated with Class II gaming systems, including accounting, voucher, cashless and player tracking, among others used in conjunction with Class II gaming;

(2) Physical and logical protection of storage media and its contents, including recovery procedures;

(3) Access credential control methods;

(4) Record keeping and audit processes; and,

(5) Departmental independence, including, but not limited to, means to restrict agents that have access to server, server software and data from having access to financial instruments.

(d) <u>Independence</u>. All personnel having access to Class II gaming servers, server software and/or data are independent of and restricted from access to:

(1) Financial instruments (e.g. cash, cash equivalents, vouchers, and coupons);

- (2) Signatory authority over financial instruments and payouts forms; and
- (3) Accounting, audit, and ledger entries.

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

(a) <u>Internal Control Procedures</u>. Subject to the approval and oversight of the TGRA, each gaming operation shall establish, implement and adhere to internal control policies and procedures that provide at least the level of control established by the standards of this section.

(b) <u>Computerized Applications</u>. For any computer applications utilized, alternate documentation and/or procedures that provide at least the level of control established by the standards of this section, as approved in writing by the TGRA, will be acceptable.

(c) <u>Variances</u>. The TGRA shall establish the threshold level at which a variance shall be reviewed. Any such review shall be documented.

(d) Supervision. Supervision shall be provided for approval of complimentary services as needed by an agent(s) with authority equal to or greater than those being supervised.

(de) <u>Complimentary Services and or Items</u>. Controls must be established in a manner designed to prevent unauthorized access, misappropriation, forgery<u>, theft</u>, or fraud. Such controls must include, but not be limited to, the following:

(1) How the gaming operation delegates to its personnel the authority to approve the issuance of complimentary services <u>and or</u> items, including levels of authorization for the agents approving the issuance of complimentary services <u>and or</u> items;

(2) Written limits and conditions on the approval and issuance of complimentary services or items, and how the conditions or limits of authority may be modified,  $\vdots$ 

(3) Documentation and recordation requirements for the authorization, issuance, and tracking of complimentary services <u>and or</u> items, including cash and non-cash gifts;

(i) Complimentary issuance records shall include the following for all complimentary items and services equal to or exceeding an amount established by the TGRA.

(A) Name of patron who received the complimentary service or item;

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

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

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

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

(ii) Reserved.

### **§ 543.18** How does a gaming operation apply for a variance from the standards of this part?

(a) Variance.

(1) Should a TGRA grant a variance to any provision of these MICS, the TGRA shall deliver a notice of the same to the Commission within ten (10) days of such approval.

(i) The notice shall contain a complete copy of the information presented to the TGRA and the variance as granted.

(ii) The notice shall be forwarded to the Commission within ten (10) days of the granting of the Variance.

(2) During a thirty (30) day period when the Commission first receives the notice required by this subpart, the Chairman may request additional information from the TGRA concerning the subject of variance. Such request shall suspend the thirty (30) day period until the Chairman receives the TGRA response.

(b) Commission Review.

(1) Within the thirty (30) day review period, the Commission may:

(i) Advise the TGRA, in writing, that it has no objection.

(ii) Provide the TGRA a written statement itemizing its objections.

(iii) Take no action, in which case, the TGRA's variance shall be final.

(2) If the Commission has provided the TGRA a statement itemizing objections to the variance:

(i) The TGRA shall reconsider the variance taking into account the objections itemized by the Commission.

(ii) The TGRA may seek reconsideration by submitting a request to the Chairman and members of the Commission.

(iii) Upon receipt of a request for reconsideration, the Commission shall conduct an informal hearing with the TGRA within 30 days, which may be conducted in person or through the exchange of documents, as requested by the TGRA.

(iv) After the informal hearing, the Commission must issue a written decision within 14 days. If the Commission disapproves the variance, such written decision must include an explanation of why the requested variance creates an imminent threat to the integrity of the tribal gaming operation.

#### § 543. 19 What are the minimum internal control standards for audit and accounting?

(a) <u>Internal Control Procedures</u>. Subject to the approval and oversight of the TGRA, each gaming operation shall establish, implement and adhere to internal control policies and procedures that provide at least the level of control established by the standards of this section.

(b) <u>Computerized Applications</u>. For any computer applications utilized, alternate documentation and/or procedures that provide at least the level of control established by the standards of this section, as approved in writing by the TGRA, will be acceptable.

(c) <u>Conflicts of Standards</u>. <u>When establishing SICS the gaming operation should review and</u> consider incorporation of other external standards such as GAAP, SSAE, and standards promulgated by GASB and FASB. Accordingly, in the event of a conflict If there are any inconsistencies between <u>the MICS and the these regulations and external standards</u> incorporated <u>external standards</u>, by this provision, such as GASB, GAAP, FASB, and SSAE, such other applicablethe external standards shall-prevail.

(d) Operational Audits (formerly "Revenue Audit"). Controls shall be established to ensure:

(1) All audits are designed in a manner to detect unauthorized access, misappropriation, forgery, theft, or fraud.

(2) All audits are performed within seven (7) days of the audited activity's occurrence as follows, unless otherwise specified:

- (i) Gaming revenue and payouts;
- (ii) Increases and decreases to inventory;
- (iii) Cash equivalent inventory count;
- (iv) Exceptions, overrides, and voids;
- (v) Complimentary services and items records (Weekly);
- (vi) Manual increases and decreases to/from player accounts (Weekly);
- (vii) Promotions, contests, and tournaments (Weekly); and
- (viii) Key control records (Quarterly).

(3) Minimum bankroll calculations are audited periodically to ensure that the gaming operation maintains cash in an amount sufficient to satisfy the gaming operation's obligations.

(4) At least bi-annually, an inventory of all drop, count, override, and panel keys are performed and increases and decreases in key inventory are reconciled.

(5) Audit results are summarized and recorded.

(6) <u>Audit Controls are developed to account controlled inventories</u> for <u>recording</u> the receipt, issuance, and use of controlled inventories (including but not limited to bingo cards, pull tabs, playing cards, keys, pre-numbered and/or multi-part forms, etc.).

(7) Adjustments to original data are controlled to ensure all adjustments are properly completed and documented.

(8) Exceptions are reviewed for suspect and/or unusual transactions.

(9) Documentation must be generated and maintained evidencing the performance of audit procedures.

(10) If the audit is not performed by accounting agents, the agent(s) performing the audit are independent of the agents who performed the transactions being reviewed.

(e) Accounting. Controls must be established to ensure each gaming operation:

(1) Prepares accurate, complete, legible, and permanent records of all transactions pertaining to gaming revenue.

(2) Prepares general accounting records on a double-entry system of accounting, maintaining detailed, supporting, subsidiary records, and perform the following:

(i) Record gaming activity transactions in an accounting system to identify and track all revenues, expenses, assets, and liabilities;

(ii) Produce income and balance sheet statements;

(iii) Produce appropriate subsidiary ledgers to support the balance sheet;

(iv) Inventory and safeguard assets;

(v) Prepare, review, and maintain accurate financial statements;

(vi) Prepare minimum bankroll calculations; and

(vii) Maintain and preserve all financial books, records, and relevant supporting documentation.

(f) Internal Audit. Controls shall be established to ensure:

(1) Internal auditor(s) perform audits of each department of a gaming operation, at least annually, to review compliance with <u>TICS</u>, <u>SICS</u>, and these MICS, <u>TICS</u>, and <u>SICS</u>.

(2) Internal auditor(s) are independent of the gaming operations with respect to the departments subject to audit (auditors internal to the operation, officers of the TGRA, or outside CPA firm may perform this function).

(3) Internal auditors report directly to the Tribe, TGRA, audit committee, or other entity designated by the Tribe.

(4) Documentation (e.g., checklists, programs, reports, etc.) is prepared to evidence all internal audit work and follow-up performed as it relates to compliance with <u>TICS, SICS</u>, <u>and these MICS, TICS, and SICS</u>.

(5) Reports documenting audits performed are maintained and made available to the Commission upon request.

(6) All material exceptions resulting from internal audit work are investigated and resolved with the results documented.

(7) Internal audit findings are reported to management, responded to by management in the internal audit report stating corrective measures to be taken, and delivered to management, the Tribe, TGRA, audit committee, or other entity designated by the Tribe.

#### (g) Annual Audits.

(1) Agreed upon procedures. A CPA must be engaged to perform, in accordance with agreed upon procedures and the most recent versions of the Statements on Standards for Attestation Engagements and Agreed-Upon Procedures Engagements (collectively "SSAE's"), issued by the American Institute of Certified Public Accountants Inc., an assessment of whether the gaming operation is in compliance with these MICS, the TICS, and/or the SICS.

(2) The tribe must submit two copies of the agreed-upon procedures report to the Commission within 120 days of the gaming operation's fiscal year end in conjunction with the submission of the annual financial audit report required under 25 CFR Part 571.

(3) Require management to have sufficient knowledge and understanding of the purpose, nature, and scope of the agreed upon procedures to provide adequate oversight and participation in the process to ensure a meaningful and useful outcome.

(4) Reliance on Internal Audit.

(i) Agreed upon procedures are to be performed by the CPA to determine that the internal audit procedures performed during the fiscal year have been properly completed.

(ii) The CPA may rely on the work of internal audit for the completion of the MICS checklists as they relate to the standards covered by this Part.

(5) Report Format. The Statements on Standards for Attestation Engagements and Agreed-Upon Procedure Engagements (SSAE's) are applicable to <u>agreed-agreed-upon</u> procedures engagements required in this Part. All noted instances of noncompliance must be documented in the report with a narrative description, the number of exceptions and sample size tested.

#### § 543.20 [RESERVED]

#### § 543.21 What are the minimum internal control standards for drop and count?

(a) <u>Internal Control Procedures</u>. Subject to the approval and oversight of the TGRA, each gaming operation shall establish, implement and adhere to internal control policies and procedures that provide at least the level of control established by the standards of this section.

(b) <u>Computerized Applications</u>. For any computer applications utilized, alternate documentation and/or procedures that provide at least the level of control established by the standards of this section, as approved in writing by the TGRA, will be acceptable.

(c) <u>Variances</u>. The TGRA shall establish the threshold level at which a variance shall be reviewed. Any such review shall be documented.

(d) Supervision. Supervision shall be provided for drop and count as needed by an agent(s) with authority equal to or greater than those being supervised.

(de) <u>Count Room Access</u>. Controls must be established to limit physical access to the count room to count team agents, designated staff, and other authorized persons. Such controls must include, but not be limited to, the following:

(1) Count team agents shall not be allowed to exit or enter the count room during the count except for emergencies or scheduled breaks.

(2) Surveillance shall be notified whenever count room agents exit or enter the count room during the count.

(3) The count team policy, at a minimum, shall address the transportation of extraneous items (e.g., personal belongings, tool boxes, beverage containers, etc.) into or out of the count room.

(ef) <u>Count team</u>. Controls must be established in a manner designed to ensure security of the count and the count room to prevent unauthorized access, misappropriation of funds, <u>forgery</u>, <u>theft</u>, <u>and or</u> fraud. Such controls must include, but not be limited to, the following:

(1) For Tier A and B operations, all counts shall be performed by a minimum of two (2) agents. For Tier C operations, all counts shall be performed by a minimum of three (3) agents.

(2) For Tier A and B operations, at no time during the count shall there be fewer than two (2) count team agents in the count room until the drop proceeds have been accepted into cage/vault accountability. For Tier C operations, at no time during the count shall there be fewer than three (3) count team agents in the count room until the drop proceeds have been accepted into cage/vault accountability.

(3) For Tier A and B operations, count team agents shall be rotated on a routine basis such that the count team is not consistently the same two (2) agents more than four (4) days per week. This standard shall not apply to gaming operations that utilize a count team of more than two (2) agents. For Tier C operations, count team agents shall be rotated on a routine basis such that the count team is not consistently the same three (3) agents more than four (4) days per week. This standard shall not apply to gaming operations that utilize a count team of more than four (4) days per week. This standard shall not apply to gaming operations that utilize a count team of more than four (4) days per week. This standard shall not apply to gaming operations that utilize a count team of more than three (3) agents.

(4) Functions performed by count team agents shall be rotated on a routine basis.

<u>(5)</u> For Tier A and B operations, if the count is not viewed live, the operation must establish controls to ensure a review of the recording within seven (7) days by an agent independent of the count operation and the count being reviewed. For Tier C operations, the count shall be viewed live.

(65) Count team agents shall be independent of the department being counted and the cage/vault departments. An accounting agent may be used if there is an independent audit of all count documentation.

(fg) <u>Drop</u>. Controls must be established in a manner designed to ensure security of the drop process to prevent unauthorized access to gaming equipment and the drop, misappropriation of funds, <u>forgery, theft, and or</u> fraud. Such controls must include, but not be limited to, the following:

(1) Drop schedules and periods, including procedure to continue drop once started through completion.

(2) Security during transport of drop boxes, including escort by a minimum of two (2) agents, at least one of whom is independent of the revenue being dropped.

(3) All drop boxes shall be uniquely identified to correspond with the card table, player interface, and/or other location from which the drop box was removed.

- (4) Security over drop boxes removed and awaiting transport to the count room.
- (5) Security of drop boxes until the count takes place.
- (6) Notification to surveillance when a drop is to begin.
- (7) Provisions for emergency drop.

(gh) <u>Count</u>. Controls must be established in a manner designed to ensure security of the count process to prevent unauthorized access to count equipment and the drop, misappropriation of funds, improper manipulation of financial records, <u>forgery, theft, and or</u> fraud. Such controls must include, but not be limited to, the following:

- (1) Establishment of a dedicated count room;
- (2) Manual count process;
- (3) Utilization, testing, and calibration of counters and/or validation systems;
- (4) Verification of count;
- (5) Prevention of the comingling of funds until recorded per drop box;

(6) Accurate and permanent forms of recordation for all cash and cash equivalents and rejected cash or cash equivalents;

(7) For card game counts, additional controls, as applicable, shall be established and procedures implemented to ensure:

(i) Fills/credits, <u>Pit Marker marker Issueissue/Payment payment Slips slips</u> are recorded and forwarded to the appropriate department for verification and reconciliation.

(ii) Opening/closing card table inventory forms are examined and traced to or recorded on the appropriate documentation with discrepancies investigated and results documented.

(8) The reconciliation of count records to the total drop, which shall address, but not be limited to:

(i) Signature of each agent of the count team attesting to their participation in the count;

(ii) Reconciliation of the total drop by a count team agent who shall not function as the sole recorder; and

(iii) Documentation of all unresolved variances.

(9) Transfer of the drop following the count.

(10) All cash and cash equivalent inventory stored in the count room shall be secured from unauthorized access at all times.

(11) Access to stored drop boxes, full or empty.

(hi) <u>Controlled keys or equivalents</u>. Controls shall be established and procedures implemented to safeguard the use, access, and security of keys or other access methods in accordance with the following:

(1) Each of the following requires a separate and unique key lock or alternative secure access method:

(i) Drop cabinet;

(ii) Drop box release;

(iii) Drop box content; and

(iv) Storage racks and carts.

(2) Access to and return of keys or equivalents shall be manually or electronically documented with the date, time, and signature or other unique identifier of the agent accessing or returning the key(s).

(i) For Tier A and B operations, at least two (2) drop team agents are required to be present to access and return keys. For Tier C operations, at least three (3) drop team agents are required to be present to access and return keys.

(ii) For Tier A and B operations, at least two (2) count team agents are required to be present at the time count room and other count keys are issued for the count. For Tier C operations, at least three (two for card game drop box keys in operations with three tables or fewer) count team agents are required to be present at the time count room and other count keys are issued for the count.

(iii3) Where an alternative access method is utilized, the use of such method shall be controlled in a manner consistent with the objectives of this standard.

(<u>34</u>) Documentation of all keys, including duplicates, shall be maintained including:

(i) Unique identifier for each individual key:

(ii) Key storage location;

(iii) Number of keys made, duplicated, and destroyed; and

(iv) Authorization and access.

(4<u>5</u>) Custody of all keys involved in the drop and count shall be maintained by a department independent of the count and drop agents and those departments being dropped and counted.

(56) Other than the count team, no agent shall have access to the drop box content keys while in possession of storage rack keys and/or release keys.

(67) Other than the count team, only agents authorized to remove drop boxes are allowed access to drop box release keys.

(78) Utilization of keys at times other than the scheduled drop and count <u>is-must be</u> properly authorized and documented.

(89) Emergency manual keys (a.k.a<u>i.e.</u>, Override override Keykey) for computerized, electronic, and alternative key systems.

#### § 543.22 [RESERVED]

#### § 543.23 What are the minimum internal control standards for surveillance?

(a) <u>Internal Control Procedures</u>. Subject to the approval and oversight of the TGRA, each gaming operation shall establish, implement and adhere to internal control policies and procedures that provide at least the level of control established by the standards of this section.

(b) <u>Computerized Applications</u>. For any computer applications utilized, alternate documentation and/or procedures that provide at least the level of control established by the standards of this section, as approved in writing by the TGRA, will be acceptable.

(c) <u>Surveillance Equipment and Control Room(s)</u>. Controls must be established in a manner designed to prevent unauthorized access<u>and/or activities</u>, <del>cheating,</del> misappropriation, forgery, <u>theft</u>, or fraud. Such controls must include, but not be limited to, the following:

(1) For Tier A, the surveillance system shall be maintained and operated from a secured location, such as a locked cabinet. For Tier B and C, the surveillance system shall be maintained and operated from a staffed surveillance operation room(s).

(2) The surveillance operation room(s) shall be secured to prevent unauthorized entry.

(3) Access to the surveillance operation room(s) shall be limited to surveillance agents, designated staff, and other persons authorized.

(4) Surveillance operation room(s) access logs shall be maintained.

(5) Surveillance operation room equipment shall have total override capability over all other satellite surveillance equipment located outside the surveillance operation room.

(6) Power loss to the surveillance system.

(i) For Tier A, in the event of power loss to the surveillance system, immediate alternative security measures, such as additional supervisory or security agents, shall be provided.

(ii) For Tier B and C, in the event of power loss to the surveillance system, an auxiliary or backup power source shall be available and capable of providing immediate restoration of power to all elements of the surveillance system that enable surveillance agents to observe all areas covered by dedicated cameras.

(7) The surveillance system shall record an accurate date and time stamp on recorded events. The displayed date and time shall not significantly obstruct the recorded view.

(8) All surveillance agents shall be trained in the use of the equipment, and be knowledgeable of the games and house rules.

(9) Each camera required by the standards in this section shall be installed in a manner that will prevent it from being readily obstructed, tampered with, or disabled.

(10) The surveillance system shall:

(i) Have the capability to display all camera views on a monitor;

(ii) Include sufficient numbers of recording devices to record the views of all cameras required by this section;

(iii) Record all camera views; and

(iv) For Tier B and C only, include sufficient numbers of monitors to simultaneously display gaming and count room activities.

(11) A periodic check of the surveillance systems shall be conducted. When a malfunction of the surveillance system is discovered, the malfunction and necessary repairs shall be documented and repairs initiated within seventy-two (72) hours.

(i) If a dedicated camera malfunctions, immediate alternative security measures, such as additional supervisory or security agents, shall be provided.

(ii) The TGRA shall be notified of any surveillance system and/or camera(s) that have malfunctioned for more than twenty-four (24) hours and the alternative security measures being provided.

(d) <u>Additional Surveillance Requirements</u>. With regard to the following functions, the additional specified <u>requirements controls</u> shall be implemented:

(1) Bingo.

(i) For manual draws, the surveillance system shall monitor the bingo ball drawing device or mechanical random number generator, which shall be recorded during the course of the draw by a dedicated camera to identify the <u>balls-numbers</u> <u>or other designations</u> drawn-or numbers selected.

(ii) The surveillance system shall monitor and record the activities of the bingo game, including drawing, calling, <u>and</u> entering<del>, and</del> the balls, numbers or other designations drawn-or selected.

(2) Card games.

(i) Except for card game tournaments, a dedicated camera(s) shall be used to provide:

(A) An overview of the activities on each card table surface, including card faces and cash and/or cash equivalents;

(B) An overview of card game activities, including patrons and dealers; and

(C) An unobstructed view of all posted progressive pool amounts.

(ii) For card game tournaments, a dedicated camera(s) shall be used to provide an overview of tournament activities, including entrances/exits and any area where cash or cash equivalents are exchanged.

(3) Prize <u>payouts Winning Events</u>. The TGRA shall establish standards for surveillance camera coverage of <u>payouts prize winning events</u>. Dedicated camera coverage is required when the progressive base value or prize amount in excess of exceeds \$3,000,000.00 for fixed prize payouts or progressive reset values. Such Recorded camera coverage shall

include the activities of patrons and agents at the <u>time and</u> location of the <u>prize</u> winning event.

(4) Cash and Cash Equivalents.

(i) The surveillance system shall monitor and record:

(A) An view of the patron, cage agent, vault agent or count team agent(s) and the surrounding area and counting surface;

(B) Payouts of gaming winnings;

(C) Entry and exit doors to and from the cage, vault and other secured count areas;

(D) All count equipment including but not limited to reject bins, weigh scales, wrapping machines, currency and coin counters, and chips sorters;

(E) Any area where the manipulation of recorded data may occur;

(F) Drop and count while in process; for Tier A and B operations, if the count is not viewed live, the operation must establish controls to ensure a review of the recording within seven (7) days by an agent independent of the count operation and the count being reviewed. For Tier C operations, the count shall be viewed live.

(G) All drop boxes and storage racks by either a dedicated camera or a motion-detector activated camera.

(ii) During the count process a dedicated overhead camera(s) or motion-detector activated camera(s) must cover the:

(A) Transaction area with the ability to identify cash and cash equivalent values;

(B) All counting surfaces used during the count; and

(C) All drop boxes and their storage racks.

(e) <u>Recording Retention</u>. Controls must be established that include, but are not limited to, the following:

(1) All recordings required by this section shall be retained for a minimum of seven (7) days; and

(2) Suspected or confirmed gaming crimes, unlawful or suspicious activity, or detentions by security personnel discovered within the initial retention period shall be copied and retained for a time period, not less than one (1) year.

(f) Logs. Logs must be maintained and demonstrate the following:

(1) Compliance with the storage, identification, and retention standards required in this section;

(2) Each malfunction and repair of the surveillance system as defined in this section; and

(3) Activities performed by surveillance agents.

# APPENDIX

## 2

### PART 547 — MINIMUM TECHNICAL STANDARDS FOR GAMING EQUIPMENT USED WITH THE PLAY OF CLASS II GAMES.

Sec.

547.1 <u>547.1</u> What is the purpose of this part?

547.2 <u>547.2</u> How do these regulations affect state jurisdiction?

547.3 <u>547.3</u> What are the definitions for this part?

547.4-547.4\_How does a tribal government, tribal gaming regulatory authorityTGRA, or tribal gaming operation comply with this part?

547.5 547.5 What are the rules of interpretation and of general application for this part?

547.6 <u>547.6</u> What are the minimum technical standards for enrolling and enabling Class II gaming system components?

547.7-547.7 What are the minimum technical hardware standards applicable to Class II gaming systems?

547.8 <u>547.8</u> What are the minimum technical software standards applicable to Class II gaming systems?

547.9 <u>547.9</u> What are the minimum technical standards for Class II gaming system accounting functions?

547.10-547.10 What are the minimum standards for Class II gaming system critical events?

547.11 547.11 What are the minimum technical standards for money and credit handling?

547.12-547.12 What are the minimum technical standards for downloading on a Class II gaming system?

547.13 547.13 What are the minimum technical standards for program storage media?

547.14 547.14 What are the minimum technical standards for electronic random number generation? 547.15 547.15 What are the minimum technical standards for electronic data communications between system components?

547.16-547.16 What are the minimum standards for game artwork, glass, and rules?

547.17 <u>547.17</u> How does a tribal gaming regulatory authority apply for <u>TGRA grant</u> a variance from these standards?

Authority: 25 U.S.C. 2706(b).

#### § 547.1\_ What is the purpose of this part?

The Indian Gaming Regulatory Act, 25 U.S.C. 2703(7)(A)(i), permits the use of electronic,

computer, or other technologic aids in connection with the play of Class II games. This part establishes

the minimum technical standards governing the use of such aids.

#### § 547.2 How do these regulations affect state jurisdiction?

Nothing in this part shall be construed to grant to a state jurisdiction over Class II gaming or to

extend a state's jurisdiction over Class III gaming.

#### § 547.3 What are the definitions for this part?

For the purposes of this part, the following definitions apply:

Account <u>AccessComponent</u>, access component. A component within a Class II gaming system that reads or recognizes account access media and gives a patron the ability to interact with <u>his or heran</u> account.

Account <u>AccessMedium, access medium.</u> A magnetic stripe card or any other medium inserted into, or otherwise made to interact with, an account access component in order to give a patron the ability to interact with an account.

*Audit* <u>Mode, *mode*</u>. The mode where it is possible to view Class II gaming system accounting functions, statistics, etc. and perform non-player-related functions.

*Agent*, <u>An employee or other</u>, <u>A</u> person authorized by the gaming operation, as approved by the tribal gaming regulatory authority, designated for certain<u>TGRA</u>, to make decisions, tasks <u>andor</u> actions <u>inon the behalf of</u> the gaming operation. <u>This definition permits the use of computer</u> applications to perform the function(s) of an agent.

*Cancel* <u>Credit</u>, *credit*. An action initiated by the Class II gaming system where some or all of a player's credits are removed by an attendant and paid to the player.

*Cashless* <u>System</u>. A system that performs cashless transactions and maintains records of those cashless transactions.

*Cashless* <u>Transaction, *transaction.*</u> A movement of funds electronically from one component to another, often to or from a patron deposit account.

*CD-ROM*<sub>7</sub> Compact Disc – Read Only Memory.

*Chairman*, The Chairman of the National Indian Gaming Commission.

*Class II* <u>Game, The same as "classgame. Class</u> II gaming<u>" in shall have the same meaning as</u> <u>defined in</u> 25 U.S.C. 2703(7)(A). *Class II* <u>GamingSystem, gaming system.</u> All components, whether or not technologic aids in electronic, computer, mechanical, or other technologic form, that function together to aid the play of one or more Class II games, including accounting functions mandated by these regulations.

*Commission*<sub>7</sub>. The National Indian Gaming Commission established by the Indian Gaming Regulatory Act, 25 U.S.C. 2701 *et seq*.

 $Coupon_{\overline{j}}$  A financial instrument of fixed wagering value, usually paper, that can only be used to acquire non-cashable credits through interaction with a voucher system. This does not include instruments such as printed advertising material that cannot be validated directly by a voucher system.

*Critical* <u>Memory, memory.</u> Memory locations storing data essential to the functionality of the Class II gaming system.

*DLL*<sub>5</sub> A Dynamic-Link Library file.

*Download* <u>Package, package.</u> Approved data sent to a component of a Class II gaming system for such purposes as changing the component software.

*DVD*<sub>7</sub>: Digital Video Disk or Digital Versatile Disk.

<u>ElectromagneticInterference</u>, The physical characteristic of an electronic component to emitelectronic noise either into free air, onto the power lines, or onto communication cables.

(Remark: Definition not used in this proposed draft.)

*Electrostatic Discharge*. A single-event, rapid transfer of electrostatic charge between two objects, usually resulting when two objects at different potentials come into direct contact with each other.

 $EPROM_{\overline{i}}$  Erasable Programmable Read Only Memory – a storage area that may be filled with data and information, that once written is not modifiable, and that is retained even if there is no power applied to the machine.

 $Fault_{\overline{j}}$  An event that when detected by a Class II gaming system causes a discontinuance of game play or other component functions.

Financial Instrument, instrument. Any tangible item of value tendered in Class II game play,

including, but not limited to, bills, coins, vouchers and coupons.

Financial Instrument Acceptor, instrument acceptor. Any component that accepts financial

instruments, such as a bill validator.

(Remark: Added clarity when referring to proposed TGWG draft Part 543.)

*Financial* <u>InstrumentDispenser, *instrument dispenser*</u>. Any component that dispenses financial instruments, such as a ticket printer.

(Remark: Added clarity when referring to proposed TGWG draft Part 543.)

Financial InstrumentStorageComponent, instrument storage component. Any component that

stores financial instruments-, such as a drop box.

(Remark: Added clarity when referring to proposed TGWG draft Part 543.)

*Flash* <u>Memory, *memory*</u>. Non-volatile memory that retains its data when the power is turned off and that can be electronically erased and reprogrammed without being removed from the circuit board.

Game Software, software. The operational program or programs that govern the play, display of

results, and/or awarding of prizes or credits for Class II games.

Gaming Equipment, equipment. All electronic, electro-mechanical, mechanical, or other physical

components utilized in the play of Class II games.

*Hardware*<sub>7</sub>. Gaming equipment.

*Interruption*, Any form of mis-operation, component failure, or interference to the Class II gaming equipment.

Modification, A revision to any hardware or software used in a Class II gaming system.

*Non-cashable* <u>Credit, credit.</u> Credits given by an operator to a patron; placed on an Class II gaming system through a coupon, cashless transaction or other approved means; and capable of activating play but not being converted to cash.

Patron. A person who is a customer or guest of the gaming operation and may interact with a

Class II game. Also may be referred to as a "player".

*Patron* <u>DepositAccount</u>, *deposit account*. An account maintained on behalf of a patron, for the purpose of depositing and withdrawing cashable funds for the primary purpose of interacting with a gaming activity.

*Player* <u>Interface, *interface*</u>. Any component or components of a Class II gaming system, including an electronic or technologic aid (not limited to terminals, player stations, handhelds, fixed units, etc.), that directly enables player interaction in a Class II game.

*Prize* <u>Schedule</u>, *schedule*. The set of prizes available to players for achieving pre-designated patterns in the Class II game.

*Program* <u>StorageMedia, storage media.</u> An electronic data storage component, such as a CD-ROM, EPROM, hard disk, or flash memory on which software is stored and from which software is read.

*Progressive* <u>Prize, prize.</u> A prize that increases by a selectable or predefined amount based on play of a Class II game.

*Random* <u>NumberGenerator</u> *number generator* (*RNG*)<sub>5</sub>. A software module, hardware component or combination of these designed to produce outputs that are effectively random.

*Reflexive* <u>Software, software.</u> Any software that has the ability to manipulate and/or replace a randomly generated outcome for the purpose of changing the results of a Class II game<u>or deprives a</u> player of a prize to which the player is otherwise entitled based on the random outcome of the game. (Remark: The added language makes this definition more consistent with the industry understanding of reflexive technology. The proposed language operates to clearly identify the harm the provision is intended to prevent.)

*Removable*/<u>RewritableStorageMedia,/rewritable storage media.</u> Program or data storage components that can be removed from gaming equipment and be written to, or rewritten by, the gaming equipment or by other equipment designed for that purpose.

Server, A computer that controls one or more applications or environments within a Class II gaming system.

*Test/*<u>DiagnosticsMode, *diagnostics mode.*</u> A mode on a component that allows various tests to be performed on the Class II gaming system hardware and software.

Testing Laboratory, laboratory. An organization recognized by a tribal gaming regulatory

authority<u>TGRA</u> pursuant to § 547.4(f).

<u>*TGRA.*</u> Tribal GamingRegulatoryAuthority. The <u>gaming regulatory authority</u>, <u>which is the</u> entity authorized by tribal law to regulate gaming conducted pursuant to the Indian Gaming Regulatory Act.

*Voucher*<sub> $\overline{,}$ </sub> A financial instrument of fixed wagering value, usually paper, that can only be used to acquire an equivalent value of cashable credits or cash through interaction with a voucher system.

*Voucher* <u>System</u>, <u>system</u>. A component of the Class II gaming system or an external system that securely maintains records of vouchers and coupons; validates payment of vouchers; records successful or failed payments of vouchers and coupons; and controls the purging of expired vouchers and coupons.

### § 547.4\_ How does a tribal government, tribalgamingregulatoryauthority<u>TGRA</u>, or tribal gaming operation comply with this part?

(a) <u>(a)</u> *Limited immediate compliance*. A tribal gaming regulatory authority <u>TGRA</u> shall:

(1) Require that all Class II gaming system software that affects the play of the Class II game and were in operation prior to November 10, 2008 be submitted, together with the signature verification required by § 547.8(f), to a testing laboratory recognized pursuant to paragraph (f) of this section within 120 days after November 10, 2008.

(Remark: Submission under this provision was restricted to TGRAs and only provided for games in active operation on the effective date. Accordingly, manufacturers who may have had inactive games that would otherwise qualify for grandfather status would not have been able to qualify such games for grandfather status. To ensure that tribes are able to take advantage of all Class II systems

eligible for grandfather status, we propose the foregoing revision to this sub-section. We further

note that any concerns with system integrity are addressed by the non-waive able provision

governing the integrity of the grandfathered systems set forth in subpart 547.4.)

(2) (2) Require that the testing laboratory test the submission to the standards established by §

547.8(b), § 547.8(f), § 547.14, the minimum probability standards of § 547.5(c), and to any additional

technical standards adopted by the tribal gaming regulatory authority; TGRA;

(Remark: Minimal probability standards are not applicable to Bingo.)

(3) (3) Require that the testing laboratory provide the tribal gaming regulatory authority<u>TGRA</u> with a formal written report setting forth and certifying to the findings and conclusions of the test;

(i) The testing laboratory's written report shall note the submission of any other compliance with applicable federal laws or regulations.

(Remark: Given that other federal agencies are responsible for establishing and enforcing electrical product safety standards, the NIGC lack's jurisdiction over this subject matter. However, this section was added to clarify that it is industry standard for the laboratories to make note or include other laboratory certifications as provided by the manufacturer in their report.)

(4) (4) Make a finding, in the form of a certificate provided to the supplier or manufacturer of the Class II gaming system, that the Class II gaming system qualifies for grandfather status under the provisions of this section, but only upon receipt of a testing laboratory's report that the Class II gaming system is compliant with § 547.8(b), § 547.8(f), the minimum probability standards of § 547.5(c), § 547.14, and any other technical standards adopted by the tribal gaming regulatory authorityTGRA. If the tribal gaming regulatory authorityTGRA does not issue the certificate, or if the testing laboratory finds that the Class II gaming system is not compliant with § 547.8(b), § 547.8(f), the minimum probability standards adopted by the tribal gaming regulatory authorityTGRA does not issue the certificate, or if the testing laboratory finds that the Class II gaming system is not compliant with § 547.8(b), § 547.8(f), the minimum probability standards of § 547.5(c), § 547.14, or any other technical standards adopted by the tribal gaming regulatory authorityTGRA, then the gaming system shall immediately be removed from play and not be utilized. (See previous remark regarding minimal probability.)

(5) (5) Retain a copy of any testing laboratory's report so long as the Class II gaming system that is the subject of the report remains available to the public for play;

(6)\_(6)\_Retain a copy of any certificate of grandfather status so long as the Class II gaming system that is the subject of the certificate remains available to the public for play; and

(7)-(7)\_Require the supplier of any player interface to designate with a permanently affixed label each player interface with an identifying number and the date of manufacture or a statement that the date of manufacture was on or before the effective date of this part. The tribal gaming regulatory-

authority<u>TGRA</u> shall also require the supplier to provide a written declaration or affidavit affirming that the date of manufacture was on or before on or before November 10, 2008.

(b) (b) Grandfather provisions. All Class II gaming systems manufactured or placed in a tribal facility on or before the effective date of this part and certified pursuant to paragraph (a) of this section are grandfathered Class II gaming systems for which the following provisions apply:

(1) Grandfathered Class II gaming systems may continue in operation for a period of fiveyears from November 10, 2008.

(Remark: The proposed strike out is intended to rectify the economically burdensome and unfair effect of the rule as promulgated. In the first place, the rule as promulgated is unduly restrictive and given that its promulgation was not supported by relevant and credible data, it is arbitrary and capricious as well. Operation of grandfathered Class II gaming systems under the existing grandfather provision demonstrate no reason to suggest retention any time restrictions on usage of the grandfathered Class II gaming systems. Additionally, any concerns with system integrity are addressed by the non-waive able provision governing the integrity of the grandfathered systems set forth in subpart 547.4. Finally, any concerns with regard to product safety standards are within the jurisdiction of other agencies and therefore beyond the scope of NIGC jurisdiction.)

(2) (1) Grandfathered Class II gaming system shall be available for use at any tribal gaming facility subject to approval by the tribal gaming regulatory authority TGRA, which shall transmit its notice of

that approval, identifying the grandfathered Class II gaming system and its components, to the Commission.

(3) (2) As permitted by the tribal gaming regulatory authority TGRA, individual hardware or software components of a grandfathered Class II gaming system may be repaired or replaced to ensure proper functioning, security, or integrity of the grandfathered Class II gaming system.

(4) (3) All modifications that affect the play of a grandfathered Class II gaming system must be approved pursuant to paragraph (c) of this section, except for the following:

(i) Any software modifications that the tribal gaming regulatory authority<u>TGRA</u> finds will maintain or advance the system's overall compliance with this part or any applicable provisions of parts-542 and part 543 of this chapter, after receiving a new testing laboratory report that the modifications are compliant with the standards established by § 547.8(b), the minimum probability requirements of § 547.5(c), § 547.14, and any other standards adopted by the tribal gaming regulatory authority;TGRA; (Remark: Reference to part 542 removed throughout the proposed draft part 547 because it is not applicable to minimal technical standards for gaming equipment used with the play of Class II games.)

(ii) Any hardware modifications that the tribal gaming regulatory authority<u>TGRA</u> finds will maintain or advance the system's overall compliance with this part or any applicable provisions of parts
 <u>542 andpart</u> 543 of this chapter; and

(iii) Any other modification to the software of a grandfathered Class II gaming system that the tribal gaming regulatory authority<u>TGRA</u> finds will not detract from, compromise or prejudice:
 (A) (A) The proper functioning, security, or integrity of the Class II gaming system, and

(B) The gaming system's overall compliance with the requirements of this part or any applicable provisions of parts 542 and part 543 of this chapter.

(iv) No such modification may be implemented without the approval of the tribal gamingregulatory authority TGRA. The tribal gaming regulatory authority TGRA shall maintain a record of the modification so long as the Class II gaming system that is the subject of the modification remains available to the public for play and shall make the record available to the Commission upon request. The Commission will only make available for public review records or portions of records subject to release under the Freedom of Information Act, 5 U.S.C. 552; the Privacy Act of 1974, 5 U.S.C. 552a; or the Indian Gaming Regulatory Act, 25 U.S.C. 2716(a).

(c) (c) Submission, testing, and approval - generally. Except as provided in paragraphs (b) and (d) of this section, no tribal gaming regulatory authorityTGRA shall permit in a tribal gaming operation the use of any Class II gaming system, or any associated cashless system or voucher system or any modification thereto, unless:

(1) (1) The Class II gaming system, cashless system, voucher payment system, or modification has been submitted to a testing laboratory;

(2) <u>The (2) A TGRA shall require a</u> testing laboratory <u>tests</u> the submission to the standards established by:

(i) This part;

(ii) Any applicable provisions of parts 542 and part 543 of this chapter that are testable by the testing laboratory; and

(iii) The tribal gaming regulatory authority TGRA;

(3) (3) (3) The testing laboratory provides a formal written report to the party making the submission, setting forth and certifying to its findings and conclusions; and

(4)(i) (4)(i) Following receipt of the testing laboratory's report, the tribal gaming regulatory

authority<u>TGRA</u> makes a finding that the Class II gaming system, cashless system, or voucher system conforms to the standards established by:

(A) This part;

(B) Any applicable provisions of parts 542 and part 543 of this chapter that are testable by the testing laboratory; and

(C) The tribal gaming regulatory authority TGRA.

(ii) The tribal gaming regulatory authority <u>TGRA</u> shall retain a copy of the testing laboratory's report so long as the Class II gaming system, cashless system, voucher system, or modification thereto that is the subject of the report remains available to the public for play in its gaming operation.

(d)\_(d)\_Emergency hardware and software modifications.

(1) A tribal gaming regulatory authority<u>TGRA</u>, in its discretion, may permit modified hardware or software to be made available for play without prior laboratory testing or review if the modified hardware or software is:

(i) Necessary to correct a problem affecting the fairness, security, or integrity of a game or accounting system or any cashless system, or voucher system; or

(ii) Unrelated to game play, an accounting system, a cashless system, or a voucher system.

(2) If a tribal gaming regulatory authority<u>TGRA</u> authorizes new or modified software or hardware to be made available for play or use without prior testing laboratory review, the tribal gaming regulatory authority<u>TGRA</u> shall thereafter require the hardware or software manufacturer to:

(i) Immediately advise other users of the same hardware or software of the importance and availability of the update;

(ii) Immediately submit the new or modified hardware or software to a testing laboratory for testing and verification of compliance with this part and any applicable provisions of parts 542 and part 543 of this chapter that are testable by the testing laboratory; and

(iii) Immediately provide the tribal gaming regulatory authority<u>TGRA</u> with a software signature verification tool meeting the requirements of § 547.8(f) for any new or modified software.

(3) If a tribal gaming regulatory authority<u>TGRA</u> authorizes a software or hardware modification under this paragraph, it shall maintain a record of the modification and a copy of the testing laboratory report so long as the Class II gaming system that is the subject of the modification remains available to the public for play and shall make the record available to the Commission upon request. The Commission will only make available for public review records or portions of records subject to release under the

<u>11</u>

Freedom of Information Act, 5 U.S.C. 552; the Privacy Act of 1974, 5 U.S.C. 552a; or the Indian Gaming Regulatory Act, 25 U.S.C. 2716(a).

(e) *Compliance by charitable gaming operations*. This part shall not apply to charitable gaming operations, provided that:

(1) The tribal government determines that the organization sponsoring the gaming operation is a charitable organization;

(2) All proceeds of the charitable gaming operation are for the benefit of the charitable organization;

(3) The-tribal gaming regulatory authority <u>TGRA</u> permits the charitable organization to be exempt from this part;

(4) The charitable gaming operation is operated wholly by the charitable organization's employees or volunteers; and

(5) The annual gross gaming revenue of the charitable gaming operation does not exceed \$1,000,000.

(f) *Testing laboratories*. (1) A testing laboratory may provide the examination, testing, evaluating and reporting functions required by this section provided that:

(i) It demonstrates its integrity, independence and financial stability to the tribal gaming-

#### regulatory authority.TGRA.

(ii) It demonstrates its technical skill and capability to the tribal gaming regulatory

authority.TGRA.

(iii) It If the testing laboratory is not owned or operated by the same tribe or tribal gaming-

regulatory authority tribe the testing laboratory must be independent from the manufacturer and

<u>gaming operator</u> for whom it is providing the testing, evaluating, and reporting functions required by this section.

(Remark: The existing rule improperly restricts tribes from owning or operating test laboratories. The proposed revision corrects this problem, while at the same time ensuring independence and the appropriate segregation of function.)

#### (iv) The tribal gaming regulatory authority<u>TGRA</u>:

(A) Makes a suitability determination of the testing laboratory based upon standards no less stringent than those set out in §§ 533.6(b)(1)(ii) through (v) of this chapter and based upon no less information than that required by § 537.1 of this chapter, or

(B) Accepts, in its discretion, a determination of suitability for the testing laboratory made by any other gaming regulatory authority in the United States.

(v) After reviewing the suitability determination and the information provided by the testing laboratory, the tribal gaming regulatory authority<u>TGRA</u> determines that the testing laboratory is qualified to test and evaluate Class II gaming systems.

(2) The tribal gaming regulatory authority <u>TGRA</u> shall:

(i) Maintain a record of all determinations made pursuant to paragraphs (f)(1)(iv) and (f)(1)(v) of this section for a minimum of three years and shall make the records available to the Commission upon request. The Commission will only make available for public review records or portions of records subject to release under the Freedom of Information Act, 5 U.S.C. 552; the Privacy Act of 1974, 5 U.S.C. 552a; or the Indian Gaming Regulatory Act, 25 U.S.C. 2716(a).

(ii) Place the testing laboratory under a continuing obligation to notify it of any adverse regulatory action in any jurisdiction where the testing laboratory conducts business.

(iii) Require the testing laboratory to provide notice of any material changes to the information provided to the tribal gaming regulatory authority.TGRA.

#### § 547.5\_ What are the rules of interpretation and of general application for this part?

(a) (a) Minimum standards. A tribal gaming regulatory authority <u>TGRA</u> may establish and implement additional technical standards that are as stringent as, or more stringent than, those set out in this part.
 (b) (b) Only applicable standards apply. Gaming equipment and software used with Class II gaming systems shall meet all applicable requirements of this part. For example, if a Class II gaming system lacks the ability to print or accept vouchers, then any standards that govern vouchers do not apply.

#### Redline with Remarks for Published Part 547 to Proposed TGWG Draft Part 547 as of 5/13/2011

(c) <u>(c)</u> *Fairness*. No Class II gaming system shall cheat or mislead users. All prizes advertised shall be available to win <u>during the game</u>. No progressive prize shall have a probability of winning less than 1 in 50,000,000. Test <u>1 in 100,000,000</u>. No other prize shall have a probability of winning less than 1 in 50,000,000. Test <u>laboratory shall calculate and/or verify the mathematical expectations of game play, where applicable, in accordance with the manufacturer stated submission. The results shall be included in the test <u>laboratory's report to the TGRA.</u></u>

(Remark: This correctly states the terms applicable to the game of Bingo where use of the term mathematical probability standards is incorrect. In Bingo, it is appropriate to require the manufacturer to disclose to TGRA the mathematical expectations of the game and to have the laboratories such mathematical expectations. In the existing rule the NIGC included an admittedly arbitrary probability standard that unfairly operates to limit game design and is not consistent with the probability standards applicable to most, if not all, charitable bingo operations and state lotteries.)

(d) (d) Approved equipment and software only. All gaming equipment and software used with Class II gaming systems shall be identical in all respects to a prototype reviewed and tested by a testing laboratory and approved for use by the tribal gaming regulatory authorityTGRA pursuant to § 547.4(a) through (c). Unapproved software shall not be loaded onto or stored on any program storage medium used in a Class II gaming system, except as provided in § 547.4(d).

(e) (e) Proper functioning. All gaming equipment and software used with Class II gaming systems shall perform according to the manufacturer's design and operating specifications.

(f) (f) No Limitation of Technology. This part should not be interpreted to limit the use of technology or to preclude the use of technology not specifically referenced.

(g) (g) Severability. If any provision of this part is declared invalid by a court of competent

jurisdiction, such decision shall not affect the remainder of this part.

§ 547.6\_ What are the minimum technical standards for enrolling and enabling Class II gaming system components?

(a) <u>(a)</u> General requirements. Class II gaming systems shall provide a method to:

(1) Enroll and unenroll system components;

(2)-(2) Enable and disable specific system components.

- (b) *Specific requirements.* Class II gaming systems shall:
- (1) <u>(1)</u> Ensure that only enrolled and enabled system components participate in gaming; and

(2) (2) Ensure that the default condition for components shall be unenrolled and disabled.

§ 547.7 What are the minimum technical hardware standards applicable to Class II gaming systems?

(a) Generalrequirements. (1) The Class II gaming system shall operate in compliance with

applicable regulations of the Federal Communications Commission.

Prior to approval by the tribal gaming regulatory authority pursuant to \$
 547.4(c), the Class II gaming system shall have obtained from
 Underwriters' Laboratories, or its equivalent, relevant certification(s)

 required for equipment of its type, including but not limited to
 certifications for liquid spills, electromagnetic interference, etc.

(Remark: Other federal agencies are responsible for establishing and enforcing electrical product safety standards. Accordingly, promulgation of such standards is beyond the scope of NIGC jurisdiction. However, sub-part 547.4 (a)(3)(i) is proposed above to reflect that it is industry standard for the laboratories to make note or include other laboratory certifications as provided by the manufacturer in their report.)

(b)(a) Printed circuit boards.

(1) Printed circuit boards that have the potential to affect the outcome or integrity of the game, and are specially manufactured or proprietary and not off-the-shelf, shall display a unique identifier such as a part number and/or revision number, which shall be updated to reflect new revisions or modifications of the board.

(2) Switches or jumpers on all circuit boards that have the potential to affect the outcome or integrity of any game, progressive award, financial instrument, cashless transaction, voucher transaction, or accounting records shall be capable of being sealed.

(e) (b) *Electrostatic discharge*. Class II gaming system components accessible to the public shall be constructed so that they exhibit immunity to human body electrostatic discharges on areas exposed to contact. Static discharges of  $\pm 15$  kV for air discharges and  $\pm 7.5$  kV for contact discharges may not cause damage, or inhibit operation or integrity of the Class II gaming system.

(d) <u>(c)</u> *Physical enclosures*. Physical enclosures shall be of a robust construction designed to resist determined illegal entry. All protuberances and attachments such as buttons, identification plates, and labels shall be sufficiently robust to avoid unauthorized removal.

(e) (d) *Player interface*. The player interface shall include a method or means to:

- (1) Display information to a player; and
- (2) Allow the player to interact with the Class II gaming system.

(f) (e) Account access components. A Class II gaming system component that reads account access media shall be located within a secure, locked or tamper-evident area or in a cabinet or housing that is of a robust construction designed to resist determined illegal entry and to protect internal components. In addition, the account access component:

(1) (1) Shall be constructed so that physical tampering leaves evidence of such tampering; and

(2) (2) Shall provide a method to enable the Class II gaming system to interpret and act upon valid or invalid input or error condition.

(g) (f) *Financial instrument storage components*. Any Class II gaming system components that store financial instruments and that are not <u>designed to be</u> operated under the direct control of a gaming operation employee or agent shall be located within a secure and locked area or in a locked cabinet or

#### Redline with Remarks for Published Part 547 to Proposed TGWG Draft Part 547 as of 5/13/2011

housing that is of a robust construction designed to resist determined illegal entry and to protect internal components.

(Remark: Technical Standards should only cover the design of the component; operation of the component should be covered in the MICS.)

(h) (g) *Financial instrument acceptors*. (1) Any Class II gaming system components that handle financial instruments and that are not <u>designed to be</u> operated under the direct control of an agent shall: (Remark: Technical Standards should only cover the design of the component; operation of the component should be covered in the MICS.)

 Be located within a secure, locked and tamper-evident area or in a locked cabinet or housing that is of a robust construction designed to resist determined illegal entry and to protect internal components;

(ii) Be able to detect the entry of valid or invalid financial instruments and to provide a method to enable the Class II gaming system to interpret and act upon valid or invalid input or error condition; and

(iii) Be constructed to permit communication with the Class II gaming system of the accounting information required by § 547.9(a) and by applicable provisions of any Commission and tribal gaming regulatory regulations governing minimum internal control standards.

(2)-(2) Prior to completion of a valid financial instrument transaction by the Class II gaming system, no monetary amount related to that instrument shall be available for play. For example, credits shall not be available for play until currency or coupon inserted into an acceptor is secured in the storage component.

(3) (3) (3) The monetary amount related to all valid financial instrument transactions by the Class II gaming system shall be recorded as required by § 547.9(a) and the applicable provisions of any Commission and tribal gaming regulatory authority TGRA regulations governing minimum internal control standards.

(ih) Financial instrument dispensers.

(1) Any Class II gaming system components that dispense financial instruments and that are not <u>designed to be</u> operated under the direct control of a gaming operation employee or agent shall: (Remark: Technical Standards should only cover the design of the component; operation of the component should be covered in the MICS.)

 Be located within a secure, locked and tamper-evident area or in a locked cabinet or housing that is of a robust construction designed to resist determined illegal entry and to protect internal components;

(ii) Provide a method to enable the Class II gaming system to interpret and act upon valid or invalid input or error condition; and

(iii) Be constructed to permit communication with the Class II gaming system of the accounting information required by § 547.9(a) and by applicable provisions of any Commission and tribal gaming regulatory regulations governing minimum internal control standards.

(2) (2) The monetary amount related to all valid financial instrument transactions by the Class II gaming system shall be recorded as required by § 547.9(a), the applicable provisions of parts 542andpart 543 of this chapter, and any tribal gaming regulatory authority<u>TGRA</u> regulations governing minimum internal control standards.

(ji) *Game Outcome Determination Components*. Any Class II gaming system logic components that affect the game outcome and that are not <u>designed to be</u> operated under the direct control of a gaming operation employee or agent shall be located within a secure, locked and tamper-evident area or in a locked cabinet or housing that is of a robust construction designed to resist determined illegal entry and to protect internal components. DIP switches or jumpers that can affect the integrity of the Class II gaming system must be capable of being sealed by the <u>tribal gaming regulatory authority.TGRA</u>. (k)-(j) *Door access detection*. All components of the Class II gaming system that are locked in order to meet the requirements of this part shall include a sensor or other methods to monitor an open door. A door open sensor, and its components or cables, shall be secure against attempts to disable them or interfere with their normal mode of operation.

(**<u>I</u>**<u>k</u>) Separation of functions/no limitations on technology. Nothing herein shall prohibit the account access component, financial instrument storage component, financial instrument acceptor, and financial instrument dispenser from being included within the same component, or separated into individual components.

### § 547.8\_ What are the minimum technical software standards applicable to Class II gaming systems?

This section provides general software standards for Class II gaming systems for the play of Class II games, including where applicable games similar to bingo.

(a) (a) Player interface displays. (1) If not otherwise provided to the player, the player interface shall display the following:

- (i) The purchase or wager amount;
- (ii) Game results; and
- (iii) Any player credit balance.

(2) (2) Between plays of any game and until the start of the next play, or until the player selects a new game option such as purchase or wager amount or card selection, whichever is earlier, if not otherwise provided to the player, the player interface shall display:

 (i) The total purchase or wager amount and all prizes and total credits won for the last game played;

(ii) The final results for the last game played, including entertaining displays of results, if any;
 and

(Remarks: In Bingo gaming systems, game outcome is displayed on the bingo card located on the player interface which is independent of, and separate from, any entertaining display. Because an entertaining display cannot in anyway affect the player outcome of the game, it is irrelevant for

regulatory purposes. Furthermore, inclusion of regulatory language concerning entertaining displays

creates a false appearance of legal relevancy that enhances the potential for patron disputes. We,

therefore, have proposed the removal of this language.)

(iii) Any default purchase or wager amount for the next play.

(b) (b) Game initiation and play. (1) Each game played on the Class II gaming system shall follow and not deviate from a constant set of rules for each game provided to players pursuant to § 547.16. Any change in rules constitutes a different game. There shall be no automatic or undisclosed changes of rules.

(Remark: These statements have caused much confusion in the industry, particularly the laboratories. To eliminate this confusion, we propose removal of these statements as they are redundant with the first sentence.)

(2) For bingo games and games similar to bingo, The Class II gaming system shall not alter or allow to be altered the card permutations or game rules used for play of a Class II game unless specifically chosen by the player prior to commitment to participate in the game. No duplicate cards shall be sold for any common draw.

(Remark: Removed "game rules" reference because it is addressed in 547.8 (b)(1) above.)

(3) No game play shall commence and, no financial instrument or credit shall be accepted on the affected player interface, in the presence of any fault condition that affects the outcome of the game, open door, or while in test, audit, or lock-up mode.

(4) The player must choose to participate in the play of a game.

(c) *Audit Mode*. (1) If an audit mode is provided, the Class II gaming system shall provide, for those components actively involved in the audit:

(i) All accounting functions required by § 547.9, by applicable provisions of any Commission regulations governing minimum internal control standards, and by any internal controls adopted by the tribe or tribal gaming regulatory authority;TGRA; (ii) Display player interface identification; and

(iii) Display software version or game identification;

(2) Audit mode shall be accessible by a secure method such as an employee or <u>agent</u> PIN and <u>key</u> or

other auditable access control.

(Remark: Removed "and" to eliminate confusion that multiple controls may be required.)

(3) (3) Accounting function data shall be accessible by an <u>agent</u> authorized person at any time, except during a payout, during a handpay, or during play.

(4) (4) (4) The Class II gaming system shall disable financial instrument acceptance on the affected player interface while in audit mode, except during financial instrument acceptance testing.

(d) <u>(d)</u> Last <u>bingo</u> game <u>play</u> recall. The last <u>bingo</u> game <u>play</u> recall function shall:

(Remark: The term "play" clarifies the need to identify the activity of a specific bingo game play instance.)

(1)\_(1)\_Be retrievable at all times, other than when the recall component is involved in the play of a game, upon the operation of an external key- switch, entry of an audit card, or a similar method;
(2)\_(2)\_Display the results of recalled <u>bingo</u> games <u>play</u> as originally displayed or in text representation , including entertaining display results implemented in video, rather than electro-mechanical, form, if any, so as to enable the<u>tribal gaming regulatory authority TGRA</u> or operator to clearly identify the <u>bingo</u> game <u>play</u> sequences and results that occurred;

(Remarks: The entertaining display has no legal significance to the outcome of the play of a bingo game. Its inclusion in any regulation is therefore legally inappropriate. The decision to display the entertaining display as a record should be a business decision made by the gaming operation, TGRA, and/or manufacturer. This is solely a business decision between the all parties, therefore a federal requirement is inappropriate. See previous remark for 547.8 (a)(2)(ii).) (3)\_(3)\_Allow the Class II gaming system component providing <u>bingo</u> game <u>play</u> recall, upon return to normal game play mode, to restore any affected display to the positions, forms and values displayed before access to the <u>bingo</u> game <u>play</u> recall information; and

(4) (4) Provide the following information for the current and previous four <u>bingo</u> games <u>played</u> <u>plays</u> and shall display:

- (i) Game Play start time, end time, and date;
- (ii) The total number of credits at the start of play<del>, less the purchase or wager amount</del>;
- (iii) The purchase or wager amount;
- (iv) The total number of credits at the end of play; and

(v) The total number of credits won as a result of the  $\underline{bingo}$  game  $\underline{play}$  recalled, and the value in

dollars and cents for progressive prizes, if different.

- (vi) For bingo games and, <u>where applicable</u>, games similar to bingo <del>only</del>, also display:
- (A) The card(s) used by the player;
- (B) The identifier of the bingo game played;
- (C) The numbers or other designations drawn, in the order that they were drawn;
- (D) The numbers or other designations and prize patterns covered on each card;
- (E) All prizes won by the player, including winning patterns-and entertaining displays-

implemented in video, rather than electro- mechanical form, if any; and

#### (Remark: See previous remark for 547.8 (a)(2)(ii).)

(F) The unique identifier of the card on which prizes were won;

- (vii) For pull-tab games only, also display:
  - (A) The result(s) of each pull-tab, displayed in the same pattern as on the tangible pull-tab;
  - (B) All prizes won by the player;
  - (C) The unique identifier of each pull tab; and

(D) Any other information necessary to fully reconstruct the current and four previous plays.

(e) (e) Voucher and credit transfer recall. Notwithstanding the requirements of any other section in this part, a Class II gaming system shall have the capacity to:

(1)\_(1)\_Display the information specified in § 547.11(b)(5)(ii) through (vi) for the last five vouchers or coupons printed and the last five vouchers or coupons accepted; and

(2) (2) Display a complete transaction history for the last five cashless transactions made and the last five cashless transactions accepted.

(f)\_(f)\_Software signature verification. The manufacturer or developer of the Class II gaming system must provide to the testing laboratory and to the tribal gaming regulatory authorityTGRA an industry-standard methodology, acceptable to the tribal gaming regulatory authorityTGRA, for verifying the Class II gaming system game software. By way of illustration, for game software stored on rewritable media, such methodologies include signature algorithms and hashing formulas such as SHA-1. (g)\_(g)\_Test, diagnostic, and demonstration modes. If test, diagnostic, and/or demonstration modes are provided, the Class II gaming system shall, for those components actively involved in the test, diagnostic, or demonstration mode:

(1) Clearly indicate when that component is in the test, diagnostic, or demonstration mode;

- (2) Not alter financial data on that component other than temporary data;
- (3) Only be available after entering a specific mode;

(4) (4) Disable credit acceptance and payment unless credit acceptance or payment is being tested; and
 (5) (5) Terminate all mode-specific functions upon exiting a mode.

(h) Multi-game. If multiple games are offered for player selection at the player interface, the player interface shall:

(1)-(1) Provide a display of available games;

(2) (2) Provide the means of selecting among them;

(3) <u>(3)</u> Display the full amount of the player's credit balance;

(4) Identify the game selected or being played; and

(5) (5) Not force the play of a game after its selection.

(i) Program interruption and resumption. The Class II gaming system software shall be

designed so that upon resumption following any interruption, the system:

(1) <u>(1)</u> Is able to return to a known state;

(2) Shall check for any fault condition upon resumption;

(3) (3) Shall verify the integrity of data stored in critical memory;

(4) (4) Shall return the purchase or wager amount to the player in accordance with the rules of the game; and

(5) (5) Shall detect any change or corruption in the Class II gaming system software.

(j) *Class II gaming system components acting as progressive controllers*. This paragraph applies to progressive controllers and components acting as progressive controllers in Class II gaming systems. (1)-(1)\_Modification of progressive parameters shall be conducted in a secure manner approved by the tribal gaming regulatory authority<u>TGRA</u>. Such parameters may include:

- (i) Increment value;
- (ii) Secondary pool increment(s);
- (iii) Reset amount(s);
- (iv) Maximum value(s); and

(v) (v) Identity of participating player interfaces.

(2)-(2)\_The Class II gaming system component or other progressive controller shall provide a means of creating a progressive balancing report for each progressive link it controls. At a minimum, that report shall provide balancing of the changes of the progressive amount, including progressive prizes won, for all participating player interfaces versus current progressive amount(s), plus progressive prizes. In addition, the report shall account for, and not be made inaccurate by, unusual events such as:

- (i) Class II gaming system critical memory clears;
- (ii) Modification, alteration, or deletion of progressive prizes;
- (iii) Offline equipment; or
- (iv) Multiple site progressive prizes.

(k) <u>(k)</u> <u>Critical memory</u>. (1) Critical memory may be located anywhere within the Class II gaming

system. Critical memory is any memory that maintains any of the following data:

- (i) Accounting data;
- (ii) Current credits;
- (iii) Configuration data;
- (iv) Last game <u>play</u> recall information required by § 547.8(d);
- (v) Game <u>play</u> recall information for the current game <u>play</u>, if incomplete;
- (vi) Software state (the last normal state software was in before interruption);
- (vii) RNG seed(s), if necessary for maintaining integrity;
- (viii) Encryption keys, if necessary for maintaining integrity;
- (ix) Progressive prize parameters and current values;
- (x) The five most recent financial instruments accepted by type, excluding coins and tokens;
- (xi) The five most recent financial instruments dispensed by type, excluding coins and tokens; and
- (xii) The five most recent cashless transactions paid and the five most recent cashless transactions accepted.

(2) (2) Critical memory shall be maintained using a methodology that enables errors to be identified and acted upon. All accounting and recall functions shall be verified as necessary to ensure their ongoing integrity.

(3) (3) The validity of affected data stored in critical memory shall be checked after each of the following events:

(i) Every restart;

(ii) Each attendant paid win;

(iii) Each attendant paid progressive win;

(iv) Each sensored door closure; and

(v) (v) Every reconfiguration, download, or change of prize schedule or denomination requiring operator intervention or action.

(I) Secured access. Class II gaming systems that use a logon or other means of secured access shall include a user account lockout after a predetermined number of consecutive failed attempts to access system.

### § 547.9\_ What are the minimum technical standards for Class II gaming system accounting functions?

This section provides standards for accounting functions used in Class II gaming systems. (a) (a) Required accounting data. The following minimum accounting data, however named, shall be maintained by the Class II gaming system.

(1) Amount In: The total value of all financial instruments and cashless transactions accepted by the Class II gaming system. Each type of financial instrument accepted by the Class II gaming system shall be tracked independently per financial instrument acceptor, and as required by applicable requirements of any Commission and tribal gaming regulatory authority\_the TGRA\_regulations governing minimum internal control standards.

(2) Amount Out: The total value of all financial instruments and cashless transactions paid by the Class II gaming system, plus the total value of attendant pay. Each type of financial instrument paid by the Class II Gaming System shall be tracked independently per financial instrument dispenser, and as required by applicable requirements of any Commission and tribal-gaming regulatory authority the TGRA regulations governing minimum internal control standards.

(b) (b) Accounting data storage. If the Class II gaming system electronically maintains

accounting data:

(1) <u>(1)</u> Accounting data shall be stored with at least eight decimal digits.

(2) (2) Credit balances shall have sufficient digits to accommodate the design of the game.

(3) (3) Accounting data displayed to the player may be incremented or decremented using visual

effects, but the internal storage of this data shall be immediately updated in full.

(4) (4) Accounting data shall be updated upon the occurrence of the relevant accounting event.

(5) <u>(5)</u> Modifications to accounting data shall be recorded, including the identity of the person(s)

making the modifications, and be reportable by the Class II gaming system.

(c) <u>(c)</u> *Rollover*. Accounting data that rolls over to zero shall not corrupt data.

(d) (d) Credit balance display and function. (1) Any credit balance maintained at the player interface shall be prominently displayed at all times except:

- (i) In audit, configuration, recall and test modes; or
- (ii) Temporarily, during entertaining displays of game results.

(2) (2) Progressive prizes may be added to the player's credit balance provided:

- (i) The player credit balance is maintained in dollars and cents;
- (ii) The progressive accounting data is incremented in number of credits; or

(iii) The prize in dollars and cents is converted to player credits or transferred to the player's

credit balance in a manner that does not mislead the player or cause accounting imbalances.

(3) (3) (3) If the player credit balance displays in credits, but the actual balance includes fractional credits, the Class II gaming system shall display the fractional credit when the player credit balance drops below one credit.

#### § 547.10 What are the minimum standards for Class II gaming system critical events?

This section provides standards for events such as system critical faults, deactivation, door open or other changes of states, and lockup within the Class II gaming system.

(a) <u>(a)</u> *Fault events.* (1) The following events are to be treated as described below:

Events	Definition and action to be taken
(i) Component fault	Reported when a fault on a component is detected. When possible, this event message should indicate what the nature of the fault is.
(ii) Financial storage component full	Reported when a financial instrument acceptor or dispenser includes storage, and it becomes full. This event message should indicate what financial storage component is full.
(iii) Financial output component empty	Reported when a financial instrument dispenser is empty. The event message should indicate which financial output component is affected, and whether it is empty.
	Reported when an occurrence on a financial component results in a known fault state.
<ul><li>(iv) Financial component fault</li><li>(v) Critical memory error</li></ul>	Some critical memory error has occurred. When a non-correctable critical memory error has occurred, the data on the Class II gaming system component can no longer be considered reliable. Accordingly, any game play on the affected component shall cease immediately, and an appropriate message shall be displayed, if possible.
(vi) Progressive communication fault	If applicable; when communications with a progressive controller component is in a known fault state.
	The software has failed its own internal security check or the medium itself has some fault.
(vii) Program storage medium fault	Any game play on the affected component shall cease immediately, and an appropriate message shall be displayed, if possible.

(2)-(2) The occurrence of any event identified in paragraph (a)(1) of this section shall be recorded.

(3)-(3) Upon clearing any event identified in paragraph (a)(1) of this section, the Class II gaming

system shall:

- (i) Record that the fault condition has been cleared;
- (ii) Ensure the integrity of all related accounting data; and
- (iii) In the case of a malfunction, return a player's purchase or wager according to the rules of

the game.

(b) <u>(b)</u> Door open/close events. (1) In addition to the requirements of paragraph (a)(1) of this

section, the Class II gaming system shall perform the following for any component affected by any

sensored door open event:

(i) Indicate that the state of a sensored door changes from closed to open or opened to

closed;

(ii) Disable all financial instrument acceptance, unless a test mode is entered;

(iii) Disable game play on the affected player interface;

(iv) Disable player inputs on the affected player interface, unless test mode is entered; and

(v) (v) Disable all financial instrument disbursement, unless a test mode is entered.

(2)-(2) The Class II gaming system may return the component to a ready to play state when all

sensored doors are closed.

(c) <u>(c)</u> Non-fault events. (1) The following non-fault events are to be treated as described below, if

applicable:

Event	Definition and action to be taken
(i) Player interface power off during play	This condition is reported by the affected component(s) to indicate power has been lost during game play.
(ii) Player interface power on	This condition is reported by the affected component(s) to indicate it has been turned on.
<ul><li>(iii) Financial instrument storage component container/ stacker removed</li></ul>	This condition is reported when a financial instrument storage container has been removed. The event message should indicate which storage container was removed.

#### § 547.11\_ What are the minimum technical standards for money and credit handling?

This section provides standards for money and credit handling by a Class II gaming system.

(a) <u>(a)</u> <u>Credit acceptance, generally</u>. (1) Upon any credit acceptance, the Class II gaming system

shall register the correct number of credits on the player's credit balance.

(2)-(2) The Class II gaming system shall reject financial instruments deemed invalid.

(b) (b) Credit redemption, generally. (1) For cashable credits on a player interface, players shall

be allowed to cash out and/or redeem those credits at the player interface except when that player interface is:

- (i) Involved in the play of a game;
- (ii) In audit mode, recall mode or any test mode;
- (iii) Detecting any sensored door open condition;
- (iv) Updating the player credit balance or total win accounting data; or
- (v) Displaying a fault condition that would prevent cash-out or credit redemption. In this

case a fault indication shall be displayed.

(2) (2) For cashable credits not on a player interface, the player shall be allowed to cash out and/or redeem those credits at any time.

(3) (3) A Class II gaming system shall not automatically pay an award subject to mandatory tax reporting or withholding.

(4) (4) Credit redemption by voucher or coupon shall conform to the following:

(i) A Class II gaming system may redeem credits by issuing a voucher or coupon when it communicates with a voucher system that validates the voucher or coupon.

(ii) A Class II gaming system that redeems credits by issuing vouchers and coupons shall either:

(A)-(A) Maintain an electronic record of all information required by paragraphs (b)(5)(ii) through (vi) of this section; or

(B) (B) Generate two identical copies of each voucher or coupon issued, one to be provided to the player and the other to be retained within the machine for audit purposes.

(5) <u>(5)</u> Valid vouchers and coupons shall contain the following:

(i) Gaming operation name and location;

(ii) The identification number of the Class II gaming system component or the player

interface number, as applicable;

- (iii) Date and time of issuance;
- (iv) Alpha and numeric dollar amount;
- (v) A sequence number;
- (vi) A validation number that:

(A) (A) Is produced by a means specifically designed to prevent repetition of validation numbers; and

(B) (B) Has some form of checkcode or other form of information redundancy to prevent prediction of subsequent validation numbers without knowledge of the checkcode algorithm and parameters;

(vii) For machine-readable vouchers and coupons, a bar code or other form of machine readable representation of the validation number, which shall have enough redundancy and error checking to ensure that 99.9% of all misreads are flagged as errors;

(viii) Transaction type or other method of differentiating voucher and coupon types; and

(ix) Expiration period or date.

(6) (6) Transfers from an account may not exceed the balance of that account.

(7) For Class II gaming systems not using dollars and cents accounting and not having odd cents accounting, the Class II gaming system shall reject any transfers from voucher payment systems or cashless systems that are not even multiples of the Class II gaming system denomination.

(8) (8) Voucher redemption systems shall include the ability to report redemptions per redemption location or user.

# § 547.12\_What are the minimum technical standards for downloading on a Class II gaming system?

This section provides standards for downloading on a Class II gaming system.

(a) (a) Downloads. (1) Downloads are an acceptable means of transporting approved content,

including but not limited to software, files, data, and prize schedules.

(2) Downloads of software, games, prize schedules, or other download packages shall be conducted only as authorized by the tribal gaming regulatory authority.TGRA.

(3) (3) Downloads shall use secure methodologies that will deliver the download data without alteration or modification, in accordance with § 547.15(a).

(4) (4) Downloads conducted during operational periods shall be performed in a manner that will not affect game play.

(5) (5) Downloads shall not affect the integrity of accounting data.

(6) (6) The Class II gaming system or the tribal gaming regulatory authority TGRA shall log each download of any download package. Each log record shall contain as a minimum:

- (i) The time and date of the initiation of the download;
- (ii) The time and date of the completion of the download;
- (iii) The Class II gaming system components to which software was downloaded;

(iv) The version(s) of download package and any software downloaded. Logging of the unique software signature will satisfy this requirement;

(v) (v) The outcome of any software verification following the download (success or failure); and

(vi) The name and identification number, or other unique identifier, of any individual(s) conducting or scheduling a download.

(b) (b) Verifying downloads. Following download of any gameDownloaded software, the on a Class II gaming system shall verify the downloaded softwarebe verified by the Class II gaming system using a software signature verification method that meets the requirements of § 547.8(f). Using any method it deems appropriate, the tribal gaming regulatory authority shall confirm the verification.

#### (Remark: The last sentence was removed because it is a MICS issue and is addressed in the TGWG

proposed draft part 543.)

#### § 547.13 What are the minimum technical standards for program storage media?

This section provides minimum standards for removable, (re-)writable, and nonwritable storage media in Class II gaming systems.

(a) (a) Removable program storage media. All removable program storage media shall maintain an internal checksum or signature of its contents. Verification of this checksum or signature is to be performed after every restart. If the verification fails, the affected Class II gaming system component(s) shall lock up and enter a fault state.

(b) Nonrewritable program storage media. (1) All EPROMs and Programmable Logic Devices

(PLDs) that have erasure windows shall be fitted with covers over their erasure windows.

(2)-(2)\_All unused areas of EPROMs shall be written with the inverse of the erased state (*e.g.*, zero bits (00 hex) for most EPROMs), random data, or repeats of the program data.

(3) (3) Flash memory storage components intended to have the same logical function as ROM, *i.e.* not to be dynamically written, shall be write- protected or otherwise protected from unauthorized modification.

(4) (4) The write cycle shall be closed or finished for all CD-ROMs such that it is not possible to write any further data to the CD.

(5) (5) Write protected hard disks are permitted if the hardware means of enabling the write protect is easily viewable and can be sealed in place Write protected hard disks are permitted using software write protection verifiable by a testing laboratory.

(c) \_(c) Writable and rewritable program storage media. (1) Writable and rewritable program storage, such as hard disk drives, Flash memory, writable CD-ROMs, and writable DVDs, may be used provided that the software stored thereon may be verified using the mechanism provided pursuant to § 547.8(f).

(2) (2) Program storage shall be structured so there is a verifiable separation of fixed data (*e.g.* 

program, fixed parameters, DLLs) and variable data.

(d) <u>(d)</u> <u>Identification of program storage media</u>. All program storage media that is not rewritable

in circuit, (e.g. EPROM, CD-ROM) shall be uniquely identified, displaying:

- (1) Manufacturer;
- (2) Program identifier;
- (3) Program version number(s); and
- (4) Location information, if critical (e.g. socket position 3 on the printed circuit board).

# 547.14 What are the minimum technical standards for electronic random number

## generation?

This section provides minimum standards for electronic RNGs in Class II gaming systems.

(a) <u>(a)</u> <u>Properties</u>. All RNGs shall produce output having the following properties:

- (1) Statistical randomness;
- (2) Unpredictability; and
- (3) Non-repeatability.

(b) <u>(b)</u> <u>Statistical Randomness.</u> (1) Numbers <u>or other designations</u> produced by an RNG shall be statistically random individually and in the permutations and combinations used in the application under the rules of the game. For example, if a bingo game with 75 objects with numbers or other designations has a progressive winning pattern of the five numbers or other designations on the bottom of the card and the winning of this prize is defined to be the five numbers or other designations are matched in the first five objects drawn, the likelihood of each of the 75C5 combinations are to be verified to be statistically equal.

(2) (2) Numbers or other designations produced by an RNG shall pass the statistical tests for randomness to a 99% confidence level., which may include:

(i) Mandatory statistical tests for randomness to include:

(A) Chi-square test;

(B) Runs test (patterns of occurrences shall not be recurrent); and

(C) Serial correlation test potency and degree of serial correlation (outcomes shall be

independent from the previous game).

(ii) Optional statistical tests for randomness may include:

- (ii) (A) Equi-distribution (frequency) test;
- (iii) (B) Gap test;
- (iv) (C) Poker test;
- (v) (D) Coupon collector's test;
- (vi) (E) Permutation test;

(vii) Run test (patterns of occurrences shall not be recurrent);

(viii) (F) Spectral test;

(ix) Serial correlation test potency and degree of serial correlation (outcomes shall be

independent from the previous game); and

(x) (G) Test on subsequences.

(Remark: TGWG wanted to ensure that industry standard RNG tests were mandated. Less commonly used tests were not considered adequate. See NIGC "Part 547 Bulletin 2008-4 Tech Stds RNG correction 110708")

(c) (c) Unpredictability. (1) It shall not be feasible to predict future outputs of an RNG, even if the algorithm and the past sequence of outputs are known.

(2) (2) Unpredictability shall be ensured by re-seeding or by continuously cycling the RNG, and

by providing a sufficient number of RNG states for the applications supported.

(3)-(3) Re-seeding may be used where the re-seeding input is at least as statistically random as,

and independent of, the output of the RNG being re-seeded.

(d) (d) Non-repeatability. The RNG shall not be initialized to reproduce the same output stream that it has produced before, nor shall any two instances of an RNG produce the same stream as each other. This property shall be ensured by initial seeding that comes from:

(1) (1) A source of "true" randomness, such as a hardware random noise generator; or

(2) (2) A combination of timestamps, parameters unique to a Class II gaming system, previous

RNG outputs, or other, similar method.

(e) <u>(e)</u> *General requirements.* (1) Software that calls an RNG to derive game outcome events shall immediately use the output returned in accordance with the game rules.

(2) (2) The use of multiple RNGs is permitted as long as they operate in accordance with this section.

(3) (3) RNG outputs shall not be arbitrarily discarded or selected.

(4) (4) (4) Where a sequence of outputs is required, the whole of the sequence in the order generated shall be used in accordance with the game rules.

(5)-(5) The Class II gaming system shall neither adjust the RNG process or game outcomes based on the history of prizes obtained in previous games nor <u>makeuse</u> any reflexive <u>software</u> or secondary decision that affects the results shown to the player or game outcome. <u>In no event shall</u> the Class II gaming system deprive a player of a prize to which the player is otherwise entitled based on the random outcome of the game. Nothing in this paragraph shall prohibit the use of entertaining displays.

(Remark: The added language makes this provision more consistent with the industry understanding of reflexive technology. The proposed language operates to clearly identify the harm the provision is intended to prevent.)

(f) (f) Scaling algorithms and scaled numbers. An RNG that provides output scaled to given ranges shall:

(1)-(1) Be independent and uniform over the range;

(2) (2) Provide numbers scaled to the ranges required by game rules, and notwithstanding the requirements of paragraph (e)(3) of this section, may discard numbers that do not map uniformly onto the required range but shall use the first number in sequence that does map correctly to the range;

(3) (3) Be capable of producing every possible outcome of a game according to its rules; and (4) Use an unbiased algorithm. A scaling algorithm is considered to be unbiased if the measuredbias is no greater than 1 in 100 million.

## (Remark: See NIGC Bulletin 11/7/2008 #2008-4)

# § 547.15\_What are the minimum technical standards for electronic data communications between system components?

This section provides minimum standards for electronic data communications with gaming equipment or components used with Class II gaming systems.

(a) <u>(a)</u> <u>Sensitive data</u>. Communication of sensitive data shall be secure from eavesdropping,

access, tampering, intrusion or alteration unauthorized by the tribal gaming regulatory-

authorityTGRA. Sensitive data shall include, but not be limited to:

(1)-(1)\_RNG seeds and outcomes;

- (2) Encryption keys, where the implementation chosen requires transmission of keys;
- (3) PINs;

(4) (4) Passwords;

(5) (5) Financial instrument transactions;

(6) Transfers of funds;

## (7) <u>(7)</u> Player tracking information;

- (8) Download Packages; and
- (9)-(9) Any information that affects game outcome.

(b) (b) Wireless communications. (1) Wireless access points shall not be accessible to the general public.

(2)-(2) Open or unsecured wireless communications are prohibited.

(3) (3) Wireless communications shall be secured using a methodology that makes eavesdropping, access, tampering, intrusion or alteration impractical. By way of illustration, such methodologies include encryption, frequency hopping, and code division multiplex access (as in cell phone technology).

(c) (c) Methodologies shall be used that will ensure the reliable transfer of data and provide a reasonable ability to detect and act upon any corruption of the data.

(d) (d) Class II gaming systems shall record detectable, unauthorized access or intrusion attempts.

(e) (e) Remote communications shall only be allowed if authorized by the tribal gaming-

regulatory authority<u>TGRA</u>. Class II gaming systems shall have the ability to enable or disable remote access, and the default state shall be set to disabled.

(f) <u>(f)</u> Failure of data communications shall not affect the integrity of critical memory.

(g) The Class II gaming system shall log the establishment, loss, and re-establishment of data communications between sensitive Class II gaming system components.

#### § 547.16 What are the minimum standards for game artwork, glass, and rules?

This section provides standards for the display of game artwork, the displays on belly or top glass, and the display and disclosure of game rules, whether in physical or electronic form. (a) (a) Rules, instructions, and prize schedules, generally. The following shall at all times be displayed or made readily available to the player upon request:

(1) (1) Game name, rules, and options such as the purchase or wager amount stated clearly and unambiguously;

(2) (2) Denomination;

(3) (3) Instructions for play on, and use of, the player interface, including the functions of all buttons; and

(4) (4) A prize schedule or other explanation, sufficient to allow a player to determine the correctness of all prizes awarded, including;

- (i) The range and values obtainable for any variable prize;
- (ii) Whether the value of a prize depends on the purchase or wager amount; and
- (iii) The means of division of any pari-mutuel prizes; but

(iv) For bingo and games similar to bingoClass II Gaming Systems, the prize schedule or other explanation need not state that subsets of winning patterns are not awarded as additional prizes (*e.g.* five in a row does not also pay three in a row or four in a row), unless there are exceptions, which shall be clearly stated.

(b) (b) Disclaimers. The Class II gaming system shall continually display:

(1) "Malfunctions void all prizes and plays" or equivalent; and

(2) (2) "Actual Prizes Determined by Bingo [or other applicable Class II game] Play. Other Displays for Entertainment Only." or equivalent.

# § 547.17 Howdoesa tribalgamingregulatoryauthorityapplyforavariancefrom<u>these\_the</u> standards <u>of this part?</u>

 (a) <u>TribalGamingRegulatoryAuthorityapproval.</u> (1) A tribal gaming regulatory authority may approve a variance from the requirements of this part if it has determined that the variance will achieve a level of security and integrity sufficient to accomplish the purpose of the standard it is to replace.

(a) Variance.

(1) Should a TGRA grant a variance to any provision of these standards, the TGRA shall deliver a notice of the same to the Commission within ten (10) days of such approval.

#### (Remark: Please see transmittal memorandum.)

(2) For each enumerated standard for which the tribal gaming regulatory authority approves a variance, it shall submit to the Chairman within 30days, a detailed report, which shall include the following:

(i) An explanation of how the variance achieves a level of security and integrity sufficient to accomplish the purpose of the standard it is to replace; and(ii) The variance as granted and the record on which it is based.

- (3) In the event that the tribal gaming regulatory authority or the tribe'sgovernment chooses to submit a variance request directly to the Chairmanfor joint government to government review, the tribal gaming regulatoryauthority or tribal government may do so without the approval requirement set forth in paragraph (a) (1) of this section.
- (b) <u>ChairmanReview.</u> (1) The Chairman may approve or object to a variance granted by a tribal gaming regulatory authority.
  - (2) Any objection by the Chairman shall be in written form with an explanation why the variance as approved by the tribal gaming regulatoryauthority does not provide a level of security or integrity sufficient toaccomplish the purpose of the standard it is to replace.
  - (3) If the Chairman fails to approve or object in writing within 60 days after the date of receipt of a complete submission, the variance shall be considered approved by the Chairman. The Chairman and the tribal

gaming regulatory authority may, by agreement, extend this deadline an-

additional 60 days.

(i) The notice shall contain a complete copy of the information presented to the

TGRA and the variance as granted.

(ii) The notice shall be forwarded to the Commission within ten (10) days of

the granting of the Variance.

(4) No variance may be implemented until approved by the tribal gaming regulatory authority pursuant to paragraph (a)(1) of this section or the Chairman has approved pursuant to paragraph (b)(1) of this section.

(2) During a thirty (30) day period when the Commission first receives the notice

required by this subpart, the Chairman may request additional information from the

TGRA concerning the subject of variance. Such request shall suspend the thirty (30)

day period until the Chairman receives the TGRA response.

# (b) Commission Review.

(c) <u>CommissionReview.</u> (1) Should the tribal gaming regulatory authority elect to maintain its approval after written objection by the Chairman, the tribal gamingregulatory authority shall be entitled to an appeal to the full Commission in accordance with the following process:

# (1) Within the thirty (30) day review period, the Commission may:

(i) Within 60 days of receiving an objection, the tribal gaming regulatoryauthority shall file a written notice of appeal with the Commission that mayinclude a request for an oral hearing or it may request that the matter be decided upon written submissions. Advise the TGRA, in writing, that it has no objection.

(ii) Within 10 days after filing a notice of appeal the tribal gamingregulatory authority shall file a supplemental statement specifying the reasonswhy the tribal gaming regulatory authority believes the Chairman's objectionshould be reviewed, and shall include supporting documentation, if any. <u>Provide</u> the TGRA a written statement itemizing its objections.

(iii) Failure to file an appeal or submit the supplemental statement within the time provided by this section shall result in a waiver of the opportunity for an appeal. Take no action, in which case, the TGRA's variance shall be final.

(2) If the Commission has provided the TGRA a statement itemizing objections to the variance:

(i) The TGRA shall reconsider the variance taking into account the objections itemized by the Commission.

(ii) The TGRA may seek reconsideration by submitting a request to the Chairman and members of the Commission.

(iii) Upon receipt of a request for reconsideration, the Commission shall conduct an informal hearing with the TGRA within 30 days, which may be conducted in person or through the exchange of documents, as requested by the TGRA.

(iv) If an oral hearing is requested it shall take place within 30 days of the notice of appeal and a record shall be made.

(v) If the tribal gaming regulatory authority requests that the appeal be-

decided on the basis of written submission, the Commission shall-

issue a written decision within 30 days of receiving the supplemental-

statement. After the informal hearing, the Commission must issue a

written decision within 14 days. If the Commission disapproves the

variance, such written decision must include an explanation of why

the requested variance creates an imminent threat to the integrity of

the tribal gaming operation.

(vi) The Commission shall uphold the objection of the Chairman, only if, upon de novo review of the record upon which the Chairman'sdecision is based, the Commission determines that the varianceapproved by the tribal gaming regulatory authority does not achieve a level of security and integrity sufficient to accomplish the purpose-

of the standard it is to replace.

(vii) The Commission shall issue a decision within 30 days of the oral-

hearing unless the tribal gaming regulatory authority elects to provide

the Commission additional time, not to exceed an additional

30 days, to issue a decision. In the absence of a decision by the

Commission within the time provided, the decision of the tribal

gaming regulatory authority shall be deemed affirmed.

(viii) The Commission's decision shall constitute final agency action.

Dated: September\_\_\_, 2008

Philip N. Hogen, Chairman

Norman H. DesRosiers ViceChairman

4