



SOBOBA TRIBAL GAMING COMMISSION

Office of the Commission

PO Box 610 * San Jacinto, CA * (951) 665-1000 * Fax (951) 487-0042

June 30, 2017

Mr. Jonodev Chaudhuri, Chairman
National Indian Gaming Commission
New Address
Washington, DC Zip code
Via Email: Vannice_Doulou@nigc.gov

Re: Draft Guidance on the Class III Minimum Internal Control Standards and Suspending 25 C.F.R. Part 542

Dear Chairman ,

The Soboba Tribal Gaming Commission (“STGC”) would like to thank the National Indian Gaming Commission (“NIGC”) Commission for the opportunity to provide comments to the Draft Guidance on the Class III Minimum Internal Control Standards (MICS Guidance Document) and the suspension of 25 C.F.R. Part 542. We applaud the NIGC in their efforts to continually work with tribes in a collaborative effort to ensure that the promulgation of a guidance document is founded with the guiding principle to maintain and strengthen the integrity of tribal government gaming and the protection of tribal assets.

Background:

The Soboba Band of Luiseno Indians owns and operates a gaming facility located in Southern California in an unincorporated area of Riverside County in Southern California.

The Tribe entered into a Compact with the State of California on September 10, 1999 and currently operates 2,000 Class III gaming devices and 20 Table Games.

The Tribe adopted Tribal Internal Control Standards (TICS) that exceed the requirements the NIGC MICS standards set-forth in 25 CFR Part 542, as in effect on October 19, 2006, or as it may be amended. The adoption of these TICS complies with the Section 6.1 of the Tribe’s Tribal-State Compact and with the California Gambling Control Commission’s regulation CGCC-8. The licensed gaming facility is regulated by the Soboba Tribal Gaming Commission (STGC).

Tribal Advisory Committee:

23333 Soboba Road * San Jacinto, CA 92583





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In early 2017, the NIGC released for comment the MICS guidance document followed by several consultations. This first step taken by the NIGC in drafting the MICS Guidance Document and the subsequent Consultations is to be commended. The work product of the NIGC staff is a meaningful first step towards developing a comprehensive MICS guidance document that can be relied upon to protect the integrity of tribal government gaming.

We understand the NIGC's position that the guidance document is not a regulation requiring a formal process to be followed. However, we remind the Chairman of his comment "that although the guidance document is not a regulation requiring notice and comment the Commission recognizes the value of input and intends to follow the formal process as closely as possible". Again, while we commend the initial action taken by the NIGC and the work product, it is our position that the selection of a Tribal Advisory Committee (TAC) be conducted so that they can finalize the MICS guidance document for final release and comment.

The TAC process provides all stakeholders an opportunity to participate in the process beginning with nominations and the selection of a diverse group of experienced tribal representatives that can further develop a MICS guidance document. The TAC processes also ensure there is a historical record established.

Further, we would strongly recommend that the first objective of the TAC would be to approach the MICS guidance document from a technological perspective by applying software (computer) application procedures first with the manual process as the alternative. This perspective is necessary so that the document is not antiquated before it is released. The ultimate goal of the TAC would be to provide a final MICS guidance document that is as stringent as 25 C.F.R. Part 542, is technologically advanced so that the document continues to be relevant, effective, and can be relied up by tribes to strengthen government gaming and protecting tribal assets.

Extend Comment Period:

While we are strongly encouraging the NIGC to assemble a TAC, we would also recommend as an alternative, to extended the comment period for an additional nine (9) months.

This extended timeframe will afford tribal regulator associations across Indian Country to work together to review the draft MICS guidance document, in order to, provide the NIGC with substantive and comprehensive revisions. Although the NIGC has experts within the agency, it is important that a diverse group of tribal regulators and casino management have an opportunity to collaborate and provide necessary revisions to the document.

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In the event that a TAC is not utilized and the comment period is not extended, we will take this opportunity to make specific comments to the Class III guidance document. Our comments are extensive; therefore, we have summarized our comments rather than providing a listing of specific revisions.

Specific Comments to the MICS guidance documents

In conjunction with our internal auditor Curtis Von Schimmelmann, CPA, it is our determination that while the MICS guidance documents as presented are reasonable, additional review and editing is recommended resulting in a comprehensive and relevant Class III gaming guidance document:

In order to assistance with editing of the document, we are providing the following comments. The draft guidance document has incorrect references and incorrect references. For example, §4 Gaming Machines - The section includes to subsection (f)s. The first refers to operations, the second refers to vouchers. Subsequent subsections are consequently misnumbered and §4(a) refers to table games operations as opposed to gaming machines operation. §4(g)(15) refers to machines adjusted in section (h)(2) which would be correct if the numbering were done correctly, as it stands, it should refer to (g)(2).

We would recommend that §4(e)(3)(i)(F) that requires operation to document game title, but does not address title for devices with multiple themes be modified to include the game title or other similar identifying information. In addition, §4(f)(2)(ii)(A) (Operations) requires operation to purge and/or return software to the license holder. However, this section does not include software that is destroyed at the direction of the manufacturer; we recommend that additional language be added to address this area.

In §4(f) (Vouchers) this section eliminates requirement for manual payout log for payment of vouchers when system is down, with the only requirements being that the voucher is marked as "paid", retained by the cashier, and validated as soon as possible. We would suggest that language be added that allows cashiers to send invalidated vouchers to revenue audit if the validation system is not available prior to the end of the shift

Section §4(g)(2 & 3) addresses multi-denomination/multi-game meter readings and theoretical hold percentage calculations. It is our position that this standard is tedious and does not provide sufficient benefit to warrant the cost of implementing the procedures. As an alternative, we suggest that there be an allowance for the review of statistical reports to include procedures to verify that the machines' performance is within the maximum and minimum theoretical hold percentages. If it is not, then investigate by determining the play by theme/paytable and then determining the cause for any variance. We also suggest that this requirement apply to all games that have multiple paytables, not just those that are multi-denomination/multi-games.





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Section §11(e)(5) requires that the financial instrument drop box (i.e., currency acceptor box) be posted with a number that corresponds to the permanent number of the gaming machine. We recommend adding verbiage that allows for other methods of associating the drop box with the machine number, such as scanning and linking bar codes.

Section §13(d)(2) requires that two copies of the AUP and financial statement audit reports be submitted to the NIGC. We recommend that only one copy should be required if the report is submitted electronically.

The standards in Section §14 – Surveillance reduce the specific requirements for monitoring of certain areas, such as table games meters, and also remove the specific items of the malfunction and other logs. We would request the reasoning for these specific changes.

Our final recommendation is that a definitions section be added to add clarity.

Suspension of 25 C.F.R. part 542:

In conjunction with the Class III MICS guidance document, the NIGC proposes to suspend 25 C.F.R. part 542 in order to preserve the language of the Regulation in the Code of Federal Regulations. The issuance of the MICS guidance document would be in tandem with the suspension of the Regulation. The current Regulation, when suspended, would include a footnote/asterisk inserted referencing the reader to the CL III MICS guidance document that will clarify that the suspended language contained in the Regulation is not enforceable by the NIGC.

As we understand the process referenced above, the NIGC's goal is to keep language contained, but suspended in, 25 C.F.R part 542, in order to be accessible to Tribes that may need them due to Tribal-State Compacts and tribal ordinances. The idea being that guidance documents would be available and helpful in providing background information to interested parties.

However, the impact of suspending 25 C.F.R. part 542, referencing NIGC's inability to enforce them, and referencing the reader to the Class III MICS guidance document is unknown. There are a number of Tribes that could be affected by this action; therefore, until an assessment is conducted to determine the impacts, we are recommending that 25 C.F.R. Part 542 not be suspended this time.

Conclusion:

In closing, we continue to encourage the NIGC to collaborate with tribes to develop a Class III MICS guidance document through the TAC process. If not, extend the comment period





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for a minimum of nine (9) months so that substantive and cohesive comments can be submitted. We also encourage the NIGC to delay suspension of 25 C.F.R. part 542 at this time due to unforeseen impacts to tribal government gaming.

Cordially,

Celeste Hughes

Celeste Hughes, Chair
Soboba Tribal Gaming Commission

