

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

### Comparison of July TGWG Submission to July 2010 Draft MICS

In 2010, the NIGC posted on its web-site draft Class II MICS, Section 543.19, *What are the minimum internal control standards for accounting?* This document will compare the 2010 Draft Regulation to the TGWG's proposed § 543.19(e). The words in blue (underlined) are the additions made by the TGWG.

July 2010 Draft MICS	TGWG Version
<p><b>§ 543.19 What are the minimum internal control standards for accounting?</b></p> <p>(a) Each gaming operation shall prepare accurate, complete, legible, and permanent records of all transactions pertaining to revenue and gaming activities.</p> <p>(b) Each gaming operation shall prepare general accounting records according to Generally Accepted Accounting Principles using a double-entry system of accounting, and shall maintain detailed, supporting, subsidiary records, including, but not limited to:</p> <p>(1) Detailed records identifying revenues, expenses, assets, liabilities, and equity for each gaming operation;</p> <p>(2) Detailed records of all markers, IOU's, returned checks, held checks, or other similar credit instruments;</p> <p>(3) Card game statistical game records reflecting drop by each table by shift, by day, cumulative month-to-date, and year-to-date.</p> <p>(4) Other records required by this part and by the Tribal internal control standards;</p> <p>(5) Journal entries prepared by the gaming operation and by its independent accountants; and</p> <p>(6) Any other records specifically required to be maintained.</p> <p>(c) Each gaming operation shall establish administrative and accounting procedures for the purpose of determining effective control over a gaming operation's fiscal affairs. The procedures shall be designed to reasonably ensure that:</p> <p>(1) Assets are safeguarded;</p> <p>(2) Financial records are accurate and reliable;</p> <p>(3) Transactions are performed only in accordance with management's general and specific authorization;</p>	<p><b>§ <u>543.19</u> What are the minimum internal control standards for <u>Audit and Accounting</u>?</b></p> <p><u>(e) Accounting. Controls must be established to ensure each</u> gaming operation-</p> <p><u>(1) Prepares</u> accurate, complete, legible, and permanent records of all transactions pertaining to <u>gaming</u> revenue-<u>2) Prepares</u> general accounting records <u>on</u> a double-entry system of accounting, <u>maintaining</u> detailed, supporting, subsidiary records, <u>and perform the following:</u></p> <p><u>(i) Record gaming activity transactions in an accounting system to identify and track all</u> revenues, expenses, assets, <u>and</u> liabilities;</p> <p><u>(ii) Produce income and balance sheet statements;</u></p> <p><u>(iii) Produce appropriate subsidiary ledgers to support the balance sheet;</u></p> <p><u>(iv) Inventory and safeguard assets;</u></p> <p><u>(v) Prepare, review, and maintain accurate financial statements;</u></p> <p><u>(vi) Prepare minimum bankroll calculations; and</u></p> <p><u>(vii) Maintain and preserve all financial books, records, and relevant supporting documentation.</u></p> <p><b><u>TGWG Guidance</u></b></p> <p>(h)Accounting.</p> <p>(1)Controlled Inventories. For any inventories that accounting maintains for</p>

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<p>(c) Each gaming operation shall establish administrative and accounting procedures for the purpose of determining effective control over a gaming operation's fiscal affairs. The procedures shall be designed to reasonably ensure that:</p> <p>(1) Assets are safeguarded;</p> <p>(2) Financial records are accurate and reliable;</p> <p>(3) Transactions are performed only in accordance with management's general and specific authorization;</p> <p>(4) Transactions are recorded adequately to permit proper reporting of gaming revenue, and to maintain accountability of assets;</p> <p>(5) Recorded accountability for assets is compared with actual assets at reasonable intervals, and appropriate action is taken with respect to any discrepancies; and</p> <p>(6) Functions, duties, and responsibilities are appropriately segregated in accordance with sound business practices.</p> <p>(d) <i>Gross gaming revenue computations.</i> (1) For player interfaces, gross revenue equals drop, less fills, prize payouts and personal property awarded to patrons as gambling winnings. cash paid out during the month to patrons as winning wagers ("modified accrual basis").</p> <p>(3) For each card game, gross revenue equals all cash received by the operation as compensation for conducting the game.</p> <p>(i) A gaming operation shall not include either skill win or loss in gross revenue computations.</p> <p>(ii) [Reserved]</p> <p>(4) In computing gross revenue for bingo and pull tabs, the actual cost to the gaming operation of any personal property (other than costs of travel, lodging, services, food, and beverages) awarded as a payout to patrons may be deducted if the gaming operation maintains detailed documents supporting the deduction.</p> <p>(e) Each gaming operation shall establish internal control systems sufficient to ensure that currency (other than tips or gratuities) received from a patron in the gaming area is promptly placed in a locked box in the table, or, in the case of a cashier, in the appropriate</p>	<p>proper segregation, controls should be developed to account for the following:</p> <p>(i) Receipt of Inventory. When inventory is received it should be counted and recorded on a log.</p> <p>(ii) Storage of Inventory. Storage of inventory should be secured and recorded on the appropriate log.</p> <p>(iii) Issuance of Inventory. Issuance of inventory should be performed by an accounting agent, and should be recorded on the appropriate log.</p> <p>(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.</p> <p>(v) Return of Inventory. Return of inventory should be performed by an accounting agent, and should be recorded on the appropriate log.</p> <p>(vi) Audit of Accounting Managed Inventory. Controls should require an agent independent of accounting to audit any inventories managed by accounting.</p> <p>(2) Preparation of Records.</p> <p>(i) The gaming operation must conform to generally accepted accounting principles (GAAP) when preparing financial statements, including subsidiary ledgers.</p> <p>(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.</p> <p>(iii) The accounting system should be designed to prepare general accounting records on a double-entry system of accounting.</p> <p>(iv) The accounting system should have the capability to record gaming activity transactions to identify and track all</p>
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<p>place in the cashier's cage, or on those games which do not have a locked drop box, or on card game tables, in an appropriate place on the table, in the cash register or in another approved repository.</p> <p>(f) If the gaming operation provides periodic payments to satisfy a prize payout resulting from a wager, the initial installment payment, when paid, and the actual cost of a payment plan, which is funded by the gaming operation, may be deducted from winnings. The gaming operation is required to obtain the approval of all payment plans from the Tribal gaming regulatory authority. For any funding method which merely guarantees the gaming operation's performance, and under which the gaming operation makes payments out of cash flow (e.g. irrevocable letters of credits, surety bonds, or other similar methods), the gaming operation may only deduct such payments when paid to the patron.</p> <p>(g) Vouchers issued at a player interface shall be deducted from gross revenue as prize payouts in the month the vouchers are issued by the player interface. Vouchers deducted from gross revenue that are not redeemed within a period, not to exceed 180 days of issuance, shall be included in gross revenue. An unredeemed voucher previously included in gross revenue may be deducted from gross revenue in the month redeemed.</p> <p>(h) A gaming operation may not deduct from gross revenues the unpaid balance of a credit instrument extended for purposes other than gaming.</p> <p>(i) A gaming operation may deduct from gross revenue the unpaid balance of a credit instrument if the gaming operation documents, or otherwise keeps detailed records of, compliance with the following requirements. Such records confirming compliance shall be made available to the Tribal gaming regulatory authority or the Commission upon request:</p> <p>(1) The gaming operation can document that the credit extended was for gaming purposes;</p> <p>(2) The gaming operation has established procedures and relevant criteria to evaluate a</p>	<p>revenues, expenses, assets, and liabilities in order to produce income and balance sheet statements.</p> <p>(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.</p> <p>(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.</p> <p>(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.</p> <p>(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.</p>
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<p>patron's credit reputation or financial resources and to then determine that there is a reasonable basis for extending credit in the amount or sum placed at the patron's disposal;</p> <p>(3) In the case of personal checks, the gaming operation has established procedures to examine documentation; which would normally be acceptable as a type of identification when cashing checks, and has recorded the patron's bank check guarantee card number or credit card number, or has satisfied paragraph (i) (2) of this section, as management may deem appropriate for the check-cashing authorization granted;</p> <p>(4) In the case of third-party checks for which cash, chips, or tokens have been issued to the patron, or which were accepted in payment of another credit instrument, the gaming operation has established procedures to examine documentation, normally accepted as a means of identification when cashing checks, and has, for the check's maker or drawer, satisfied paragraph (i) (2) of this section, as management may deem appropriate for the check-cashing authorization granted;</p> <p>(5) In the case of guaranteed drafts, procedures should be established to ensure compliance with the issuance and acceptance procedures prescribed by the issuer;</p> <p>(6) The gaming operation has established procedures to ensure that the credit extended is appropriately documented, not least of which would be the patron's identification and signature attesting to the authenticity of the individual credit transactions. The authorizing signature shall be obtained at the time credit is extended.</p> <p>(7) The gaming operation has established procedures to effectively document its attempt to collect the full amount of the debt. Such documentation includes, but is not limited to, letters sent to the patron, logs of personal or telephone conversations, proof of presentation of the credit instrument to the patron's bank for collection, settlement agreements, or other documents which demonstrate that the gaming operation has made a good faith attempt to</p>	
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<p>collect the full amount of the debt. Such records documenting collection efforts shall be made available to the Tribal gaming regulatory authority or the Commission upon request.</p> <p>(j) <i>Allowable and non-allowable deductions from gross revenue.</i> (1) Any prizes, premiums, drawings, benefits or tickets that are redeemable for cash or merchandise or other promotional allowance, except cash or tokens paid at face value or the cost of personal property awarded directly to a patron as the result of a specific wager, must not be deducted.</p> <p>(2) Cash paid to fund periodic payments may be deducted.</p> <p>(3) For bingo and pull tabs, the actual cost of any personal property distributed to a patron as the result of a specific legitimate wager may be deducted, but not travel expenses, food, refreshments, lodging, or services.</p> <p>(4) A gaming operation that provides a patron with additional play at bingo as the result of an initial wager may deduct all cash or tokens paid directly to that patron as a result of such additional play.</p> <p>(5) A gaming operation may deduct its pro-rata share of a payout from a game played in a wide area linked system except for a payout made in conjunction with a card game. The amount of the deduction must be determined based upon the written agreement among the gaming establishments participating in the wide area linked system and the operator of the system. All cash prizes and the value of noncash prizes awarded during a contest or tournament conducted in conjunction with a wide area linked system are also deductible on a pro-rata basis to the extent of the compensation received for the right to participate in that contest or tournament.</p> <p>(6) Deductibility of free play and promotional items:</p>		
<table border="1"> <tr> <td>(i) <i>Card Games</i></td> </tr> </table>	(i) <i>Card Games</i>	
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(C) Tournaments played with non-negotiable chips, contests and drawings		
(D) Prizes (e.g., \$100 prize for high hand of the week)		
(E) Promotional progressive pot and/or pool payouts		
(F) Skill wins and losses		
<i>(ii) Bingo</i>		
(A) Match play/discount wagering		
(B) Free play wagering (negotiable and non-negotiable)		
(C) Non-cash prizes		
(D) Promotional activity reimbursement by external party		
(E) Appeasement payouts (payments made on non-winning cards in response to patron complaints)		
<i>(iii) Pull Tabs</i>		
(A) Match play/discount wagering		
(B) Free play wagering (negotiable and non-negotiable)		
(C) Non-cash prizes		
(D) Promotional activity reimbursement by external party		
(E) Appeasement payouts (payments made on non-winning pull tabs in response to patron complaints)		
<p>(7) Credit instruments written off as uncollectible are deductible unless any of the following applies:</p> <p>(i) The instrument was not signed by the patron;</p> <p>(ii) The gaming operation did not have an address for the patron at the time of accepting the instrument;</p> <p>(iii) The gaming operation does not maintain evidence that it has made a reasonable effort to collect the debt;</p> <p>(iv) The gaming operation does not maintain evidence that it checked the credit history of the patron before extending the credit;</p> <p>(v) The signature of the patron on the instrument was forged and the gaming operation has not made a written report of the forgery to the appropriate law enforcement agency; or</p>		

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<p>(vi) The gaming operation is unable to produce the credit instrument within a reasonable time after a request by the Commission. (Note: However, this shall not pertain to circumstances beyond the control of the gaming operation e.g., custody of court, stolen, etc.)</p> <p>(k) <i>Maintenance and preservation of books, records, and documents.</i> (1) All original books, records, and documents pertaining to the conduct of wagering activities shall be retained by a gaming operation in accordance with the following schedule. A record that summarizes gaming transactions is sufficient, provided that all documents containing an original signature(s) attesting to the accuracy of a gaming related transaction are independently preserved. Original books, records, or documents shall not include copies of originals, except for copies that contain original comments or notations on parts of multi-part forms. The following original books, records, and documents shall be retained by a gaming operation for a minimum of five (5) years:</p> <ul style="list-style-type: none"><li>(i) Casino cage documents;</li><li>(ii) Documentation supporting the calculation of bingo win;</li><li>(iii) Documentation supporting the calculation of revenue received from card games, and all other gaming activities offered by the gaming operation;</li><li>(iv) Bingo statistical reports;</li><li>(v) Pull tab statistical reports;</li><li>(vi) Internal audit documentation and reports;</li><li>(vii) Documentation supporting the write-off of gaming credit instruments and named credit instruments;</li><li>(viii) All other books, records, and documents pertaining to the conduct of wagering activities that contain original signature(s) attesting to the accuracy of the gaming related transaction.</li></ul> <p>(2) Unless otherwise specified in this part, all other books, records, and documents shall be retained until such time as the accounting records have been audited by the gaming operation's independent certified public accountants.</p>	
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<p>(3) The above standards shall apply without regard to the medium by which the book, record or document is generated or maintained (paper, computer-generated, magnetic media, etc.).</p>	
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**NIGC Comments to TGWG Proposed Regulation**

**OVERALL COMMENT:** The intent of the Draft Regulation § 543.19 is to provide basic standards relative to the following:

1. Basic preparation and recording criteria for Tribal gaming operation accounting records, including examples of various records, reports and subsidiary ledgers that should be maintained.
2. Direction for the computation of Gross Gaming Revenue for the various gaming revenue centers. Examples of specific transactions and whether to include them in gross gaming revenue were provided in the standards.
3. Maintenance and record retention direction is provided for gaming operation books, records and documents.

Section 543.19 was not a part of the original NIGC MICS but was developed by a subsequent MICS advisory committee because of the frequent indications in Tribal gaming operation audited financial statements and associated management letters that several gaming operations' accounting departments did not have the accounting experience and gaming expertise necessary to maintain accurate records of gaming transactions and the assets, liabilities and equity balances.

However, the proposed TGWG 543.19, which contains the addition of "audit" in the section title, appears to expand the section to include standards for departments/functions other than accounting departments.

(a) & (b) Accounting Records

*Effect of 2010 Draft Regulation:* Draft regulations are intended to define the basic accounting requirements for a gaming operation.

*Effect of TGWG Proposal:* The proposal deletes the requirement that accounting records be prepared "according to generally accepted accounting principles." Instead, it has incorporated into 543.19(c) the following wording; "When establishing SICS the gaming operation should



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review and consider incorporation of other external standards such as GAAP...” The failure to require that the accounting records be prepared in accordance with a specific set of authoritative standards could lead to the adoption of unconventional accounting principles and misleading or confusing financial statements.

#### (c) Control over Fiscal Affairs

*Effect of 2010 Draft Regulation:* The draft regulation outlines the goals of the accounting policies and procedures to ensure control over the operation’s fiscal affairs.

*Effect of TGWG Proposal:* The TGWG version has incorporated language similar to items (1), (2) and perhaps (4) in 543.19(e)(2) but does not address items (3), (5) or (6), which are significant goals in the development of casino accounting controls.

#### Various Provisions Deleted from 543.19(d)-(i)

*Effect of 2010 Draft Regulation:* The draft regulations address the following accounting issues:

- Computation of gross gaming revenue
- Currency control
- Accounting treatment of periodic payments of payouts
- Accounting treatment of vouchers issued
- Deductibility of unpaid credit instruments

*Effect of TGWG Proposal:* The amendment fails to address any of the above issues. The opinion of the reviewer is that this omission is a material oversight of the TGWG as the calculation of gross gaming revenues is an issue that many gaming operations of all Tier levels struggle with. This is reflected in the results of the numerous NIGC annual fees audits performed by NIGC audit staff. Failure to provide any guidance for gaming operation accounting departments should be addressed.

#### (j) Deductibility from Gross Gaming Revenue

*Effect of 2010 Draft Regulation:* The draft regulation addresses the deductibility and non-deductibility of specific items from gross gaming revenue, a question that is frequently posed to the Audit Division.

*Effect of TGWG Proposal:* The TGWT proposal deletes the entire sub-part, leaving the gaming operations with no guidance as to what can and cannot be deducted from gross gaming revenue. Although this information could be provided in another form, e.g. a bulletin, incorporating it into the regulations provides the greatest assurance that it will be readily available to those who are seeking it.

#### Write-offs of Uncollectable Credit

*Effect of 2010 Draft Regulation:* The draft regulation describes the circumstances where a credit instrument that has been written off as uncollectible can be deducted.

*Effect of TGWG Proposal:* The amendment does not contain this information.

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### Minimum Bankroll Formula

*Effect of 2010 Draft Regulation:* Standards for the establishment of and compliance with a minimum bankroll formula are provided in the NIGC's proposed cage standards 543.14 (e) Cage and vault accountability standards. (4)

*Effect of TGWG Proposal:* The combination of the TGWG's proposed 543.19(e)(2)(vi) standard and the related guidance essentially mirror the NIGC's proposed standard.

### (k) Maintenance and preservation of books, records and documents

*Effect of 2010 Draft Regulation:* The draft regulation details which specific records are required to be retained for five years, records that should be maintained until audited by the external CPA firm and direction regarding media for maintaining records.

*Effect of TGWG Proposal:* The amendment deletes the bulk of (k) and the following remains: "(2)(vii) Maintain and preserve all financial books, records, and relevant supporting documentation." Maintenance of records and documents has been the subject of frequent inquiries to the NIGC and support the information provided in the NIGC's proposed 543.19(k).

## § 543.42 What are the minimum internal control standards for internal audit for Tier C gaming operations?

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In 2010, the NIGC posted on its web-site draft Class II MICS, § 543.42, *What are the minimum internal control standards for internal audit for Tier C gaming operations?* The NIGC also posted draft sections 543.22 and 543.32, which provide internal control standards for Tier A and B gaming operations respectively.

This document will provide comments comparing the 2010 Draft Regulations to the TGWG's proposed subsection 543.19(f), *Internal Audit*. The words in blue (underlined) are the additions made by the TGWG.

July 2010 Draft MICS	TGWG Version
<p><b>§543.42</b> <i>What are the minimum internal control standards for internal audit for Tier C gaming operations?</i></p> <p><b>(a) Internal audit personnel.</b> (1) For Tier C gaming operations, a separate internal audit department shall be maintained whose primary function is performing internal audit work and that is independent with respect to the departments subject to audit.</p> <p>(2) The internal audit personnel shall report directly to the Tribe, Tribal gaming regulatory authority, audit committee, or other entity designated by the Tribe in accordance with the definition of internal audit in §543.2.</p> <p><b>(b) Audits.</b> Internal audit personnel shall perform audits of the gaming operation.</p> <p>(1) The following areas shall be audited at least annually:</p> <p>(i) Pull tabs, including but not limited to, computer applications, pull tab inventory, access, transfers, winning pull tabs, accountability form, statistical reports, and electronic equipment;</p> <p>(ii) Card games, including but not limited to, computer applications, supervision, playing cards, skills, reconciliation of card room bank, promotional progressive pots and pools, card room contests and tournaments, computerized player tracking systems and accounting/audit standards;</p> <p>(iii) Cage procedures, including but not limited to, computer applications, personal checks, cashier's checks, traveler's checks,</p>	<p><b>§ <u>543.19</u></b> <b>What are the minimum internal control standards for <u>Audit and Accounting</u>?</b></p> <p><b><u>(f) Internal audit.</u></b> <u>Controls shall be established to ensure:</u></p> <p><u>(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.</u></p> <p><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).</u></p> <p><u>(3) Internal auditors report directly to the Tribe, TGRA, audit committee, or other entity designated by the Tribe.</u></p> <p><u>(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.</u></p> <p><u>(5) Reports documenting audits performed are maintained and made available to the Commission upon request.</u></p> <p><b><u>TGWG Guidance</u></b></p> <p>(i) <u>Internal Audit.</u></p> <p>(1) Internal Auditors. Best</p>

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<p>payroll checks, and counter checks, patron deposited funds, safe deposit boxes, cage/vault accountability, chip and token standards, promotional payments, drawings, and giveaway programs, accounting/auditing standards and extraneous items;</p> <p>(iv) Credit procedures, including but not limited to, computer applications, credit standards, payment standards, access to credit documentation, maintenance of credit documentation, write off and settlement, collection agencies, and accounting/auditing standards;</p> <p>(v) Information technology, including but not limited to, Physical access and maintenance controls, system parameters, user accounts, generic user accounts, service and default accounts, administrative access, backups, recordkeeping, electronic storage of documentation, network security, changes to production environment, remote access, information technology department, in-house developed systems, and purchased software programs.</p> <p>(vi) Complimentary services or items, including but not limited to, procedures whereby complimentary service items are issued, authorized, redeemed and reported;</p> <p>(vii) Accounting standards, including but not limited to, accounting records, GAAP requirements, administrative and accounting procedures, gross gaming revenue computations, currency controls, periodic payment plans, voucher deductibility, unpaid credit instrument deductibility, allowable and non-allowable deductions from gross revenue, and maintenance and preservation of books, records and documents;</p> <p>(viii) Drop and count standards, including but not limited to, computer applications, card game drop, soft count room personnel, card game soft count, player interface financial instrument storage component drop, player interface financial instrument storage component count, player interface coin drop,</p>	<p>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).</p> <p>(2) Scope and Frequency of Audits.</p> <p>(i) Internal audits must be performed for each gaming department of the operation at least annually.</p> <p>(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.</p> <p>(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.</p> <p>(3) Independence. There</p>
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<p>hard count room personnel, player interface coin count and wrap, count room inventory security, transfers of currency and coin during the count, key controls-general, player interface drop key controls, card game drop box key controls, card game drop box release keys, player interface financial instrument storage component release keys, card game drop box storage rack keys, player interface financial instrument storage component storage rack keys, card game drop box contents keys, player interface financial instrument storage component contents keys, player interface computerized key security systems, card game computerized key security systems, emergency drop procedures and player interface count equipment; and (ix) Any other internal audits as required by the Tribe, Tribal gaming regulatory authority, audit committee, or other entity designated by the Tribe.</p> <p>(2) In addition to the observation and examinations performed under paragraph (b)(1) of this section, follow-up observations and examinations shall be performed to verify that corrective action has been taken regarding all instances of noncompliance cited by internal audit, the independent accountant, and/or the Commission. The verification shall be performed within six (6) months following the date of notification.</p> <p>(3) The following area shall be audited at least semi-annually:</p> <p>(i) Bingo, including but not limited to, bingo cards, bingo draw, manual payouts and short pays, operational controls, gaming equipment, voucher systems, patron accounts and cashless systems, promotions, and accounting/auditing standards.</p> <p>(ii) [Reserved]</p> <p>(4) Whenever possible, internal audit observations shall be performed on an unannounced basis (i.e., without personnel being forewarned that their activities will be observed). Additionally, if the independent</p>	<p>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.</p> <p>(4) Reports. Reports documenting audits performed are maintained and made available to the Commission pursuant to 25 USC §2706(b)(1)-(4).</p> <p>(5) Material Exceptions.</p> <p>(i) The internal auditor should coordinate with management and the TGRA to determine a definition of material exception for each gaming area.</p>
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<p>accountant also performs the internal audit function, the accountant shall perform separate observations of the player interface drops and counts to satisfy the internal audit observation requirements and independent accountant tests of controls as required by the American Institute of Certified Public Accountants guide.</p> <p><b>(c) Documentation.</b> (1) Documentation (e.g., checklists, programs, reports, etc.) shall be prepared to evidence all internal audit work performed as it relates to the requirements in this section, including all instances of noncompliance.</p> <p>(2) The internal audit department shall operate with audit programs, which, at a minimum, address the MICS. Additionally, the department shall properly document the work performed, the conclusions reached, and the resolution of all exceptions. Institute of Internal Auditors standards are recommended but not required.</p> <p><b>(d) Reports.</b> (1) Reports documenting audits performed shall be maintained and made available to the Commission upon request.</p> <p>(2) Such audit reports shall include the following information:</p> <ul style="list-style-type: none"><li>(i) Audit objectives;</li><li>(ii) Audit procedures and scope;</li><li>(iii) Findings and conclusions;</li><li>(iv) Recommendations, if applicable; and</li><li>(v) Management's response.</li></ul> <p><b>(e) Material exceptions.</b> All material exceptions resulting from internal audit work shall be investigated and resolved with the results of such being documented and retained for five years.</p> <p><b>(f) Role of management.</b> (1) Internal audit findings shall be reported to management.</p> <p>(2) Management shall be required to respond to internal audit findings stating corrective measures to be taken to avoid recurrence of the audit exception.</p> <p>(3) Such management responses shall be included in the internal audit report that will</p>	
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## § 543.42 What are the minimum internal control standards for internal audit for Tier C gaming operations?

Comparison of July TGWG Submission to July 2010 Draft MICS

<p>be delivered to management, the Tribe, Tribal gaming regulatory authority, audit committee, or other entity designated by the Tribe.</p> <p><b>(g) Internal Audit Guidelines.</b> In connection with the internal audit testing pursuant to paragraph (b) (1) and (b) (3) of this section, the Commission shall develop recommended Internal Audit Guidelines, which shall be available upon request.</p>	
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### NIGC Comments to TGWG Proposed Regulation

**OVERALL COMMENT:** When the TGWG developed its proposed “543.19 What are the minimum internal control standards for Audit and Accounting?” it decided to include a sub-section of Internal Audit standards instead of providing separate sections covering internal audit standards by gaming operation Tier level. The intent of the NIGC’s 543.19 is to provide basic standards relative to the accounting and financial statement presentation functions and includes the following:

1. Basic preparation and recording criteria for Tribal gaming operation accounting records, including examples of various records, reports and subsidiary ledgers that should be maintained.
2. Direction for the computation of Gross Gaming Revenue for the various gaming revenue centers. Examples of specific transactions and whether to include them in gross gaming revenue were provided in the standards.
3. Maintenance and record retention direction is provided for gaming operation books, records and documents.

Section 543.19 was not a part of the original NIGC MICS but was developed by a subsequent MICS advisory committee because of the frequent notifications provided in Tribal gaming operation audited financial statements and associated management letters that some gaming operations’ accounting departments did not have the accounting and gaming expertise necessary to maintain accurate records of gaming transactions and the assets, liabilities and equity balances.

However, the proposed TGWG 543.19 expands the MICS §543.19 to include standards for departments/functions not typically considered general accounting department functions.

TGWG Sub-section (f), *Internal Audits*, contains standards adapted from the 2010 Draft Regulation §§ 543.22, 543.32 and 543.42, which provide standards for internal audits based on Tier level. The internal audits of gaming operations should generally not be performed by members of the gaming operation’s accounting department and should be conducted by individuals independent of the gaming operation. These individuals generally report to the Tribal Gaming Regulatory Authority, the Tribal Council, the Tribal Treasurer, an Audit Committee, or

## **§ 543. 42 What are the minimum internal control standards for internal audit for Tier C gaming operations?**

### Comparison of July TGWG Submission to July 2010 Draft MICS

other independent entities. In some cases internal audits of Tribal gaming operations are performed under contract by outside CPA firms.

#### Internal Audits Required

*Effect of 2010 Draft Regulation:* Draft regulation requires that internal audits be performed at least annually for all gaming areas except for surveillance and for bingo, which is required to be audited at least semi-annually. Direction as to the most common areas of each department is provided, however, included in the standard is the notification that this direction is not intended to limit the audits only to those areas or specific transactions.

*Effect of TGWG Proposal:* TGWG proposal requires at least annual audits of each gaming department but does not provide any further direction, such as that noted in the above paragraph. It also does not provide for semi-annual audits of bingo, which is almost always the gaming revenue center with the most significant exposures to theft and abuse, especially those operations that offer electronic bingo.

#### Internal Audit Personnel

*Effect of 2010 Draft Regulation:* Draft regulations require that a separate internal audit department be maintained for Tier C gaming operations (The draft regulations provide an alternative for Tier A and B gaming operations by allowing individual who are independent with respect to the departments subject to audit perform the internal audits). However, it is recommended by this writer that these alternatives be revisited in combination with any changes in the gross gaming revenue parameters for determining a Tier A gaming operation versus a Small Gaming operation, as defined in §543.6, or in the range for Tier B designation .

*Effect of TGWG Proposal:* TGWG version eliminates the requirement for a separate internal audit department for Tier C gaming operations but retains a requirement of independence for those individuals performing internal audits. However, it is difficult to understand how “auditors internal to the operation” would maintain independence. Provided the level of exposure that exists even at the low end of the Tier B GGR range, it is advisable that the same criteria for selection of the internal auditor for a Tier B operation be that of the Tier C facilities.

#### Documentation

*Effect of 2010 Draft Regulation:* Standard requires that documentation be prepared to evidence all audit work performed and provides examples thereof.

*Effect of TGWG Proposal:* TGWG version is consistent in requiring documentation of all audit work performed. However, it eliminates the requirement for inclusion of all instances of non-compliance with the MICS in the documentation. Furthermore, it eliminates the requirement to use audit programs which, at a minimum, address the MICS and the requirement to document the work performed, the conclusions reached, and the resolution of all exceptions. Also, the reference to “these” MICS, TICS and SICS is ambiguous and the addition of the wording “TICS and SICS” before “these MICS, TICS and SICS” does not provide any clarification.



## **§ 543. 42 What are the minimum internal control standards for internal audit for Tier C gaming operations?**

Comparison of July TGWG Submission to July 2010 Draft MICS

### Internal Audit Reporting

*Effect of 2010 Draft Regulation:* Draft regulation delineates possible reporting relationships for the internal auditors.

*Effect of TGWG Proposal:* Amendment appears consistent with draft regulation.

### Reports

*Effect of 2010 Draft Regulation:* The draft regulation specifies the minimum content of the reports documenting audits performed and requires that the reports be made available to the Commission upon request.

*Effect of TGWG Proposal:* The amendment deletes the minimum content requirements for the reports, thereby eliminating guidance to those performing the audits and increasing the risk that the reports will be less consistent, less uniform and less meaningful to the users.

### Material Exceptions

*Effect of 2010 Draft Regulation:* Draft regulation requires that material exceptions be investigated and resolved and the results of the investigation be documented and retained for five years.

*NIGC Comment to TGWG Guidance:* TGWG version deletes the requirement that the documented results of the investigation be retained for five years, but otherwise appears consistent with the draft regulation.

### Role of Management

*Effect of 2010 Draft Regulation:* The draft regulation requires that internal audit findings be reported to management, that management respond to internal audit findings stating how the findings will be corrected and that management responses be included in the internal audit report and communicated to the appropriate entity.

*NIGC Comment to TGWG Guidance:* Amendment appears consistent with draft regulation.

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

### Comparison of July TGWG Submission to MICS 543.3(f), *CPA Testing*

In October, 2008, the NIGC published PART 543 – MINIMUM INTERNAL CONTROL STANDARDS in the Federal Register. This document will provide comments comparing the NIGC’s published standards 543.3(f), *CPA testing*, to the TGWG proposed § 543.19(g) *Annual Audits*. The words in blue (underlined) are the additions made by the TGWG.

MICS	TGWG Version
<p><b>§ 543.3 How do tribal governments comply with this part?</b></p> <p><b>(f) CPA testing.</b> (1) An independent certified public accountant (CPA) must be engaged to perform “Agreed-Upon Procedures” to verify that the gaming operation is in compliance with the minimum internal control standards (MICS) set forth in this part or a tribally approved variance thereto that has received Commission concurrence. The CPA must report each event and procedure discovered by or brought to the CPA’s attention that the CPA believes does not satisfy the minimum standards or tribally approved variance that has received Commission concurrence. The “Agreed-Upon Procedures” may be performed in conjunction with the annual audit. The tribe must submit two copies of the report to the Commission within 120 days of the gaming operation’s fiscal year end. In performing the compliance audit, the CPA must use the Statements on Standards for Attestation Engagements No. 10 at Sections 101 (“Attest Engagements”) and 201 (“Agreed-Upon Procedures Engagements”) (collectively “SSAE’s”), July 12, 2007, American Institute of Certified Public Accountants Inc, (AICPA). SSAE No. 10 at Sections 101 and 201 are incorporated by reference into this section with the approval of the Director of the Federal Register under 5 U.S.C. 552(a) and 1 CFR part 51. To enforce any edition other than that specified in this section, the Commission must publish notice of change in the Federal Register and the material must be available to the public. You may obtain a copy from the American Institute of Certified Public Accountants, 220 Leigh Farm Rd., Durham, NC 27707, 1-888-777-7077, at</p>	<p><b>§ <u>543.19</u> What are the minimum internal control standards for <u>Audit and Accounting</u>?</b></p> <p><u>(g) Annual Audits.</u></p> <p><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 ...,SSAEs), 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.</u></p> <p><u>(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.</u></p> <p><u>(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.</u></p> <p><u>(4) Reliance on Internal Audit.</u></p> <p><u>(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.</u></p> <p><u>(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.</u></p> <p><u>(5) Report Format. The Statements on Standards for Attestation Engagements and Agreed-Upon Procedure Engagements (SSAE s) are applicable to agreed-upon</u></p>

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

Comparison of July TGWG Submission to MICS 543.3(f), *CPA Testing*

<p><a href="http://www.aicpa.org">http://www.aicpa.org</a> . You may inspect a copy at the National Indian Gaming Commission, 1441 L Street, NW., Suite 9100, Washington, DC 20005, 202-632-7003. All approved material is available for inspection at the National Archives and Records Administration (NARA). For information on the availability of this material at NARA, call 202-741-6030 or go to <a href="http://www.archives.gov/federal_register/code_of_federal_regulations/ibr_locations.html">http://www.archives.gov/federal_register/code_of_federal_regulations/ibr_locations.html</a> .</p> <p>The CPA must perform the “Agreed-Upon Procedures” in accordance with the following:</p> <p>(i) As a prerequisite to the evaluation of the gaming operation's internal control systems, it is recommended that the CPA obtain and review an organization chart depicting segregation of functions and responsibilities, a description of the duties and responsibilities of each position shown on the organization chart, and an accurate, detailed narrative description of the gaming operation's procedures in effect that demonstrate compliance.</p> <p>(ii) Complete the CPA NIGC MICS Compliance checklists or other comparable testing procedures. The checklists should measure compliance on a sampling basis by performing inspections, observations and substantive testing. The CPA must complete separate checklists for bingo and information technology. All questions on each applicable checklist should be completed. Work-paper references are suggested for all “no” responses for the results obtained during testing (unless a note in the “W/P Ref” can explain the exception).</p> <p>(iii) The CPA must perform, at a minimum, the following procedures in conjunction with the completion of the checklists:</p> <p>(A) At least one unannounced observation of each of the following: financial instrument acceptor drop and count. For purposes of these procedures, “unannounced” means that no officers, directors, or employees are given advance information regarding the dates or times of such observations. The independent accountant should make arrangements with the</p>	<p><a href="#">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.</a></p> <p><b><u>TGWG Guidance</u></b></p> <p>(j) Annual Audits.</p> <p>(1) Agreed Upon Procedures.</p> <p>(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.</p> <p>(ii) 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:</p> <p>(A) An organizational chart depicting segregation of duties or independence of department functions or responsibilities;</p> <p>(B) A description of the duties, responsibilities and</p> <p>(C) A copy of the SICS and other operating policy and procedure manuals, as needed;</p> <p>(D) A discussion of known fraud at the gaming operation;</p> <p>(E) Completion of the MICS compliance checklist for at least one unannounced observation of drop and count;</p> <p>(F) Interviews with gaming operation agents and</p> <p>(G) Compliance testing of various documents related to the audit functions;</p>
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## § 543.19 What are the minimum internal control standards for audit and accounting?

### Comparison of July TGWG Submission to MICS 543.3(f), *CPA Testing*

<p>gaming operation and tribal gaming regulatory authority to ensure proper identification of the CPA's personnel and to provide for their prompt access to the count rooms. The checklists should provide for drop and count observations. The count room should not be entered until the count is in process and the CPA should not leave the room until the monies have been counted and verified to the count sheet by the CPA and accepted into accountability.</p> <p>(B) Observations of the gaming operation's agents as they perform their duties.</p> <p>(C) Interviews with the gaming operation's agents who perform the relevant procedures.</p> <p>(D) Compliance testing of various documents relevant to the procedures. The scope of such testing should be indicated on the checklist where applicable.</p> <p>(E) For new gaming operations that have been in operation for three months or less at the end of their business year, performance of this regulation, this section, is not required for the partial period.</p> <p>(2) Alternatively, at the discretion of the tribe, the tribe may engage an independent CPA to perform the testing, observations and procedures reflected in paragraphs (f)(1)(i), (ii), and (iii) of this section utilizing the tribal internal control standards adopted by the tribal gaming regulatory authority or tribally approved variance that has received Commission concurrence. Accordingly, the CPA will verify compliance by the gaming operation with the tribal internal control standards. Should the tribe elect this alternative, as a prerequisite, the CPA will perform the following:</p> <p>(i) The CPA must compare the tribal internal control standards to the MICS to ascertain whether the criteria set forth in the MICS or Commission approved variances are adequately addressed.</p> <p>(ii) The CPA may utilize personnel of the tribal gaming regulatory authority to cross-reference the tribal internal control standards to the MICS, provided the CPA performs a review of</p>	<p>(H) Discussion of changes in management, including revisions in policies and procedures affected by the management change;</p> <p>(I) Discussion of risks and opportunities;</p> <p>(J) Understanding of ongoing issues of concern; and</p> <p>(K) A review of randomly selected contracts.</p> <p>(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.</p> <p>(3) Reliance on Internal Audit.</p> <p>(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.</p> <p>(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.</p>
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**§ 543.19 What are the minimum internal control standards for audit and accounting?**

Comparison of July TGWG Submission to MICS 543.3(f), *CPA Testing*

<p>the tribal gaming regulatory authority personnel's work and assumes complete responsibility for the proper completion of the work product.</p> <p>(iii) The CPA must report each procedure discovered by or brought to the CPA's attention that the CPA believes does not satisfy paragraph (f)(2)(i) of this section.</p> <p>(3) Reliance on Internal Auditors. (i) The CPA may rely on the work of an internal auditor, to the extent allowed by the professional standards, for the performance of the recommended procedures specified in paragraphs (f)(1)(iii)(B), (C), and (D) of this section, and for the completion of the checklists as they relate to the procedures covered therein.</p> <p>(ii) Agreed-upon procedures are to be performed by the CPA to determine that the internal audit procedures performed for a past 12-month period (includes two six month periods) encompassing a portion or all of the most recent business year has been properly completed. The CPA will apply the following agreed-upon procedures to the gaming operation's written assertion:</p> <p>(A) Obtain internal audit department work-papers completed for a 12-month period (includes two six month periods) encompassing a portion or all of the most recent business year and determine whether the CPA NIGC MICS Compliance Checklists or other comparable testing procedures were included in the internal audit work-papers and all steps described in the checklists were initialed or signed by an internal audit representative.</p> <p>(B) For the internal audit work-papers obtained in paragraph (f)(3)(ii)(A) of this section, on a sample basis, re-perform the procedures included in CPA NIGC MICS Compliance Checklists or other comparable testing procedures prepared by internal audit and determine if all instances of noncompliance noted in the sample were documented as such by internal audit. The CPA NIGC MICS Compliance Checklists or other comparable testing procedures for the applicable Drop and</p>	
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## § 543.19 What are the minimum internal control standards for audit and accounting?

Comparison of July TGWG Submission to MICS 543.3(f), *CPA Testing*

Count procedures are not included in the sample re-performance of procedures because the CPA is required to perform the drop and count observations as required under paragraph (f)(1)(iii)(A) of this section of the agreed-upon procedures. The CPA's sample should comprise a minimum of three percent of the procedures required in each CPA NIGC MICS Compliance Checklist or other comparable testing procedures for the bingo department and five percent for the other departments completed by internal audit in compliance with the internal audit MICS. The re-performance of procedures is performed as follows:

( 1 ) For inquiries, the CPA should either speak with the same individual or an individual of the same job position as the internal auditor did for the procedure indicated in the CPA checklist.

( 2 ) For observations, the CPA should observe the same process as the internal auditor did for the procedure as indicated in their checklist.

( 3 ) For document testing, the CPA should look at the same original document as tested by the internal auditor for the procedure as indicated in their checklist. The CPA need only retest the minimum sample size required in the checklist.

(C) The CPA is to investigate and document any differences between their re-performance results and the internal audit results.

(D) Documentation must be maintained for five years by the CPA indicating the procedures re-performed along with the results.

(E) When performing the procedures for paragraph (f)(3)(ii)(B) of this section in subsequent years, the CPA must select a different sample so that the CPA will re-perform substantially all of the procedures after several years.

(F) Additional procedures performed at the request of the Commission, the tribal gaming regulatory authority or management should be included in the Agreed-Upon Procedures report transmitted to the Commission.

(4) Report Format. The NIGC has concluded that the performance of these procedures is an attestation engagement in which the CPA

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

Comparison of July TGWG Submission to MICS 543.3(f), *CPA Testing*

<p>applies such Agreed-Upon Procedures to the gaming operation's assertion that it is in compliance with the MICS and, if applicable under paragraph (f)(2) of this section, the tribal internal control standards and approved variances, provide a level of control that equals or exceeds that of the MICS. Accordingly, the Statements on Standards for Attestation Engagements (SSAE's), specifically SSAE 10, at Sections 101 and 201 are applicable. SSAE 10 provides current, pertinent guidance regarding agreed-upon procedure engagements, and the sample report formats included within those standards should be used, as appropriate, in the preparation of the CPA's agreed-upon procedures report. If future revisions are made to this standard or new SSAE's are adopted that are applicable to this type of engagement, the CPA is to comply with any revised professional standards in issuing their agreed upon procedures report. The Commission will provide an example report and letter formats upon request that may be used and contain all of the information discussed below. The report must describe all instances of procedural noncompliance (regardless of materiality) with the MICS or approved variations, and all instances where the tribal gaming regulatory authority's regulations do not comply with the MICS. When describing the agreed-upon procedures performed, the CPA should also indicate whether procedures performed by other individuals were utilized to substitute for the procedures required to be performed by the CPA. For each instance of noncompliance noted in the CPA's agreed-upon procedures report, the following information must be included: The citation of the applicable MICS for which the instance of noncompliance was noted; a narrative description of the noncompliance, including the number of exceptions and sample size tested.</p> <p>(5) Report Submission Requirements. (i) The CPA must prepare a report of the findings for the tribe and management. The tribe must submit two copies of the report to the Commission no later than 120 days after the</p>	
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**§ 543.19 What are the minimum internal control standards for audit and accounting?**

Comparison of July TGWG Submission to MICS 543.3(f), *CPA Testing*

<p>gaming operation's business year end. This report should be provided in addition to any other reports required to be submitted to the Commission.</p> <p>(ii) The CPA should maintain the work-papers supporting the report for a minimum of five years. Digital storage is acceptable. The Commission may request access to these work-papers, through the tribe.</p> <p>(6) CPA NIGC MICS Compliance Checklists. In connection with the CPA testing pursuant to this section and as referenced therein, the Commission will provide CPA MICS Compliance Checklists upon request.</p> <p>(g) Enforcement of Commission Minimum Internal Control Standards.</p> <p>(1) Each tribal gaming regulatory authority is required to establish and implement internal control standards pursuant to paragraph (c) of this section. Each gaming operation is then required, pursuant to paragraph (d) of this section, to develop and implement an internal control system that complies with the tribal internal control standards. 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.</p> <p>(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 tribal gaming regulatory authority of deficiencies in the internal controls 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.</p> <p>[73 FR 60498, Oct. 10, 2008, as amended at 74 FR 52139, Oct. 9, 2009]</p>	
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## § 543.19 What are the minimum internal control standards for audit and accounting?

Comparison of July TGWG Submission to MICS 543.3(f), *CPA Testing*

### NIGC Comments to TGWG Proposed Regulation

**OVERALL COMMENT:** When the TGWG developed its proposed § 543.19, a sub-section (g) was created that resembles the 543.3(f) CPA testing standards published in October 2008 by the NIGC.

The intent of the NIGC's proposed 543.19 is to provide basic standards relative to the accounting and financial statement presentation functions, and includes the following:

1. Basic preparation and recording criteria for Tribal gaming operation accounting records, including examples of various records, reports and subsidiary ledgers that should be maintained.
2. Direction for the computation of Gross Gaming Revenue for the various gaming revenue centers. Examples of specific transactions and whether to include them in gross gaming revenue were provided in the standards.
3. Maintenance and record retention direction is provided for gaming operation books, records and documents.

Section 543.19 was not a part of the original NIGC MICS. It was developed by a subsequent MICS advisory committee because of the frequent notifications that some gaming operations' accounting departments did not have the expertise necessary to maintain accurate records of gaming transactions and the assets, liabilities, and equity balances.

However, the proposed TGWG 543.19 expands the MICS § 543.19 to include standards for departments/functions not typically considered general accounting department functions.

As noted previously, the TGWG Sub-section (g), *Annual Audits*, contains standards adapted from the NIGC final rule 543.3(f), *CPA testing*, which provide standards the performance of the "Agreed-Upon Procedures" (AUP) engagement required to be conducted by an independent Certified Public Accountant. Section 543.3 focuses on the requirements for development of, and compliance with, internal control standards for the Tribal gaming operation(s). This part describes Tribal government and the Tribal Gaming Regulatory Authority (TGRA) responsibilities associated with these standards. Incorporating the AUP standards into a section designed for accounting departments does not appear logical to the reviewer.

Evident from the comparison columns above is the significant deletion of 543.3(f) standards in the development of the TGWG's 543.19(g) Annual Audits. It is also evident that the guidance provided by the TGWG is not significantly different from that provided in the TGWG standards, except for those in "(ii) Best practice" which provides suggestions for management understanding of the AUP procedures. Since the AUP procedures relate to the internal control systems of the gaming operation it is surprising to the reviewer why management should not already have a basic understanding of internal control testing procedures as part of their position responsibilities.

### Annual Audits

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

### Comparison of July TGWG Submission to MICS 543.3(f), *CPA Testing*

*Effect of 2008 Regulation:* The current subtitle indicates that the testing must be done by a CPA.

*Effect of TGWG Proposal:* The proposed subtitle is inaccurate in that the required Agreed-Upon Procedures do not constitute an audit as the general definition of an audit performed by a CPA includes the expression of an opinion. The Statement on Standards for Attestation Engagements expressly states that the practitioner does not provide an opinion or negative assurance. Instead the practitioner is engaged to issue a report of findings on specific procedures performed on subject matter.

#### Agreed-Upon Procedures

*Effect of 2008 Regulation:* The comparable standard is 543.3(f)(1), which requires that the Agreed Upon Procedures engagement be performed in accordance with the AICPA's SSAE's and details the procedures that are required to be performed during the engagement.

*Effect of TGWG Proposal:* The TGWG amendment also requires that the Agreed Upon Procedures engagement be performed in accordance with the AICPA's SSAE's. However, the amendment eliminates any description of the procedures to be performed and does not require that the CPA report each event and procedure discovered by or brought to the CPA's attention that the CPA believes does not satisfy the minimum standards or tribally approved variance that has received Commission concurrence. Furthermore, the amendment requires that the CPA "perform an assessment" of whether the gaming operation is in compliance with the MICS, TICS and/or SICS. Although the revision no longer requires that the CPA "render an opinion", the use of the word "assessment" could be misinterpreted to mean an opinion, which is beyond the scope of the Agreed-Upon Procedures. The reviewer cannot recall ever having seen American Institute of Certified Public Accountants followed by the abbreviation "Inc."

#### Submission of Reports

*Effect of 2008 Regulation:* The comparable standard is 543.3(f)(5), which requires the submission of two copies of the report within 120 days of the gaming operation's fiscal year end in addition to any other reports required to be submitted.

*Effect of TGWG Proposal:* The amendment appears consistent with the draft regulation.

#### Management Knowledge

*Effect of 2010 Draft Regulation:* There is no draft regulation comparable to the amendment.

*Effect of TGWG Proposal:* It is certainly desirable that management 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. For a standard to be effective, it must be enforceable. Ascertaining whether management was compliant would not only be difficult to determine but there would be no way to enforce the standard.

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

Comparison of July TGWG Submission to MICS 543.3(f), *CPA Testing*

### Reliance on Internal Audit

*Effect of 2008 Regulation:* The comparable standard is 543.3(f)(3) which allows the CPA, if he or she so chooses, to rely on the work of the internal auditors for the purposes of the AUP testing, to the extent allowed by professional standards, after having completed an assessment of the internal auditors work.

*Effect of TGWG Proposal:* The amendment (ii) states that the CPA may rely on the work of internal audit without specifying any assessment of said work be performed and without any reference to professional standards. The amendment (i) appears to be a rewording of the requirement to review the internal auditor workpapers in preparation for a determination of whether reliance can be placed on the internal auditor's work. However, the rewording is not clear and something else may have been intended.

### Report Format

*Effect of 2008 Regulation:* The comparable standard is 543.3(f)(4), which describes the required format and content of the AUP report.

*Effect of TGWG Proposal:* The amendment eliminates much of the detail regarding the requirements of the report. A particularly significant omission is that the amendment does not require the citation of the applicable MICS for which the instance of non-compliance was noted.

## § 543.50 What are the minimum internal control standards for Revenue Audit?

### Comparison of July TGWG Submission to July 2010 Draft MICS

In 2010, the NIGC posted on its web-site draft Class II MICS, 543.50. This document will provide comments comparing the proposed draft 543.50 to the TGWG's proposed subsection 543.19(d), *Operational Audits* (formerly "Revenue Audit"). The words in blue (underlined) are the additions made by the TGWG.

July 2010 Draft MICS	TGWG Version
<p><b>§543.50 What are the minimum internal control standards for Revenue Audit?</b></p> <p>Due to the length of the NIGC Draft Regulation, it is attached to this comparison document.</p> <p><b>SEE ATTACHMENT</b></p>	<p><b>§ <u>543.19</u> What are the minimum internal control standards for <u>Audit and Accounting</u>?</b></p> <p><u>(d) Operational Audits (formerly "Revenue Audit"). Controls shall be established to ensure:</u></p> <ul style="list-style-type: none"><li><u>(1) All audits are designed in a manner to detect unauthorized access, misappropriation, forgery, theft or fraud.</u></li><li><u>(2) All audits are performed within seven (7) days of the audited activity's occurrence as follows, unless otherwise specified:</u><ul style="list-style-type: none"><li><u>(i) Gaming revenue and payouts;</u></li><li><u>(ii) Increases and decreases to inventory;</u></li><li><u>(iii) Cash equivalent inventory count;</u></li><li><u>(iv) Exceptions, overrides, and voids;</u></li><li><u>(v) Complimentary services and items records (Weekly);</u></li><li><u>(vi) Manual increases and decreases to/from player accounts (Weekly);</u></li><li><u>(vii) Promotions, contests, and tournaments (Weekly); and</u></li><li><u>(viii) Key control records (Quarterly).</u></li></ul></li><li><u>(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.</u></li><li><u>(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.</u></li><li><u>(5) Audit results are summarized and recorded.</u></li><li><u>(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.).</u></li><li><u>(7) Adjustments to original data are controlled</u></li></ul>

## § 543. 50 What are the minimum internal control standards for Revenue Audit?

Comparison of July TGWG Submission to July 2010 Draft MICS

	<p><a href="#">to ensure all adjustments are properly completed and documented.</a> <a href="#">(8) Exceptions are reviewed for suspect and/or unusual transactions.</a> <a href="#">(9) Documentation must be generated and maintained evidencing the performance of audit procedures.</a> <a href="#">(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.</a></p> <p><b><u>TGWG GUIDANCE</u></b></p> <p>Due to the length of the TGWG guidance document (g), <i>Operational Audits</i>, please consult the TGWG proposal, Tab L.</p>
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### NIGC Comments to TGWG Proposed Regulation

**OVERALL COMMENT:** In 2009 Tribal Advisory Committee meetings were held to develop proposed revisions to the NIGC MICS. The Committee proposed creating a new MICS Section titled *[w]hat are the minimum internal control standards for Revenue Audit?* by extracting the accounting/auditing standards subsection from each applicable MICS section.

The TGWG does not propose revisions to 543.50, *Revenue Audit*, but instead proposes to incorporate a brief sub-section titled *Operational Audits* into its proposed § 543.19, *What are the minimum internal control standards for Audit and Accounting?*

The intent of the creation of the Draft Proposal 543.19 was to provide basic standards relative to the accounting and financial statement presentation functions and not to contain specific standards relative to revenue auditing, which can better be addressed in a separate section.

The Draft Proposal, § 543.19, includes the following:

1. Basic preparation and recording criteria for Tribal gaming operation accounting records, including examples of various records, reports and subsidiary ledgers that should be maintained.
2. Direction for the computation of Gross Gaming Revenue for the various gaming revenue centers. Examples of specific transactions and whether to include them in gross gaming revenue were provided in the standards.
3. Maintenance and record retention direction is provided for gaming operation books, records and documents.

## **§ 543.50 What are the minimum internal control standards for Revenue Audit?**

### Comparison of July TGWG Submission to July 2010 Draft MICS

Section 543.19 was not a part of the original NIGC MICS, but was developed by a subsequent MICS advisory committee. This was done because the NIGC was frequently notified that some gaming operations' accounting departments did not have the accounting and gaming expertise necessary to maintain accurate records of gaming transactions and the assets, liabilities, and equity balances.

However, the proposed TGWG 543.19 expands the MICS § 543.19 to include standards for departments/functions not typically considered general accounting department functions. Subsection (d), *Operational Audits*, is one of these. The ten standards appear to be a haphazard sample of some of the audit procedures conducted by casino revenue auditors and should not be considered a comprehensive listing. It is also significantly different from the proposed § 543.50, which provides standards by revenue or support center. The TGWG's proposal appears to combine revenue audits of all revenue centers into a category based on proposed frequency of performance.

#### Design of Audits to detect theft & fraud

*Effect of 2010 Draft Regulation:* Regulation includes requirement that audit procedures to be in place to review variances related to bingo accounting data.

*Effect of TGWG Proposal:* The purpose of revenue audits, referred to as operational audits in the TGWG version, is to ensure that control procedures designed to reduce the opportunity for fraud, forgery, theft and/or misappropriation are followed and that revenue is accurately calculated and reflected in the accounting records. Although fraud and theft detection can always be considered a goal of the revenue audit department, the detection of misappropriation, theft, forgery or fraud, may require specially designed audits performed by seasoned professionals with specific experience and training in this area of auditing. Many casino revenue auditors do not have the requisite experience to design or perform such specialized audits. Furthermore, "operational audit" is a term not often associated with the financial or compliance auditing, but with audits designed to develop methods to improve efficiency of operations.

#### Timing of Audits

*Effect of 2010 Draft Regulation:* Section 543.50 contains a requirement that audit procedures must be performed within seven days of the transaction occurrence date.

*Effect of TGWG Proposal:* A 7-day period similar to the NIGC requirement is provided. However, since both proposals allow for seven days to lapse between the "generation" of gaming revenue and the auditing thereof this reviewer finds the time period excessive. It may be more appropriate for a Tier A facility with limited revenue audit staff but would be inconceivable for a Tier B or larger facility. It is also possible that surveillance video would be overwritten by the time a significant variance investigation could be instigated.

#### Increases and Decreases to Inventory

*Effect of 2010 Draft Regulation:* Section 543.50 contains standards for independent monthly verification of physical inventory amounts and reconciliation to control documents.

## **§ 543.50 What are the minimum internal control standards for Revenue Audit?**

### Comparison of July TGWG Submission to July 2010 Draft MICS

*Effect of TGWG Proposal:* Standard is vague. The reviewer is unable to determine with any degree of certainty what “inventory count” references, what procedures comprise an audit, or how frequently the “audit” is to be performed (due to inability to determine when “inventory count” is to take place or who is authorized to perform it).

#### Cash Equivalent Inventory Count

*Effect of 2010 Draft Regulation:* Section 543.50 contains in (d)(3) requirements for semi-annual counts of all funds in gaming areas, including direction as to the scope of the count, who may count or observe the count and the maintenance of count documentation.

*Effect of TGWG Proposal:* Standard is vague. The reviewer is unable to determine with any degree of certainty what “cash equivalent inventory count is being referenced”, what procedures comprise audit, how frequently the “audit” is to be performed, or who is authorized to perform it.

#### Exceptions, overrides, and voids

*Effect of 2010 Draft Regulation:* Section 543.50 contains standards in the various gaming revenue areas for review of exception reports, reconciliation of variances. Proper treatment of voided documents or transactions is generally provided in the applicable gaming revenue section.

*Effect of TGWG Proposal:* Standard is overly brief.

#### Complimentary services and items records (Weekly)

*Effect of 2010 Draft Regulation:* 543.17(c) requires the preparation of a monthly report by an independent individual that contains specified information for complimentary services and items valued at over a specified dollar amount. 543.50(f) requires at least monthly review of the report by specified employees. The purpose of the preparation of the report and its review are to ensure compliance with the complimentary policy.

*Effect of TGWG Proposal:* Standard is vague. The reviewer is unable to determine with any degree of certainty what procedures comprise audit or who is authorized to perform it.

#### Manual increases and decreases to/from player accounts

*Effect of 2010 Draft Regulation:* Section 543.50 contains standards for reconciliation of players’ patron deposit accounts. Standards for effective controls over player tracking accounts were not recommended however the reviewer believes that this was an oversight of the committee and that effective controls for revenue audit review of player tracking systems should be developed.

*Effect of TGWG Proposal:* It is unclear from the brief description whether this refers to patron deposit accounts, player tracking accounts or both.

#### Promotions, contests, and tournaments (Weekly)

## **§ 543.50 What are the minimum internal control standards for Revenue Audit?**

### Comparison of July TGWG Submission to July 2010 Draft MICS

*Effect of 2010 Draft Regulation:* Section 543.50 contains requirements to ensure that promotions programs are conducted in accordance with the rules provided to the patrons. Section 543.14(g) contains minimum standards for promotional payments disbursed by the cage or other departments.

*Effect of TGWG Proposal:* Standard is overly brief.

#### Key control records (Quarterly)

*Effect of 2010 Draft Regulation:* Section 543.50 contains requirements in (g) for effective oversight of manual and computerized key security systems.

*Effect of TGWG Proposal:* Standard is vague. The reviewer is unable to determine with any degree of certainty what is meant by “key control records,” what procedures comprise audit and, who is authorized to perform it.

#### Minimum bankroll calculations

*Effect of 2010 Draft Regulation:* Section 543.50(e) contains requirement for establishment of a minimum bankroll formula designed to calculate an amount necessary to meet a gaming operation’s obligations to patrons and offers to provide a formula to do so.

*Effect of TGWG Proposal:* Standard is similar to that above in 543.14(e).

#### Key Inventory

*Effect of 2010 Draft Regulation:* Section 543.50 contains requirements in (g) for effective oversight of manual and computerized key security systems.

*Effect of TGWG Proposal:* Standard fails to state to what increases or decreases in key inventory are reconciled and fails to require that investigations for all keys unaccounted for be conducted and documented. Furthermore, “bi-annually” is a term subject to frequent misinterpretation and its use should be avoided. It appears that the audit is to be conducted twice a year, which is a decrease from the current requirement of four times per year.

#### Audit Result Summaries

*Effect of 2010 Draft Regulation:* Section 543.50 contains requirements for the documentation of all accounting/audit procedures including examples of documentation and direction for maintaining such documents for inspection by the TGRA.

*Effect of TGWG Proposal:* TGWG standard requires only that audit results be summarized and recorded. A meaningful audit report requires much more than a summary of the results, e.g. scope of the audit, details of the procedures performed, details and corrections of any errors discovered, etc.

#### Audit Controlled Inventories



## **§ 543.50 What are the minimum internal control standards for Revenue Audit?**

### Comparison of July TGWG Submission to July 2010 Draft MICS

*Effect of 2010 Draft Regulation:* Section 543.50 proposes standards relevant to the securing and maintenance of various inventories within the relevant gaming and support sections of the MICS.

*Effect of TGWG Proposal:* The TGWG proposal is unclear as it appears to apply to only “Audit controlled inventories” although the examples cited are generally not “controlled” by revenue audit or even generally by Casino accounting departments.

#### Adjustments to Original Data are controlled

*Effect of 2010 Draft Regulation:* The TGWG standard is ambiguous, but appears to apply to controls for access to data which are provided for in appropriate sections of the MICS.

*Effect of TGWG Proposal:* Standard is ambiguous as it does not define what constitutes an adjustment, what is being adjusted, and what constitutes proper completion and/or documentation of adjustments.

#### Review of Exceptions

*Effect of 2010 Draft Regulation:* Section 543.50 contains specific direction for revenue audits of the Class II gaming revenue and support centers, e.g. resolution of certain “discrepancies” is required before generation of statistical reports.

*Effect of TGWG Proposal:* Standard is ambiguous as it does not define what “exceptions” are to be reviewed, what constitutes a “review,” whether further action is required following the review or who is to review them.

#### Documentation of Audit Procedures

*Effect of 2010 Draft Regulation:* Section 543.50 requires that all accounting/audit procedures must be documented and maintained for inspection and provided to the TGRA upon request.

*Effect of TGWG Proposal:* The TGWG proposal is similar to the NIGC proposal but does not require the gaming operation to provide the documentation to the TGRA upon request.

#### Audit Agent Independence

*Effect of 2010 Draft Regulation:* Section 543.50 states that accounting/audit procedures must be performed by agents who are independent of the persons who performed the transactions being reviewed.

*Effect of TGWG Proposal:* The standard is overly broad. It appears that any agent who did not participate in the performance of the transactions being audited may perform an audit, e.g. a cage cashier who was not working on a given day could perform the Cage audit for that day. This criticism also applies to the NIGC’s proposed 543.50 standards and a revision to it is recommended.

**§543. 50 What are the minimum internal control standards for Revenue Audit?**

- (a) *Bingo*. (1) Accounting/audit standards. (i) Accounting/auditing procedures must be performed by agents who are independent of the persons who performed the transactions being reviewed.
- (ii) All accounting/audit procedures and actions must be documented (e.g., log, checklist, investigations and notation on reports), maintained for inspection and provided to the tribal gaming regulatory authority upon request.
- (iii) Accounting/audit procedures must be performed reviewing transactions for relevant accounting periods, including a 24-hour accounting period and reconciled in total for those time periods.
- (iv) Accounting/audit procedures must be performed within seven days of the transaction's occurrence date being reviewed.
- (v) Accounting/audit procedures must be in place to review variances related to bingo accounting data, which must include at a minimum any variance noted by the Class II gaming system for cashless transactions in and out, electronic funds transfer in and out, external bonus payouts, vouchers out and coupon promotion out.
- (vi) At least monthly, an accounting/audit agent must confirm that the appropriate investigation has been completed for the review of variances.
- (2) Audit tasks to be performed for each day's business.
- (i) Records of bingo card sales must be reviewed for proper authorization, completion and accurate calculations.
- (ii) Manual payout summary report, if applicable, must be reviewed for proper authorizations, completion, accurate calculations, and authorization confirming manual payout summary report totals.
- (iii) A random sampling of records of manual payouts must be reviewed for proper authorizations and completion for manual payouts less than \$1,200.
- (iv) Records of all manual prize payouts of \$1,200 or more must be reviewed for proper authorizations and completion.
- (v) Where manual payout information is available per player interface, records of manual payouts must be reviewed against the recorded manual payout amounts per player interface.
- (vi) Manual payout forms must be reconciled to each cashier's accountability documents and in total for each relevant period (e.g., session, shift, day, etc.).
- (vii) Records of voided manual payouts must be reviewed for proper authorization and completion.
- (viii) Records of voided bingo cards must be reviewed for proper authorization and completion.
- (ix) Use of controlled forms must be reviewed to ensure each form is accounted for.
- (x) Where bingo sales are available per player interface, bingo sales must be reviewed for reasonableness.
- (xi) Amount of financial instruments accepted per financial instrument type and per financial instrument acceptor must be reviewed for reasonableness, to include but not limited to zero amounts.
- (xii) Where total prize payouts are available per player interface, total prize payouts must be reviewed for reasonableness.

- (xiii) Amount of financial instruments dispensed per financial instrument type and per financial instrument dispenser must be reviewed for reasonableness, to include but not limited to zero amounts.
- (xiv) For a random sampling, foot the vouchers redeemed and trace the totals to the totals recorded in the voucher system and to the amount recorded in the applicable cashier's accountability document.
- (xv) Daily exception information provided by systems used in the operation of bingo must be reviewed for propriety of transactions and unusual occurrences.
- (xvi) Ensure promotional coupons which are not financial instruments are properly cancelled to prevent improper recirculation.
- (xvii) Reconcile all parts of the form used to document transfers that increase/decrease the inventory of an accountability (includes booths and any other accountability areas).
- (xviii) Reconcile voucher liability (e.g., issued-voided-redeemed-expired = unpaid) to the voucher system records.
- (xix) The total of all patron deposit accounts must be reconciled, as follows:
- (A) A report must be generated that details each day's beginning and ending balance of patron deposit accounts, adjustments to patron deposit accounts, and all patron deposit account transactions.
- (B) Reconcile the beginning and ending balances to the summary of manual deposit/withdrawal and account adjustment documentation to the patron deposit account report.
- (xx) Reconcile each day's patron deposit account liability (e.g., deposits  $\pm$  adjustments-withdrawals = total account balance) to the system records.
- (xxi) Reconcile electronic funds transfers to the cashless system records, the records of the outside entity which processed the transactions and the operations dedicated cashless account bank records.
- (xxii) Accounting data used in performance analysis may only be altered to correct amounts that were determined to be in error. When correcting accounting data, the correct amount must be indicated in any Class II gaming system exception reports generated.
- (xxiii) Accounting/auditing agents must reconcile the audited bingo totals report to the audited bingo accounting data for each day.
- (xxiv) Accounting/auditing agents must ensure each day's bingo accounting data used in performance reports has been audited and reconciled.
- (xxv) If the Class II gaming system produces exception reports they must be reviewed on a daily basis for propriety of transactions and unusual occurrences.
- (3) Audit tasks to be performed at relevant periods:
- (i) Financial instrument acceptor data must be recorded immediately prior to or subsequent to a financial instrument acceptor drop. The financial instrument acceptor amount-in data must be recorded at least weekly. The time between recordings may extend beyond one week in order for a recording to coincide with the end of an accounting period only if such extension is for no longer than six additional days.
- (ii) When a player interface is removed from the floor, the financial instrument acceptor contents must be protected to prevent the misappropriation of stored funds.
- (iii) When a player interface is permanently removed from the floor, the financial instrument acceptor contents must be counted and recorded.

(iv) For currency interface systems, accounting/auditing agents must make appropriate comparisons of system generated count as recorded in the statistical report at least one drop period per month. Discrepancies must be resolved prior to generation/distribution of reports.

(v) For each drop period, accounting/auditing agents must compare the amount-in per financial instrument accepted by the financial instrument acceptors to the drop amount counted for the period. Discrepancies must be resolved before the generation/distribution of statistical reports.

(vi) Investigation must be performed for any one player interface having an unresolved drop variance in excess of an amount that is both more than \$25 and at least three percent (3%) of the actual drop. The investigation performed and results of the investigation must be documented, maintained for inspection, and provided to the tribal gaming regulatory authority upon request.

(vii) The results of a variance investigation, including the date and personnel involved in any investigation, will be documented in the appropriate report and retained. The results will also include any corrective action taken (e.g., accounting data storage component replaced, interface component repaired, software debugged, etc.). The investigation will be completed and the results documented within seven days of the day the variance was noted, unless otherwise justified.

(viii) Procedures must be established and implemented to perform the following on a regular basis, at a minimum of monthly, and using predetermined thresholds:

(A) Where the Class II gaming system is capable of providing information per player interface, identify and investigate player interfaces with total prize payouts exceeding bingo sales;

(B) Where bingo sales is available per player interface, investigate any percentage of increase/decrease exceeding a predetermined threshold, not to exceed 20%, in total bingo sales as compared to a similar period of time that represents consistency in prior performance.

(C) Investigate any exception noted in paragraphs (i) (3) (viii) (A) and (B) of this section and document the findings. The investigation may include procedures to review one or more of the following:

(1) Verify days on floor are comparable.

(2) Non-prize payouts for authenticity and propriety.

(3) Player interface out of service periods.

(4) Unusual fluctuations in manual payouts.

(D) If the investigation does not identify an explanation for exceptions then a physical check procedure must be performed, as required by paragraph (i)(3)(viii)(E) of this section.

(E) Document any investigation of unresolved exceptions using a predefined player interface physical check procedure and checklist, to include a minimum of the following as applicable:

(1) Verify game software;

(2) Verify player interface configurations;

(3) Test amount in accounting data for accuracy upon insertion of financial instruments into the financial instrument acceptor;

- (4) Test amount out accounting data for accuracy upon dispensing of financial instruments from the financial instrument dispenser;
- ( 5 ) Record findings and repairs or modifications made to resolve malfunctions, including date and time, player interface identifier and signature of the agent performing the player interface physical check, and additional signatures as required; and
- (6) Maintain player interface physical check records, either in physical or electronic form, for the period prescribed by the procedure.
- (ix) For Class II gaming systems, procedures must be performed at least monthly to verify that the system accounting data is accurate.
- (x) For Tier C, at least weekly:
  - (A) Financial instruments accepted at a kiosk must be removed and counted by at least two agents; and
  - (B) Kiosk transactions must be reconciled to the beginning and ending balances for each kiosk.
- (xi) At the conclusion of a promotion, accounting/audit agents must perform procedures (e.g., interviews, review of payout documentation, etc.) to ensure that promotional prize payouts, drawings, and giveaway programs are conducted in accordance with the rules provided to the patrons.
- (4) Inter-tribal prize pools. Procedures must be established and implemented to govern the participation in inter-tribal prize pools, which at a minimum must include the review, verification and maintenance of the following records, which must be made available, within a reasonable time of the request, to the tribal gaming regulatory authority upon request:
  - (i) Summary of contributions in total made to an inter-tribal prize pool;
  - (ii) Summary of disbursements in total from an inter-tribal prize pool; and
  - (iii) Summary of inter-tribal prize pool funds availability.
- (5) Performance Analysis. (i) Bingo performance data must be recorded at the end of the gaming operations specified 24-hour accounting period. Such data must include:
  - (A) Amount-in and amount-out for each Class II gaming system.
  - (B) The total value of all financial instruments accepted by the Class II gaming system by each financial instrument acceptor and by each financial instrument type.
  - (C) The total value of all financial instruments dispensed by the Class II gaming system and by each financial instrument type.
  - (D) The total value of all manual payouts by each Class II gaming system.
  - (E) The total value of bingo purchases for each Class II gaming system.
  - (F) The total value of prizes paid for each Class II gaming system.
- (ii) Procedures must be established and implemented that ensure the reliability of the performance data.
- (iii) Upon receipt of the summary of the data, the accounting department must review it for reasonableness using pre-established parameters defined by the gaming operation.
- (iv) An agent must record and maintain all required data before and after any maintenance or modifications that involves the clearing of the data (e.g., system software upgrades, data storage media replacement, etc.). The information recorded must be used when reviewing performance reports to ensure that the maintenance or modifications did not improperly affect the data in the reports.

- (6) Statistical reporting. (i) The bingo sales, prize payouts, bingo win, and actual bingo win percentages must be recorded for:
- (A) Each shift or session;
  - (B) Each day;
  - (C) Month-to-date; and
  - (D) Year-to-date or fiscal year-to-date.
- (ii) A monthly comparison for reasonableness must be made of the amount of bingo paper sold from the bingo paper control log to the amount of bingo paper sales revenue recognized.
- (iii) Management employees independent of the bingo department must review bingo statistical information on at least a monthly basis.
- (iv) Agents independent of the bingo department must investigate any large or unusual statistical fluctuations, as defined by the gaming operation.
- (v) Such investigations must be documented, maintained for inspection, and provided to the tribal gaming regulatory authority upon request.
- (vi) The actual bingo win percentages used in the statistical reports should not include operating expenses (e.g., a percentage payment to administrators of inter-tribal prize pools), promotional prize payouts or bonus payouts not included in the prize schedule.
- (7) Progressive prize pools. (i) A display that shows the amount of the progressive prize must be conspicuously displayed at or near the player interface(s) to which the prize applies.
- (ii) At least once each day, each gaming operation must record the total amount of each progressive prize pool offered at the gaming operation on the progressive log.
- (iii) When a manual payment for a progressive prize is made from a progressive prize pool, the amount must be recorded on the progressive log.
- (iv) Each gaming operation must record, on the progressive log, the base reset amount of each progressive prize the gaming operation offers.
- (v) Procedures must be established and implemented specific to the transfer of progressive amounts in excess of the base reset amount to other awards or prizes. Such procedures may also include other methods of distribution that accrue to the benefit of the gaming public.
- (b) *Pull tabs.* (1) At the end of each month, a person or persons independent of pull tab sales and inventory control shall verify the accuracy of the ending balance in the pull tab control by reconciling the pull tabs on hand.
- (2) At least monthly, a comparison for reasonableness shall be made of the amount of pull tabs sold from the pull tab control log to the amount of revenue recognized.
- (3) Personnel independent of pull tab operations shall verify the amount of winning pull tabs redeemed each day.
- (4) If the gaming operation utilizes electronic equipment in connection with the play of pull tabs, then the following standards shall also apply.
- (i) If the electronic equipment contains a financial instrument acceptor, then §543.21(e) and (f), §543.31(e) and (f), or §543.41(e) and (f) (as applicable) shall apply.
  - (ii) If the electronic equipment uses a bar code or microchip reader, the reader shall be tested periodically to determine that it is correctly reading the bar code or microchip.
  - (iii) If the electronic equipment returns a voucher to the player, then §543.7(f) (as applicable) shall apply.

(iv) If the electronic equipment utilizes patron account access cards for activation of play, then §543.7(g) (as applicable) shall apply.

(c) *Card Games* (1) The card games audit shall be conducted by personnel independent of the card games department.

(2) On a daily basis, audit/accounting personnel shall reconcile the amount indicated on the progressive sign/meter to the cash counted or received by the cage and the payouts made for each promotional progressive pot and pool. This reconciliation must be sufficiently documented (including substantiation of differences, adjustments, etc.).

(3) The following procedures shall be performed by accounting/audit personnel using the appropriate document prepared by the count team members for each day:

(i) Reconcile the dollar amount of drop proceeds to the dollar amount recorded in the applicable accountability document using, if applicable, the transfer forms indicating all transfers in/out of the count room, both during and at the end of the count. Investigate and document any variance noted.

(ii) Recalculate card game proceeds (all funds received by the gaming operation as compensation for conducting the game) in total and by shift. For computerized master games sheets that total the count proceeds from each box, accounting personnel are to recalculate rake in total and by shift for one day each month.

(iii) Verify that the correct total of card game proceeds is recorded in the accounting records.

(4) At least monthly, accounting/audit personnel shall review all payouts for the promotional progressive pots, pools, or other promotions to determine proper accounting treatment.

(5) At least monthly, accounting/audit personnel shall perform procedures to ensure that payouts for the promotional progressive pots, pools, or other promotions are conducted in accordance with conditions provided to the patrons.

(6) Daily, accounting/audit personnel shall reconcile all contest/tournament entry and payout forms to the dollar amounts recorded in the appropriate accountability document.

(7) Documentation (e.g., log, checklist, notation on reports, and tapes attached to original documents) evidencing the performance of card games audit procedures, the exceptions noted, and the follow-up of all card games audit exceptions shall be maintained,

(d) *Cage*. (1) The cage accountability shall be reconciled to the general ledger at least monthly.

(2) For at least one day each month, accounting/audit personnel shall trace the amount of cage deposits to the amounts indicated in the bank statements.

(3) For at least two days each year, a count shall be performed of all funds in all gaming areas (i.e. cages, vaults and booths (including reserve areas), kiosks, cash-out ticket redemption machines, and change machines. Do not include player interface hopper funds. Count all chips and tokens by denomination and type. Count individual straps, bags, and imprest banks on a sample basis. Trace all amounts counted to the amounts recorded on the corresponding accountability forms to ensure the proper amounts are recorded. Maintain documentation evidencing the amount counted for each area and the subsequent comparison to the corresponding accountability form. The count shall be completed within the same gaming day for all areas.

- (i) Counts shall be observed by an individual independent of the department being counted. It is permissible for the individual responsible for the funds to perform the actual count while being observed.
- (ii) Internal audit may perform and/or observe the two counts.
- (4) At least annually, select a sample of invoices for chips and tokens purchased and trace the dollar amount from the purchase invoice to the accountability document that indicates the increase to the chip or token inventory to ensure the proper dollar amount has been recorded.
- (5) For each business year end, create and maintain documentation evidencing the amount of the chip/token liability, the change in the liability from the previous year, and explanations for adjustments to the liability account including any adjustments for chip/token float.
- (6) For at least one day each month, accounting/audit personnel shall review a sample of returned checks to determine that the required information was recorded by cage personnel when the check was cashed.
- (7) Accounting/audit personnel shall review exception reports for all computerized cage systems (e.g., fill/credit systems) at least monthly for propriety of transactions and unusual occurrences. The review shall include, but is not limited to, voided authorizations. All noted improper transactions or unusual occurrences identified shall be investigated with the results documented.
- (8) At least monthly, accounting/audit personnel shall review all promotional payments, drawings, and giveaway programs to verify proper accounting treatment and proper win/loss computation.
- (9) For all promotional payments, drawings, and giveaway programs the following documentation shall be maintained:
  - (i) Copies of the information provided to the patrons describing the promotional payments, drawings, and giveaway programs (e.g., brochures, flyers);
  - (ii) Effective dates; and
  - (iii) Accounting treatment, including general ledger accounts, if applicable.
- (10) At least monthly, accounting/audit personnel shall perform procedures to ensure that promotional payments, drawings, and giveaway programs are conducted in accordance with information provided to the patrons.
- (11) Daily, accounting/audit personnel shall reconcile all parts of forms used to document increases/decreases to the total cage inventory, investigate any variances noted, and document the results of such investigations.
- (12) All cage auditing procedures and any follow-up performed shall be documented, maintained for inspection, and provided to the Tribal gaming regulatory authority upon request.
- (e) *Credit.* (1) A person independent of the cage, credit, and collection functions shall perform all of the following at least three (3) times per year:
  - (i) Select a sample of credit accounts;
  - (ii) Ascertain compliance with credit limits and other established credit issuance procedures;
  - (iii) Reconcile outstanding balances of both active and inactive (includes write-offs and settlements) accounts on the accounts receivable listing to individual credit records and



physical instruments. This procedure need only be performed once per year for inactive accounts; and

(iv) Examine credit records to determine that appropriate collection efforts are being made and payments are being properly recorded.

(2) For a minimum of five (5) days per month, a person independent of the cage, credit, and collection functions shall subsequently reconcile partial payment receipts to the total payments recorded by the cage for the day and account for the receipts sequentially.

(3) A trial balance of gaming operation accounts receivable, including the name of the patron and current balance, shall be prepared at least monthly for active, inactive, settled or written-off accounts.

(4) The trial balance of gaming operation accounts receivable shall be reconciled to the general ledger each month. The reconciliation and any follow-up performed shall be documented, maintained for inspection, and provided to the Tribal gaming regulatory authority upon request.

(5) On a monthly basis an evaluation of the collection percentage of credit issued to identify unusual trends shall be performed.

(f) *Complimentary services or items.* The internal audit or accounting departments shall review the reports required in paragraph §543.17 (c) at least monthly. These reports shall be made available to the Tribe, Tribal gaming regulatory authority, audit committee, other entity designated by the Tribe, and the Commission upon request.

(g) *Drop and Count.* (Tiers A, B and C) (1) Unannounced currency counter and currency counter interface (if applicable) tests shall be performed by personnel independent of the cage, vault, count team, player interface, and card games departments on at least a quarterly basis with the test results documented and maintained. All denominations of currency and vouchers counted by the currency counter must be tested. This test may be performed by internal audit or the Tribal gaming regulatory authority. The result of these tests shall be documented and signed by the person or persons performing the test.

(2) Unannounced weigh scale and weigh scale interface (if applicable) tests shall be performed by a person or persons independent of the cage, vault, and player interface departments and count team at least quarterly with the test results being documented and maintained. This test may be performed by internal audit or the Tribal gaming regulatory authority. The result of these tests shall be documented and signed by the person or persons performing the test.

(3) For computerized key security systems controlling access to card games drop and count keys, accounting/audit personnel, independent of the system administrator, shall perform the following procedures:

(i) Daily, review the report generated by the computerized key security system indicating the transactions performed by the individual(s) that adds, deletes, and changes user's access within the system (i.e., system administrator). Determine whether the transactions completed by the system administrator provide an adequate control over the access to the card games drop and count keys. Also, determine whether any card games drop and count key(s) removed or returned to the key cabinet by the system administrator was properly authorized.

(ii) For at least one day each month, review the report generated by the computerized key security system indicating all transactions performed to determine whether any unusual card games drop and count key removals or key returns occurred.

(iii) At least quarterly, review a sample of users that are assigned access to the card games drop and count keys to determine that their access to the assigned keys is adequate relative to their job position.

(iv) All noted improper transactions or unusual occurrences are investigated with the results documented.

(4) At least quarterly, an inventory of all count room, card game drop box release, storage rack, contents, override and panel keys shall be performed, and reconciled to records of keys made, issued, and destroyed. Investigations shall be performed for all keys unaccounted for, with the investigations being documented.

(5) For computerized key security systems controlling access to player interface drop and count keys, accounting/audit personnel, independent of the system administrator, shall perform the following procedures:

(i) Daily, review the report generated by the computerized key security system indicating the transactions performed by the individual(s) that adds, deletes, and changes user's access within the system (i.e., system administrator). Determine whether the transactions completed by the system administrator provide an adequate control over the access to the player interface drop and count keys. Also, determine whether any player interface drop and count key(s) removed or returned to the key cabinet by the system administrator was properly authorized.

(ii) For at least one day each month, review the report generated by the computerized key security system indicating all transactions performed to determine whether any unusual player interface drop and count key removals or key returns occurred.

(iii) At least quarterly, review a sample of users that are assigned access to the player interface drop and count keys to determine that their access to the assigned keys is adequate relative to their job position.

(iv) All noted improper transactions or unusual occurrences are investigated with the results documented.

(6) At least quarterly, an inventory of all count room, player interface door, player interface fill cabinet, storage rack, contents, override and panel keys shall be performed, and reconciled to records of keys made, issued, and destroyed. Investigations shall be performed for all keys unaccounted for, with the investigation being documented.