



Participant Workbook
St. Paul Regional Training Conference
September 25-27, 2018



Dear Training Course Participant,

Over twenty five years ago Congress adopted the Indian Gaming Regulatory Act (IGRA) to provide statutory support for gaming by Indian tribes. The National Indian Gaming Commission (NIGC) was created by IGRA to partner with tribal regulators to regulate gaming activities conducted by sovereign Indian tribes on Indian lands. The mission of the NIGC is to fully realize IGRA's goals of: (1) promoting tribal economic development, self-sufficiency and strong tribal governments; (2) maintaining the integrity of the Indian gaming industry; and (3) ensuring that tribes are the primary beneficiaries of their gaming activities.

One of the primary ways the NIGC does this is by providing training and technical assistance to Indian tribes and their gaming regulators.

A properly trained and informed workforce is the most successful key to regulation and the assurance of compliance. Focused, targeted and responsive training and technical assistance programs provide a foundation that maintains the integrity and success of Indian gaming.

Through dedication and hard work, Indian gaming has experienced notable and successful growth thanks to the partnership of dedicated employee's, regulators and tribal governments and the NIGC. Our continued success depends on grabbing the growing momentum and "*Work Together for Success*", now and into the coming future.

With this backdrop in mind, we encourage you to take advantage of the NIGC training opportunities highlighted by this course. The Commission recognizes your work is essential to the success of Indian gaming and encourages you to use the tools you will receive and knowledge you will gain from this course to further regulatory excellence in Indian gaming.



Jonodev Osceola Chaudhuri
NIGC Chairman



Kathryn Isom-Clause
Associate Commissioner



E. Sequoyah Simermeyer
Associate Commissioner

Course Rationale

The National Indian Gaming Commission (NIGC) RGTCourse is designed to provide a common foundation of knowledge and skills to prepare Tribes to work together to effectively understand and meet requirements to ensure compliance and provide a successful basis for economic development.

NIGC Training is built around adult learning principles, with knowledge delivery for understanding and everywhere possible, application level exercises, workshops and opportunities to collaborate in or for each attendee to have an opportunity to achieve understanding, doing and getting feedback on results – and doing again! Working together and using the skills and knowledge applicable to improve processes as soon as they return to work.

The 6 key benefits to the NIGC Training Model:

1. Provides real focus on issues and concerns important to attendees for meeting compliance.
2. Builds a sense of shared experience and language around the tools and methodologies.
3. Develops an understanding of the trends and concerns impacting Tribes and Indian Country in gaming.
4. Provides a safe environment for query, experimentation and failure.
5. Encourages application and testing in a true problem solving focus.
6. Provides a venue to develop relationships that improve communication, commitment and productivity.

Course Descriptions



The Regional Training Course is designed around information and knowledge sharing dealing with current and ongoing issues and concerns in Indian Gaming, critical learning areas for compliance, and new and trending changes in regulation. Infused with real time information, current opportunities and ground breaking tools, the course provides all attendees flexible and relevant learning options. The course is designed for novice and veteran staff. The course will offer instruction in the following content areas:

Day 1 – All Participants

Regional Compliance Issues: How to Achieve Compliance

This course is designed to look at regionally specific issues in the areas of compliance, audit and tribal. We will discuss specific regional issues as noted by NIGC. Attendees will learn practical solutions to issues of non-compliance by using intent and testing criteria through the use of the NIGC Minimum Internal Control Standards and industry best practices.

Human Trafficking“The Next Step”

No course description available at time of print.

Day 2 – Track 1 General Session

AUD-122 Internal Audit 2.0

This course is designed to build upon the AUD-120 Internal Audit: A to Z twelve hour workshop. The objective of this workshop is to create an interactive environment in which Internal Auditors will have the opportunity to learn from and exchange ideas with their peers about the responsibilities and challenges that Internal Auditors encounter in conducting the audit. Targeted training and instruction will be provided in completing and performing audit steps, documenting work performed, and writing the determination of compliance of a finding. Upon completion of this course the Internal Auditor will obtain techniques that can be immediately applied in conducting internal audits.

Day 2 – Track 2 Gaming Commissioners Track

Commissioner Workshop - Parts 1 and 2

This course is designed to provide an understanding of the Tribal Gaming Regulatory Authorities (TRGAs) authority and responsibilities. Group activities and discussions will result in the development of specific duties that TGRAs can perform to assist in the regulation of their gaming operations. We will take a look at the Indian Gaming Regulatory Act (IGRA) and Tribal gaming ordinances to establish TGRA authority and identify submission requirements. We will also analyze associated laws and regulations to determine specific duties TGRA’s can perform to achieve their regulatory responsibilities. This course is based on real world scenarios, and will include handouts, discussions, and online polling.

Part 1 - Understanding Your Authority

Part 2 - Tools of the Commission

Course Descriptions



Day 3 – Track 1 General Session

II-109 Auditing 543.20

Participants will discuss the suggested MICS specific to the IT process. Topics will include, but not be limited to: physical access and maintenance controls, system parameters, user/service/default accounts, administrative access, backups and record keeping (including electronic storage), network security (including remote access), changes to production environment, and the IT department and in-house developed and purchased systems. Case studies will be reviewed based on the experience of the Audit Division of how deficient internal control systems have contributed to the occurrence of irregularities. Attendees will gain an enhanced understanding of the vulnerabilities associated with IT and how the MICS are intended to mitigate those risks.

AUD-121 Game Performance “When, Why and How”

This course is designed to assist participants gain an understanding of game statistics. The objective is to create an interactive environment where attendees will learn how statistics serve as a benefit to identifying issues on the gaming floor. Topics will focus on the analysis of gaming machine, table game, bingo and card game statistics. Attendees will gain an enhanced understanding of the inherent risks associated with the gaming statistics and how the MICS are intended to mitigate those risks.

AUD-114 "New" Minimum Bankroll Worksheet

This course is designed to address the requirements of gaming operations to maintain a minimum bankroll. The worksheet available on the NIGC website includes a breakout of Class II and Class III revenues including best practices. We will discuss the changes in the worksheet and attendees will complete a worksheet by calculating a minimum bankroll requirement.

Day 3 – Track 2 Gaming Commissioners Track

Commissioner Workshop - Parts 2 & 3

Part 2 - Tools of the Commission

Part 3 - Gamesmanship 3.0

How to Get the Most Out of This Course

- ❖ **Take the right approach to learning.** To meet each attendee's needs, we provide a number of different learning tools. These include well-researched and professionally prepared materials and presentations by skilled and experienced subject matter experts. Although you'll have a preferred style of learning, we hope you'll take advantage of *all* the tools we offer.
- ❖ **Make a note of this.** This workbook and related materials will enable you to take notes, and have access to needed information. Instead of trying to take notes word-for-word, it is recommended that you list key points for later memory jogging. We will try and ensure you have as much information as you need to lessen the need for lengthy notes.
- ❖ **Don't hesitate, participate.** The course will be more interesting and productive when everyone participates. If you don't understand something, there is a good chance someone else does not either, so do everyone a favor and ask questions. Additionally, don't hesitate to answer our questions and share your relevant knowledge and experience with all of us.
- ❖ **Take a break.** Everyone has a limit to how much they can sit still and absorb. So use the break, network, share ideas, and get some fresh air. You can help keep us running smoothly by coming back on time.
- ❖ **Join in with the group.** Stay enthusiastic and involved.
- ❖ **Attendance.** You must fully attend the course, and where applicable, pass a final exam for full credit and to receive a training certificate. Please do your best to be on time for class and try to be here for the entire course.
- ❖ **Cell phones, PDA's and iPad's.** In an effort to minimize disruptions to class, please turn off all cell phones and PDA's. If they are your only emergency contact, please set them to vibrate. iPad's may be used, but should be for note taking.

Please note: This course is conducted in English with instruction facilitated by verbal and written communications.

Course Structure

The Regional Training Course is a 3 day course developed to provide an encompassing event surrounding current, trending and critical knowledge areas in Indian gaming. Providing full staff learning opportunities, as well as focus area learning tracks, the course is designed to give tribal gaming regulators and operations personnel, commissions and staff a wide variety of subject needs to meet concerns and relevant areas of interest in Indian gaming.

Each instruction topic is focused around identified concern areas, new content and regulations and a variety of mechanisms for change, improvement and compliance for success. Each block focuses on various staff roles and responsibilities, focusing on similarities, differences, and opportunities for collaboration and sharing of practices and improvements. Most topic areas will pair an equal amount of time to facilitated lecture and action based learning.

The primary training methodologies will be interactive lecture, small group discussion, and case study. Action based learning will be facilitated through small groups and case study. Final learning will be measured through exercise completion and observation.

Regional Training Course Agenda



START TIME	ST. PAUL REGIONAL TRAINING COURSE September 25th-27th, 2018 Potawatomi Hotel & Casino 1611 W. Canal Street Milwaukee, WI 53233		
Day One	09:00	Course Opening/Welcome	
	09:15	Regional Compliance Issues; How to Achieve Compliance	
	12:00	<i>Lunch (On Your Own)</i>	
	1:00	Regional Compliance Issues; How to Achieve Compliance	
	2:30	Human Trafficking "The Next Step"	
	4:00	<i>End of Day 1 courses</i>	
DAY TWO- TRACKS			
Day Two		General Track	Understanding the Roles of the Gaming Commission
	09:00	Internal Audit 2.0	Understanding your Authority
	12:00	<i>Lunch (On Your Own)</i>	<i>Lunch (On Your Own)</i>
	1:00	Internal Audit 2.0	Tools of the Commission
	4:00	<i>End of Day 2 courses</i>	
DAY THREE- TRACKS			
Day Three		General Track	Understanding the Roles of the Gaming Commission
	09:00	IT-109 Auditing 543.20	Tools of the Commission
	11:00	Game Performance "When, Why and How"	
	12:00	<i>Lunch (On Your Own)</i>	<i>Lunch (On Your Own)</i>
	1:00	Game Performance "When, Why and How"	Gamesmanship 3.0
	3:00	"New" Minimum Bankroll Worksheet	
	4:00	<i>End of Regional Training Course</i>	
	Thank you for Attending!!		

RTC Introduction Participant Guide



National Indian Gaming Commission

Introduction to the Regional Training Conference

NIGC Training Program

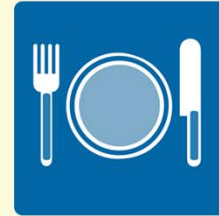
KEY POINTS

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Housekeeping

- Internet WIFI is ???, Password is ???
- Breakfast and Lunch is provided courtesy of Three Affiliated Tribes Gaming Commission
- Bathrooms and Breaks
- Room Breakdown for tomorrow



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KEY POINTS

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NIGC Training Program

- Revising training approach to be more process driven.
 - ***“How To” instead of “How Come”***
- New workshops Internal Audit (16hr training)
TICS/SICS, Commissioner Workshop
- In the future Learning Management System
- A call for suggestions!

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KEY POINTS

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Training Materials & Information

- RTC Training Materials
- Updated [Training Course Catalog](#)
- RGTs
- New technology for courses using Poll Everywhere:
 - Polls
 - Surveys



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Course Evaluations

Course Evaluation Purpose

- Allow participants to provide immediate feedback on their experience
- Encouraged to include ideas and recommendations
- Will be used to improve the course
- All course evaluations are anonymous



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KEY POINTS

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Participating with Poll Everywhere



Poll Everywhere

1



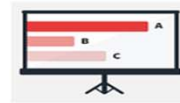
Leader asks a question

2



Participants respond

3



Responses are displayed immediately!

NOTE: Polls are not active until they are displayed on the screen

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KEY POINTS

RTC Introduction Participant Guide



Using Your Phone to Participate

Text **NIGC** to **22333**
to join the session.

**NOTE: Polls are not active
until they are displayed on
the screen**



KEY POINTS

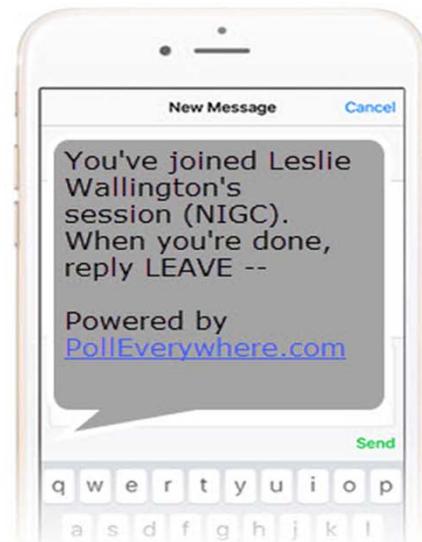
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Response from Poll Everywhere

1. You will receive a text message confirming that you are in the polling session.
2. Do **NOT** select the PollEverywhere.com link.
3. Now you can enter your response to the poll as a text message.

NOTE: Polls are not active until they are displayed on the screen



KEY POINTS

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How did you travel to the conference?

- A. Plane
- B. Train
- C. Car
- D. Foot/Bicycle

Start the presentation to activate live content
If you see this message in presentation mode, install the add-in or get help at [PollEv.com/app](https://www.polleverywhere.com)

KEY POINTS

Poll Title: How did you travel to the conference?
https://www.polleverywhere.com/multiple_choice_polls/yldbms0zVYqpf5

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Surveys from Poll Everywhere

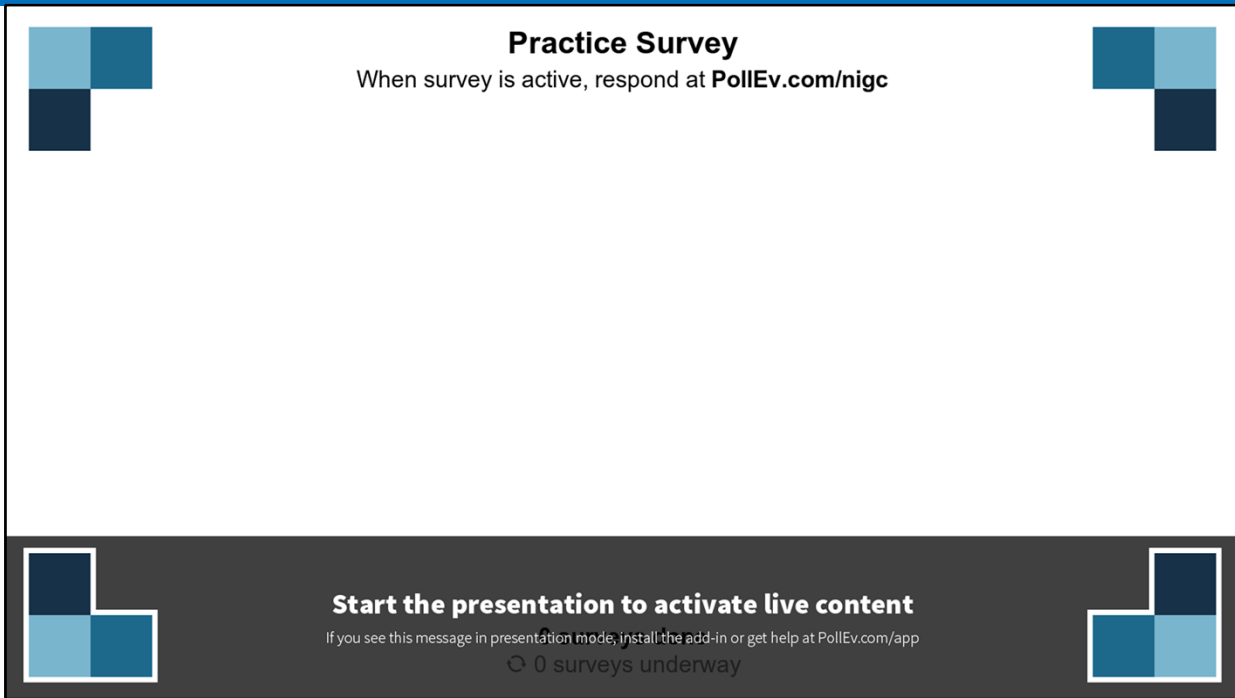
1. Open a web browser on your phone.
2. In the address line type: **PollEv.com/nigc**
3. Click **Start Survey**.
4. Scroll down to access each question.
5. If you need to change your response, select **Clear Response**.
6. Only respond one time to each question.
7. Select **Submit** to submit your answers.

NOTE: Surveys are not active until they are displayed on the screen

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KEY POINTS

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Practice Survey
When survey is active, respond at PollEv.com/nigc

Start the presentation to activate live content
If you see this message in presentation mode, install the add-in or get help at PollEv.com/app

0 surveys underway

KEY POINTS

Poll Title: Practice Survey
<https://www.polleverywhere.com/surveys/fwLU1SVlu>

St Paul RTC Regional Guidance Participant Guide



National Indian Gaming Commission



St Paul Regional Guidance – How to Achieve Compliance

NIGC Regional Staff

September 25, 2018

KEY POINTS

Region Staff:

Shawna Ellis, Region Director

Robert Burbach, Compliance Officer

Benjamin Buck, Compliance Officer

Danielle Buck, Administrative Specialist

James Bistis, Auditor

Seana Sipes, Auditor

Jennifer Lawson, Region Attorney/OGC



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Course Outline

- National/Regional Statistics
- Compliance
- Office of General Counsel
- Audit
- Tribal

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KEY POINTS

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Licensing Summary

- CY 2017 Summary:
- St. Paul, Region – 48,005 background and licensing actions were taken.



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KEY POINTS

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Licensing Actions Taken

- Included in the 48,005 actions:
- 13,250 Fingerprints were submitted and results disseminated to TGRA's
- 10,755 NOR's were received from TGRA's
- 9,084 NOL's were received from TGRA's
- 811 not licensed by the TGRA's

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KEY POINTS

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Licensing Summary (con't)

- 33 Revocations were received from TGRA's
- 148 Identity Corrections
- 9,589 No Objection letters were issued to TGRA's
- 4,166 renewals
- 3 NIGC notices of objections

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KEY POINTS

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Compliance Issues

Issue

- *Conduct an investigation sufficient to make an eligibility determination.*
- 25 CFR § 556.5 Tribal eligibility determination.

How to Achieve Compliance

- *Verification of all material in the application and any additional information you may develop during the verification process.*
- *Prepare Investigative Report.*

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KEY POINTS

§556.5 Tribal eligibility determination.

A tribe shall conduct an investigation sufficient to make an eligibility determination.

(a) To make a finding concerning the eligibility of a KE or PMO for granting of a gaming license, an authorized tribal official shall review a person's:

- (1) Prior activities;
- (2) Criminal record, if any; and
- (3) Reputation, habits, and associations.

(b) If the authorized tribal official, in applying the standards adopted in a tribal ordinance, determines that licensing of the person poses a threat to the public interest or to the effective regulation of gaming, or creates or enhances the dangers of unsuitable, unfair, or illegal practices and methods and activities in the conduct of gaming, an authorizing tribal official shall not license that person in a KE or PMO position.

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Compliance Issues

Issue

- (F) there is an adequate system which—
- (i) ensures that background investigations are conducted on the primary management officials and key employees of the gaming enterprise and that oversight of such officials and their management is **conducted on an ongoing basis** (IGRA)

How to Achieve Compliance

- *Investigations are conducted on an on-going basis to ensure an licensee remains suitable/eligible to hold a gaming license*

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KEY POINTS

IGRA requires an adequate system is conducted on an on-going basis.

§556.5 Tribal eligibility determination.

A tribe shall conduct an investigation sufficient to make an eligibility determination.

(a) To make a finding concerning the eligibility of a KE or PMO for granting of a gaming license, an authorized tribal official shall review a person's:

- (1) Prior activities;
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Compliance Issues

Issue

- *Timely submission of Notice of Results (NOR) on Key Employees and Primary Management Officials; and gaming license eligibility.*
- *TGRA must submit the NOR **before** an IOL is submitted to NIGC.*
- *25 CFR § 558.3 Notification to NIGC.*

How to Achieve Compliance

- *The NIGC Compliance Officer conducting a site visit can provide technical assistance as needed.*
- *Develop accountability log for each part of the background investigation process.*
- *Clock starts when the applicant begins working in the gaming operation.*

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KEY POINTS

25 CFR §556.6(b)(2) Submit a notice of results of the applicant's background investigation to the Commission no later than sixty (60) days after the applicant begins work. The notice of results shall contain: (i) Applicant's name, DOB, and SS number; (ii) Date on which the applicant began or will begin work as KE or PMO; (iii) A summary of the information presented in the investigative report, which shall at a minimum include a listing of: (A) Licenses that have previously been denied; (B) Gaming licenses that have been revoked, even if subsequently reinstated; (C) Every known criminal charge brought against the applicant within the last 10 years of the date of application; and (D) Every felony of which the applicant has been convicted or any ongoing prosecution. (iv) A copy of the eligibility determination made under §556.5.

§558.3(a). Notification to NIGC of license decisions and retention obligations. (a) After a tribe has provided a notice of results (NOR) of the background check to the Commission, a tribe may license a PMO or KE.

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Compliance Issues

Issue

- **Consolidating Schedules:**
571.12(d)(1) If a Gaming Operation has multiple gaming places, facilities or locations on the Tribe's Indian lands – Tribe may choose to consolidate financial statements.

How to Achieve Compliance

- *In accordance with 571.12(d)(1) the tribe may choose the option of combining all properties into one financial statement. The consolidated statement then must include consolidating schedules of revenue, expenses, and net change for each operation.*

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KEY POINTS

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Compliance Issues

Issue

- **Comparative Financial Statements:** *Each gaming operation is required to prepare comparative financial statements on an annual basis in accordance with generally accepted accounting principles (GAAP) and those statements audited by an independent certified public accountant (CPA). 571.12(a)(b)*

How to Achieve Compliance

- *Each tribe must prepare and submit audited financial statements of two or more periods that are presented in columnar form.*

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KEY POINTS

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Compliance Issues

Issue

- *Quarterly statements are to be reconciled with tribe's audited or reviewed financial statements for each gaming operation.*
- 25 CFR § 514.6 (e) Fee Reconciliation.

How to Achieve Compliance

- *Reconcile with audited or reviewed financial statements.*
- *For items not on Financial Statement, (i.e., cost of structures) use General/Sub ledgers.*

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KEY POINTS

25 CFR § 514.6 (e) As required by part 571 of this chapter, quarterly statements must be reconciled with a tribe's audited or reviewed financial statements for each gaming location. These reconciliations must be made available upon the request of any authorized representative of the Commission.

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Compliance Issues

Issue

- *Develop and implement adequate TICS / SICS for each gaming operation.*
- 25 CFR § 543.3 Tribal Internal Controls (TICS) & System of Internal Controls (SICS).

How to Achieve Compliance

- *Develop the TICS and SICS yourself or by going to tribes that have fully operating TICS and SICS and reviewing those controls.*
- *Implement*
- *Request Technical assistance from NIGC.*

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KEY POINTS

25 CFR § 543.3 (b) TICS. TGRAs must ensure that TICS are established and implemented that provide a level of control that equals or exceeds the applicable standards set forth in this part. (c) SICS. Each gaming operation must develop a SICS, as approved by the TGRA, to implement the TICS. (2) *New gaming operations.* All gaming operations that commence operations after the effective date of this part must comply with this part before commencement of operations.

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Compliance Issues

Issue

- *Completion of annual internal audits for each gaming operation.*
- 25 CFR § 543.23 (c) Internal audits.

How to Achieve Compliance

- *Work with your Internal Auditor or contracted outside independent audit firm to conduct the IA periodically throughout the fiscal year, department by department.*

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KEY POINTS

25 CFR § 543.23(c) (1) Internal auditor(s) perform audits of each department of a gaming operation, at least annually, to review compliance with the TICS, SICS, and these MICS, which include at least the following areas: (i) Bingo, (ii) Pull tabs, (iii) Card games, (iv) Gaming promotions, (v) Complimentary services, (vi) Patron deposit accounts, (vii) Lines of credit procedures, (viii) Drop and count standards, (ix) Cage, vault, cash, cash equivalent procedures, (x) IT, (xi) Accounting standards.

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Compliance Issues

Issue

- 25 CFR § 571.13(a) - Submission of Financial Statements and Audits.
- 120 days
- Management letters

Intent

Timely submission of financial statements covering all financial activities of each class II and class III gaming operation on the tribe's Indian lands for each fiscal year, in accordance with §571.12

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KEY POINTS

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Compliance Issues

Issue

- *Facility licensing: 559.2.*
- *When must a tribe notify the Chair that it is considering issuing a new facility license?*

How to Achieve Compliance

- *Provide notice 120 days prior to opening.*
- *Forward to NIGC new and renewal licenses within 30 days.*

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KEY POINTS

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Compliance Issues

Issue

- *Accompanying attestation with all facility license submissions and language must meet regulation requirements. Usually the responsibility of the TGRA.*
- 25 CFR § 559.4 Notification to NIGC.

How to Achieve Compliance

- *Develop a process to ensure that when the facility license is renewed and forwarded to NIGC, the attestation is also submitted.*
- *Contact other TGRA 's who may share their attestation process.*
- *Contact NIGC for assistance.*

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KEY POINTS

25 CFR § 559.4 A tribe shall submit to the Chair with each facility license an attestation certifying that by issuing the facility license, the tribe has determined that the construction and maintenance of the gaming facility, and the operation of that gaming, is conducted in a manner which adequately protects the environment and the public health and safety. This means that a tribe has identified and enforces laws, resolutions, codes, policies, standards or procedures applicable to each gaming place, facility, or location that protect the environment and the public health and safety, including standards, under tribal-state compact or Secretarial procedures.

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Compliance Issues

Issue

- *Receipt of a NIGC Letter of Concern (LoC) and Issues of Non-Compliance.*
- 25 CFR §573.2 Letter of Concern.

How to Achieve Compliance

- *In 2017 the St. Paul Region issued 3 LoC's.*
- *LoC is first step in the enforcement process.*
- *NIGC and the TGRA have identified a compliance issue and the TGRA will develop a plan to correct the issue.*
- *NIGC will provide TA and monitor compliance progress.*

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KEY POINTS

§573.2 When may a letter of concern be issued?

- (a) Prior to the Chair taking an enforcement action, a letter of concern may be provided by NIGC staff, detailing concerns regarding compliance with the Act, this chapter, or any tribal ordinance or resolution approved by the Chair under part 522 of this chapter. A letter of concern describes the available facts and information, includes a preliminary assessment regarding the incident or condition, and indicates that it may be a violation.
- (b) Action under this section does not constitute agency action.
- (c) A letter of concern issued under paragraph (a) of this section must provide a time period for the respondent to respond. If the letter of concern is resolved without enforcement action, NIGC staff may send an investigation completion letter pursuant to §571.4 of this chapter.
- (d) The Chair's discretion to take an enforcement action is not limited or constrained in any way by this section. When the Chair takes enforcement action before a letter of concern is issued, the enforcement action must state the reasons for moving directly to an enforcement action without first issuing a letter of concern.



Bingo is Always Class II

- Charitable purposes do not affect classification.
- As long as people are paying to play and prizes are offered, bingo is a Class II game. (See 25 U.S.C. 2703(7)(A)).
- Class II means that IGRA and NIGC regulations apply.

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KEY POINTS



Which regulations apply?

- All of them (almost)
 - Background and licensing KE/PMO
 - Individually owned
 - Quarterly fee worksheets*
 - Annual audits*
 - Facility licenses*
 - MICS*
 - Technical standards*

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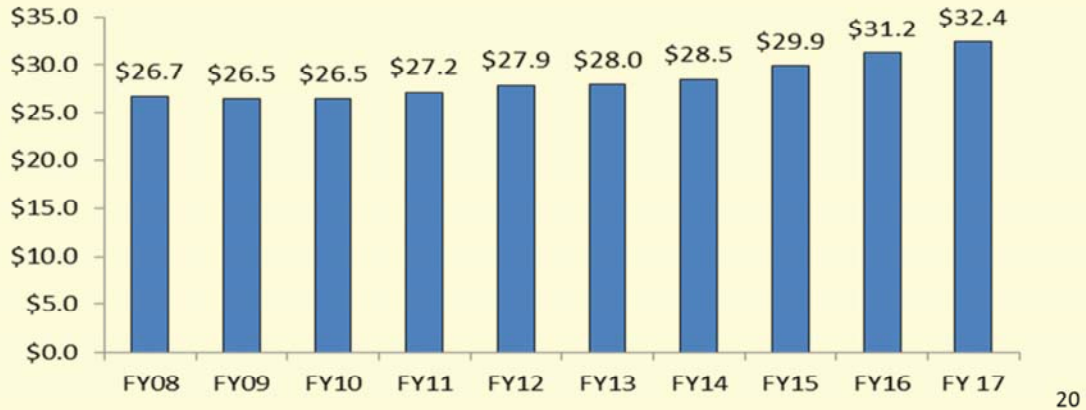
KEY POINTS

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GGR Trending

2017 Indian Gaming Revenues Increase 3.9% to \$32.4 Billion

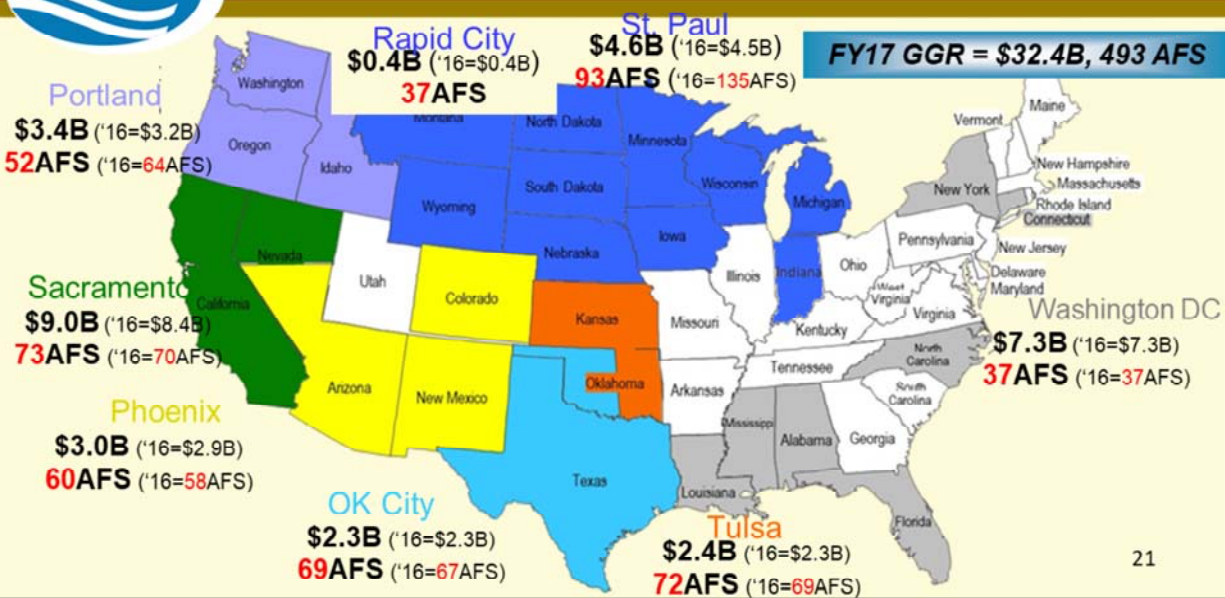


KEY POINTS

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NIGC FY17 GGR Distribution Map



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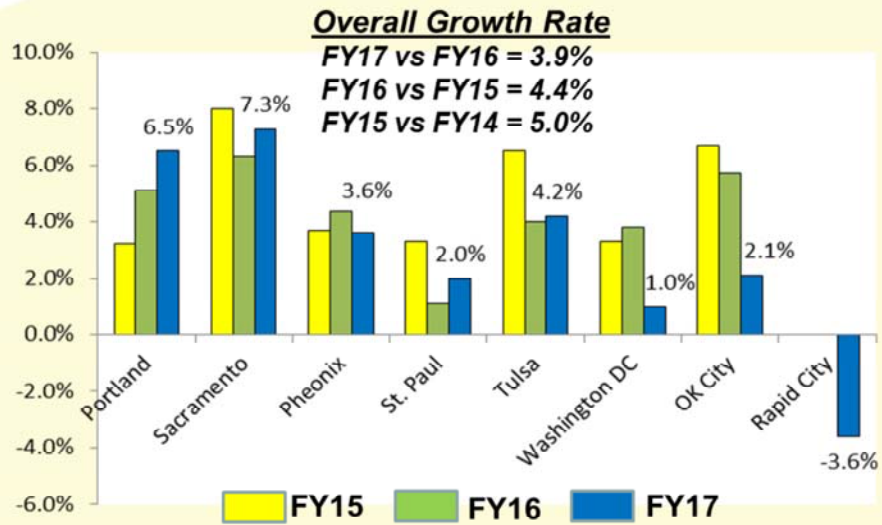
KEY POINTS



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GGR Growth Rate By Region



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KEY POINTS

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Financial Statistics

Industry

- GGR \$32.4
- P/M 38%
- D/E 83%
- Current Ratio 1.37
- ROA 0.42

St Paul Region

- GGR \$4.5
- 41%
- 61%
- 1.42
- 0.65



KEY POINTS

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Regional Statistics



KEY POINTS

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Overall MICS Exceptions



25

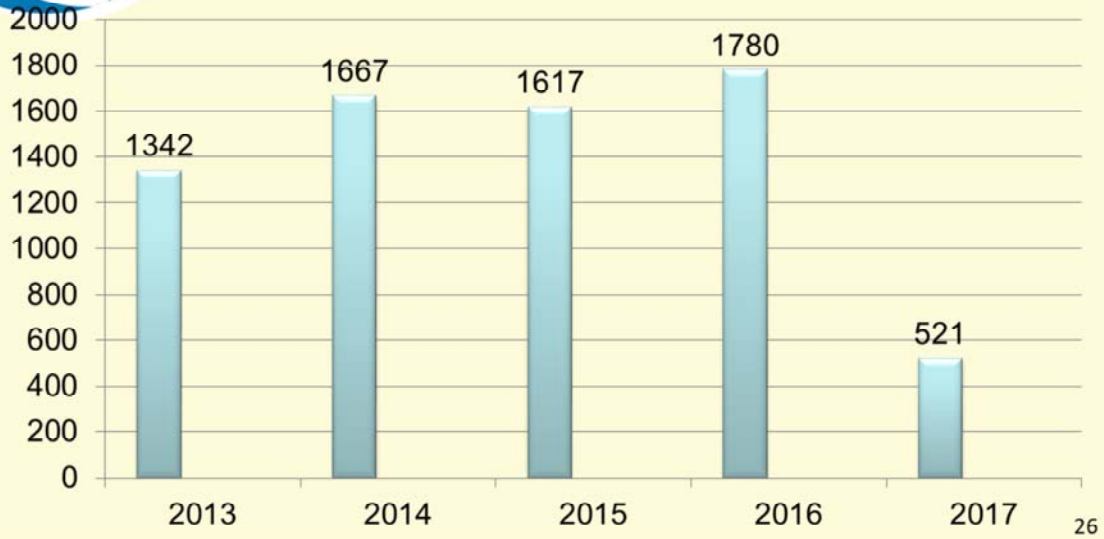
KEY POINTS

This is the total MICS exception as reported in the Agreed Upon Procedures for Indian Gaming

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St Paul Regional Exceptions



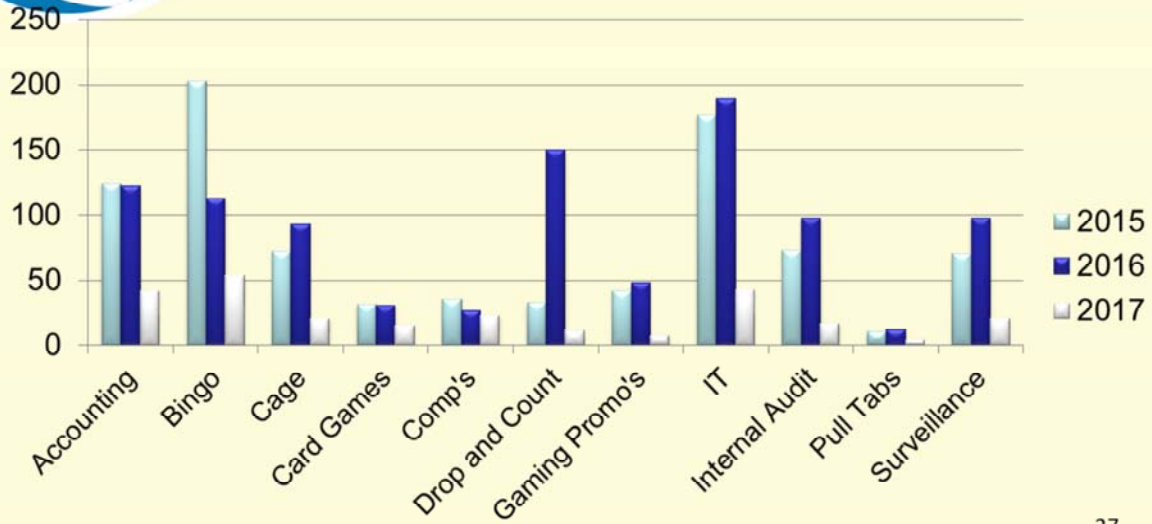
KEY POINTS

Even if you include the exceptions from the split off Rapid City region, the total would have decreased to 1324.

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Regional Breakdown (543)



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KEY POINTS

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Audit Issues

Number 1 Issue

543.24(d)(4)(iii)

(d) Controls (4) *Gaming promotions and player tracking.*

(iii) Annually, computerized PTS reviewed by agent(s) independent of those who set up or make changes to system parameters. Ensure configuration parameters are accurate and not altered without appropriate management authorization. Document and maintain the test results.

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KEY POINTS

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Handout 1

- Top findings for St. Paul Region
- Intent and recommendation

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KEY POINTS

St Paul RTC Regional Guidance Participant Guide



Tribal Issues

What are your particular issues?

Solutions?

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KEY POINTS:

St Paul RTC Regional Guidance Participant Guide



Questions?

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KEY POINTS

St Paul RTC Regional Guidance Participant Guide



Course Evaluation

- Provide an honest assessment of your experience
- Written suggestions and comments are greatly appreciated and allow us to improve your experience



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KEY POINTS

St Paul RTC Regional Guidance Participant Guide

Regional Guidance Course Evaluation

When survey is active, respond at [PollEv.com/nigc](https://www.poll Everywhere.com/nigc)

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KEY POINTS

Poll Title: Regional Guidance Course Evaluation

<https://www.poll Everywhere.com/surveys/W2pH9SJPI>

**St. Paul Regional Audit Findings
Handout 1**

	Finding	Intent	Recommendation
1	<p>Auditing Revenue 543.24(d)(4)(iii) (d) Controls must be established and procedures implemented to audit of each of the following operational areas: <i>(4) Gaming promotions and player tracking.</i> (iii) At least annually, all computerized player tracking systems must be reviewed by agent(s) independent of the individuals that set up or make changes to the system parameters. The review must be performed to determine that the configuration parameters are accurate and have not been altered without appropriate management authorization Document and maintain the test results.</p>	<p>Detective control. Helps ensure fraudulent activity is not occurring in players' tracking system. Ensures all modifications are properly authorized.</p>	<p>Review TICS & SICS to ensure they outline the requirements to review the documentation related to parameter changes in the Player Tracking System (PTS). Review Revenue Audit Checklists for annual audits to ensure they include this requirement. Work with IT to design/generate a report that identifies system parameter changes. Generate supporting documentation of audits to evidence the completion of the audit.</p>
1	<p>Auditing Revenue 543.24(d)(8)(iv) (d) Controls must be established and procedures implemented to audit of each of the following operational areas: <i>(8) Drop and count.</i> (iv) At least quarterly, an inventory of all controlled keys must be performed and reconciled to records of keys made, issued, and destroyed. Investigations must be performed for all keys unaccounted for, and the investigation documented.</p>	<p>Detective/Preventative control. Helps ensure the integrity of the count is maintained by identifying any missing keys. This ensures accounting information is accurate.</p>	<p>Review TICS & SICS to ensure they fully outline the requirements to perform the inventory review. Review Revenue Audit Checklists for quarterly audits to ensure they include this requirement. Generate supporting documentation of performed reconciliation to evidence the completion, and these results should contain the results of any investigation performed on missing keys.</p>
2	<p>Information Technology 543.20(f)(5) <i>(f) User controls.</i> (5) Access credentials of terminated users must be deactivated within an established time period approved by the TGRA.</p>	<p>Preventative control. Ensure only authorized users have access to the casino's systems</p>	<p>Review TICS & SICS to ensure they establish a time period for which users must be terminated. Review Active and Terminated Employee lists and compare to active users in system. Review documentation required to notify IT that an individual user's access needs to be terminated.</p>

	Finding	Intent	Recommendation
2	<p>Information technology and information technology data 543.20(i)(2) (i) Incident monitoring and reporting. (2) All security incidents must be responded to within an established time period approved by the TGRA and formally documented.</p>	<p>Preventative/Detective control. Helps provide information to those reviewing incidents to determine reasonableness of response and help ensure all incidents are responded to. Helps provide description of work completed during response to allow for review in the event malicious activity occurs.</p>	<p>Review TIC & SICS to ensure the timeframe is identified and approved by the TGRA. Common timeframes are immediately or within 24 hrs. Stating “as soon as possible” is not quantifiable and cannot be measured. Review method of documentation to ensure sufficient information can be recorded. Retain documentation of response to security incidents for analysis of patterns or for additional investigation.</p>
5	<p>Surveillance 543.21(b)(11) <i>(b) Surveillance equipment and control room(s).</i> Controls must be established and procedures implemented that include the following: (11) A periodic inspection of the surveillance systems must be conducted. When a malfunction of the surveillance system is discovered, the malfunction and necessary repairs must be documented and repairs initiated within seventy-two (72) hours.</p>	<p>Detective/corrective control. Helps ensure the surveillance systems are properly functioning.</p>	<p>Review TICS & SICS to ensure they outline the requirements to perform inspection. SICS should outline the interval in which the system must be inspected. Best practice is that some components of the systems should be tested daily. Develop a process which ensures repairs are initiated within 72 hours. Generate logs and other supporting documentation to illustrate the performance of the inspection and all necessary repairs.</p>

Activity #1 Regional Guidance How to Achieve Compliance

Instructions

1. Work together with people at your table to discuss and identify the standard that is provided.
2. Determine what is required of the TGRA and Casino Operations and who is required to do it.
3. Write down the intent of the standard.
4. Prepare to discuss.

§543.24 What are the minimum internal control standards for auditing revenue?

(d) Controls must be established and procedures implemented to audit of each of the following operational areas:

(4) *Gaming promotions and player tracking.*

(ii) At least monthly, for computerized player tracking systems, perform the following procedures:

(A) Review authorization documentation for all manual point additions/deletions for propriety;

1. Review the standard what is required who has to do what?

2. What is the Intent of this standard?

3. Who is responsible for ensuring this standard is met?

Handout Financial Ratios

Liquidity Ratios

The current ratio (working capital ratio) is a liquidity ratio that measures a company's ability to pay short-term and long-term obligations. To gauge this ability, the current ratio considers the current total assets of a company (both liquid and illiquid) relative to that company's current total liabilities. The formula for calculating a company's current ratio is:

$$\text{Current Ratio} = \text{Current Assets} / \text{Current Liabilities}$$

Profitability Ratios

Profit margin is a profitability ratios calculated as net income divided by revenue, or net profits divided by sales. Net income or net profit may be determined by subtracting all of a company's expenses, including operating costs, material costs (including raw materials) and tax costs, from its total revenue. Profit margins are expressed as a percentage and, in effect, measure how much out of every dollar of sales a company actually keeps in earnings. A 20% profit margin, then, means the company has a net income of \$0.20 for each dollar of total revenue earned.

$$\text{Profit Margin} = \text{Net Income} / \text{Net Sales (revenue)}$$

Profitability is assessed relative to costs and expenses, and it is analyzed in comparison to assets to see how effective a company is in deploying assets to generate sales and eventually profits. The term return in the ROA ratio customarily refers to net profit or net income, the amount of earnings from sales after all costs, expenses and taxes. The more assets a company has amassed, the more sales and potentially more profits the company may generate. As economies of scale help lower costs and improve margins, return may grow at a faster rate than assets, ultimately increasing return on assets.

$$\text{ROA} = \text{Net Income} / \text{Total Assets}$$

Leverage Ratios

Debt to Equity

The debt-equity ratio is another leverage ratio that compares a company's total liabilities to its total shareholders' equity. This is a measurement of the percentage of the company's balance sheet that is financed by suppliers, lenders, creditors and obligors versus what the shareholders have committed. The debt to equity ratio provides another vantage point on a company's leverage position, in that it compares total liabilities to shareholders' equity as opposed to total assets in the debt ratio. Similar to the debt ratio, a lower percentage means that a company is using less leverage and has a stronger equity position.

$$\text{Debt to Equity} = \text{Total Liabilities} / \text{Total Equity}$$

Fake Casino
Statements of Net Position
September 30, 2017 and 2016

	<u>2017</u>	<u>2016</u>
<u>Assets</u>		
Current assets		
Cash	\$ 1,900,700	\$ 2,004,600
Accounts receivable, net	410,500	160,500
Inventory	222,200	189,000
Due from Other Casino	3,570,000	3,000,300
Prepaid expenses	480,000	375,000
Total current assets	<u>\$ 6,583,400</u>	<u>\$ 5,729,400</u>
Capital assets, net	<u>\$ 14,830,000</u>	<u>\$ 15,590,500</u>
Other assets		
Restricted cash and cash equivalents	960,000	1,160,600
Total other assets	<u>960,000</u>	<u>1,160,600</u>
Total assets	<u><u>\$ 22,373,400</u></u>	<u><u>\$ 22,480,500</u></u>
<u>Liabilities and deferred inflows of resources</u>		
Current liabilities		
Accounts payable	\$ 1,950,000	\$ 1,799,600
Accrued expenses	430,000	860,400
Gaming liabilities	470,000	584,000
Due to Other Casino	120,400	260,000
Current portion of long-term debt	856,100	2,050,800
Total current liabilities	<u>\$ 3,826,500</u>	<u>\$ 5,554,800</u>
Long-term liabilities		
Long-term debt, net of current portion	3,450,200	2,906,300
Total long-term liabilities	<u>3,450,200</u>	<u>2,906,300</u>
Total liabilities	<u><u>\$ 7,276,700</u></u>	<u><u>\$ 8,461,100</u></u>
<u>Net position</u>		
Net investment in capital assets	\$ 11,705,400	\$ 11,030,600
Restricted for loan guarantee	940,800	1,311,000
Unrestricted	2,450,500	1,677,800
Total net position	<u><u>\$ 15,096,700</u></u>	<u><u>\$ 14,019,400</u></u>

Fake Casino
Statements of Revenues, Expenses, and Changes in Net Position
For the Years Ended September 30, 2017 and 2016

	<u>2017</u>	<u>2016</u>
Operating revenues		
Casino gaming	\$ 23,970,000	\$ 23,305,200
Food and beverage	1,267,700	1,006,000
Other operating revenues	560,100	480,800
Total operating revenues	<u>\$ 25,797,800</u>	<u>\$ 24,792,000</u>
Operating expenses		
Casino operations	\$ 6,130,300	\$ 5,504,000
Food and beverage	140,300	152,300
General and administrative	2,840,100	2,670,400
Cost of goods sold	822,000	780,700
Depreciation	1,200,000	1,660,000
Payroll expenses	6,690,700	6,450,500
Advertising	1,285,000	1,230,900
Total operating expenses	<u>\$ 19,108,400</u>	<u>\$ 18,448,800</u>
Operating income	<u>\$ 6,689,400</u>	<u>\$ 6,343,200</u>
Non-operating revenues (expenses)		
Interest income	1,500	600
(Loss) on disposal of assets	(4,900)	(7,100)
Interest expense	(165,800)	(400,200)
Total non-operating revenues (expenses)	<u>(169,200)</u>	<u>(406,700)</u>
Income before transfers	<u>\$ 6,520,200</u>	<u>\$ 5,936,500</u>
Transfers		
Transfers to Tribe	(5,367,500)	(5,900,700)
Transfers from Tribe	140,700	140,700
Total transfers	<u>\$ (5,367,500)</u>	<u>\$ (5,760,000)</u>
Increase/(decrease) in net position	\$ 1,152,700	\$ 176,500
Net position, beginning of year	\$ 13,789,000	\$ 13,612,500
Net position, end of year	<u>\$ 14,941,700</u>	<u>\$ 13,789,000</u>

Fake Casino
Statements of Cash Flows
September 30, 2017 and 2016

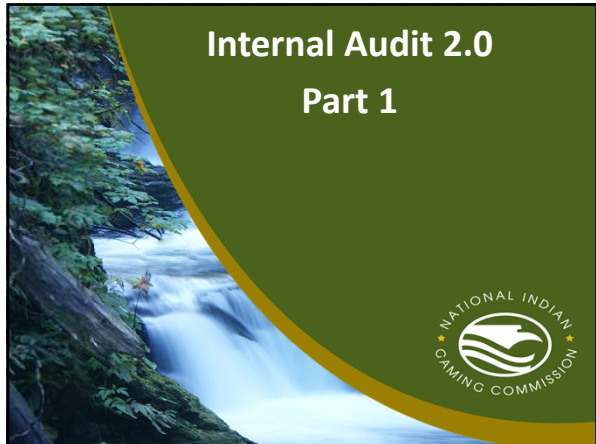
	<u>2017</u>	<u>2016</u>
Cash Flow from Operating Activities		
Cash received from Customers	\$ 25,797,500.00	\$ 24,792,000.00
Cash paid to or on behalf of employees	\$ (6,690,700)	\$ (6,450,500)
Cash Paid to Suppliers	(822,000)	(780,700)
Net Cash Provided by Operating Activities	18,284,800	17,560,800
Cash Flows from noncapital financing Activities:		
Transfer to the Tribe	(5,367,500)	(5,900,700)
Proceeds from Tribal Advances	\$ -	\$ 14,000
	\$ (5,367,500)	\$ (5,886,700)
Cash Flows from Capital and Related Financing Activities		
Proceeds from the sale of Capital Assets	2000	1700
Principal Payments on long-term debt	\$ (856,100.00)	\$ (2,050,800.00)
Interest Payments		
Purch. Accrued expenses		
Cash Paid for loan fees		
Net cash used for capital and related financing activities		\$ -
Cash Flow from Investing Activities:		
Interest Received	1,500	600
Net cash provided by investing activities	1,500	600
Net Increase (Decrease) in cash and Cash equivalents	155,000	230,400
	155,000	230,400
Cash and cash equivalents, beginning of year	\$ 11,550,400	\$ 10,800,200
Cash and cash equivalents, end of year	940,800	1,311,000
	2,450,500	1,677,800
	\$ 14,941,700	\$ 13,789,000

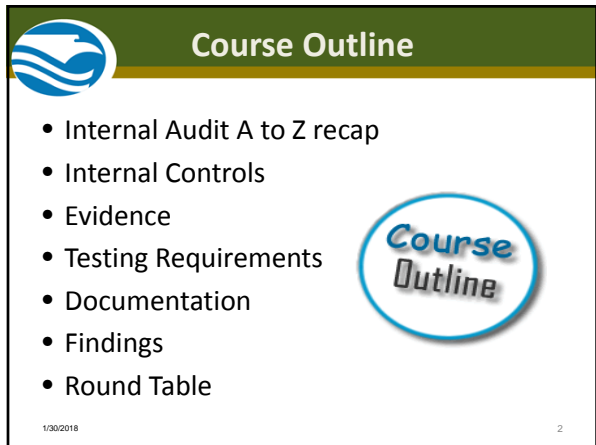


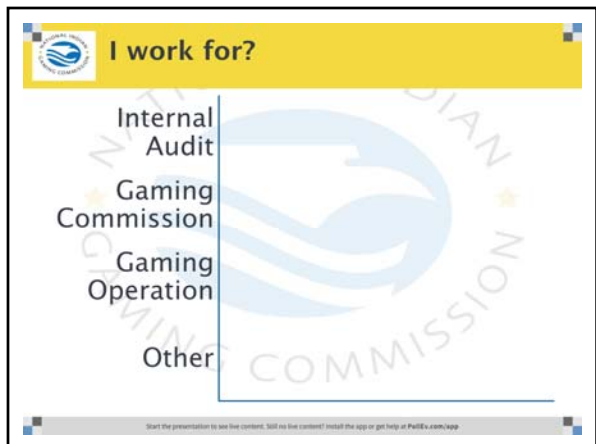
A series of 35 horizontal black lines spanning the width of the page, intended for handwritten text or notes.




Lined area for writing or notes, consisting of multiple horizontal lines.









 **I took the NIGC IA: A to Z Workshop?**

Yes
No
Huh?



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 **Review**

Independent Purpose
Fundamentals
Regulations Ethics


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 **Review**

Development & Planning


Let's Recap

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 **Review**

Performance	
Gathering Data	Sampling
Audit Procedures	Testing


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 **Sampling Bonus**

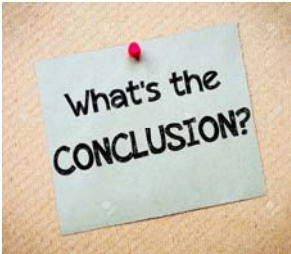
Audit tools: determine sample dates and choose dates based on sample size

- Random.org/calendar-dates/
- `=randbetween(date(2017,1,1), date(2017,3,31))`


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 **Review**


Exit Meeting
Final Report
Follow-Up



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 **Exercise #1 – Handout 1**

Take a few minutes and create a flowchart of the drop process




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 **Break**




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 **Drop and Count Checklist**


- As part of this training, we will review Drop and Count to apply what we are learning.

	Yes	No	W/P Ref	Standard	Comments
(b) Count room access					
2				543.17(b)(1)	
Are controls established and procedures implemented to limit physical access to the count room to count team agents, designated staff, and other authorized persons, to include the following:					
Are count team agents restricted from exiting or entering the count room during the count except for emergencies or scheduled breaks?					


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 **Exercise 2 - Handout #2**

- On the checklist determine the testing requirements for the following questions:
- #10, #75, #93 and #141





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 **Internal Controls**



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 **Internal Controls**




When might it be necessary to modify audit procedures?

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 **Internal Controls**




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 **Do all count team agents sign the count sheet attesting to their participation in the count? Which is the least appropriate?**

Inquiry
Examine the count sheet
Observe the process


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 **Exercise #3 - Handout #2**


- Revisit the testing requirements for the following questions:
- #10, #75, #93 and #141




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 **Evidence**

- Appropriateness
 - Quality of evidence
- Sufficiency
 - Quantity of evidence



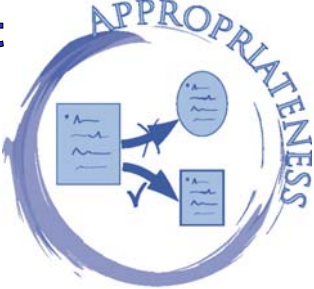
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 **Evidence**


Relevant

Valid

Reliable



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 **Evidence**

General Reliability

More	Less	
Effective	Controls	Weak/nonexistent
Direct	Testing	Indirect
Originals	Documents	Copies

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Evidence

General Reliability

More Less

Speak freely Testimonials Intimidated

Unbiased/direct Testimonials Biased/partial

Third Party Evidence obtained Direct interest

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Evidence


SUFFICIENCY

Quantity


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Testing Requirements

Inquiry



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 **Testing Requirements**

Inquiry

- Consider knowledge, objectivity, experience, responsibility, and qualifications of those being questioned
- Ask clear, concise, and relevant questions
- Use open or closed questions as appropriate
- Listen actively and effectively
- Consider reactions and responses
- Ask follow-up questions
- Evaluating the response


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 **Testing Requirements**

INQUIRY
RESPONSES



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 **Group Work**


- With your group, come up with questions for testing Drop & Count checklist

INQUIRY

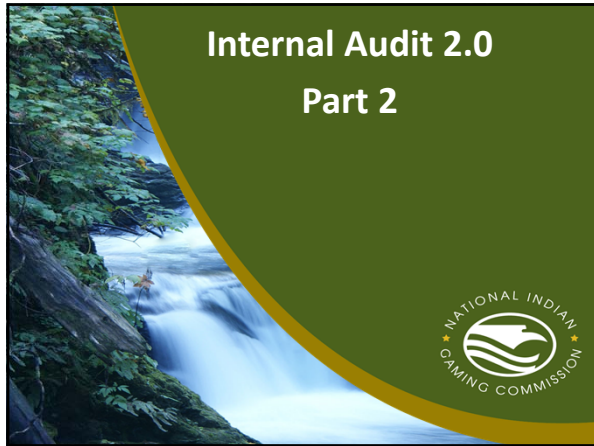
Inquiry alone is not sufficient to test the operating effectiveness of controls

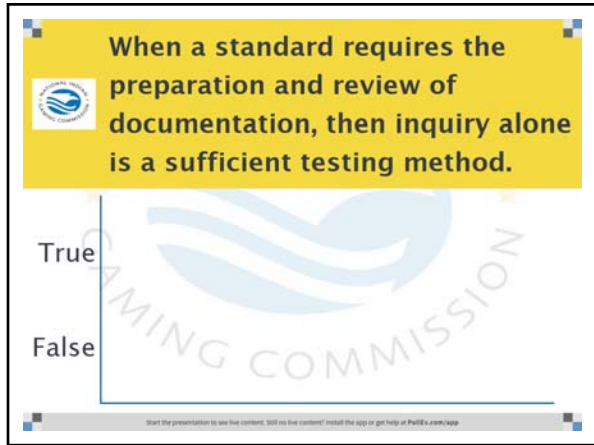
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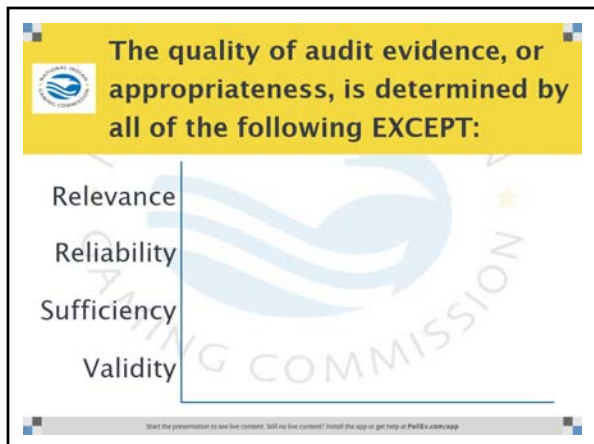
 **Questions**




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 **Session Outline**

- Testing Requirements
- Documentation
- Findings
- Round Table




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 **Testing Requirements**



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 **Exercise #1 – Handout 3 & 4**

Break into groups, working together read each scenario, and identify the issue(s) and locate the corresponding Minimum Internal Control Standard(s). Then write a finding and include a recommendation.




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 Scenario #1



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 Scenario #2

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 Testing Requirements

Inspection of Records or Documents

- Provides evidence of reliability
- Nature and source affirms or supports effectiveness of controls over their production



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Exercise #2 – Handout 3 & 4

Identify the issue(s) and locate the corresponding Minimum Internal Control Standard(s). Then write a finding and include a recommendation.



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Scenario #3

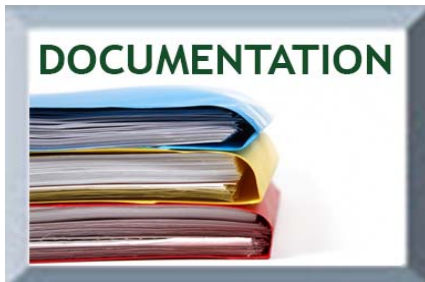
Look at scenario #3 and review the Count Team work schedule (you received copies for 2 months) provided by the Count Manager.

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Documentation



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 **The five elements of a finding are?**


Criteria, Condition, Cause, Element, Recommendation


Objective, Condition, Cause, Element, Recommendation

Criteria, Condition, Cause, Effect, Recommendation


Objective, Condition, Cause, Effect, Recommendation

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 **Findings**


 **CRITERIA**

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 **Findings**

Condition

- The situation that exists
- Determined and documented during the audit



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Condition Exercise Example

Review of inventory documents for last inventory performed (Oct. 2017). There are four separate inventory documents that account for the drop and count keys. There is a inventory sheet for the keys in the Electronic Key box for GM Drop and count keys. There are 2 inventory sheets for duplicate keys in the safe. The safe is located in the Key Tech's office. It has a dual lock to be opened. A key tech and a Security supervisor are present to open the safe.

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Condition Exercise Example

There are duplicate GM drop and count keys in the safe as well as duplicate override keys for the Elec. Key box. The drop and count keys recorded on these sheets agreed to the actual number in the safe and in the Elec. Key Box. However, since the inventory is not maintained in a perpetual manner, I am unable to determine if these logs are updated as keys are added or removed or if the logs are updated only at the quarterly inventory. The Key Tech also maintained a document that accounted for the destruction of keys on July 3rd, 2017. According to the Key tech, this is the only destruction of keys completed since the casino opened in 2015.

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Findings


Cause

- Identifies reason or explanation for condition



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Findings

Effect or potential effect

- Establishes impact or potential impact of difference between condition and criteria
- Identifies consequences of the condition
- May be used to demonstrate the need for corrective action to identified problems or risks


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Finding Example

Based on inquiry and review of supporting documentation, it was determined the inventory of all count room, gaming machine and table games drop box release, storage rack and contents keys performed quarterly is not reconciled to records of keys made, issued, and destroyed. Because these records are not utilized as part of the inventory process, the gaming operation is unable to properly identify unaccounted for keys to determine whether investigations should be performed with the investigation being documented.

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Finding Example

In addition, we were unable to verify if the gaming operation is aware of exactly how many keys they should currently have on-hand based on records of keys made, received from vendors, and destructions. Performing an effective quarterly key inventory including reconciliation to appropriate records is critical for the gaming operation for accountability purposes and to identify possible risk exposure and misappropriation of sensitive keys

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Example

- Recommendation:
- It is the recommendation of the NIGC that gaming operation personnel review all records of sensitive keys to determine how many keys should be currently on-hand and perform a physical inventory to confirm their presence at the casino.

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Example

In addition, the gaming operation should establish and maintain a perpetual inventory of sensitive keys with updates based on documentation of keys made, issued, and destroyed. The perpetual inventory should then be used as the basis for the performance of the quarterly physical inventory process.

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Exercise #3



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 **Group Work**

In your groups discuss the issue we have given your group. Discuss possible solutions and write it on the paper we have given you.


Choose a speaker to present your issue and solutions to the class.


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 **Inquiries**

- Audit_MICS_inquiry@nigc.gov

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Handout #1 – Flowchart

In the area below create a flowchart of the drop process:

Handout #2

Audit Checklist

§ 543.17 - Drop and Count

	Yes	No	W/P Ref	Standard	Comments
(b) Count room access					
2				543.17(b)(1)	
Are controls established and procedures implemented to limit physical access to the count room to count team agents, designated staff, and other authorized persons, to include the following:					
Are count team agents restricted from exiting or entering the count room during the count except for emergencies or scheduled breaks?					
3				543.17(b)(2)	
Are controls established and procedures implemented to limit physical access to the count room to count team agents, designated staff, and other authorized persons, to include the following:					
Is surveillance notified whenever count room agents exit or enter the count room during the count?					
4				543.17(b)(3)	
Are controls established and procedures implemented to limit physical access to the count room to count team agents, designated staff, and other authorized persons, to include the following:					
Does the count team policy, at a minimum, address the transportation of extraneous items such as personal belongings, tool boxes, beverage containers, etc., into or out of the count room?					
(c) Count team					
5				543.17(c)(1)	
Are controls established and procedures implemented to ensure security of the count and the count room to prevent unauthorized access, misappropriation of funds, forgery, theft, or fraud, to include the following:					
For Tier A and B operations, are all counts performed by at least two agents?					

Handout #2

- | | | | | | |
|----|--|-------|-------|-------|--------------|
| 6 | Are controls established and procedures implemented to ensure security of the count and the count room to prevent unauthorized access, misappropriation of funds, forgery, theft, or fraud, to include the following:

For Tier C operations, are all counts performed by at least three agents? | _____ | _____ | _____ | 543.17(c)(1) |
| 7 | Are controls established and procedures implemented to ensure security of the count and the count room to prevent unauthorized access, misappropriation of funds, forgery, theft, or fraud, to include the following:

For Tier A and B operations, during the count are there at least two count team agents in the count room until the drop proceeds have been accepted into cage/vault accountability? | _____ | _____ | _____ | 543.17(c)(2) |
| 8 | Are controls established and procedures implemented to ensure security of the count and the count room to prevent unauthorized access, misappropriation of funds, forgery, theft, or fraud, to include the following:

For Tier C operations, during the count are there at least three count team agents in the count room until the drop proceeds have been accepted into cage/vault accountability? | _____ | _____ | _____ | 543.17(c)(2) |
| 9 | Are controls established and procedures implemented to ensure security of the count and the count room to prevent unauthorized access, misappropriation of funds, forgery, theft, or fraud, to include the following:

For Tier A and B operations, are count team agents rotated on a routine basis such that the count team is not consistently the same two agents more than four days per week? (This standard does not apply to gaming operations that utilize a count team of more than two agents). | _____ | _____ | _____ | 543.17(c)(3) |
| 10 | Are controls established and procedures implemented to ensure security of the count and the count room to prevent unauthorized access, misappropriation of funds, forgery, theft, or fraud, to include the following: | _____ | _____ | _____ | 543.17(c)(3) |
-

Handout #2

For Tier C operations, are count team agents rotated on a routine basis such that the count team is not consistently the same three agents more than four days per week? (This standard does not apply to gaming operations that utilize a count team of more than three agents).

11	Are controls established and procedures implemented to ensure security of the count and the count room to prevent unauthorized access, misappropriation of funds, forgery, theft, or fraud, to include the following: Are functions performed by count team agents rotated on a routine basis?	_____	_____	_____	543.17(c)(4)
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12	Are controls established and procedures implemented to ensure security of the count and the count room to prevent unauthorized access, misappropriation of funds, forgery, theft, or fraud, to include the following: Are count team agents independent of the department being counted? (A cage/vault agent may be used if they are not the sole recorder of the count and do not participate in the transfer of drop proceeds to the cage/vault. An accounting agent may be used if there is an independent audit of all count documentation.)	_____	_____	_____	543.17(c)(5)
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(e) Player interface and financial instrument storage component drop standards

24	Is surveillance notified when the drop is to begin so that surveillance may monitor the activities?	_____	_____	_____	543.17(e)(1)
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25	Are at least two agents involved in the removal of the player interface storage component drop (at least one of whom is independent of the player interface department)?	_____	_____	_____	543.17(e)(2)
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26	Are all financial instrument storage components removed only at the time previously designated by the gaming operation?	_____	_____	_____	543.17(e)(3)
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27	Is the previously designated drop time reported to the TGRA?	_____	_____	_____	543.17(e)(3)
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Handout #2

28	If an emergency drop is required, is surveillance notified before the drop is conducted?	___	___	___	543.17(e)(3)
29	If an emergency drop is required, is the TGRA informed within the timeframe approved by TGRA?	___	___	___	543.17(e)(3)
30	Are the financial instrument storage components removed by an agent independent of the player interface department?	___	___	___	543.17(e)(4)
31	Are financial instruments transported directly to the count room or other equivalently secure area with comparable controls and locked in a secure manner until the count takes place?	___	___	___	543.17(e)(4)
32	Is security provided for the financial instrument storage components removed from player interfaces and awaiting transport to the count room?	___	___	___	543.17(e)(4)(i)
33	Is the transportation of financial instrument storage components performed by a minimum of two agents, at least one of whom is independent of the player interface department?	___	___	___	543.17(e)(4)(ii)
34	Are all financial instrument storage components posted with a number corresponding to a permanent number on the player interface?	___	___	___	543.17(e)(5)
(g) Player interface financial instrument count standards					
70	Is access to stored full financial instrument storage components restricted to:				
	Authorized members of the drop and count teams?	___	___	___	543.17(g)(1)
	(Note: In an emergency, authorized persons may be granted access for the resolution of a problem.)				

Handout #2

71	Is the player interface financial instrument count performed in a count room or other equivalently secure area with comparable controls?	___	___	___	543.17(g)(2)
72	Is access to the count room during the count restricted to members of the drop and count teams, with the exception of authorized observers, supervisors for resolution of problems, and authorized maintenance personnel?	___	___	___	543.17(g)(3)
73	If counts from various revenue centers occur simultaneously in the count room, are procedures in effect that prevent the commingling of funds from different revenue centers?	___	___	___	543.17(g)(4)
74	Is the count team restricted from having access to amount-in or bill-in meter amounts until after the count is completed and the drop proceeds are accepted into the cage/vault accountability?	___	___	___	543.17(g)(5)
75	Are count equipment and systems tested with the results documented prior to beginning the first count to ensure the accuracy of the equipment?	___	___	___	543.17(g)(6)
76	If a currency counter interface is used: Is it adequately restricted to prevent unauthorized access?	___	___	___	543.17(g)(7)(i)
77	If a currency counter interface is used: Are the currency drop figures transferred via direct communications line or computer storage media to the accounting department?	___	___	___	543.17(g)(7)(ii)
78	Are the financial instrument storage components individually emptied and counted so as to prevent the commingling of funds between storage components until the count of the storage component has been recorded?	___	___	___	543.17(g)(8)
79	Is the count of each storage component recorded in ink or other permanent form of recordation?	___	___	___	543.17(g)(8)(i)

Handout #2

80	Are coupons or other promotional items that are not included in gross revenue recorded on a supplemental document by the count team members or accounting personnel?	___	___	___	543.17(g)(8)(ii)
81	Are all single-use coupons cancelled daily by an authorized agent to prevent improper recirculation?	___	___	___	543.17(g)(8)(ii)
82	If currency counters are utilized: Does a count team member observe the loading and unloading of all currency at the currency counter, including rejected currency?	___	___	___	543.17(g)(9)
83	Is currency that is rejected by the currency counter counted manually twice, with the counts recorded per interface terminal as well as in total? Rejected currency must be posted to the player interface from which it was collected.	___	___	___	543.17(g)(10)
84	Are storage components, when emptied, shown to another member of the count team, or to another agent who is observing the count, or to surveillance, provided that the count is monitored in its entirety by an agent independent of the count?	___	___	___	543.17(g)(11)
85	Are procedures implemented to ensure that any corrections to the count documentation are permanent, identifiable and that the original, corrected information remains legible?	___	___	___	543.17(g)(12)
86	Are corrections verified by two count team agents?	___	___	___	543.17(g)(12)
87	Is the count sheet reconciled to the total drop by a count team member who does not function as the sole recorder? (Note: This standard does not apply to vouchers removed from the financial instrument storage components)	___	___	___	543.17(g)(13)
88	Are count variances reconciled and documented? (Note: This standard does not apply to vouchers removed from the financial instrument storage components)	___	___	___	543.17(g)(13)

Handout #2

89	Do all count team agents sign the report attesting to their participation in the count?	___	___	___	543.17(g)(14)
90	Is a final verification of the total drop proceeds performed by at least two agents before transfer to cage/vault, one of whom is a supervisory count team member and one a count team agent? (Note: This verification does not require a complete recount of the drop proceeds, but does require a review sufficient to verify the total drop proceeds being transferred.)	___	___	___	543.17(g)(15)
91	If a counter/system is used, does final verification include a comparison of currency counted totals to the currency counter/system report?	___	___	___	543.17(g)(15)(i)
92	Are unresolved variances documented and the documentation included with the final count record forwarded to accounting?	___	___	___	543.17(g)(15)(ii)
93	Do the two agents who perform the final verification sign the report attesting to the accuracy of the total drop proceeds verified?	___	___	___	543.17(g)(15)(iv)
94	Does final verification include turning over all drop proceeds and cash equivalents that were counted to the cage or vault cashier (who must be independent of the count team) or to an agent independent of the revenue generation and the count process for verification?	___	___	___	543.17(g)(15)(v)
95	Does the cage/vault cashier or agent certify, by signature, the amount of the drop proceeds delivered and received?	___	___	___	543.17(g)(15)(v)
96	Are any unresolved variances reconciled, documented, and/or investigated by accounting/revenue audit?	___	___	___	543.17(g)(15)(v)
97	After certification by the agent receiving the funds, are the drop proceeds transferred to the cage/vault?	___	___	___	543.17(g)(16)
98	Are the count documentation and records maintained separately from the drop proceeds being transferred to the cage/vault?	___	___	___	543.17(g)(16)(i)

Handout #2

99	Does the cage/vault agent verify the drop proceeds without having prior knowledge or record of the total drop proceeds?	___	___	___	543.17(g)(16)(ii)
100	Are all of the count records forwarded to accounting secured and accessible only by accounting agents?	___	___	___	543.17(g)(16)(iii)
101	Does the cage/vault agent receiving the transferred drop proceeds assume accountability of the funds by signing the count sheet, thereby ending the count?	___	___	___	543.17(g)(16)(iv)
102	Are any unresolved variances between total drop proceeds recorded on the count sheet and the amounts verified by the cage/vault documented and investigated?	___	___	___	543.17(g)(16)(v)
103	Is the count sheet, with all supporting documentation, delivered to the accounting department by a count team member or agent independent of the cashiers department (alternatively, the count sheet may be adequately secured and accessible only by accounting department staff)?	___	___	___	543.17(g)(17)
(k) Variances					
141	Has the gaming operation established a threshold level, at which a variance must be reviewed to determine the cause?	___	___	___	543.17(k)
	State the type(s) of variance and threshold level(s) or percentage(s) : _____				
142	Has the gaming operation received TGRA approval for the variance threshold(s)?	___	___	___	543.17(k)
143	Are reviews of variances exceeding the established threshold(s) documented?	___	___	___	543.17(k)

§543.17 Minimum Internal Control Standards for Drop and Count

(a) *Supervision.* Supervision must be provided for drop and count as needed by an agent(s) with authority equal to or greater than those being supervised.

(b) *Count room access.* Controls must be established and procedures implemented to limit physical access to the count room to count team agents, designated staff, and other authorized persons. Such controls must include the following:

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

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

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

(c) *Count team.* Controls must be established and procedures implemented to ensure security of the count and the count room to prevent unauthorized access, misappropriation of funds, forgery, theft, or fraud. Such controls must include the following:

(1) For Tier A and B operations, all counts must be performed by at least two agents. For Tier C operations, all counts must be performed by at least three agents.

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

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

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

(5) Count team agents must be independent of the department being counted. A cage/vault agent may be used if they are not the sole recorder of the count and do not participate in the transfer of

Handout#3 – Scenario Activity

drop proceeds to the cage/vault. An accounting agent may be used if there is an independent audit of all count documentation.

(d) *Card game drop standards.* Controls must be established and procedures implemented to ensure security of the drop process. Such controls must include the following:

(1) Surveillance must be notified when the drop is to begin so that surveillance may monitor the activities.

(2) At least two agents must be involved in the removal of the drop box, at least one of whom is independent of the card games department.

(4) Once the drop is started, it must continue until finished.

(5) All drop boxes may be removed only at the time previously designated by the gaming operation and reported to the TGRA. If an emergency drop is required, surveillance must be notified before the drop is conducted and the TGRA must be informed within a timeframe approved by the TGRA.

(6) At the end of each shift:

(i) All locked card game drop boxes must be removed from the tables by an agent independent of the card game shift being dropped;

(ii) For any tables opened during the shift, a separate drop box must be placed on each table, or a gaming operation may utilize a single drop box with separate openings and compartments for each shift; and

(iii) Card game drop boxes must be transported directly to the count room or other equivalently secure area by a minimum of two agents, at least one of whom is independent of the card game shift being dropped, until the count takes place.

(7) All tables that were not open during a shift and therefore not part of the drop must be documented.

(8) All card game drop boxes must be posted with a number corresponding to a permanent number on the gaming table and marked to indicate game, table number, and shift, if applicable.

(e) *Player interface and financial instrument storage component drop standards.* (1) Surveillance must be notified when the drop is to begin so that surveillance may monitor the activities.

(2) At least two agents must be involved in the removal of the player interface storage component drop, at least one of whom is independent of the player interface department.

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(3) All financial instrument storage components may be removed only at the time previously designated by the gaming operation and reported to the TGRA. If an emergency drop is required, surveillance must be notified before the drop is conducted and the TGRA must be informed within a timeframe approved by the TGRA.

(4) The financial instrument storage components must be removed by an agent independent of the player interface department, then transported directly to the count room or other equivalently secure area with comparable controls and locked in a secure manner until the count takes place.

(i) Security must be provided for the financial instrument storage components removed from player interfaces and awaiting transport to the count room.

(ii) Transportation of financial instrument storage components must be performed by a minimum of two agents, at least one of whom is independent of the player interface department.

(5) All financial instrument storage components must be posted with a number corresponding to a permanent number on the player interface.

(f) *Card game count standards.* (1) Access to stored, full card game drop boxes must be restricted to:

(i) Authorized members of the drop and count teams; and

(ii) In an emergency, authorized persons for the resolution of a problem.

(2) The card game count must be performed in a count room or other equivalently secure area with comparable controls.

(3) Access to the count room during the count must be restricted to members of the drop and count teams, with the exception of authorized observers, supervisors for resolution of problems, and authorized maintenance personnel.

(4) If counts from various revenue centers occur simultaneously in the count room, procedures must be in effect to prevent the commingling of funds from different revenue centers.

(5) Count equipment and systems must be tested, with the results documented, at minimum before the first count begins to ensure the accuracy of the equipment.

(6) The card game drop boxes must be individually emptied and counted so as to prevent the commingling of funds between boxes until the count of the box has been recorded.

(i) The count of each box must be recorded in ink or other permanent form of recordation.

Handout#3 – Scenario Activity

(ii) For counts that do not utilize a currency counter, a second count must be performed by a member of the count team who did not perform the initial count. Separate counts of chips and tokens must always be performed by members of the count team.

(iii) Coupons or other promotional items not included in gross revenue must be recorded on a supplemental document by either the count team members or accounting personnel. All single-use coupons must be cancelled daily by an authorized agent to prevent improper recirculation.

(iv) If a currency counter interface is used:

(A) It must be restricted to prevent unauthorized access; and

(B) The currency drop figures must be transferred via direct communications line or computer storage media to the accounting department.

(7) If currency counters are utilized, a count team member must observe the loading and unloading of all currency at the currency counter, including rejected currency.

(8) Two counts of the currency rejected by the currency counter must be recorded per table, as well as in total. Posting rejected currency to a nonexistent table is prohibited.

(9) Card game drop boxes, when empty, must be shown to another member of the count team, to another agent observing the count, or to surveillance, provided that the count is monitored in its entirety by an agent independent of the count.

(10) Procedures must be implemented to ensure that any corrections to the count documentation are permanent and identifiable, and that the original, corrected information remains legible. Corrections must be verified by two count team agents.

(11) The count sheet must be reconciled to the total drop by a count team member who may not function as the sole recorder, and variances must be reconciled and documented.

(12) All count team agents must sign the count sheet attesting to their participation in the count.

(13) A final verification of the total drop proceeds, before transfer to cage/vault, must be performed by at least two agents, one of whom is a supervisory count team member, and one a count team agent.

(i) Final verification must include a comparison of currency counted totals against the currency counter/system report, if any counter/system is used.

(ii) Any unresolved variances must be documented, and the documentation must remain part of the final count record forwarded to accounting.

Handout#3 – Scenario Activity

(iii) This verification does not require a complete recount of the drop proceeds, but does require a review sufficient to verify the total drop proceeds being transferred.

(iv) The two agents must sign the report attesting to the accuracy of the total drop proceeds verified.

(v) All drop proceeds and cash equivalents that were counted must be submitted to the cage or vault agent (who must be independent of the count team), or to an agent independent of the revenue generation source and the count process, for verification. The agent must certify, by signature, the amount of the drop proceeds delivered and received. Any unresolved variances must be reconciled, documented, and/or investigated by accounting/revenue audit.

(14) After verification by the agent receiving the funds, the drop proceeds must be transferred to the cage/vault.

(i) The count documentation and records must not be transferred to the cage/vault with the drop proceeds.

(ii) The cage/vault agent must have no knowledge or record of the drop proceeds total before it is verified.

(iii) All count records must be forwarded to accounting or secured and accessible only by accounting agents.

(iv) The cage/vault agent receiving the transferred drop proceeds must sign the count sheet attesting to the verification of the total received, and thereby assume accountability of the drop proceeds, ending the count.

(v) Any unresolved variances between total drop proceeds recorded on the count sheet and the cage/vault final verification during transfer must be documented and investigated.

(15) The count sheet, with all supporting documents, must be delivered to the accounting department by a count team member or an agent independent of the cage/vault. Alternatively, it may be secured so that it is only accessible to accounting agents.

(g) *Player interface financial instrument count standards.* (1) Access to stored full financial instrument storage components must be restricted to:

(i) Authorized members of the drop and count teams; and

(ii) In an emergency, authorized persons for the resolution of a problem.

(2) The player interface financial instrument count must be performed in a count room or other equivalently secure area with comparable controls.

Handout#3 – Scenario Activity

(3) Access to the count room during the count must be restricted to members of the drop and count teams, with the exception of authorized observers, supervisors for resolution of problems, and authorized maintenance personnel.

(4) If counts from various revenue centers occur simultaneously in the count room, procedures must be in effect that prevent the commingling of funds from different revenue centers.

(5) The count team must not have access to amount-in or bill-in meter amounts until after the count is completed and the drop proceeds are accepted into the cage/vault accountability.

(6) Count equipment and systems must be tested, and the results documented, before the first count begins, to ensure the accuracy of the equipment.

(7) If a currency counter interface is used:

(i) It must be adequately restricted to prevent unauthorized access; and

(ii) The currency drop figures must be transferred via direct communications line or computer storage media to the accounting department.

(8) The financial instrument storage components must be individually emptied and counted so as to prevent the commingling of funds between storage components until the count of the storage component has been recorded.

(i) The count of each storage component must be recorded in ink or other permanent form of recordation.

(ii) Coupons or other promotional items not included in gross revenue may be recorded on a supplemental document by the count team members or accounting personnel. All single-use coupons must be cancelled daily by an authorized agent to prevent improper recirculation.

(9) If currency counters are utilized, a count team member must observe the loading and unloading of all currency at the currency counter, including rejected currency.

(10) Two counts of the currency rejected by the currency counter must be recorded per interface terminal as well as in total. Rejected currency must be posted to the player interface from which it was collected.

(11) Storage components, when empty, must be shown to another member of the count team, to another agent who is observing the count, or to surveillance, provided that the count is monitored in its entirety by an agent independent of the count.

(12) Procedures must be implemented to ensure that any corrections to the count documentation are permanent, identifiable and the original, corrected information remains legible. Corrections must be verified by two count team agents.

Handout#3 – Scenario Activity

(13) The count sheet must be reconciled to the total drop by a count team member who may not function as the sole recorder, and variances must be reconciled and documented. This standard does not apply to vouchers removed from the financial instrument storage components.

(14) All count team agents must sign the report attesting to their participation in the count.

(15) A final verification of the total drop proceeds, before transfer to cage/vault, must be performed by the at least two agents, one of whom is a supervisory count team member and the other a count team agent.

(i) Final verification must include a comparison of currency counted totals against the currency counter/system report, if a counter/system is used.

(ii) Any unresolved variances must be documented and the documentation must remain a part of the final count record forwarded to accounting.

(iii) This verification does not require a complete recount of the drop proceeds but does require a review sufficient to verify the total drop proceeds being transferred.

(iv) The two agents must sign the report attesting to the accuracy of the total drop proceeds verified.

(v) All drop proceeds and cash equivalents that were counted must be turned over to the cage or vault cashier (who must be independent of the count team) or to an agent independent of the revenue generation and the count process for verification. Such cashier or agent must certify, by signature, the amount of the drop proceeds delivered and received. Any unresolved variances must be reconciled, documented, and/or investigated by accounting/revenue audit.

(16) After certification by the agent receiving the funds, the drop proceeds must be transferred to the cage/vault.

(i) The count documentation and records must not be transferred to the cage/vault with the drop proceeds.

(ii) The cage/vault agent must not have knowledge or record of the drop proceeds total before it is verified.

(iii) All count records must be forwarded to accounting secured and accessible only by accounting agents.

(iv) The cage/vault agent receiving the transferred drop proceeds must sign the count sheet attesting to the verification of the total received, and thereby assuming accountability of the drop proceeds, and ending the count.

Handout#3 – Scenario Activity

(v) Any unresolved variances between total drop proceeds recorded on the count room report and the cage/vault final verification during transfer must be documented and investigated.

(17) The count sheet, with all supporting documents, must be delivered to the accounting department by a count team member or agent independent of the cashiers department. Alternatively, it may be adequately secured and accessible only by accounting department.

(h) *Collecting currency cassettes and financial instrument storage components from kiosks.* Controls must be established and procedures implemented to ensure that currency cassettes and financial instrument storage components are securely removed from kiosks. Such controls must include the following:

(1) Surveillance must be notified prior to the financial instrument storage components or currency cassettes being accessed in a kiosk.

(2) At least two agents must be involved in the collection of currency cassettes and/or financial instrument storage components from kiosks and at least one agent should be independent of kiosk accountability.

(3) Currency cassettes and financial instrument storage components must be secured in a manner that restricts access to only authorized agents.

(4) Redeemed vouchers and pulltabs (if applicable) collected from the kiosk must be secured and delivered to the appropriate department (cage or accounting) for reconciliation.

(5) Controls must be established and procedures implemented to ensure that currency cassettes contain the correct denominations and have been properly installed.

(i) *Kiosk count standards.* (1) Access to stored full kiosk financial instrument storage components and currency cassettes must be restricted to:

(i) Authorized agents; and

(ii) In an emergency, authorized persons for the resolution of a problem.

(2) The kiosk count must be performed in a secure area, such as the cage or count room.

(3) If counts from various revenue centers and kiosks occur simultaneously in the count room, procedures must be in effect that prevent the commingling of funds from the kiosks with any revenue centers.

(4) The kiosk financial instrument storage components and currency cassettes must be individually emptied and counted so as to prevent the commingling of funds between kiosks until the count of the kiosk contents has been recorded.

Handout#3 – Scenario Activity

- (i) The count of must be recorded in ink or other permanent form of recordation.
- (ii) Coupons or other promotional items not included in gross revenue (if any) may be recorded on a supplemental document. All single-use coupons must be cancelled daily by an authorized agent to prevent improper recirculation.
- (5) Procedures must be implemented to ensure that any corrections to the count documentation are permanent, identifiable, and the original, corrected information remains legible. Corrections must be verified by two agents.
- (j) *Controlled keys*. Controls must be established and procedures implemented to safeguard the use, access, and security of keys for kiosks.
- (k) *Variiances*. The operation must establish, as approved by the TGRA, the threshold level at which a variance must be reviewed to determine the cause. Any such review must be documented.

Audit Exercise

Break into groups, working together read each scenario, and identify the issue(s) and locate the corresponding Minimum Internal Control Standard(s). Then write a finding and include a recommendation.

Scenario #1:

You are observing the drop and count process of the financial instrument storage component (drop box) from the player interface (gaming machine) on October 13, 2017. You notice that the gaming operation is utilizing the following drop boxes:



You notice that the drop boxes have no numbers that correspond to the machine and inquire as to how they know which box to put at which machine. You learn that the drop box has a chip in it that once it is inserted into the machine the bill validator will receive this information from the machine and store it on the chip in the box. Also, that this information can be retrieved from the drop box by docking it on a docking station that can read the chip and produce a bar code ticket that can be scanned into the count database. Determine compliance or non-compliance.

Handout #4

Criteria (Standard/MICS Reference): _____

Condition:

Recommendation:

Handout #4

Scenario #2:

You are performing an audit of the Drop & Count Department of a Tier C gaming operation to determine compliance with NIGC MICS 543.17. You observe the financial instrument storage component (drop box) count process on October 13, 2017. You observe that three count team members begin count of the currency using one currency counter and when the drop process is completed the drop team helps to count the funds. At that time both currency counters are used to count the currency. You observe this view of the count room. NOTE: Look at the picture on the PowerPoint slide. Determine compliance or non-compliance.

Criteria (Standard/MICS Reference): _____

Condition:

Recommendation:

Handout #4

Scenario #3:

You are performing an audit of the Drop & Count Department of a Tier C gaming operation to determine compliance with NIGC MICS 543.17. You have performed this audit before and know that you will have to look at the Count Team work schedule so you grab copies from the Count Manager. You receive copies for 2 months and interview the Count Manager and learn that assignment to either the drop crew or the count room is decided every morning before the drop process is to begin and that on Fridays the employees are assigned to both the Drop Team and the Count Team. You also review the count sheets for participation in count to determine who was assigned to the drop crew and count functions for the 2 months. You highlight who was on the Drop Team on the schedule. Determine compliance or non-compliance.

Criteria (Standard/MICS Reference): _____

Condition:

Handout #4

Recommendation:

Handout#5 – Drop & Count Schedule

28-Aug	29-Aug	30-Aug	31-Aug	1-Sep	2-Sep	3-Sep
Monday	Tue	Wed	Thur	Fri	Sat	Sun
Jenny			Jenny	Jenny	Jenny	Jenny
Ronnie	Ronnie		Ronnie		Ronnie	Ronnie
Grace			Grace		Grace	Grace
Roger			Roger		Roger	Roger
Guy		Guy	Guy		Guy	Guy
Mick	Mick		Mick		Mick	Mick
Wendy	Wendy	Wendy			Wendy	Wendy
Clyde	Clyde	Clyde	Clyde	Clyde		
		Carrie	Carrie	Carrie	Carrie	Carrie
Anthony	Anthony		Anthony		Anthony	Anthony

4-Sep	5-Sep	6-Sep	7-Sep	8-Sep	9-Sep	10-Sep
Monday	Tue	Wed	Thur	Fri	Sat	Sun
Jenny	Jenny		Jenny		Jenny	Jenny
Ronnie			Ronnie	Ronnie	Ronnie	Ronnie
Grace	Grace		Grace		Grace	Grace
Roger	Roger		Roger		Roger	Roger
Guy		Guy	Guy		Guy	Guy
Mick		Mick	Mick		Mick	Mick
Wendy	Wendy	Wendy			Wendy	Wendy
Clyde			Clyde	Clyde	Clyde	Clyde
Carrie		Carrie	Carrie		Carrie	Carrie
Anthony	Anthony			Anthony	Anthony	Anthony

11-Sep	12-Sep	13-Sep	14-Sep	15-Sep	16-Sep	17-Sep
Monday	Tue	Wed	Thur	Fri	Sat	Sun
Jenny			Jenny	Jenny	Jenny	Jenny
	Ronnie	Ronnie	Ronnie		Ronnie	Ronnie
Grace			Grace		Grace	Grace
Roger			Roger		Roger	Roger
Guy		Guy			Guy	Guy
Mick	Mick		Mick		Mick	Mick
Wendy	Wendy	Wendy			Wendy	Wendy
Clyde			Clyde	Clyde	Clyde	Clyde
Carrie	Carrie	Carrie	Carrie	Carrie		
	Anthony	Anthony	Anthony			Anthony

18-Sep	19-Sep	20-Sep	21-Sep	22-Sep	23-Sep	24-Sep
Monday	Tue	Wed	Thur	Fri	Sat	Sun
Jenny			Jenny		Jenny	Jenny
	Ronnie	Ronnie	Ronnie		Ronnie	Ronnie
Grace			Grace		Grace	Grace
Roger	Roger		Roger		Roger	Roger
Guy			Guy	Guy	Guy	Guy
Mick		Mick	Mick		Mick	Mick
		Wendy	Wendy	Wendy	Wendy	Wendy
Clyde			Clyde	Clyde	Clyde	Clyde
Carrie	Carrie	Carrie	Carrie			Carrie
Anthony	Anthony		Anthony		Anthony	Anthony

Handout#5 – Drop & Count Schedule

25-Sep	26-Sep	27-Sep	28-Sep	29-Sep	30-Sep	1-Oct
Monday	Tue	Wed	Thur	Fri	Sat	Sun
Jenny			Jenny	Jenny	Jenny	Jenny
Ronnie		Ronnie	Ronnie		Ronnie	Ronnie
Grace			Grace		Grace	Grace
Roger			Roger		Roger	Roger
	Guy		Guy		Guy	Guy
Mick	Mick		Mick		Mick	Mick
Wendy	Wendy				Wendy	Wendy
Clyde	Clyde	Clyde	Clyde	Clyde		
		Carrie		Carrie	Carrie	Carrie
Anthony		Anthony	Anthony		Anthony	Anthony

2-Oct	3-Oct	4-Oct	5-Oct	6-Oct	7-Oct	8-Oct
Monday	Tue	Wed	Thur	Fri	Sat	Sun
	Jenny	Jenny	Jenny		Jenny	Jenny
	Ronnie	Ronnie	Ronnie		Ronnie	Ronnie
Grace			Grace	Grace	Grace	Grace
Roger			Roger		Roger	Roger
Guy		Guy	Guy		Guy	Guy
Mick		Mick	Mick		Mick	Mick
Wendy	Wendy	Wendy			Wendy	Wendy
Clyde			Clyde	Clyde	Clyde	Clyde
Carrie	Carrie			Carrie		
Anthony			Anthony	Anthony	Anthony	Anthony

9-Oct	10-Oct	11-Oct	12-Oct	13-Oct	14-Oct	15-Oct
Monday	Tue	Wed	Thur	Fri	Sat	Sun
Jenny			Jenny	Jenny	Jenny	Jenny
Ronnie		Ronnie	Ronnie		Ronnie	Ronnie
Grace		Grace	Grace		Grace	Grace
Roger		Roger	Roger		Roger	Roger
Guy			Guy		Guy	Guy
Mick	Mick		Mick		Mick	Mick
Wendy	Wendy	Wendy	Wendy	Wendy		
Clyde			Clyde	Clyde	Clyde	Clyde
Carrie	Carrie				Carrie	Carrie
Anthony	Anthony		Anthony		Anthony	Anthony

16-Oct	17-Oct	18-Oct	19-Oct	20-Oct	21-Oct	22-Oct
Monday	Tue	Wed	Thur	Fri	Sat	Sun
	Jenny	Jenny	Jenny		Jenny	Jenny
Ronnie		Ronnie	Ronnie		Ronnie	Ronnie
Grace		Grace	Grace		Grace	Grace
Roger		Roger	Roger		Roger	Roger
Guy		Guy	Guy		Guy	Guy
Mick	Mick	Mick	Mick			
	Wendy	Wendy	Wendy	Wendy	Wendy	
Clyde		Clyde		Clyde	Clyde	Clyde
Carrie			Carrie	Carrie	Carrie	Carrie
Anthony	Anthony	Anthony	Anthony			Anthony

IT-109 Auditing 543.20 Participant Guide

IT-109 Auditing 543.20



Information Technology Division

KEY POINTS

IT-109 Auditing 543.20 Participant Guide



What to Expect

- Supervision - CFR543.20a
- Class II Gaming Logical and Physical Controls - CFR543.20c
- Physical Security - CFR543.20d
- Logical Security - CFR543.20e
- User Controls - CFR543.20f
- Remote Access - CFR543.20h
- Data Backups - CFR543.20j

KEY POINTS



IT-109 Auditing 543.20 Participant Guide



What to Expect



- Software Downloads - CFR543.20k
- Verifying Downloads - CFR543.20l



- Installation and/or modifications - CFR543.20g



- Incident monitoring and reporting - CFR543.20i

KEY POINTS

IT-109 Auditing 543.20 Participant Guide



KEY POINTS

IT-109 Auditing 543.20 Participant Guide



KEY POINTS

- Supervision includes – the action or process of watching and directing what someone does or how something is done. IT supervision ensures you have:
 - Policy and Procedures
 - IT Roles and Responsibilities
- Common Policy and Procedures:
- IT Roles and Responsibilities

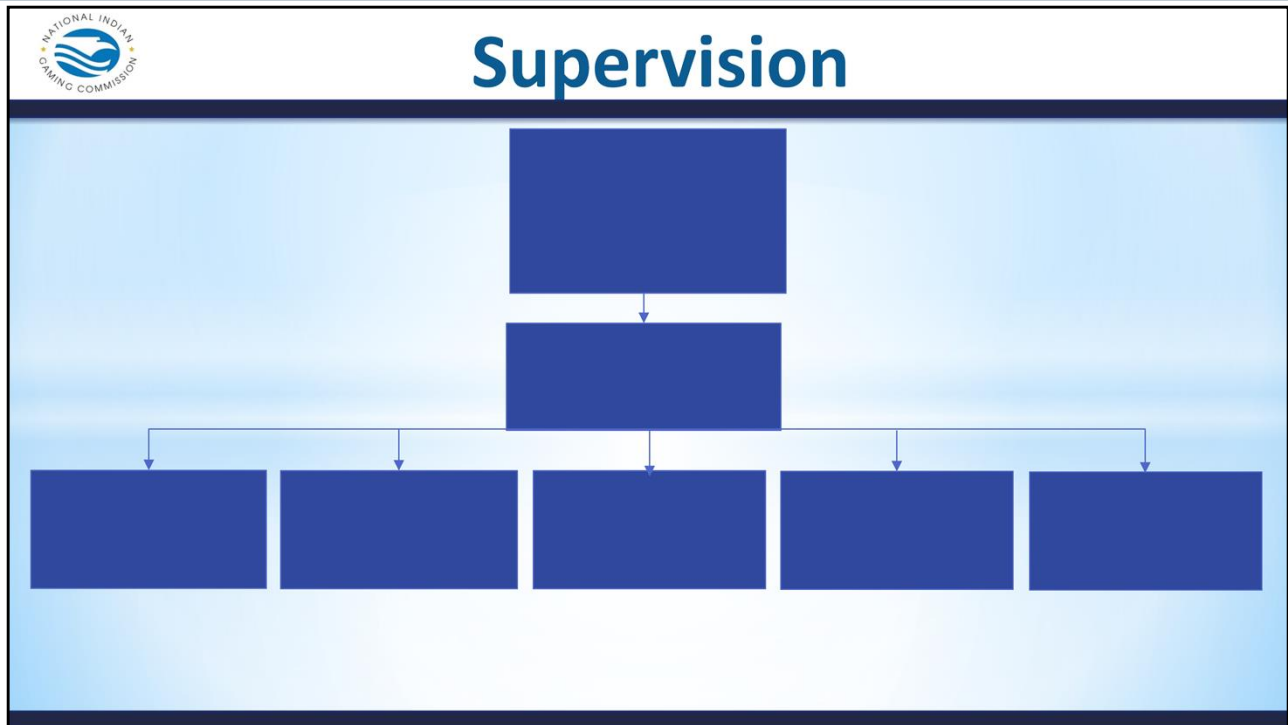


Exercise 1 - Handout #1

On Handout #1 - fill in the supervision hierarchy from top to bottom.
(Note: you have more job titles than spaces)

KEY POINTS

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KEY POINTS

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Class II Gaming Systems Logical and Physical Controls

Importance of:



Tribal Internal Controls or (TICS)

System of Internal Controls or (SICS)

KEY POINTS

543.20 (c)(12) Are controls established and procedures implemented to ensure adequate: Departmental independence, including, but not limited to, means to restrict agents that have access to information technology from having access to financial instruments? (Inquiry and review SICS)

What are the differences between TICS and SICS?



Ask Yourself

- 1. Who is in charge?**
- 2. Should this person be independent of the class II system?**
- 3. What methods (i.e. policy &/or procedure) are in place to detect errors or fraud?**

KEY POINTS

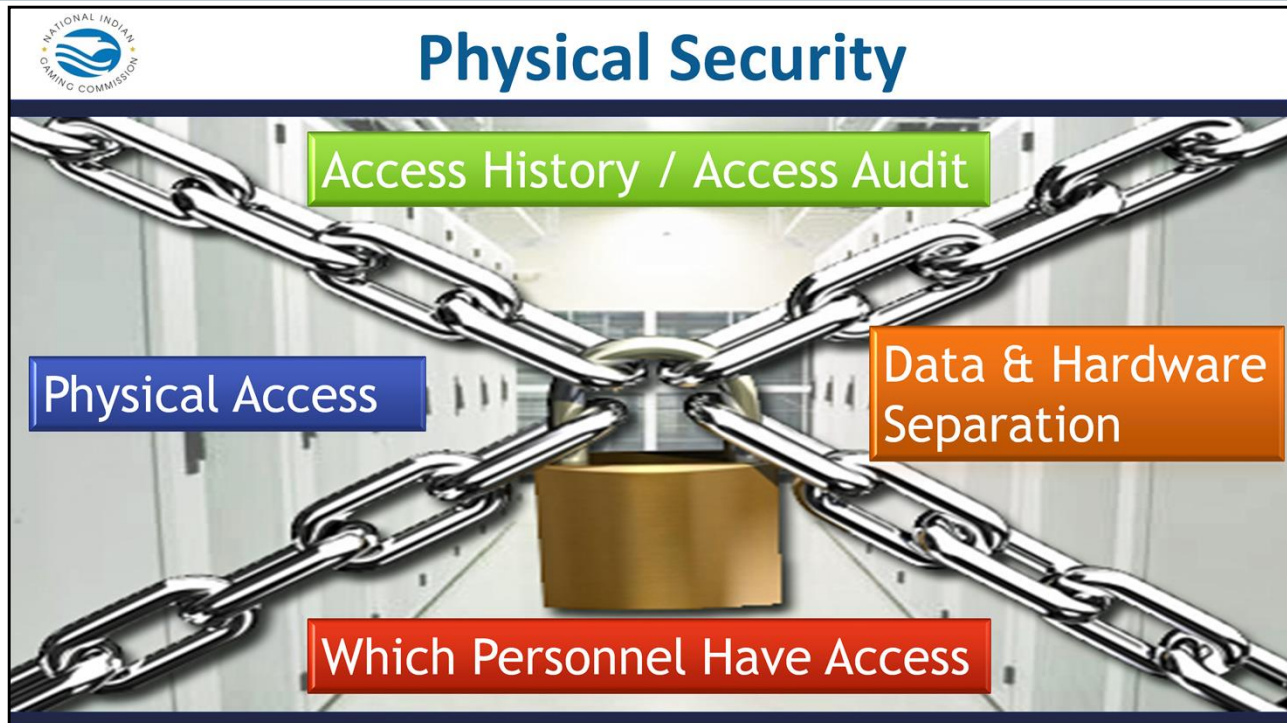


Ask Yourself

- 4. Should that person have access to accounting, audit entries, or payouts?**
- 5. Is there an audit procedure? How is the audit completed and how is it recorded?**

KEY POINTS

IT-109 Auditing 543.20 Participant Guide



KEY POINTS

- Look at physical access.
- Look at data and hardware separation.
 - Are you housing different systems on the same server?
 - Is network equipment separated?
- Look at which Personnel have access.
 - Which IT people have access to what and when?
 - Which non-IT people have access to what and when?
- Look at how often access history is audited and how often access privileges are audited?
 - Depending on how access is logged, via a sign in sheet or via card key, how often is that log checked
 - How often are the access privileges of individuals audited?



Ask Yourself

- 1. Are the policy and procedures in place?**
- 2. Who is responsible or has access?**



KEY POINTS



Ask Yourself

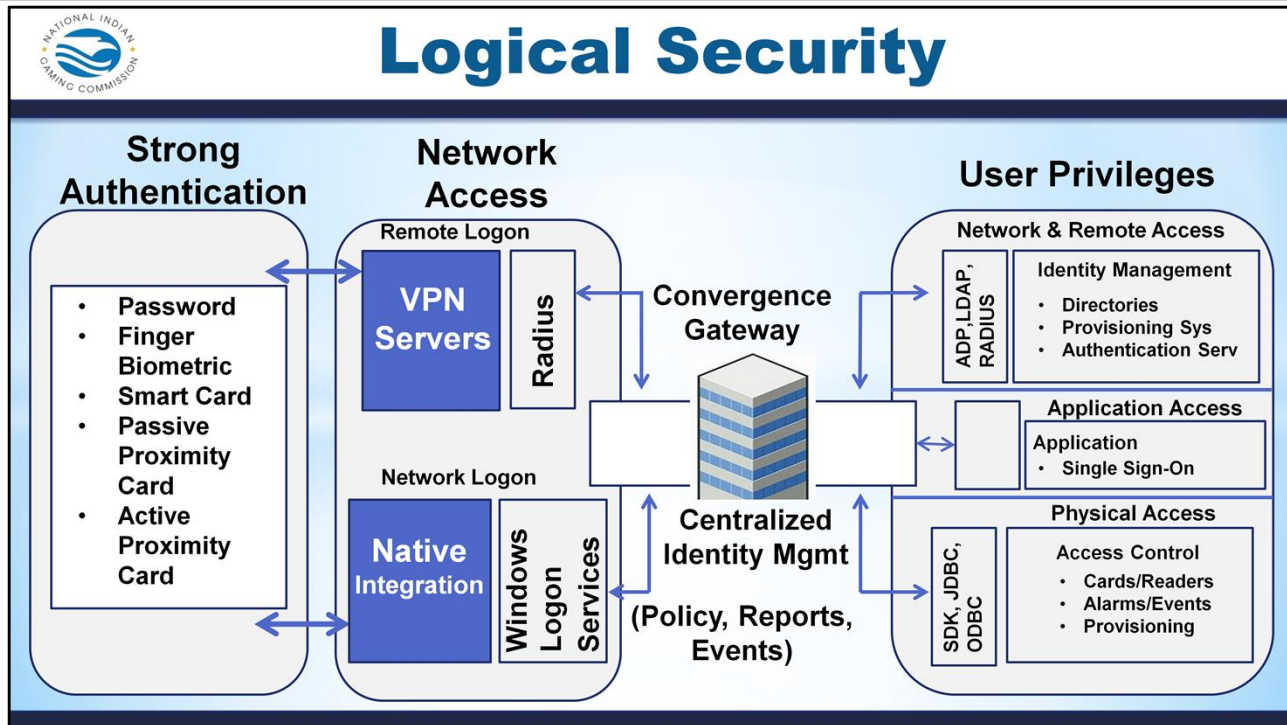
3. What group or who is recording and why?

4. Should that person be in the area?



KEY POINTS

IT-109 Auditing 543.20 Participant Guide



KEY POINTS

543.20 (e)(17) Are controls established and procedures implemented to protect all systems and to ensure that access to the following is restricted and secured: Systems' software and application programs? (Inquiry and review other – authorization lists)

543.20 (e)(18) Are controls established and procedures implemented to protect all systems and to ensure that access to the following is restricted and secured:

Data associated with Class II gaming? (Inquiry and review other – authorization lists)

- Look at SICS to protect all systems and ensure access is restricted

- Is there a process in place to grant or limit key access to various systems? (ie. Active Directory and Kerberos) –How are those utilized to give access to key servers, key folders, and key applications to users?
- Which IT personnel have access to each system? In a larger organization, you might have the floor operations support separate from the back-office operations support.
- Is the process of deciding who has access to what decided upon?
- Is the process of deciding access documented?



Ask Yourself

- 1. What policy and/or procedure exists?**
- 2. Is there access to the data?**
- 3. Who manages the rights and roles of those terminations?**
- 4. Audit process for those records and how often reviewed?**

KEY POINTS



Ask Yourself

- 5. Are robust passwords policies and procedures in place?**
- 6. Are policy and procedures in place for network ports to be disabled?**
- 7. What type of data encryption is in place?**
- 8. Who ensures software is verified?**

KEY POINTS



Exercise #2 – Handout 2



KEY POINTS

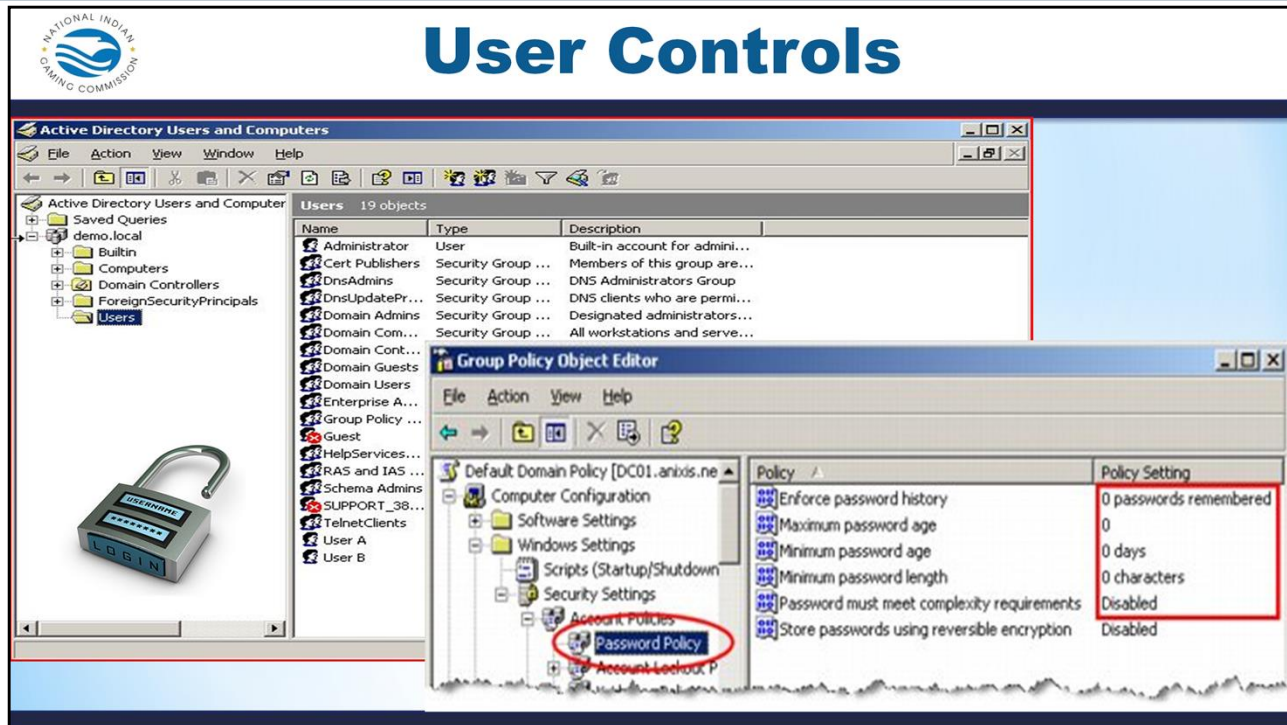


INSTRUCTIONS

Using all the terms at the bottom of the handout. Place the terms in the correct column.

KEY POINTS

IT-109 Auditing 543.20 Participant Guide



KEY POINTS

543.20 (f)(24) Are systems, including application software, secured with passwords or other means for authorizing access? (Inquiry and perform log-in tests on network system(s) and each stand-alone system)

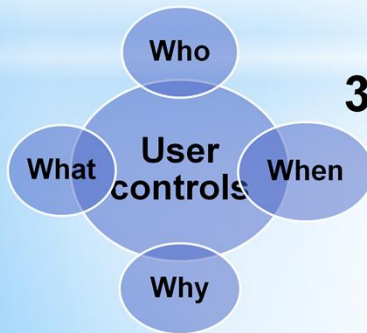
543.20 (f)(32) Are lost or compromised access credentials deactivated, secured or destroyed within an established time period approved by the TGRA? State the time period _____ . (Inquiry and review TGRA approval)

- Look at SICS to make sure systems are protected with passwords or other means
- Look at SICS for lost and compromised access credentials (ie. Terminated user policy, lost card policy)
- Look at password complexity and reset period




Ask Yourself

1. Who is assigned to control, update or modify system functions?
2. Are there roles and responsibilities for controls and are they approved by the TGRA?
3. Are user controls recorded with Who, When, Why and What was completed?



KEY POINTS

IT-109 Auditing 543.20 Participant Guide



Passwords

Username

Password

UNCOMMON (NON-GIBBERISH) BASE WORD

ORDER UNKNOWN

Tr0ub4dor & 3

CAPS? COMMON SUBSTITUTIONS NUMERAL PUNCTUATION

(YOU CAN ADD A FEW MORE BITS TO ACCOUNT FOR THE FACT THAT THIS IS ONLY ONE OF A FEW COMMON FORMATS)

~28 BITS OF ENTROPY

2²⁸ = 3 DAYS AT 1000 GUESSES/SEC

(PLAUSIBLE ATTACK ON A WEAK REMOTE WEB SERVICE: YES, CRACKING A STOLEN HIGHLY IS FASTER, BUT IT'S NOT WHAT THE AVERAGE USER SHOULD WORRY ABOUT.)

DIFFICULTY TO GUESS: EASY

correct horse battery staple

FOUR RANDOM COMMON WORDS

~44 BITS OF ENTROPY

2⁴⁴ = 550 YEARS AT 1000 GUESSES/SEC

DIFFICULTY TO GUESS: HARD

Source: <https://xkcd.com/936/>

Online password strength checking site:
<http://howsecureismypassword.net/>

KEY POINTS

NIST standards for passwords updated in 2017: from 8 characters / 4 character types to short word phrases.

IT-109 Auditing 543.20 Participant Guide



KEY POINTS

#41, #49


543.20 (h)(41) Is documentation for each remote access system support session maintained at the place of authorization? (Inquiry and review supporting documentation)

543.20 (h)(49) Is all remote access performed via a secured method? (Inquiry and review supporting documentation)

- Look at remote access logging

- Look at secured remote access

IT-109 Auditing 543.20 Participant Guide



Remote Access

Monthly Logon/Logoff Report

Login	Logout	Group	Computer	Port	Remote IP	Username	Logon Type	Duration
Wed 2017-24-01 03:23:43PM	Wed 2017-24-01 04:25:44PM	Casino Name	DB Server	4025	10.70.158.129	VendorName of individual performing work	Terminal Services	1h 2m 41s
Thur 2017-24-01 03:23:43PM	Thur 2017-24-01 04:25:44PM	Casino Name	DB Server	4076	10.70.158.145	VendorName of individual performing work	Terminal Services	1h 2m 41s
Tue 2017-24-01 03:23:43PM	Tue 2017-24-01 04:25:44PM	Casino Name	DB Server	5284	10.70.158.121	VendorName of individual performing work	Terminal Services	1h 2m 41s

KEY POINTS

What is wrong with this picture?



Ask Yourself

Is there a Process for remote access that includes:

- 1. When, Why and What was done during the remote access session and when the access was closed or terminated and by whom?**



KEY POINTS



Ask Yourself

Is there a Process for remote access that includes:



- 2. Who was granted access, and who granted the access? License?**
- 3. Is the remote access being done with a secure method? What is that method?**

KEY POINTS



Exercise 3 – Handout #3



KEY POINTS



INSTRUCTIONS

- 1. Break into groups and working together read each scenario, and identify the issue(s).**
- 2. Locate the corresponding MICS standard using the IT Toolkit.**
- 3. Then write a finding and include a recommendation.**

KEY POINTS

IT-109 Auditing 543.20 Participant Guide



KEY POINTS

Checklist #53, #55, #59, #61

543.20 (j)(53) Do controls include adequate backup, including, but not limited to, the following:
Daily data backup of critical information technology systems? (Inquiry and review supporting documentation)

543.20 (j)(55) Do controls include adequate backup, including, but not limited to, the following:
Secured storage of all backup data files and programs, or other adequate protection? (Inquiry and observation)

543.20 (j)(59) Do controls include recovery procedures, including, but not limited to, the following:
Program restoration? (Inquiry and review supporting documentation)

- Look at backup schedule
- Look at security of backups
- Look at restoration methods
- Look at recovery process and testing of process



Ask Yourself

- 1. What is the backup process for all critical information and programs; is it stored in a means that is adequately protected from loss?**
- 2. How often are the backups performed?**



KEY POINTS



Ask Yourself

- 3. Is the information mirrored for redundancy and can the data be restored if required?**
- 4. How often is this data backup process tested?**



KEY POINTS

IT-109 Auditing 543.20 Participant Guide



KEY POINTS

543.20(k)(63) Are downloads, either automatic or manual, performed in accordance with 25 CFR 547.12? (Inquiry and review SICS)

1. Acceptable means of transporting APPROVED content
2. Use secure methodologies that will deliver data without alteration or modification
3. Downloads during operational periods will not affect game play
4. Must not affect integrity of accounting data
5. C2 gaming MUST be capable of providing
 - Time & date of initiated download
 - Time & date of completed download
 - C2 gaming system components to which software was downloaded
 - Versions of download package and any software. Logging unique software signature
 - Outcome of any software verification (Success or Failure)
 - Name and ID number, or other unique identifier, of any individuals conducting or scheduling a download

IT-109 Auditing 543.20 Participant Guide

The graphic features the National Indian Gaming Commission logo in the top left. The main title is 'Verifying Downloads' in blue. Below it, a white rounded rectangle contains the text 'Verified By' in blue, a hand pointing down, and 'YOU!' in red. At the bottom, there are three logos: Gaming Laboratories International (a globe), bmm testlabs (red and black text), and eclipse Compliance Testing (a red and black circle with the text 'eclipse Compliance Testing www.eclipsetesting.com We don't play games... We test games. A MEMBER OF NPI').

KEY POINTS

Verifying downloads – Software on C2 gaming system MUST be capable of verification by C2 Gaming system using a software signature verification method that meets 547.8(f)

543.20(I)(64) Following the download of any Class II gaming system software, does the Class II gaming system verify the downloaded software using a software signature verification method? (Inquiry and review supporting documentation)

- Look at download process
- Look at signature verification
- Look at best practices. (Remember 542.16)

IT-109 Auditing 543.20 Participant Guide

 **Installations &/or Modifications**

Casino Management System



Surveillance



Hotel Shops



Hospitality



KEY POINTS

543.20(g)(36) Are records kept of all new installations and/or modifications to Class II gaming systems that include the following, at a minimum: The date of the installation or modification? (Inquiry and review supporting documentation)

543.20(g)(38) Are records kept of all new installations and/or modifications to Class II gaming systems that include the following, at a minimum: Evidence of verification that the installation or the modifications are approved? (Inquiry and review supporting documentation)

- Look at records and versions of installs - Is there a written record of the install
- Look at records of all new installations and modifications - Is there proof of the software verification?
- Look at change management process
 - Is there a documented process for testing new software or hardware
 - Is there a documented process for incorporating new software and hardware into the destination environment?
- Is there a process for vetting approved vendors?



Ask Yourself

- 1. Are only authorized and approved systems being installed or modified and is it being verified to a checklist?**
- 2. Are these actions being recorded, if so with Whom, When, Why and What was accomplished?**



KEY POINTS



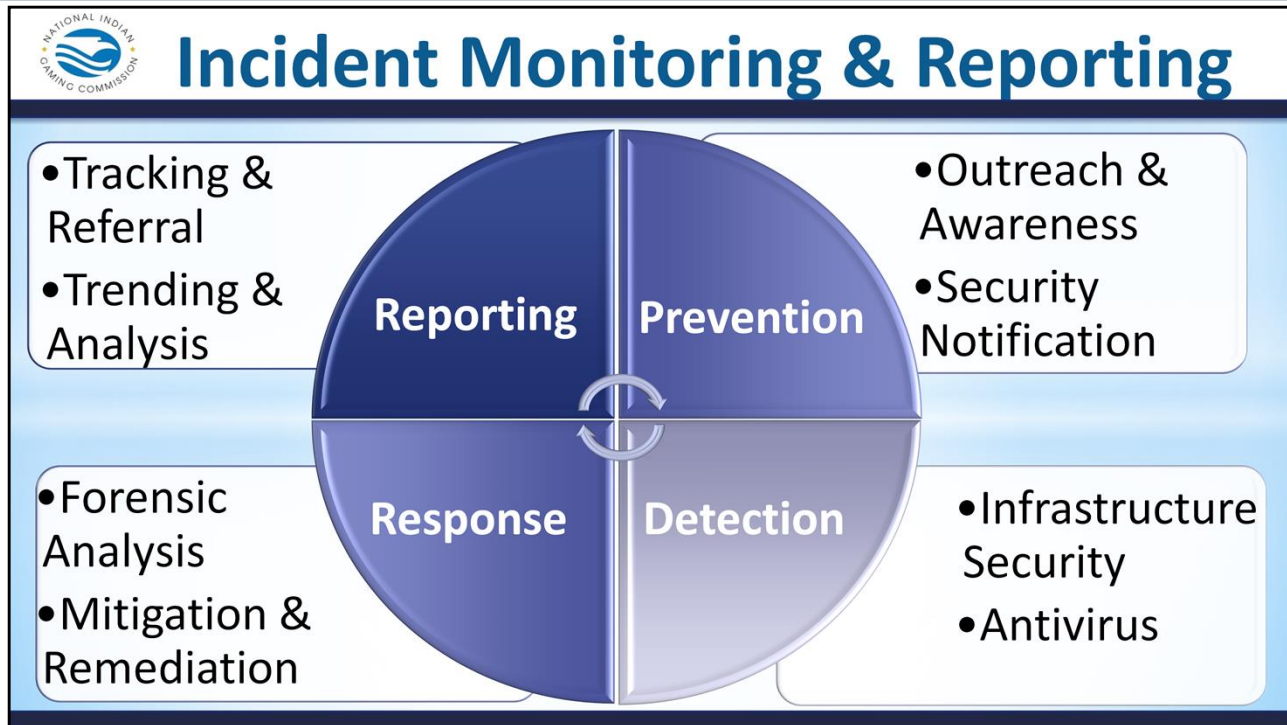
Ask Yourself

3. Are there instruction manuals or booklets that describes the system and how its maintained?



KEY POINTS

IT-109 Auditing 543.20 Participant Guide



KEY POINTS

Incident Monitoring & Reporting

543.20(i)(51) Are all security incidents responded to within the established time period approved by the TGRA? State the time period_____.

(Inquiry, review TGRA approval, and review supporting documentation)

- What are the processes for responding to monitoring, investigating, resolving, documenting, and reporting security incidents?
 - Is there a documented response time period for incidents?
 - Is there a tracking system for **reporting** incidents and are they being utilized for data analysis?
 - What steps for outreach and notification are being taken to promote **prevention**?
- What **detection** methods are in place?
- What is the **response** system



Ask Yourself

- 1. What are the policies and/or procedures for responding to, monitoring, investigating and resolving all security incidents that is approved by the TGRA?**
- 2. What time period has been established with the TGRA for supporting documentation to be supplied?**



KEY POINTS

Ask Yourself – Incident Monitoring and Reporting

IT-109 Auditing 543.20 Participant Guide



Questions

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KEY POINTS





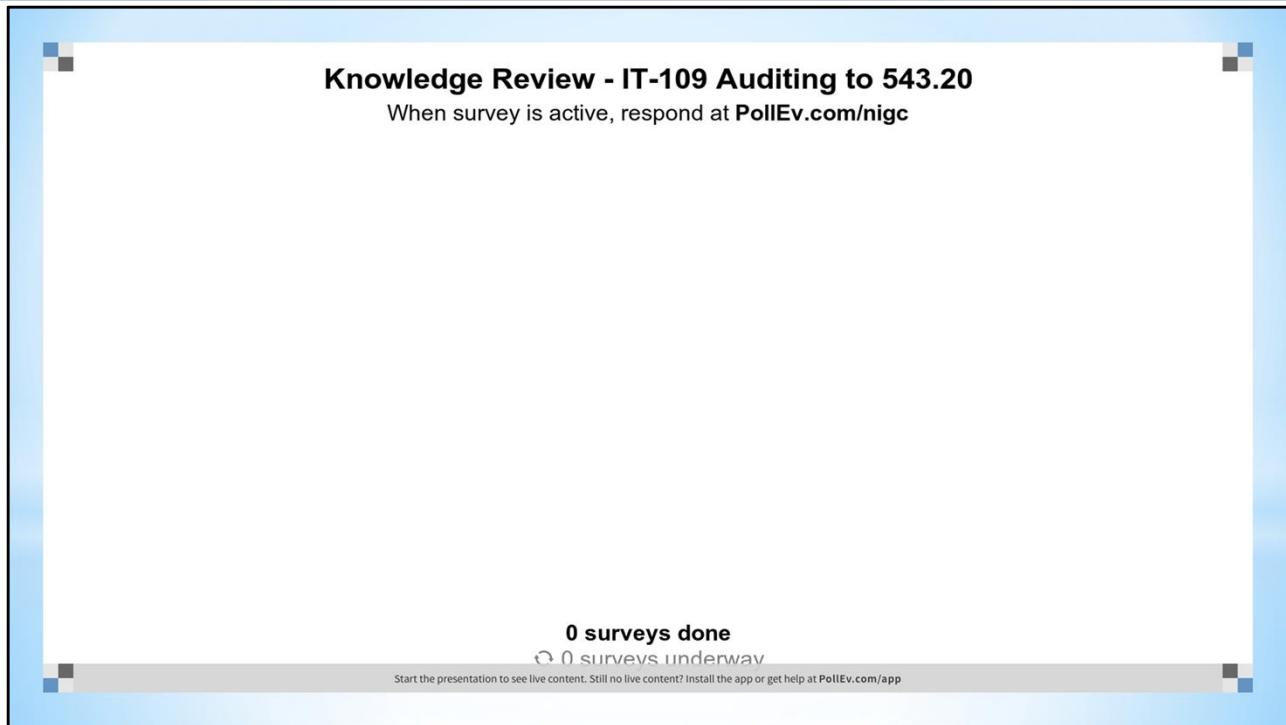
Course Evaluation

- Provide an honest assessment of your experience
- Written suggestions and comments are greatly appreciated and allow us to improve your experience



KEY POINTS

IT-109 Auditing 543.20 Participant Guide



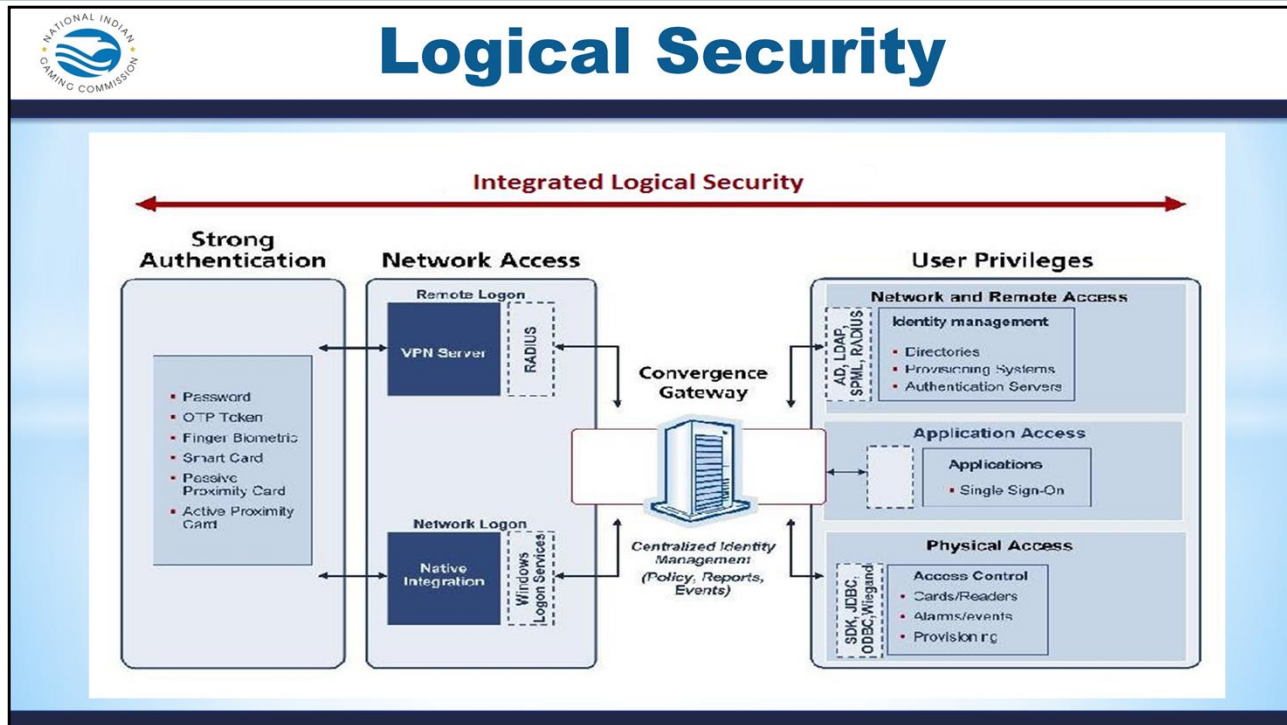
The screenshot shows a PollEv survey interface. At the top, the title is "Knowledge Review - IT-109 Auditing to 543.20" with the instruction "When survey is active, respond at PollEv.com/nigc". The main area is empty, indicating no responses. At the bottom, it shows "0 surveys done" and "0 surveys underway" with a refresh icon. A footer note says "Start the presentation to see live content. Still no live content? Install the app or get help at PollEv.com/app".

KEY POINTS

Poll Title: Knowledge Review - IT-109 Auditing to 543.20

<https://www.polleverywhere.com/surveys/Qdj8myfmA>

IT-109 Auditing 543.20 Participant Guide



KEY POINTS

Logical security – focus #17 and #18

543.20 (e)(17) Are controls established and procedures implemented to protect all systems and to ensure that access to the following is restricted and secured: Systems’ software and application programs? (Inquiry and review other – authorization lists)

543.20 (e)(18) Are controls established and procedures implemented to protect all systems and to ensure that access to the following is restricted and secured:

Data associated with Class II gaming? (Inquiry and review other – authorization lists)

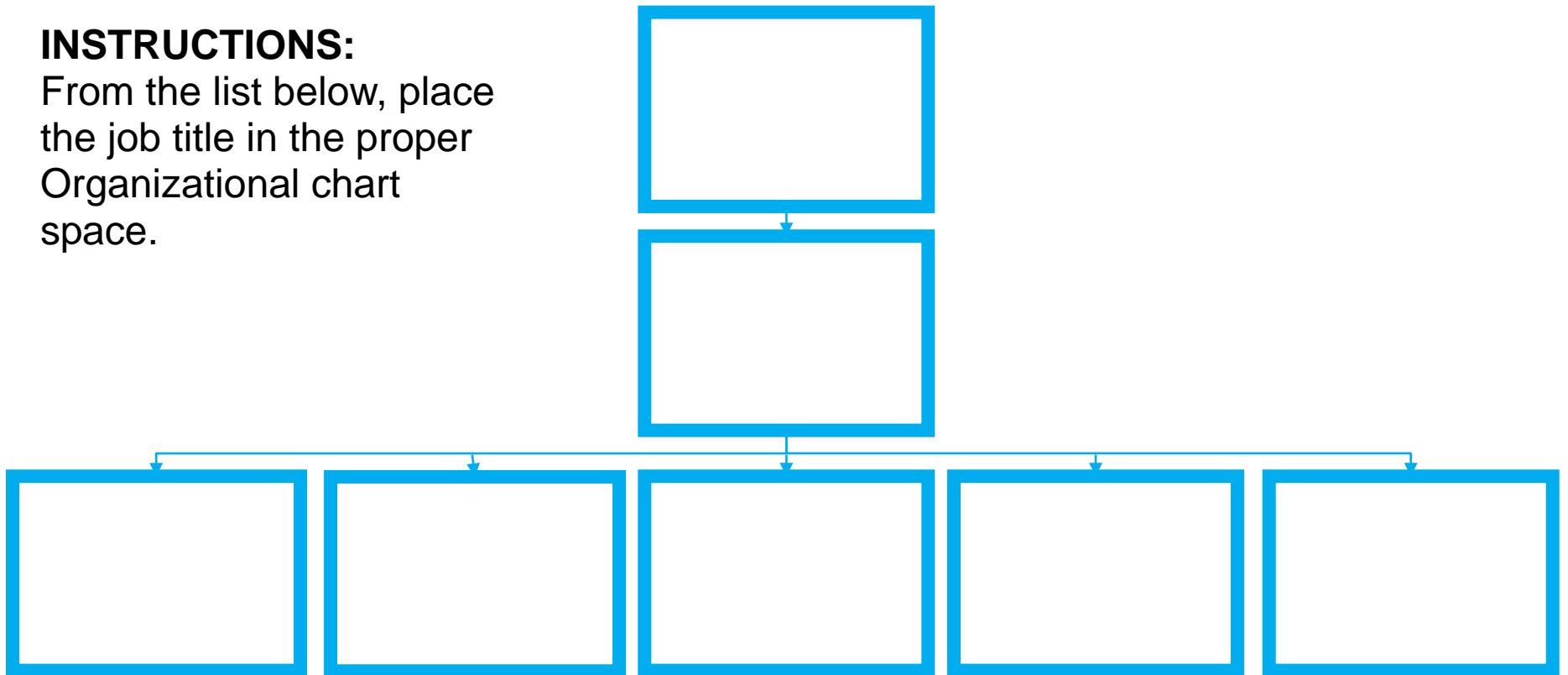
Look at SICS to protect all systems and ensure access is restricted

- Is there a process in place to grant or limit key access to various systems? – For example: Active Directory and Kerberos are two of the most common authentication services. But how are those utilized to give access to key servers, key folders, and key applications to users? Which IT personnel have access to each system? In a larger organization, you might have the floor operations support separate from the back-office operations support.
- Is the process of deciding who has access to what decided upon? – For example: When an individual requests access to a room or to an application how is it determined if they get it or not? Do you need a manager approval? Do you accept ANY manager’s approval? Is there a process not just to add access but to grant or deny?
- Is the process of deciding access documented? – For example: When the head of IT leaves the org. will anyone understand the process when they are gone? And, will they do it the same way?

HANDOUT #1 – Exercise 1

INSTRUCTIONS:

From the list below, place the job title in the proper Organizational chart space.



Helpdesk Manager
Application Developer
Software Development Manager
Chief Information Officer
Web Development Manager
Telecom Manager

IT Director
Telecom Technician
Desktop Support
Web Developer
Database Administrator
Network Manager

Handout #2 – Exercise 2

INSTRUCTIONS:

Place the terms in the correct column.

Physical security:	Logical security:
1.	1.
2.	2.
3.	3.
4.	4.
5.	5.

Protects Computer Software

User IDs

Intrusion Detection

Smart Cards

Alarms

Cameras

Electronic Access Controls

Port management

Administration Access Controls

Password Authentication

Information Technology – Audit 25 CFR 543.20 Toolkit

Version 1.0

NIGC Compliance Division



NIGC Information Technology Audit-25 CFR 543.20 Toolkit

Over twenty five years ago Congress adopted the Indian Gaming Regulatory Act (IGRA) to provide a statutory basis for gaming by Indian tribes. The National Indian Gaming Commission (NIGC) was created by IGRA to regulate gaming activities conducted by sovereign Indian tribes on Indian lands. The mission of the NIGC is to fully realize IGRA's goals of: (1) promoting tribal economic development, self-sufficiency and strong tribal governments; (2) maintaining the integrity of the Indian gaming industry; and (3) ensuring that tribes are the primary beneficiaries of their gaming activities. One of the primary ways the NIGC does this is by providing training and technical assistance to Indian tribes and their gaming regulators.

The National Indian Gaming Commission (NIGC) is pleased to present this Toolkit to all Compliance and Auditing staff. This reference guide is intended to assist IT Auditor(s), Gaming Commissioner(s) and Operations personnel in the performance of measuring compliance of their operation(s) with 25 CFR 543.20. The toolkit is designed to provide each standard as it relates to 543.20, the language of the standard, the intent of the standard, and then a recommended testing step which will ensure minimum regulatory compliance.

This Toolkit is designed to meet the minimum requirements of the NIGC MICS and does not take into account operations Tribal Internal Controls Standards (TICS) and or System of Internal Controls Standards (SICS), which may require further testing. The NIGC encourages Operations to develop standards that exceed the Minimum Internal Control Standards , because each operation is unique, therefore a robust set of controls is warranted.

If you have questions or comments about this guide, please contact the NIGC Compliance Division at training@nigc.gov. For more information, visit the NIGC website at <http://www.nigc.gov>.

Citation	Language	Intent and Testing
§ 543.20 (a-b)		
543.20 (a)(1)	<p><i>Supervision.</i> (1) Controls must identify the supervisory agent in the department or area responsible for ensuring that the department or area is operating in accordance with established policies and procedures.</p>	<p>Intent: To ensure that the TICS identify who is the supervisory agent in the department and is responsible for ensuring the IT Department is operating in accordance with established policy and procedures.</p> <p>Testing: 1. Review TICS to identify controls with respect to the supervision of the IT Department. 2. Identify any additional controls required by the TGRA with regards to supervision. 3. Review SICS to ensure that operations have identified and implemented controls with regards to the TGRA requirements in their TICS.</p>
543.20(a)(2)	<p>The supervisory agent must be independent of the operation of Class II games.</p>	<p>Intent: To ensure proper segregation of duties that the IT supervision is independent of all Class II Games. Best practices suggests that the IT department should be independent of all casino departments and should report directly to the General Manager.</p> <p>Testing: 1. Review Information Technology Organizational Chart. 2. Inquire with IT supervision to determine who they report to.</p>
543.20(a)(3)	<p>Controls must ensure that duties are adequately segregated and monitored to detect procedural errors and to prevent the concealment of fraud.</p>	<p>Intent: To ensure that IT personnel are not to be assigned conflicting roles, i.e., financial, accounting and gaming responsibilities that cannot be effectively monitored for the detection of fraud or the concealment of procedural errors.</p> <p>Testing: 1. Review Human Resources job descriptions in IT personnel files in addition to IT user groups and accounts. 2. Flag instances of computerized IT access to financial, accounting or gaming roles.</p>

Citation	Language	Intent and Testing
543.20(a)(4) (i-iii)	<p>Information technology agents having access to Class II gaming systems may not have signatory authority over financial instruments and payout forms and must be independent of and restricted from access to:</p> <ul style="list-style-type: none"> (i) Financial instruments; (ii) Accounting, audit, and ledger entries; and (iii) Payout forms. 	<p>Intent: IT personnel who possess access to Class II gaming shall not have access to or signatory authority over financial instruments, accounting, audit, ledger entries and payout forms.</p> <p>Testing: 1. Review system user access accounts of IT personnel for financial, accounting, ledger and payout form access. 2. Review physical payout forms for winners. 3. Review SICS to verify that IT personnel are not authorized to sign</p>
543.20(b)	<p>As used in this section only, a system is any computerized system that is integral to the gaming environment. This includes, but is not limited to, the server and peripherals for Class II gaming system, accounting, surveillance, essential phone system, and door access and warning systems.</p>	<p>Intent: Computerized 'systems' are defined as computerized systems integral to the operation of the gaming environment. Systems include electronic / electrical networked-system environments.</p> <p>Testing: Review gaming operations architectural plans and computerized network system design layout and applications system inventory.</p>



Citation	Language	Intent and Testing
§ 543.20 (c)		
543.20 (c)	Class II gaming systems' logical and physical controls. Controls must be established and procedures implemented to ensure adequate:	<p>Intent: To ensure that operational SICS have identified and implemented controls with regards to the TGRA requirements in their TICS.</p> <p>Testing: Review IT TICS, SICS and Policies and Procedures.</p>
543.20(c)(1)	Control of physical and logical access to the information technology environment, including accounting, voucher, cashless and player tracking systems, among others used in conjunction with Class II gaming;	<p>Intent: To ensure both physical and logical access to critical computerized environments, networks and application system are restricted to authorized users.</p> <p>Testing: Review IT TICS, SICS and Policies and Procedures for verification of controls in place for the control of both physical and logical access to the information technology environment used in conjunction with Class II gaming by reviewing the user access list against the current HR list.</p>
543.20(c)(2)	Physical and logical protection of storage media and its contents, including recovery procedures;	<p>Intent: To ensure that stored and archived financial, accounting and gaming data can be readily restored to the gaming operations 'live' environment during or after a critical system failure.</p> <p>Testing: 1. Review IT TICS, SICS and Policies and Procedures for data recovery controls and processes. 2. Review data backup and recovery scheduling, testing and physical assessment of the data storage facility.</p>

Citation	Language	Intent and Testing
543.20(c)(3)	<p style="text-align: center;">§ 543.20 (c)</p> <p>Access credential control methods;</p>	<p>Intent: To ensure that only properly vetted and authorized personnel have access to the gaming operations secured logical and physical environments.</p> <p>Testing: Review IT TICS, SICS and Policies and Procedures for effective logical and physical access control methods and reviewing the user access list against the current HR list.</p>
543.20(c)(4)	Record keeping and audit processes; and	<p>Intent: To ensure that administrative bookkeeping and accurate and timely documentation supporting audit processes is maintained.</p> <p>Testing: Review SICS and audit results with findings from previous internal and external audits and also any records kept by the IT operation.</p>
543.20(c)(5)	Departmental independence, including, but not limited to, means to restrict agents that have access to information technology from having access to financial instruments.	<p>Intent: To ensure that technical departments and technical personnel are restricted from access to financial instruments.</p> <p>Testing: Review SICS and organizational chart structure. Perform review of financial logical access permissions and authorizations of technical personnel. Flag access accounts authorizing IT personnel to financial instruments.</p>



Citation	Language	Intent and Testing
543.20(d)	<p><i>Physical security.</i> (1) The information technology environment and infrastructure must be maintained in a secured physical location such that access is restricted to authorized agents only.</p>	<p>Intent: To ensure that the information technology environment and supporting environments are maintained in a secured physical location. Access is to be restricted to authorized personnel in a secured physical location that is accessible only to authorized personnel.</p> <p>Testing: Conduct physical walkthrough inspection noting the access / denial methods to restrict physical access to critical locations, i.e., HID card, hard-key, biometrics, pin code, password, etc.</p>
543.20(d)(2)	<p>Access devices to the systems' secured physical location, such as keys, cards, or fobs, must be controlled by an independent agent.</p>	<p>Intent: To ensure that those who are recipients of the security access tools, are not the same as those who authorize, manage and assign the security access tools.</p> <p>Testing: 1. Verify roles, responsibilities and organizational positions of the personnel responsible for physical access management. 2. Note any potential independent conflicts and effectiveness of managerial oversight.</p>
543.20(d)(3)	<p>Access to the systems' secured physical location must be restricted to agents in accordance with established policies and procedures, which must include maintaining and updating a record of agents granted access privileges.</p>	<p>Intent: To ensure only authorized agents gain access to secured physical locations, in accordance with established Policies and Procedures to include maintaining and updating a ledger or listing of those agents granted access privileges.</p> <p>Testing: Review SICS, TICS, Policies and Procedures also spot check any access logs and review of management's approved Authorized User Access Listing(s).</p>

Citation	Language	Intent and Testing
543.20(d)(4)	<p style="text-align: center;">§ 543.20 (d-e)</p> <p>Network Communication Equipment must be physically secured from unauthorized access.</p>	<p>Intent: To ensure the network infrastructure and equipment, organizational intranet and all incoming and outgoing network communications are secured from unauthorized access.</p> <p>Testing: 1. Verify the software application affected has the proper physical security measures in place that can be tested over the Network Communication Equipment environment. 2. Obtain network communications diagrams to include flow of internal and external data flows, hardware topology and system application flows. 3. Perform physical walkthrough of network communications architecture and facilities to include surveillance and security measures.</p>
543.20(e)(i-iii)	<p><i>Logical security.</i> (1) Controls must be established and procedures implemented to protect all systems and to ensure that access to the following is restricted and secured:</p> <ul style="list-style-type: none"> (i) Systems' software and application programs; (ii) Data associated with Class II gaming; and (iii) Communications facilities, systems, and information transmissions associated with Class II gaming systems. 	<p>Intent: To ensure that all organizational software systems and data and communication systems are restricted from unauthorized access.</p> <p>Testing: Verify the effectiveness of security and operational controls supporting the physical and logical segregation of the organizational intranet and external internet. This can be accomplished by reviewing diagrams and technical documents along with any logs</p>
543.20(e)(2)	<p>Unused services and non-essential ports must be disabled whenever possible.</p>	<p>Intent: To ensure the deactivation or isolation of unused services and non-essential communication and computer ports. Non-essential ports are to be disabled whenever possible.</p> <p>Testing: Review IT Policies and Procedures and perform walkthrough of open ports in vacated offices, cubicles, conference rooms, etc.</p>



Citation	Language	Intent and Testing
543.20 (e)(3)	<p style="text-align: center;">§ 543.20 (e-f)</p> <p>Procedures must be implemented to ensure that all activity performed on systems is restricted and secured from unauthorized access, and logged.</p>	<p>Intent: To ensure that procedures are in place that all activity performed on the computerized system is recorded and / or logged.</p> <p>Testing: Review SICS and IT Policies and Procedures. Review change management documentation, i.e., work requests, job orders, work orders and review access logs.</p>
543.20(e)(4)	<p>Communications to and from systems via Network Communication Equipment must be logically secured from unauthorized access.</p>	<p>Intent: To ensure that electronic communications, to include wireless, copper wire, satellite or cellular, is logically secured from unauthorized access.</p> <p>Testing: 1. Review TICS and SICS and Policies and Procedures. 2. Verify that network security measures are in place to include any necessary routers, firewalls, switches and encryption. 3. Verify that software upgrades to communications equipment is current.</p>
543.20(f)	<p><i>User controls.</i> (1) Systems, including application software, must be secured with passwords or other means for authorizing access.</p>	<p>Intent: To ensure that only authorized system account holders have access to computerized systems, including application software.</p> <p>Testing: 1. Verify that all critical accounting, financial and gaming systems are secured with passwords or other means to limit logical system access. 2. Review user access listings.</p>

Citation	Language	Intent and Testing
543.20(f)(2)	<p style="text-align: center;">§ 543.20 (e-f)</p> <p>Management personnel or agents independent of the department being controlled must assign and control access to system functions.</p>	<p>Intent: To ensure that procedures are in place that all activity performed on the computerized system is recorded and / or logged.</p> <p>Testing: Review SICS and IT Policies and Procedures. Review change management documentation, i.e., work requests, job orders, work orders and review access logs.</p>
543.20(f) 3) (i-iii)(A-C)	<p>Access credentials such as passwords, PINs, or cards must be controlled as follows:</p> <ul style="list-style-type: none"> (i) Each user must have his or her own individual access credential; (ii) Access credentials must be changed at an established interval approved by the TGRA; and (iii) Access credential records must be maintained either manually or by systems that automatically record access changes and force access credential changes, including the following information for each user: <ul style="list-style-type: none"> (A) User's name; (B) Date the user was given access and/or password change; and (C) Description of the access rights assigned to user. 	<p>Intent: To ensure that all authorized access holders meet minimum credential requirements to retain their access permissions.</p> <p>Testing: 1. Review TICS, SICS and group user account holders. 2. Review administrator account parameter settings for group and individual user access settings.</p>



Citation	Language	Intent and Testing
543.20 (f)(4)	<p style="text-align: center;">§ 543.20 (f-g)</p> <p>Lost or compromised access credentials must be deactivated, secured or destroyed within an established time period approved by the TGRA.</p>	<p>Intent: To ensure that lost or stolen user access credentials are deactivated in the minimum time period stated by the TGRA.</p> <p>Testing: Review TICS, SICS, Policies and Procedures and Employee Manuals for employee and IT Management action when compromised credentials are reported.</p>
543.20(f)(5)	<p>Access credentials of terminated users must be deactivated within an established time period approved by the TGRA.</p>	<p>Intent: To ensure that access credentials of terminated users are deactivated in the minimum time period stated by the TGRA.</p> <p>Testing: 1. Review TICS, SICS, Policies and Procedures and Employee Manuals for employee, IT Management and Human Resources action when compromised credentials are reported. 2. Review user access lists for former employees</p>
543.20(f)(6)	<p>Only authorized agents may have access to inactive or closed accounts of other users, such as player tracking accounts and terminated user accounts.</p>	<p>Intent: To ensure that terminated, transferred or resigned personnel accounts are only accessible by, or approved by, TGRA authorized agents.</p> <p>Testing: 1. Review TICS, SICS and IT Policies and Procedures regarding User Network Security and Access activity. 2. Verify appropriate access by comparing access logs/permissions to TICS/SICS/Policies & Procedures.</p>

Citation	Language	Intent and Testing
543.20(g)	<p style="text-align: center;">§ 543.20 (f-g)</p> <p><i>Installations and/or modifications.</i> (1) Only TGRA authorized or approved systems and modifications may be installed.</p>	<p>Intent: To ensure that organizational personnel must first seek approvals of TGRA and IT Management prior to the introduction of outside software or modifications to the network or computerized systems.</p> <p>Testing: Review TICS, SICS and IT Policies and Procedures. Review a sampling of previous change management request forms for proper approvals and signatures.</p>
543.20(g)(2) (i-iv)	<p>Records must be kept of all new installations and/or modifications to Class II gaming systems. These records must include, at a minimum:</p> <ul style="list-style-type: none"> (i) The date of the installation or modification; (ii) The nature of the installation or change such as new software, server repair, significant configuration modifications; (iii) Evidence of verification that the installation or the modifications are approved; and (iv) The identity of the agent(s) performing the installation/modification. 	<p>Intent: To ensure that evidential and supporting documentation is retained for all new installations and modifications to Class II gaming systems.</p> <p>Testing: 1. Review TICS, SICS and IT Policies and Procedures regarding change management and asset management. 2. Review sampling of records retained of records of installations and / or modifications.</p>



Citation	Language	Intent and Testing
543.20 (g)(3)	<p>Documentation must be maintained, such as manuals and user guides, describing the systems in use and the operation, including hardware.</p>	<p>Intent: To ensure that documentation accompanying new or used hardware is retained describing said system in use and it's proper operation, to include hardware systems.</p> <p>Testing: 1. Review sampling of supporting system user manuals, specification sheets, build sheets, etc., and a walkthrough or the secured location(s) where maintained. 2. Documentation may be stored or archived in an approved documentation storage file onsite, or on the vendor / manufacturers website.</p>
543.20(h)(1)(i-vii)	<p><i>Remote access.</i> (1) Agents may be granted remote access for system support, provided that each access session is documented and maintained at the place of authorization. The documentation must include:</p> <ul style="list-style-type: none"> (i) Name of agent authorizing the access; (ii) Name of agent accessing the system; (iii) Verification of the agent's authorization; (iv) Reason for remote access; (v) Description of work to be performed; (vi) Date and time of start of end-user remote access session; and (vii) Date and time of conclusion of end-user remote access session. 	<p>Intent: To ensure remote access connections are secure, approved and accurately recorded / logged.</p> <p>Testing: Review SICS, TICS and IT Policies and Procedures and sampling of remote access session logs. Remote access logs at a minimum must provide bullet points (i) through (vii).</p>

Citation	Language	Intent and Testing
543.20(h)(2)	<p style="text-align: center;">§ 543.20 (g-i)</p> <p>All remote access must be performed via a secured method.</p>	<p>Intent: To ensure that lost or stolen user access credentials are deactivated in the minimum time period stated by the TGRA.</p> <p>Testing: Review TICS, SICS, Policies and Procedures and Employee Manuals for employee and IT Management action when compromised credentials are reported.</p>
543.20(i)	<p><i>Incident monitoring and reporting.</i> (1) Procedures must be implemented for responding to, monitoring, investigating, resolving, documenting, and reporting security incidents associated with information technology systems.</p>	<p>Intent: To ensure expedient and appropriate response to computerized incidents, faults, errors or cyber attacks.</p> <p>Testing: 1. Review TICS, SICS, IT Policies and Procedures and review sampling of Incident Responses and the courses of action taken. 2. Review relevant work orders, job orders or work requests completed to address the incident(s).</p>
543.20(j)(2)	<p>All security incidents must be responded to within an established time period approved by the TGRA and formally documented.</p>	<p>Intent: To ensure all security incidents are responded to and addressed within a practical time period to mitigate the associated incident risk.</p> <p>Testing: Review TICS, SICS, or P&P for a time period established by security incidents should be responded to as soon as possible from the moment of notification.</p>



Citation	Language	Intent and Testing
543.20 (j)(1) (i-v)	<p style="text-align: center;">§ 543.20 (j-I)</p> <p><i>Data backups.</i> (1) Controls must include adequate backup, including, but not limited to, the following:</p> <ul style="list-style-type: none"> (i) Daily data backup of critical information technology systems; (ii) Data backup of critical programs or the ability to reinstall the exact programs as needed; (iii) Secured storage of all backup data files and programs, or other adequate protection; (iv) Mirrored or redundant data source; and (v) Redundant and/or backup hardware. 	<p>Intent: To ensure that adequate data and software backup controls are in place to support expedient organizational data restoration.</p> <p>Testing: 1. Review TICS, SICS and data backup scheduling processes for all application systems hosted by the gaming operation. 2. Verify the secured storage of all backup data files and backup media.</p>
543.20(j) (2)(i-iii)	<p>Controls must include recovery procedures, including, but not limited to, the following:</p> <ul style="list-style-type: none"> (i) Data backup restoration; (ii) Program restoration; and (iii) Redundant or backup hardware restoration. 	<p>Intent: To ensure that organizational controls include data, program, hardware and network restoration and recovery procedures.</p> <p>Testing: 1. Review SICS, TICS and Information Technology Policies and Procedures regarding management of system recovery processes. 2. Review recovery and restoration documentation to include data, programs and redundant hardware.</p>
543.20(j)(3)	<p>Recovery procedures must be tested on a sample basis at specified intervals at least annually. Results must be documented.</p>	<p>Intent: To ensure that organizational recovery procedures are tested annually by Information Technology personnel and IT Management.</p> <p>Testing: 1. Review TICS, SICS and IT Policies and Procedures to routine recovery procedures. 2. Review annual recovery testing documentation for performance and results of recovery test.</p>

Citation	Language	Intent and Testing
543.20(j)(4)	<p>Backup data files and recovery components must be managed with at least the same level of security and access controls as the system for which they are designed to support.</p>	<p>Intent: To ensure that backup data files and recovery components are managed to at least the same stringent level of security as the systems for which they are supporting.</p> <p>Testing: Perform walkthrough of the backup data files physical location for security access restrictions, surveillance monitoring, fire suppression systems and HVAC equipment function.</p>
543.20(k)	<p>Software downloads. Downloads, either automatic or manual, must be performed in accordance with 25 CFR 547.12.</p>	<p>Intent: To ensure that software downloaded to the gaming operation from outside sources, either automatic or manual, is in strict compliance with 25 CFR 547.12.</p> <p>Testing: 1. Review TICS, SICS and Policies and Procedures. Verify that software downloads are delivered through secure methods. 2. Review Class II system records to verify that the Class II system has recorded the (a) date and time of the initiation and (b) completion of any download, (c) the components that received it, (d) the version of the download package and any software downloaded, (e) status of the download attempt (i.e., success or failure), (f), unique identifier of individual conducting or scheduling the download.</p>
543.20(l)	<p><i>Verifying downloads.</i> Following download of any Class II gaming system software, the Class II gaming system must verify the downloaded software using a software signature verification method. Using any method it deems appropriate, the TGRA must confirm the verification.</p>	<p>Intent: To ensure that following the download of Class II gaming system software, the gaming system must verify the download with a software signature verification method, approved by the TGRA.</p> <p>Testing: 1. Review TICS, SICS and Policies and Procedures and verify that software downloads meet requirements. 2. Review records to confirm TGRA verification of software</p>



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25 CFR 543.20 Toolkit

Version 1.0

NIGC Compliance Division

Handout #4 – Exercise 2

Toolkit Exercise

Break into groups, working together read each scenario, and identify the issue(s) and locate the corresponding MICS standard using the IT Toolkit. Then write a finding and include a recommendation.

Scenario #1:

Vendor Z has an always on connection between their service center and the Class II server housed in the tribe's server racks. This connection has been approved by IT Security and by the Gaming Commission since 10/03/2012. The vendor has a staff of properly licensed database admins that utilize the connection to perform daily manual database backups and trouble shooting at the tribe's request. On 01/15/2014 Erik Magnus, the external auditor, asks for a log of all remote access to that server from 12/01/2013 to 12/31/2013. He is given a screenshot of windows usernames and logins for the time period.

MICS REFERENCE: _____

FINDING:

RECOMMENDATION:

Handout #4 – Exercise 2

Scenario #2:

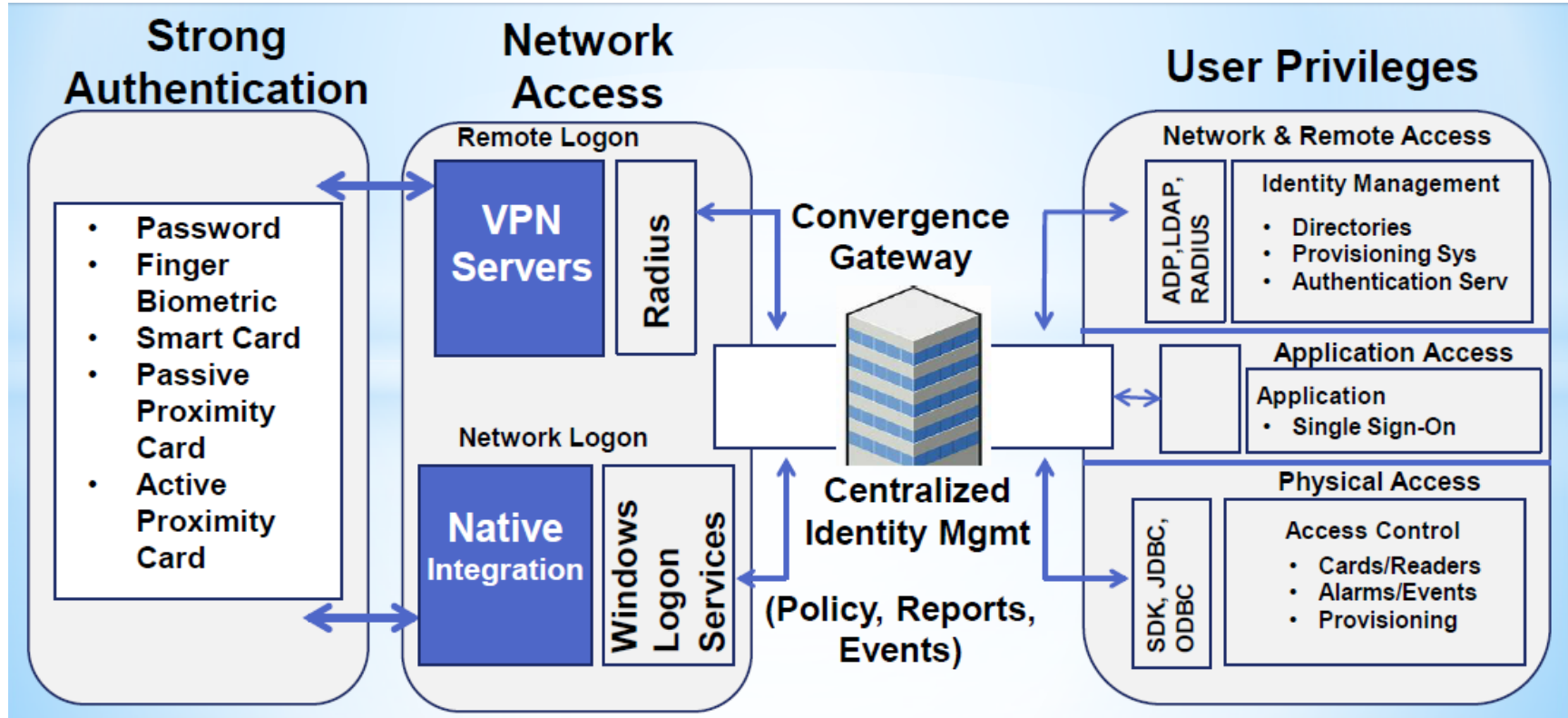
The IT Auditor reviewed the Casinos SICS, mapped the card access (ex. HID Card) and key control process. Based on review of the Casino SICS the Auditor noted that access to physical locations are controlled by a combination of two security measures; card access and physical keys. Both the card access and keys are controlled by software. The IT Manager has access to the key box software in order to change an individual's user group. Access to the card access software is limited to the IT Manager, General Manager and the CEO. The Auditor conducted an interview with the IT Manager and learned that card access is reviewed by the IT Manager when there is a change in job status (i.e. new hire, department transfer or termination). Additionally, an IT audit is performed twice a year. Further the Auditor also learned from the interview that access reports and logs exist within the card access software with no review occurring. However, the IT Manager does audit the key box access log on a weekly basis.

MICS REFERENCE: _____

FINDING:

RECOMMENDATION:

Logical Security



HANDOUT #5

Monthly Logon/Logoff Report

Login	Logout	Group	Computer	Port	Remote IP	Username	Logon Type	Duration
Wed 2017-24-01 03:23:43PM	Wed 2017-24-01 04:25:44PM	Casino Name	DB Server	4025	10.70.158.129	Vendor\Name of individual performing work	Terminal Services	1h 2m 41s
Thur 2017-24-01 03:23:43PM	Thur 2017-24-01 04:25:44PM	Casino Name	DB Server	4076	10.70.158.145	Vendor\Name of individual performing work	Terminal Services	1h 2m 41s
Tue 2017-24-01 03:23:43PM	Tue 2017-24-01 04:25:44PM	Casino Name	DB Server	5284	10.70.158.121	Vendor\Name of individual performing work	Terminal Services	1h 2m 41s

AUD-121 Game Performance Participant Guide



KEY POINTS

AUD-121 Game Performance Participant Guide



Objectives

- Define Statistical Analysis
- Calculate statistics associated with:
 - Pull Tabs
 - Bingo Manual/Electronic
 - Table Games
 - Gaming Machines

2

KEY POINTS



Statistical Analysis

The science of collecting, exploring and presenting large amounts of data to discover underlying patterns and trends.

- *How is it used for Gaming?*



3

KEY POINTS

AUD-121 Game Performance Participant Guide

How is statistical analysis used in gaming?

Start the presentation to see live content. Still no live content? Install the app or get help at [PolleEv.com/app](https://www.polleverywhere.com/app)

KEY POINTS

Poll Title: How is statistical analysis used in gaming?
https://www.polleverywhere.com/free_text_polls/6brvDUomnQOksI5

AUD-121 Game Performance Participant Guide



Pull Tabs



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KEY POINTS

AUD-121 Game Performance Participant Guide



Definitions

- **Win** – the net win resulting from gaming activities.
 - The difference between gambling wins and losses before associated operating expenses
- **Write** – The total amount wagered on Pull Tabs and Bingo.
- **Win-to-Write Hold %** – Win divided by write to determine hold %.

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KEY POINTS

You should be aware of these definitions and how to do the calculations associated with them as appropriate.

AUD-121 Game Performance Participant Guide

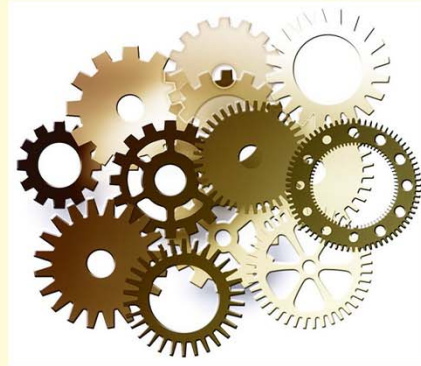


Pull Tab Game Performance Analysis

Integrity



Functionality



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KEY POINTS

AUD-121 Game Performance Participant Guide



Pull Tabs MICS

- 543.9(f)(1-2) (pull tabs) *Statistical records.*
- 543.24(d)(2)(i-iv) (Auditing Revenue)



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KEY POINTS

- (1) Statistical records must be maintained, including (for games sold in their entirety or removed from play) a win-to-write hold percentage as compared to the expected hold percentage derived from the flare.
 - (2) A manager independent of the pull tab operations must review statistical information when the pull tab deal has ended or has been removed from the floor and must investigate any unusual statistical fluctuations. These investigations must be documented, maintained for inspection, and provided to the TGRA upon request.
- (2) *Pull tabs.*
- (i) Daily, verify the total amount of winning pull tabs redeemed each day.
 - (ii) At the end of each month, verify the accuracy of the ending balance in the pull tab control log by reconciling the pull tabs on hand. Investigate and document any variance noted.
 - (iii) At least monthly, compare for reasonableness the amount of pull tabs sold from the pull tab control log to the amount of pull-tab sales.
 - (iv) At least monthly, review statistical reports for any deviations exceeding a specified threshold, as defined by the TGRA. Investigate and document any large and unusual fluctuations noted.

AUD-121 Game Performance Participant Guide



Pull Tab Flare Example

1. Total winning pull tabs? **160**
2. What is the total payout? **\$3,000**
3. What is the total revenue? **\$3,996**
4. What is Theoretical Win? **\$996**
5. What is the Hold%? **25%**

4/4/2018



KEY POINTS

See if you can come up with the answers to these questions.

1. Total winning pull tabs?
2. What is the total payout?
3. What is the total revenue?
4. What is the hold percentage?

AUD-121 Game Performance Participant Guide



Activity #1- Theoretical Win and Hold %

Break into groups, working together review the example Pull Tab Flare. Using your smart phone/calculator, compute the Theoretical Net Win and Hold Percentage and include on the Activity #1 handout.



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KEY POINTS

Activity: How to Calculate Pull Tabs Theoretical Win & Hold Percentage

Individual Work

TIME: 15 minutes

Supplies: (per group)

- Example Flare Handout
- Calculator on your smartphone

Instructions

1. Using the handout and the calculator on your smartphone determine the following:
 - Theoretical Win
 - Hold Percentage

AUD-121 Game Performance Participant Guide



Activity #1- Theoretical Win and Hold %

Activity #1 Calculating Theoretical Win and Hold Percentage

Total Tickets	Cost	Total Revenue
3420	\$2	6,840
# Winners	Ticket Payout	Total Payout
4	\$599	2,396
4	\$300	1,200
8	\$100	800
4	\$50	200
20	\$4	80
240	\$2	480
Total		5,156
Calculate Theoretical Net Win:		1,684
Calculate Theoretical		24.62%

4/4/2018

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KEY POINTS

AUD-121 Game Performance Participant Guide



Practice Calculations

<u>Total Tickets</u>	<u>Cost</u>	<u>Total Revenue</u>
6,000	\$.50	\$ 3,000

<u># winners</u>	<u>Ticket Payout</u>	<u>Total Payout</u>
4	\$200	\$ 800
4	\$50	200
4	\$25	100
8	\$10	80
20	\$5	100
585	\$1	585
Total	\$	1,865



Theoretical Net Win **Theoretical Hold %**
 $\$3,000 - 1,865 =$ **\$1,135** $\$1,135/\$3,000 =$ **37.8%** 12

KEY POINTS

See if you can calculate the Theoretical Net Win and the Theoretical Hold Percentage.

AUD-121 Game Performance Participant Guide



Actual Performance

Note: TICS/ SICS include +-3% for variances.



# Winners	Ticket Payout	Total Payout
5	\$200	\$ 1000
6	\$50	300
2	\$25	50
7	\$10	70
17	\$5	85
383	\$1	383
Total	\$	1,888

Total Tickets	Cost	Total Revenue
3,224	\$ 0.50	\$ 1,612

Win/ (Loss)
\$1,612 - \$1,888 = (\$276)

Hold %
-\$276 / \$1,612 = -17.1%

KEY POINTS

AUD-121 Game Performance Participant Guide



What can happen if pull tab statistical information is shared?

Women charged in pull-tab scam The two used insider information to profit, federal prosecutors say.



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KEY POINTS

Women charged in pull-tab scam

KLAWOCK: The two used inside information to profit, federal prosecutors say.

By NICOLE TSONG

Anchorage Daily News

(Published: April 22, 2003)

Playing pull-tabs is supposed to be a gamble, but federal prosecutors say two Klawock women used inside information to turn the odds in their favor and win \$93,158 over one year.

Janine D. Harmon, 36, and Delores A. Peratrovich, 53, were charged by a federal grand jury last week with one count of conspiracy and three counts of mail fraud each.

Harmon was the manager of gaming operations for Klawock Cooperative Association, according to the indictment. She managed accounting records for pull-tab games and also was a dealer. Money from the games was used to fund the tribe's general operations.

Peratrovich had a similar role at the Klawock Liquor Store, managing pull-tab accounts and dealing pull tabs as the store's manager. Profits from the tabs went to the city of Klawock for education, public safety and heritage, the indictment says.

Klawock, which has about 850 residents, is on the west coast of Prince of Wales Island, 56 air miles west of Ketchikan.

Because of their jobs, both women were prohibited from playing pull-tabs at their respective organizations.

Pull-tabs are usually sold to customers for \$1 per ticket with a set number of winning tickets in every batch. A typical game has odds of about 86 percent, which means if someone bought all the tickets in a game, they would win 86 cents for every dollar wagered and lose 14 cents, the indictment says.

But Harmon and Peratrovich traded inside knowledge learned on the job about which games had sold most tickets but still had winning tickets left, unfairly increasing their odds of scoring money, the indictment charges.

"Playing these games with inside information is no longer 'gambling' because the player knows that if they buy all of the remaining tickets, their winnings are guaranteed to exceed their wager," the indictment says.

From September 2000 to September 2001, Harmon won \$27,963 playing at the liquor store on games including Crazy 8's, Gold Digger and Iditarod, and Fountain of Loot.

On one day, she scored \$2,554, according to the indictment. Peratrovich won \$66,195 playing the games from the tribe, such as Hey Diddle Diddle, Gold Digger and I Love You Man. On her best day, she won \$3,030, the indictment said.

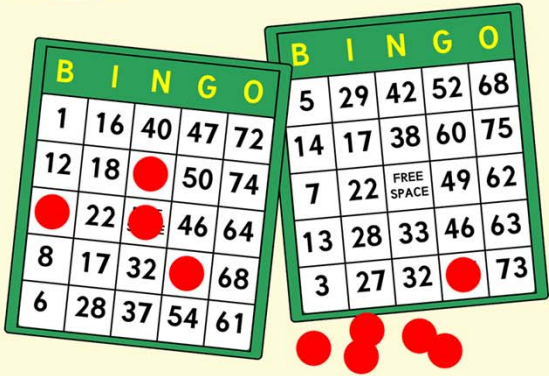
The mail fraud charges are based on the pair's ordering the pull-tabs through the mail, intending to cheat on the games, according to the indictment.

They face a maximum of five years in prison and a fine of \$250,000 for each count.

AUD-121 Game Performance Participant Guide



Bingo (Session)



KEY POINTS

AUD-121 Game Performance Participant Guide



BINGO - Game Performance Analysis

Integrity



Functionality



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KEY POINTS

AUD-121 Game Performance Participant Guide



Bingo MICS

- 543.8(l) (Bingo) *Variance*.
- 543.24(d)(1)(i-v)(Auditing Revenue)



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KEY POINTS

(l) Variance. The operation must establish, as approved by the TGRA, the threshold level at which a variance, including deviations from the mathematical expectations required by 25 CFR 547.4, will be reviewed to determine the cause. Any such review must be documented.

(1) Bingo.

- At the end of each month, verify the accuracy of the ending balance in the bingo control log by reconciling it with the bingo paper inventory. Investigate and document any variance noted.
- Daily, reconcile supporting records and documents to summarized paperwork or electronic records (e.g. total sales and payouts per shift and/or day).
- At least monthly, review variances related to bingo accounting data in accordance with an established threshold, which must include, at a minimum, variance(s) 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. Investigate and document any variance noted.
- At least monthly, review statistical reports for any deviations from the mathematical expectations exceeding a threshold established by the TGRA. Investigate and document any deviations compared to the mathematical expectations required to be submitted per §547.4.
- At least monthly, take a random sample, 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.



Bingo (Session)

Bingo statistical reports

Win, write, and win-to-write hold %

- Shift or session
- Day
- Month-to-date
- Year-to-date



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KEY POINTS

AUD-121 Game Performance Participant Guide



Bingo (Session)

Bingo Session Summary

January 6, 2017

	Sales	Payouts	Net	Hold
Packages	\$26,500	\$13,200		
Upgrades	4,380			
Total	\$30,880	\$13,200	\$17,680	
Warm ups	\$4,655	\$2,000	\$2,655	57.04%
Early Birds	3,102	1,500	1,602	51.64%
EZ Bingo	876	550	326	37.21%
Crazy T	1,191	700	491	41.23%
Mega Jackpot	5,026	5,500	(474)	-9.43%
Letter X	1,630	1,500	130	7.98%
Inside frame	1,128	650	478	42.38%
Super Jackpot	9,756	11,000	(1,244)	-12.75%
Grand Total	\$58,244	\$36,600	\$21,644	37.16%

KEY POINTS

AUD-121 Game Performance Participant Guide



Bingo (Session)

Bingo Monthly Summary - January Statistics

Prior FY 31.07%

	Sales	Payouts	Net	Hold
1/06/2017	\$ 58,244	\$ 36,600	\$ 21,644	37.16%
1/07/2017	39,756	30,598	9,158	23.04%
1/13/2017	52,746	42,198	10,548	20.00%
1/14/2017	43,156	37,895	5,261	12.19%
1/20/2017	59,431	43,589	15,842	26.66%
1/21/2017	36,089	32,156	3,933	10.90%
1/27/2017	58,165	37,845	20,320	34.94%
1/28/2017	45,678	34,567	11,111	24.32%
Month to date	\$ 393,265	\$ 295,448	\$ 97,817	24.87%

KEY POINTS

AUD-121 Game Performance Participant Guide



Bingo (Session)

Bingo Annual Summary - Year to Date

Note: TICS/ SICS include +-3% for variances.

Prior FY	31.07%
----------	--------

	Sales	Payouts	Net	Hold
Oct-16	\$451,023	\$321,232	\$129,791	28.78%
Nov-16	\$402,209	\$285,857	\$116,352	28.93%
Dec-16	\$364,421	\$282,632	\$81,789	22.44%
Jan-17	\$393,265	\$295,448	\$97,817	24.87%
Year to Date	\$1,610,918	\$1,185,169	\$425,749	26.43%

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KEY POINTS

AUD-121 Game Performance Participant Guide



Bingo (Electronic)

4 CORNERS IN 4 BALLS
\$2,669.36

GAME NUMBER: 837681153 BALLS DRAWN: 38

CREDIT BET: \$18.68 WIN: 50

7 19 36 51 71
8 25 42 48 66
10 20 25 59 64
4 28 37 47 68
12 17 33 53 67

Card# 84100531 - Acard# 832016

Congratulations!
Respins Feature Completed
Playing 5 Reels for 50 Credits
Three RAVEN win 500 x 3 = 1500

REEL POWER

9 Q A 10 Q 9
10 J 10

CASH OUT HELP SEE PAYS PLAY

22

KEY POINTS

Next we will look at electronic bingo.

AUD-121 Game Performance Participant Guide



543 MICS & Technical Standards

543.8(l) (Bingo) *Variance*.

543.24(d)(1)(i-v)(Auditing Revenue)

547.4(a) (Fairness)

23

KEY POINTS

§ 547.4 What are the rules of general application for this part?

(a) *Fairness*. No Class II gaming system may cheat or mislead users. All prizes advertised must be available to win during the game. A test laboratory must calculate and/or verify the **mathematical expectations of game play**, where applicable, in accordance with the manufacturer stated submission. The results must be included in the test laboratory's report to the TGRA. At the request of the TGRA, the manufacturer must also submit the mathematical expectations of the game play to the TGRA.

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

(l) *Variance*. The operation must establish, as approved by the TGRA, the threshold level at which a variance, including deviations from the **mathematical expectations** required by 25 CFR 547.4, will be reviewed to determine the cause. Any such review must be documented.

§ 543.24 What are the minimum internal control standards for auditing revenue?

(iv) At least monthly, review statistical reports for any deviations from the **mathematical expectations** exceeding a threshold established by the TGRA. Investigate and document any deviations compared to the **mathematical expectations** required to be submitted per § 547.4.

AUD-121 Game Performance Participant Guide



Activity #2- Bingo Game Variances

Break into groups, working together review the example Bingo statistical report. Identify which bingo games, if any, are considered a variance and require an investigation. Include investigative procedures that could be performed and documentation to be reviewed. Circle the variances on the Activity #2 handout and include procedures and documentation.

Note: TICS/ SICS include +3% for variances.



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KEY POINTS

Activity: Bingo Game Variance and Investigations

Individual Work

TIME: 20 minutes

Supplies: (per group)

- Example Bingo Game Statistical Report
- Calculator on your smartphone

Instructions

1. Using the handout, identify the Bingo Game variances and determine which machines, if any, require an investigation. Include recommended investigation procedures and types of documentation needed to be reviewed.

AUD-121 Game Performance Participant Guide



Activity #2



Game	MNum	PAR	Coin In	Coin Out	Win	Actual Hold %	Variance
Bingo Game XXX	790305	3.23%	304,010	332,497	-28,487	-8.57%	-11.80%
	790313	3.23%	299,060	289,110	9,950	3.44%	0.21%
	790340	3.23%	243,570	265,755	-23,185	-8.69%	-11.92%
	790356	3.23%	169,630	161,405	8,225	5.10%	1.87%
	790360	3.23%	238,110	255,280	-17,170	-6.73%	-9.96%
	790473	3.23%	259,170	240,340	18,830	7.83%	4.60%
	790474	3.23%	343,395	351,606	-8,211	-2.34%	-5.57%
	790551	3.23%	579,440	604,865	-25,425	-4.20%	-7.43%
	790579	3.23%	664,995	670,197	-5,202	-0.78%	-2.68%
	790611	3.23%	300,775	298,724	2,051	0.69%	-2.54%
	790612	3.23%	442,465	474,125	-31,660	-6.68%	-9.91%
Game Total	3.23%	3,844,620	3,944,905	-100,285	-2.61%	-5.84%	
Bingo Game YYY	605673	3.52%	230,886	246,649	-15,763	-6.83%	-10.35%
	605847	3.52%	248,558	244,783	3,775	1.52%	-2.00%
	605864	3.52%	175,559	167,756	7,803	4.44%	0.92%
	605979	3.52%	217,833	214,312	3,521	1.62%	-1.90%
	606015	3.52%	195,241	191,026	4,215	2.16%	-1.36%
	606228	3.52%	247,255	232,465	14,790	5.98%	2.46%
	606275	3.52%	283,053	296,447	-13,394	-4.73%	-8.25%
	606352	3.52%	155,355	148,871	6,484	4.17%	0.65%
	606391	3.52%	173,528	168,950	4,578	2.64%	-0.88%
	606399	3.52%	229,076	219,542	9,534	4.16%	0.64%
	606466	3.52%	240,460	228,610	11,850	4.93%	1.41%
Game Total	3.52%	2,396,804	2,359,411	37,393	1.56%	-1.96%	
Bingo Game ZZZ	580144	4.73%	118,750	111,084	7,665	6.45%	1.72%
	580146	4.73%	105,320	111,448	-6,129	-5.82%	-10.55%
	580151	4.73%	113,179	121,249	-8,071	-7.13%	-11.86%
	580157	4.73%	106,319	106,622	-304	-0.29%	-5.02%
	580158	4.73%	146,838	159,085	-12,247	-8.34%	-13.07%
	580160	4.73%	110,854	103,358	7,496	6.76%	2.03%
	580168	4.73%	101,095	92,834	8,261	8.17%	3.44%
	580169	4.73%	107,234	100,742	6,493	6.05%	1.32%
	580180	4.73%	166,197	175,703	-9,506	-5.72%	-10.45%
	580183	4.73%	150,141	154,870	-4,729	-3.15%	-7.88%
	580196	4.73%	139,488	145,283	-5,796	-4.15%	-8.88%
Game Total	4.73%	1,365,412	1,382,279	-16,867	-1.24%	-5.97%	

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KEY POINTS

Activity: Which of these Bingo Games would you investigate?

Group Work

TIME: 30 minutes

Supplies: (per group)

- Handout Bingo Machine Results Report (same as table on slide)

Instructions

1. Break up into small groups.
2. Review the data for each bingo machine and determine which of the numbers may trigger an investigation and why.
3. Participate in class discussion.

AUD-121 Game Performance Participant Guide



Activity #2



Game	MNum	PAR	Coin In	Coin Out	Win	Actual Hold %	Variance
Bingo Game XXX	790305	3.23%	304,010	332,497	-28,487	-8.57%	-11.80%
	790313	3.23%	299,060	289,110	9,950	3.44%	0.21%
	790340	3.23%	243,570	266,755	-23,185	-8.69%	-11.92%
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	790579	3.23%	664,995	670,197	-5,202	-0.78%	2.68%
	790611	3.23%	300,775	298,724	2,051	0.69%	-2.54%
	790612	3.23%	442,465	474,125	-31,660	-6.68%	-9.91%
Game Total		3.23%	3,844,620	3,944,905	-100,285	-2.61%	-5.84%
605673	3.52%	230,886	246,649	-15,763	-6.83%	-10.35%	

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KEY POINTS

Activity: Which of these machines would you investigate?

Group Work

TIME: 30 minutes

Supplies: (per group)

- Handout Bingo Machine Results Report (same as table on slide)

Instructions

1. Break up into small groups.
2. Review the data for each bingo machine and determine which of the numbers may trigger an investigation and why.
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AUD-121 Game Performance Participant Guide



Activity #2



	Total						
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	580180	4.73%	166,197	175,703	-9,506	-5.72%	-10.45%
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	580196	4.73%	139,488	145,283	-5,796	-4.15%	-8.88%
	Game Total	4.73%	1,365,412	1,382,279	-16,867	-1.24%	-5.97%

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KEY POINTS

Activity: Which of these machines would you investigate?

Group Work

TIME: 30 minutes

Supplies: (per group)

- Handout Bingo Machine Results Report (same as table on slide)

Instructions

1. Break up into small groups.
2. Review the data for each bingo machine and determine which of the numbers may trigger an investigation and why.
3. Participate in class discussion.

AUD-121 Game Performance Participant Guide



Table Games



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KEY POINTS

Next well look at table games.

AUD-121 Game Performance Participant Guide



TABLE GAMES Performance Analysis

Integrity



Functionality



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KEY POINTS

AUD-121 Game Performance Participant Guide



What can happen if you do NOT perform analysis of games

[Co-Founder of Casino-Cheating Criminal Enterprise Sentenced to 36 Months in Prison for Targeting Casinos Across the United States](#)



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KEY POINTS

Link to the DOJ story: <https://www.justice.gov/opa/pr/co-founder-casino-cheating-criminal-enterprise-sentenced-36-months-prison-targeting-casinos>

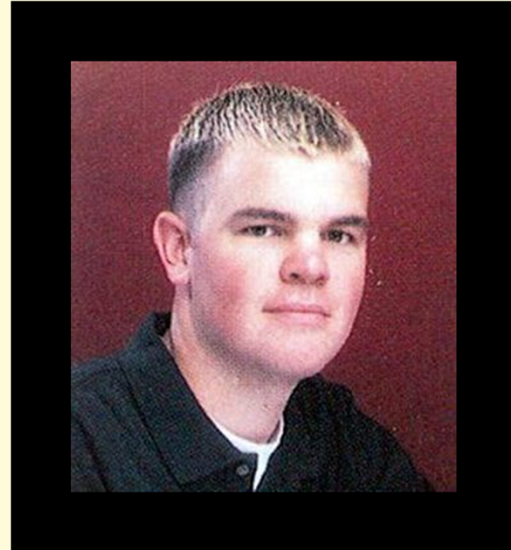
There was also a show made based on this called American Greed Episode 62 Blackjack Cheaters

AUD-121 Game Performance Participant Guide



What can happen if you do NOT perform analysis of games

Seattle Mayor's son indicted



KEY POINTS

Link to story about Jacob Nickels indictment: <https://www.seattletimes.com/seattle-news/nickels-son-indicted-with-dozens-in-scheme-to-cheat-casinos/>



§3. What are the minimum internal control standards for table games?

(g) Analysis of table game performance standards.

(1) Single Deck Black Jack...

(2)-(5) Hold percentage by table, type of game, shift, day, cumulative month-to-date, and cumulative year-to-date.

Reviewed by independent management at least monthly and investigate and document large variances.

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KEY POINTS

AUD-121 Game Performance Participant Guide



Table Games Definitions

What is the Win equal to?

What is the Drop equal to?

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KEY POINTS

What are the definitions for each of these terms?

AUD-121 Game Performance Participant Guide



Activity #3- Table Games Theo Win and Hold %

Break into groups, working together review the example Table Games statistical report. Using your smart phone/calculator, compute the Hold% and Variance for each Table Game Type identified and include on the Activity #3 handout.



Note: TICS/ SICS include +-3% for variances.

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KEY POINTS

Activity: How to Calculate Table Games Hold Percentage and Variance

Individual Work

TIME: 20 minutes

Supplies: (per group)

- Example Table Games Statistical Report Handout
- Calculator on your smartphone

Instructions

1. Using the handout and the calculator on your smartphone determine the following:
 - Hold Percentage
 - Variance

AUD-121 Game Performance Participant Guide



Activity #3



Summary	Table Type	Drop	Win	Hold%	Base Hold %	Variance
Baccarat	Mini Baccarat	5,304,711	241,471		8.1%	
	Midi Baccarat	8,237,637	1,606,784		13.1%	
	EZ Baccarat	807,290	102,370		16.5%	
	Baccarat Total:	14,349,638	1,950,625		11.7%	
BlackJack	BlackJack	5,921,554	541,128		18.6%	
	Single Deck BlackJack	1,064,592	211,312		20.9%	
	Double Deck BlackJack	7,067,915	1,124,432		15.6%	
	SW BlackJack	494,857	117,249		25.3%	
	Free Bet BlackJack	682,476	150,106		20.3%	
	Spanish 21	231,629	70,109		30.7%	
	Bet em All	734,762	111,572		19.00%	
	BlackJack Total:	16,197,785	2,325,908		17.8%	
	Pai Gow	1,175,740	303,635		29.4%	
Specialty	Three Card Poker	547,012	236,739		35.7%	
	Four Card Poker	463,142	142,054		34.7%	
	Ultimate Hold'em	484,495	177,391		35.3%	
	Dealer Bluff	567,054	195,049		31.0%	
	American Roulette	1,317,756	353,373		25.3%	
	Craps	673,395	148,112		20.6%	
	Mississippi Stud	434,817	140,717		34.5%	
	Seven Up Pai Gow	465,190	214,686		30.00%	
	Specialty Total:	6,128,601	1,911,756		29.6%	
	Grand Total	36,676,024	6,188,289		24.5%	

4/4/2018

KEY POINTS

AUD-121 Game Performance Participant Guide



Activity #3



Summary	Table Type	Drop	Win	Hold%	Base Hold %	Variance
Baccarat	Mini Baccarat	5,304,711	241,471	4.6%	8.1%	-3.5%
	Midi Baccarat	8,237,637	1,606,784	19.5%	13.1%	6.4%
	EZ Baccarat	807,290	102,370	12.7%	16.5%	-3.8%
	Baccarat Total:	14,349,638	1,950,625	13.6%	11.7%	1.9%
BlackJack	BlackJack	5,921,554	541,128	9.1%	18.6%	-9.5%
	Single Deck BlackJack	1,064,592	211,312	19.8%	20.9%	-1.1%
	Double Deck BlackJack	7,067,915	1,124,432	15.9%	15.6%	0.3%
	SW BlackJack	494,857	117,249	23.7%	25.3%	-1.6%
	Free Bet BlackJack	682,476	150,106	22.0%	20.3%	1.7%
	Spanish 21	231,629	70,109	30.3%	30.7%	-0.4%
	Bet em All	734,762	111,572	15.2%	19.00%	-3.8%
	BlackJack Total:	16,197,785	2,325,908	14.4%	17.8%	-3.4%
Specialty	Pai Gow	1,175,740	303,635	25.8%	29.4%	-3.6%
	Three Card Poker	547,012	236,739	43.3%	35.7%	7.6%
	Four Card Poker	463,142	142,054	30.7%	34.7%	-4.0%
	Ultimate Hold'em	484,495	177,391	36.6%	35.3%	1.3%
	Dealer Bluff	567,054	195,049	34.4%	31.0%	3.4%
	American Roulette	1,317,756	353,373	26.8%	25.3%	1.5%
	Craps	673,395	148,112	22.0%	20.6%	1.4%
	Mississippi Stud	434,817	140,717	32.4%	34.5%	-2.1%
	Seven Up Pai Gow	465,190	214,686	46.2%	30.00%	16.2%
	Specialty Total:	6,128,601	1,911,756	31.2%	29.6%	1.6%
	Grand Total	36,676,024	6,188,289	16.9%	24.5%	-7.6%

4/4/2018

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KEY POINTS

AUD-121 Game Performance Participant Guide



Records by Table

Table	TT	Drop Information		Markers	Marker Payments			Stat Win	Hold %
		Cash	Stat Drop	Issued	Cash	Chips	Transfer		
BC-1	MB	39,155	39,155	-	-	-	-	14,900	38.05%
BC-2	MB	32,669	32,669	-	-	-	-	17,929	54.88%
BC-3	MB	323,969	323,969	-	-	-	-	56,214	17.35%
BC-4	MB	1,153,635	1,153,635	-	-	-	-	(73,285)	-6.35%
BC-5	MB	1,926,447	1,926,447	-	-	-	-	143,877	7.47%
BC-6	MB	1,821,836	1,828,836	7,000	-	-	7,000	81,836	4.47%
BC-7	MD	1,046,017	1,053,017	7,000	-	-	7,000	140,627	13.35%
BC-8	MD	1,635,620	1,731,220	95,600	-	5,000	90,600	323,660	18.70%
BC-9	MD	1,747,246	1,827,246	80,000	-	8,000	72,000	444,676	24.34%
BC-10	MD	743,115	824,115	81,000	-	4,000	77,000	13,365	1.62%
BC-11	EZ	807,290	807,290	-	-	-	-	102,370	12.68%
BJ-1	BJ	49,803	49,803	-	-	-	-	10,976	22.04%
BJ-2	BJ	441,239	441,239	-	-	-	-	98,239	22.26%
BJ-3	BJ	37,419	37,419	-	-	-	-	914	2.44%
BJ-4	BJ	38,669	38,669	-	-	-	-	9,749	25.21%
BJ-5	BJ	471,525	473,025	1,500	-	500	1,000	74,255	15.70%
BJ-6	BJ	22,606	22,606	-	-	-	-	(6,594)	-29.17%
BJ-7	BJ	19,730	19,730	-	-	-	-	460	2.33%
BJ-8	BJ	22,500	22,500	-	-	-	-	3,015	13.40%
BJ-9	BJ	18,493	18,493	-	-	-	-	1,568	8.48%
BJ-10	BJ	29,322	29,322	-	-	-	-	6,432	21.94%
BJ-11	BJ	27,286	27,286	-	-	-	-	8,291	30.39%
BJ-12	BJ	100,163	100,163	-	-	-	-	(10,647)	-10.63%
BJ-13	BJ	470,336	470,336	-	-	-	-	71,176	15.13%
BJ-14	BJ	2,139,403	2,336,483	197,080	-	142,580	54,500	218,943	9.37%
BJ-15	BJ	653,150	691,150	38,000	-	12,000	26,000	(65,680)	-9.50%
BJ-16	BJ	47,874	47,874	-	-	-	-	(3,557)	-7.43%
BJ-17	BJ	26,429	26,429	-	-	-	-	(10,096)	-38.20%
BJ-18	BJ	25,563	25,563	-	-	-	-	2,898	11.34%
BJ-19	BJ	54,423	55,423	1,000	-	-	1,000	17,473	31.53%
BJ-20	BJ	98,598	98,598	-	-	-	-	(10,242)	-10.39%
BJ-21	BJ	108,892	108,892	-	-	-	-	17,692	16.25%
BJ-22	BJ	50,417	50,417	-	-	-	-	(2,573)	-5.10%

KEY POINTS

Refer to the handout titled Records by Table which looks similar to the table on the slide.

AUD-121 Game Performance Participant Guide



Daily Table Records

Patron	Total	01-Aug	02-Aug	03-Aug	04-Aug	05-Aug	06-Aug	07-Aug	08-Aug
AAAAAAA	(157.7)	-	-	(32.6)	-	-	-	-	(29.4)
BBBBBBB	(132.4)	-	-	-	-	(26.8)	(101.0)	-	-
CCCCCCC	(90.0)	(0.4)	0.7	(1.3)	(7.9)	11.8	-	-	-
DDDDDDD	(35.2)	-	-	-	-	-	-	-	-
EEEEEEE	(27.0)	-	-	-	-	-	(30.2)	(16.1)	-
FFFFFFF	(22.6)	-	-	-	-	-	-	-	-

Patron	Total	09-Aug	10-Aug	11-Aug	12-Aug	13-Aug	14-Aug	15-Aug	16-Aug
AAAAAAA	(157.7)	-	-	-	-	-	-	-	-
BBBBBBB	(132.4)	-	-	(22.0)	-	-	-	-	-
CCCCCCC	(90.0)	-	-	-	-	-	-	(69.4)	(9.3)
DDDDDDD	(35.2)	-	-	(4.9)	(19.0)	-	-	-	-
EEEEEEE	(27.0)	-	-	-	-	8.0	(39.7)	-	25.0
FFFFFFF	(22.6)	-	-	-	-	-	-	-	-

Patron	Total	17-Aug	18-Aug	19-Aug	20-Aug	21-Aug	22-Aug	23-Aug	24-Aug
AAAAAAA	(157.7)	(37.3)	-	(37.9)	-	-	-	-	-
BBBBBBB	(132.4)	-	-	174.4	(157.0)	-	-	-	-
CCCCCCC	(90.0)	(57.3)	43.1	-	-	-	-	-	-
DDDDDDD	(35.2)	-	-	14.0	(20.8)	-	-	-	-
EEEEEEE	(27.0)	-	-	-	-	-	-	-	-
FFFFFFF	(22.6)	-	-	-	-	-	-	-	-

Patron	Total	25-Aug	26-Aug	27-Aug	28-Aug	29-Aug	30-Aug	31-Aug
AAAAAAA	(157.7)	-	-	-	-	(20.5)	-	-
BBBBBBB	(132.4)	-	-	-	-	-	-	-
CCCCCCC	(90.0)	-	-	-	-	-	-	-
DDDDDDD	(35.2)	-	-	-	-	-	-	(4.5)
EEEEEEE	(27.0)	-	-	-	-	26.1	-	-
FFFFFFF	(22.6)	-	-	-	(22.6)	-	-	-

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KEY POINTS

Refer to the handout titled Records by Table which looks similar to the table on the slide.

AUD-121 Game Performance Participant Guide



Gaming Machines



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KEY POINTS

Next we will look at gaming machines.

AUD-121 Game Performance Participant Guide



GAMING MACHINE Performance Analysis

Integrity



Functionality



40

KEY POINTS



Class III MICS Guidance

§4. What are the minimum internal control standards for gaming machines?

(h) Standards for evaluating theoretical and actual hold percentages.

(1)-(6) Par sheets, multi-game machines, adjusted theoretical holds, and manufacture performance standards.

**Having an
ACCURATE THEORETICAL HOLD %**

41

KEY POINTS

Review your handout for this set of standards and note where it makes reference to Accurate Theoretical Hold %

AUD-121 Game Performance Participant Guide



Class III MICS Guidance

(h) Standards for evaluating theoretical and actual hold percentages cont...

(7)-(13) Records of changes to machines, functioning meters and meter readings.

**Having an
ACCURATE ACTUAL HOLD %**

42

KEY POINTS

Review your handout for this set of standards and note where it makes reference to Accurate Theoretical Hold %



Class III MICS Guidance

(h) Standards for evaluating theoretical and actual hold percentages cont...

(14)-(18) Monthly statistical report, not commingling various hold percentages or distorting actual, review of monthly reports and investigations of large variances.

Comparing ACTUAL to THEORETICAL

43

KEY POINTS

Review your handout for this set of standards and note where it makes reference to comparing Actual to Theoretical

AUD-121 Game Performance Participant Guide



PAR Sheet

Total Game Outcomes	262,144
Winning Outcomes	35,424
Losing Outcomes	226,720
Total Coin In	\$786,432
Total Coin Out	\$747,190
Total Win	\$39,242
Theoretical Hold %	4.99%
Theoretical Win %	95.01%
4/4/2018	

Reel Strip Number 6179 HOLD % 4.991 Denomination:
 MODEL #: KK2PX PAYTABLE 1074209
 90% Confidence value, 10,000,000 pulls- LOW #: 94.04 HIGH #: 95.10

COIN	PERCENT	HIT	TOTAL HITS	TOTAL PAYS	SYM	NUMBER / REEL
#	PAY BACK	FREQ				R1 R2 R3
1	88.427%	12.769%	33474	231780	---	23 25 30
2	93.361%	13.513%	35424	489480	1B	8 12 14
3	95.009%	13.513%	35424	747180	2B	12 10 4
					3B	6 4 6
					7	9 9 6
					27	6

This is a 3 reel, 3 Coin 64 stop machine. Reel Combs: 262144

PAY COMBO	# PER REEL	HITS	PULLS/HIT	PAYS	TOTAL PAY
23 25 30	Coin # 2	17250	15	2	34500
23 25 30	Coin # 3	17250	15	2	34500
AD AB AB	26 26 24	14256	18	10	142560
AD AB AB	Coin # 2	14256	18	10	142560
AD AB AB	Coin # 3	14256	18	10	142560
1B 1B 1B	8 12 14	1344	195	20	26880
1B 1B 1B	Coin # 2	1344	195	20	26880
1B 1B 1B	Coin # 3	1344	195	20	26880
2B 2B 2B	12 10 4	480	546	40	19200
2B 2B 2B	Coin # 2	480	546	40	19200
2B 2B 2B	Coin # 3	480	546	40	19200
3B 3B 3B	6 4 6	144	1820	60	8640
3B 3B 3B	Coin # 2	144	1820	60	8640
3B 3B 3B	Coin # 3	144	1820	60	8640

SS:6179 3R3BM BM EPC:95.009 HTFC:13.513 P:M 15:32:20 1-DEC-94 Page: 2

PAY COMBO	# PER REEL	HITS	PULLS/HIT	PAYS	TOTAL PAY
A7 A7 A7	15 13 10	0	*****	0	0
A7 A7 A7	Coin # 2	1368	192	100	136800
A7 A7 A7	Coin # 3	1368	192	200	273600
7 7 7	9 9 6	0	*****	0	0
7 7 7	Coin # 2	486	539	150	72900
7 7 7	Coin # 3	486	539	300	145800
27 27 27	6 4 4	0	*****	0	0
27 27 27	Coin # 2	96	2731	500	48000
27 27 27	Coin # 3	96	2731	1000	96000

Total hits 38424 Total Coins Paid 747190

KEY POINTS

AUD-121 Game Performance Participant Guide



Confidence Value for Par Sheet

Reel Strip Number 6179 HOLD % 4.991 Denomination:
 MODEL # : XK29X PAYTABLE 107A209
 90% Confidence value, 10,000,000 pulls-- LOW %: 94.84 HIGH %: 95.18

COIN #	PERCENT PAY BACK	HIT FREQ	TOTAL HITS	TOTAL PAYS	SYM	NUMBER / REEL		
						R1	R2	R3
1	88.417%	12.769%	33474.	231780.	--	23	25	30
2	93.361%	13.513%	35424.	489480.	1B	8	12	14
3	95.009%	13.513%	35424.	747180.	2B	12	10	4
					3B	6	4	6
					7	9	9	6
					Z7	6	4	4

This is a 3 reel , 3 Coin 64 stop machine. Reel Combos : 262144.

HANDLE PULLS	90% CONFIDENCE VALUES	
	LOWER PERCENTAGE	UPPER PERCENTAGE
1000.	77.63	112.39
10000.	89.51	100.50
100000.	93.27	96.75
1000000.	94.46	95.56
10000000.	94.84	95.18

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KEY POINTS

AUD-121 Game Performance Participant Guide



Activity #4- Gaming Machine Variances and Investigations

Break into groups, working together review the example Gaming Machine statistical report. Identify which gaming machines, if any, are considered a variance and require an investigation. Include investigative procedures that could be performed and documentation to be reviewed. Circle the variances on the Activity #4 handout and include procedures and documentation.

Note: TICS/ SICS include $\pm 3\%$ for variances.



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KEY POINTS

Activity: Gaming Machine Variance and Investigations

Individual Work

TIME: 20 minutes

Supplies: (per group)

- Example Gaming Machine Statistical Report
- Calculator on your smartphone

Instructions

1. Using the handout, identify the gaming machine variances and determine which machines, if any, require an investigation. Include recommended investigation procedures and types of documentation needed to be reviewed.

AUD-121 Game Performance Participant Guide

Mach #	Denom		Coin In	Gross Drop	JP+TK	Net Win	Theo	Act %	Var %	Estimated Dollar Var
1413	0.01	MTD	47,983	30,897	26,507	4,390	5.08%	9.15%	4.07%	1,952
		YTD	651,438	374,051	340,768	33,283	5.08%	5.11%	0.03%	190
		LTD	3,061,760	1,795,445	1,533,455	261,989	5.08%	8.56%	3.48%	106,452
1414	0.01	MTD	45,840	30,221	25,825	4,396	5.08%	9.59%	4.51%	2,067
		YTD	740,070	430,278	408,016	22,262	5.08%	3.01%	-2.07%	-15,333
		LTD	4,218,400	2,495,613	2,366,492	129,121	5.08%	3.06%	-2.02%	-85,174
1415	0.01	MTD	118,109	38,444	35,176	3,268	2.60%	2.77%	0.17%	198
		YTD	1,111,700	347,310	334,320	12,990	2.60%	1.17%	-1.43%	-15,915
		LTD	6,559,033	2,014,397	1,972,489	41,908	2.60%	0.64%	-1.96%	-128,627
1416	0.01	MTD	112,876	40,365	38,111	2,254	2.60%	2.00%	-0.60%	-681
		YTD	1,366,211	509,267	498,022	11,244	2.60%	0.82%	-1.78%	-24,277
		LTD	5,054,980	1,935,213	1,942,287	-7,074	2.60%	-0.14%	-2.74%	-138,504
1418	0.01	MTD	92,205	45,405	47,743	-2,338	3.54%	-2.54%	-6.08%	-5,602
		YTD	960,736	511,438	512,594	-1,155	3.54%	-0.12%	-3.66%	-35,165
		LTD	5,476,194	2,966,343	3,024,303	-57,960	3.54%	-1.06%	-4.60%	-251,817
1419	0.01	MTD	133,574	65,464	85,419	-19,955	5.02%	-14.94%	-19.96%	-26,660
		YTD	1,565,406	759,790	780,381	-20,591	5.02%	-1.32%	-6.34%	-99,175
		LTD	5,792,003	2,887,201	2,926,429	-39,228	5.02%	-0.68%	-5.70%	-329,987
2063	1.00	MTD	85,745	63,611	63,774	-163	5.02%	-0.19%	-5.21%	-4,467
		YTD	2,753,754	1,448,854	1,319,426	129,428	5.02%	4.70%	-0.32%	-8,810
		LTD	15,696,398	8,403,353	7,652,671	750,682	5.02%	4.78%	-0.24%	-37,277
2064	1.00	MTD	81,083	63,088	42,428	20,660	5.02%	25.48%	20.46%	16,590
		YTD	2,490,519	1,374,846	1,258,616	116,230	5.02%	4.67%	-0.35%	-8,794
		LTD	11,705,439	6,599,261	6,167,218	432,042	5.02%	3.69%	-1.33%	-155,571
2065	1.00	MTD	122,701	77,303	67,606	9,697	5.02%	7.90%	2.88%	3,537
		YTD	2,440,102	1,357,552	1,234,949	122,603	5.02%	5.02%	0.00%	110
		LTD	13,908,581	7,873,802	7,175,054	698,748	5.02%	5.02%	0.00%	537
2066	1.00	MTD	131,135	79,249	77,885	1,364	5.00%	1.04%	-3.96%	-5,193
		YTD	2,331,900	963,991	1,245,327	-281,336	5.00%	-12.06%	-17.06%	-397,931
		LTD	10,959,930	4,627,157	5,728,506	-1,101,350	5.00%	-10.05%	-15.05%	-1,649,346
2067	1.00	MTD	114,584	69,585	69,846	-261	5.00%	-0.23%	-5.23%	-5,990
		YTD	1,956,375	768,907	776,311	-7,404	5.00%	-0.38%	-5.38%	-105,223
		LTD	9,194,963	3,690,754	3,803,924	-113,170	5.00%	-1.23%	-6.23%	-572,918
2068	1.00	MTD	146,913	71,181	62,922	8,259	5.00%	5.62%	0.62%	913
		YTD	1,865,744	703,037	699,877	3,160	5.00%	0.17%	-4.83%	-90,127

KEY POINTS

Look at each of the machine data and see if the information warrants an investigation.

AUD-121 Game Performance Participant Guide



Questions

Contact Information:

TRAINING@nigc.gov



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KEY POINTS

AUD-121 Game Performance Participant Guide

AUD-121 Game Performance Knowledge Review

When survey is active, respond at [PolleEv.com/nigc2](https://www.polleverywhere.com/nigc2)

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KEY POINTS

Poll Title: AUD-121 Game Performance Knowledge Review
<https://www.polleverywhere.com/surveys/UDW0Axlw4>

AUD-121 Game Performance Participant Guide



Course Evaluation

- Provide an honest assessment of your experience
- Written suggestions and comments are greatly appreciated and allow us to improve your experience



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KEY POINTS

AUD-121 Game Performance Participant Guide

Course Eval - AUD 121 - Game Performance
When survey is active, respond at [PolleEv.com/nigc2](https://www.polleverywhere.com/nigc2)

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KEY POINTS

Poll Title: Course Eval - AUD 121 - Game Performance
<https://www.polleverywhere.com/surveys/OMqELsOmM>



Activity #1- Calculating Theoretical Win and Hold Percentage



\$599 \$599
\$599 \$599



\$300 \$300
\$300 \$300

\$100 \$100 \$100 \$100
\$100 \$100 \$100 \$100

4 WIN
\$50 \$50 \$50 \$50
4 WIN
\$4
20 WIN
\$2
240 WIN



Pull Tab Purchasers - This pull tab game is not legal in Minnesota unless an outline of Minnesota with the letters "MN" inside it is imprinted on this sheet, and the serial number imprinted on the bar code at the bottom of this sheet is the same as the serial number on the pull tab ticket you have purchased.

DATE IN _____ DATE OUT _____
 SIGNATURE _____

TKT.CT.
3420
 FORM#
 MN01278

© Paramount Games
 Wheatland, PA. 16161 MADE IN U.S.A.

Activity #1- Calculating Theoretical Win and Hold Percentage

Total Tickets	Cost	Total Revenue
3420		
# winners	Ticket Payout	Total Payout
	\$599	
	\$300	
	\$100	
	\$50	
	\$4	
	\$2	
	Total	

Calculate Theoretical Net Win:

Calculate Theoretical Hold%:

Activity #2

Game	MNum	PAR	Games	Coin In	Coin Out	Win	Actual Hold %	Variance
Bingo Game XXX	790305	3.23%	1	304,010	332,497	-28,487	-8.57%	-11.80%
	790313	3.23%	1	299,060	289,110	9,950	3.44%	0.21%
	790340	3.23%	1	243,570	266,755	-23,185	-8.69%	-11.92%
	790356	3.23%	1	169,630	161,405	8,225	5.10%	1.87%
	790360	3.23%	1	238,110	255,280	-17,170	-6.73%	-9.96%
	790473	3.23%	1	259,170	240,340	18,830	7.83%	4.60%
	790474	3.23%	1	343,395	351,606	-8,211	-2.34%	-5.57%
	790551	3.23%	1	579,440	604,865	-25,425	-4.20%	-7.43%
	790579	3.23%	1	664,995	670,197	-5,202	-0.78%	2.68%
	790611	3.23%	1	300,775	298,724	2,051	0.69%	-2.54%
	790612	3.23%	1	442,465	474,125	-31,660	-6.68%	-9.91%
	Game Total		3.23%	11	3,844,620	3,944,905	-100,285	-2.61%
Bingo Game YYY	605673	3.52%	1	230,886	246,649	-15,763	-6.83%	-10.35%
	605847	3.52%	1	248,558	244,783	3,775	1.52%	-2.00%
	605864	3.52%	1	175,559	167,756	7,803	4.44%	0.92%
	605979	3.52%	1	217,833	214,312	3,521	1.62%	-1.90%
	606015	3.52%	1	195,241	191,026	4,215	2.16%	-1.36%
	606228	3.52%	1	247,255	232,465	14,790	5.98%	2.46%
	606275	3.52%	1	283,053	296,447	-13,394	-4.73%	-8.25%
	606352	3.52%	1	155,355	148,871	6,484	4.17%	0.65%
	606391	3.52%	1	173,528	168,950	4,578	2.64%	-0.88%
	606399	3.52%	1	229,076	219,542	9,534	4.16%	0.64%
	606466	3.52%	1	240,460	228,610	11,850	4.93%	1.41%
	Game Total		3.52%	12	2,396,804	2,359,411	37,393	1.56%
Bingo Game ZZZ	580144	4.73%	1	118,750	111,084	7,665	6.45%	1.72%
	580146	4.73%	1	105,320	111,448	-6,129	-5.82%	-10.55%
	580151	4.73%	1	113,179	121,249	-8,071	-7.13%	-11.86%
	580157	4.73%	1	106,319	106,622	-304	-0.29%	-5.02%
	580158	4.73%	1	146,838	159,085	-12,247	-8.34%	-13.07%
	580160	4.73%	1	110,854	103,358	7,496	6.76%	2.03%
	580168	4.73%	1	101,095	92,834	8,261	8.17%	3.44%
	580169	4.73%	1	107,234	100,742	6,493	6.05%	1.32%
	580180	4.73%	1	166,197	175,703	-9,506	-5.72%	-10.45%
	580183	4.73%	1	150,141	154,870	-4,729	-3.15%	-7.88%
	580196	4.73%	1	139,488	145,283	-5,796	-4.15%	-8.88%
	Game Total		4.73%	11	1,365,412	1,382,279	-16,867	-1.24%

As a Group/ Table, perform the following;

1. Identify the "Bingo" variances;
2. Identify the investigative procedures that should be performed;
3. Identify the types of documentation that should be reviewed.

Activity #3

Summary	Table Type	Drop	Win	Hold%	Base Hold %	Variance
Baccarat	Mini Baccarat	5,304,711	241,471		8.1%	
	Midi Baccarat	8,237,637	1,606,784		13.1%	
	EZ Baccarat	807,290	102,370		16.5%	
	Baccarat Total:	14,349,638	1,950,625		11.7%	
BlackJack	BlackJack	5,921,554	541,128		18.6%	
	Single Deck BlackJack	1,064,592	211,312		20.9%	
	Double Deck BlackJack	7,067,915	1,124,432		15.6%	
	SW BlackJack	494,857	117,249		25.3%	
	Free Bet BlackJack	682,476	150,106		20.3%	
	Spanish 21	231,629	70,109		30.7%	
	Bet em All	734,762	111,572		19.00%	
	BlackJack Total:	16,197,785	2,325,908		17.8%	
Specialty	Pai Gow	1,175,740	303,635		29.4%	
	Three Card Poker	547,012	236,739		35.7%	
	Four Card Poker	463,142	142,054		34.7%	
	Ultimate Hold'em	484,495	177,391		35.3%	
	Dealer Bluff	567,054	195,049		31.0%	
	American Roulette	1,317,756	353,373		25.3%	
	Craps	673,395	148,112		20.6%	
	Missippi Stud	434,817	140,717		34.5%	
	Seven Up Pai Gow	465,190	214,686		30.00%	
	Specialty Total:	6,128,601	1,911,756		29.6%	
	Grand Total	36,676,024	6,188,289		24.5%	

As a Group/ Table, perform the following;

1. Calculate the Hold %;
2. Calculate the Variance.

Activity #4

Mach #	Denom		Coin In	Gross Drop	JP+TK	Net Win	Theo	Act %	Var %	Estimated Dollar Var
1413	0.01	MTD	47,983	30,897	26,507	4,390	5.08%	9.15%	4.07%	1,952
		YTD	651,438	374,051	340,768	33,283	5.08%	5.11%	0.03%	190
		LTD	3,061,760	1,795,445	1,533,455	261,989	5.08%	8.56%	3.48%	106,452
1414	0.01	MTD	45,840	30,221	25,825	4,396	5.08%	9.59%	4.51%	2,067
		YTD	740,070	430,278	408,016	22,262	5.08%	3.01%	-2.07%	-15,333
		LTD	4,218,400	2,495,613	2,366,492	129,121	5.08%	3.06%	-2.02%	-85,174
1415	0.01	MTD	118,109	38,444	35,176	3,268	2.60%	2.77%	0.17%	198
		YTD	1,111,700	347,310	334,320	12,990	2.60%	1.17%	-1.43%	-15,915
		LTD	6,559,033	2,014,397	1,972,489	41,908	2.60%	0.64%	-1.96%	-128,627
1416	0.01	MTD	112,876	40,365	38,111	2,254	2.60%	2.00%	-0.60%	-681
		YTD	1,366,211	509,267	498,022	11,244	2.60%	0.82%	-1.78%	-24,277
		LTD	5,054,980	1,935,213	1,942,287	-7,074	2.60%	-0.14%	-2.74%	-138,504
1418	0.01	MTD	92,205	45,405	47,743	-2,338	3.54%	-2.54%	-6.08%	-5,602
		YTD	960,736	511,438	512,594	-1,155	3.54%	-0.12%	-3.66%	-35,165
		LTD	5,476,194	2,966,343	3,024,303	-57,960	3.54%	-1.06%	-4.60%	-251,817
1419	0.01	MTD	133,574	65,464	85,419	-19,955	5.02%	-14.94%	-19.96%	-26,660
		YTD	1,565,406	759,790	780,381	-20,591	5.02%	-1.32%	-6.34%	-99,175
		LTD	5,792,003	2,887,201	2,926,429	-39,228	5.02%	-0.68%	-5.70%	-329,987
2063	1.00	MTD	85,745	63,611	63,774	-163	5.02%	-0.19%	-5.21%	-4,467
		YTD	2,753,754	1,448,854	1,319,426	129,428	5.02%	4.70%	-0.32%	-8,810
		LTD	15,696,398	8,403,353	7,652,671	750,682	5.02%	4.78%	-0.24%	-37,277
2064	1.00	MTD	81,083	63,088	42,428	20,660	5.02%	25.48%	20.46%	16,590
		YTD	2,490,519	1,374,846	1,258,616	116,230	5.02%	4.67%	-0.35%	-8,794
		LTD	11,705,439	6,599,261	6,167,218	432,042	5.02%	3.69%	-1.33%	-155,571
2065	1.00	MTD	122,701	77,303	67,606	9,697	5.02%	7.90%	2.88%	3,537
		YTD	2,440,102	1,357,552	1,234,949	122,603	5.02%	5.02%	0.00%	110
		LTD	13,908,581	7,873,802	7,175,054	698,748	5.02%	5.02%	0.00%	537
2066	1.00	MTD	131,135	79,249	77,885	1,364	5.00%	1.04%	-3.96%	-5,193
		YTD	2,331,900	963,991	1,245,327	-281,336	5.00%	-12.06%	-17.06%	-397,931
		LTD	10,959,930	4,627,157	5,728,506	-1,101,350	5.00%	-10.05%	-15.05%	-1,649,346
2067	1.00	MTD	114,584	69,585	69,846	-261	5.00%	-0.23%	-5.23%	-5,990
		YTD	1,956,375	768,907	776,311	-7,404	5.00%	-0.38%	-5.38%	-105,223
		LTD	9,194,963	3,690,754	3,803,924	-113,170	5.00%	-1.23%	-6.23%	-572,918
2068	1.00	MTD	146,913	71,181	62,922	8,259	5.00%	5.62%	0.62%	913
		YTD	1,865,744	703,037	699,877	3,160	5.00%	0.17%	-4.83%	-90,127
		LTD	10,634,741	4,077,615	3,849,324	228,291	5.00%	2.15%	-2.85%	-303,446

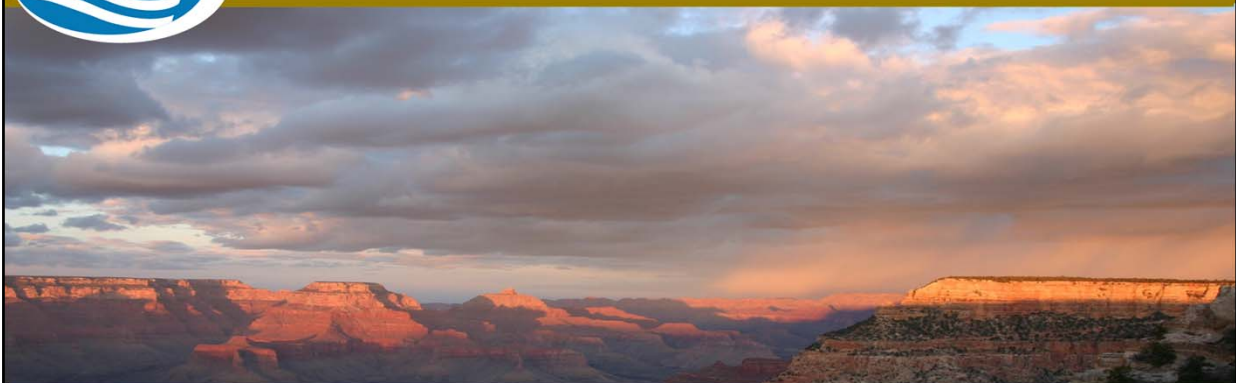
As a Group/ Table, perform the following;

1. Identify the gaming machine variances;
2. Identify the investigative procedures that should be performed;
3. Identify the types of documentation that should be reviewed.

AUD-114 Minimum Bankroll Participant Guide



National Indian Gaming Commission



AUD-114 Minimum Bankroll Worksheet

KEY POINTS



Poll

Why is there a need for a Minimum Bankroll?

2

KEY POINTS

AUD-114 Minimum Bankroll Participant Guide



Why?

- Original Worksheet was adopted in ????
- Did not differentiate between Class II and Class III revenue centers.



3

KEY POINTS



Changes

- Break out of Class II requirements and Class III revenues
- Better defined requirements for variable amounts
- Updated look-up tables based on Best Practices



4

KEY POINTS

AUD-114 Minimum Bankroll Participant Guide



Minimum Bankroll Main

National Indian Gaming Commission			
Minimum Bankroll Verification (MBV)			
		On Hand	Next Business Day
Cash Available			
1	Cash In Cage	1a	1b
2	Less: Customer Deposits Including Wagering Accounts	2a	2b -
3	Net Cash In Cage	3a -	3b -
4	Cash On Casino Floor	4a	4b
5	Cash In Bank	N/A	
6	Cash Available	6a -	6b -
Required Bankroll			
7	Gross Gaming Revenue (Prior Business Year)		
	7 X 1.00%	7a -	7b -
8	Per Machine/ Other Gaming Requirement (50% - On Hand; 100% - Next Business Day)	8a -	8b -
9	Variable Amounts Requirement		9 -
10	Total Bankroll Requirement	10a -	10b -
11	Cash Excess / (Deficiency)	11a -	11b -

KEY POINTS

AUD-114 Minimum Bankroll Participant Guide



Class II Machine and Other Class II Gaming Requirements

Class II Machine Requirement				
	Denomination	# of Machines	Per Machine Requirement	Requirement
12	\$.01-\$.50 & Multi Denom		\$350	-
13	\$1.00		\$500	-
14	> \$1.00		\$1,000	-
15	Total Class II Machine Requirement			
Other Gaming Areas				
16	Manual Bingo- Highest Payout Offered			
17	Pull Tabs- Highest Payout Offered			
18	Total Other Gaming Area Requirement			
19	Total Per Machine and Other Gaming Requirement			
Variable Amounts Requirements				
20	Highest Class II Machine Payout			
21	Card Games Progressive			
22	Other Progressives			
23	Contest / Tournament Payout Liability			
24	Customer Deposits Including Wagering Accounts			
25	Miscellaneous Promotions		N	N/A

6

KEY POINTS

- Includes slot banks, booths, kiosks, etc.
- Includes keno, bingo, card room banks, etc.

AUD-114 Minimum Bankroll Participant Guide



Class III Machine, Table Game, and Other Gaming Requirements

Class III Requirement			
Denomination	# of Machines	Per Machine Requirement	Requirement
\$.01-\$.50 & Multi Denom		\$350	-
\$1 Slot Machine		\$500	-
> \$1.00		\$1,000	-
Total Class III Machine Requirement			
Table Games Requirement			
Game	# of Tables	Per Table Requirement	Requirement
"21" & Roulette		\$2,000	-
Craps		\$2,000	-
Baccarat		\$2,000	-
Other Games		\$2,000	-
Total Table Games Requirement			
Other Gaming Areas		Game Offered? (Y/N)	
Race Book		N	N/A
Pari-Mutuel Wagering		N	N/A
Sports Pool		N	N/A
Keno		N	
Total Other Gaming Area Requirement			

7

KEY POINTS

- Less balance of gaming machine, table game and pari-mutuel requirement
- Less highest gaming machine progressive payout or non-progressive payout

AUD-114 Minimum Bankroll Participant Guide



Class III Machine, Table Game, and Other Gaming Requirements (cont.)

Total Class III Machine and Gaming Requirement		
Variable Amounts Requirements		
Highest Slot Payout		
Table Games Progressive		
Race and Sports Book Progressive		
Other Progressives		
Contest / Tournament Payout Liability		
Customer Deposits Including Wagering Accounts		
Miscellaneous Promotions	N	N/A
Periodic Payment Liabilities		
Total Variable Amounts Requirement		

8

KEY POINTS

- Less balance of gaming machine, table game and pari-mutuel requirement
- Less highest gaming machine progressive payout or non-progressive payout

AUD-114 Minimum Bankroll Participant Guide



Look-Up Tables Class II

Machine Requirement Look-up Table

GGR:	>\$100 million	\$15-100 million	\$8-15 million	\$3-8 million	<\$3 million
.01 - .50 & multi-denom	\$ 1,000	\$ 800	\$ 500	\$ 500	\$ 350
\$1 machine	\$ 1,800	\$ 1,500	\$ 1,000	\$ 750	\$ 500
Denoms > \$1	\$ 5,000	\$ 4,000	\$ 3,000	\$ 2,000	\$ 1,000

Miscellaneous Promotions

GGR:	>\$100 million	\$15-100 million	\$8-15 million	\$3-8 million	<\$3 million
Large promo Payouts	\$ 500,000	\$ 350,000	\$ 200,000	\$100,000	\$ 50,000

9

KEY POINTS

AUD-114 Minimum Bankroll Participant Guide



Look-Up Tables Class III

Class III					
Slot Requirement Look-up Table					
GGR:	>\$130 million	\$72-130 million	\$36-72 million	\$12-36 million	<\$12 million
.01 - .50 & multi-denom	\$ 1,000	\$ 800	\$ 500	\$ 500	\$ 350
\$1 slots	\$ 1,800	\$ 1,500	\$ 1,000	\$ 750	\$ 500
Denoms > \$1	\$ 5,000	\$ 4,000	\$ 3,000	\$ 2,000	\$ 1,000
Table Games Requirement Look-up Table					
GGR:	>\$130 million	\$72-130 million	\$36-72 million	\$12-36 million	<\$12 million
"21" and Roulette	\$ 30,000	\$ 15,000	\$ 10,000	\$ 5,000	\$ 3,000
Craps	\$ 60,000	\$ 30,000	\$ 20,000	\$ 15,000	\$ 5,000
Baccarat	\$ 100,000	\$ 50,000	\$ 30,000	\$ 20,000	\$ 10,000
Other	\$ 10,000	\$ 8,000	\$ 5,000	\$ 4,000	\$ 2,000
Race and Sports book Requirement Look-up Table					
GGR:	>\$130 million	\$72-130 million	\$36-72 million	\$12-36 million	<\$12 million
Race book	\$ 2,500	\$ 2,000	\$ 1,600	\$ 800	\$ 500
Pari-mutuel	\$ 30,000	\$ 22,500	\$ 15,000	\$ 7,000	\$ 4,000
Sports pool	\$ 25,000	\$ 20,000	\$ 15,000	\$ 10,000	\$ 7,500
Miscellaneous Promotions					
GGR:	>\$130 million	\$72-130 million	\$36-72 million	\$12-36 million	<\$12 million
Large promo Payouts	\$ 500,000	\$ 350,000	\$ 200,000	\$ 100,000	\$ 50,000

10

KEY POINTS



Variable Amount Requirements

- If progressives are included enter the highest progressive offered.
- Miscellaneous Promotions (refer to look-up table).



11

KEY POINTS

This is for all In-House progressives which the operation has a liability for. This includes all gaming revenue centers e.g., Card Games, Bingo, Class III gaming machines, Table Games etc... This information would be included in the respected worksheet.

MISC Promotions can be defined as e.g. drawings, scratch off tickets, wheel spins, slot machine pulls, Using the look-up table and if the promotion exceeds the threshold enter Y it will automatically put in the liability amount. NOTE: There are different requirements for Class II V.s. Class III as Tier level is taken into account.

AUD-114 Minimum Bankroll Participant Guide



Activity #1

- Using the Practical Exercise and provided worksheet determine your operations Minimum Bankroll requirement



12

KEY POINTS

Activity: Determine Minimum Bankroll Requirements

Individual Work

TIME: 15 minutes

Supplies: (per group)

- Practical Exercise #1
- Calculator on your smartphone

Instructions

1. Using the handout and the calculator on your smartphone determine the operations minimum bankroll requirements.



Questions

Contact Information:

TRAINING@nigc.gov



13

KEY POINTS



Course Evaluation

- Provide an honest assessment of your experience
- Written suggestions and comments are greatly appreciated and allow us to improve your experience



14

KEY POINTS

Practical Exercise 1

You are the Accounting professional at your operation and are responsible for completing the minimum bankroll worksheet. Based on review of your audited financials your property is a mixed Class II and Class III facility and your GGR was \$120,000,000. Your cash in cage is \$2 million, you have customer deposits amounting to \$20K, and you have 5 Kiosk each with \$15K in them, you maintain \$10 million in your bank with \$2 million of which is restricted. Your gaming Breakdown is below;

- Your operation has 1000 Gaming machines 700 Class III 300 @ \$1.00 machines and 400 @ .01 thru .25.
- 300 Class II machines 100 @ \$5.00, 200 @ .01-.50.
- 10 Table Games 5 BJ and 5 Craps
- Bingo offering a top prize of \$100,000
- In house progressives amounts as follows;

Class III Machines

111,000

220,000

21,000

Class II Machines

31,000

8000

1200

Table Games

24,000

16,000

3000

Card Games

Bad Beat @ 37,000

Additionally, your operation offers a free spin promotion paying out \$250,000 on a Class III game and \$75,000 for a Class II, Promotional pull tab

National Indian Gaming Commission Minimum Bankroll Verification (MBV) Instructions

- 1) Cash in Cage:
 - a) "On Hand" – includes currency only. Currency is defined as paper money issued by the United States Government and does **NOT** include coin or foreign currency.
 - b) "Next Business Day" – includes line **1a** plus all items in the cage that could be converted to currency by the next business day. This would include, but is not limited to, the following items:
 - i) Coin.
 - ii) Personal checks, payroll checks, cashier's checks, and traveler's checks.
 - Exclude counter checks and markers.
 - iii) Foreign currency and foreign chips / tokens.
- 2) Customer Deposits – include front money, safekeeping, and wagering accounts.
 - a) "On Hand" – includes only deposits made in cash and included in the count of cage currency.
 - b) "Next Business Day" – includes all deposits.
 - Include all amounts held on behalf of patrons.
- 3) Net Cash in Cage – line **1** less line **2**.
- 4) Cash on Casino Floor:
 - a) "On Hand" – includes all currency maintained in gaming areas other than the cage. Some areas would be, but are not limited to, the following:
 - i) Class II and III change banks, booths, carousels, vaults, and gaming kiosks.
 - Exclude funds in Class II and III Machines
 - ii) Bingo, Pull Tabs and Poker Banks.
 - b) "Next Business Day" – includes line **4a** plus all items maintained in gaming areas other than the cage that can be converted to currency by the next business day.
- 5) Cash in Bank:
 - a) "On-Hand" – N/A as currency included in "Next Business Day".
 - b) "Next Business Day" – funds held at financial institutions that can be converted to currency and be at the casino by the next business day.
 - Must use a current and accurate book balance.
 - i) Balance must include all bank fees incurred.
 - ii) Book balance may be increased by the amount of checks cut but still held on property, if verifiable.
 - A Letter of Credit may be included if it has been issued to the gaming operation only.
 - Restricted funds may not be included (e.g. CD held as deposit, bonds, jackpot insurance guarantees, debt reserves, etc.).
- 6) Cash Available – sum of lines **3**, **4** and **5**.
- 7) Gross Gaming Revenue (GGR) – Enter GGR from previous year and MBV calculates 1 percent.
 - New operations with less than 1 year of reported revenue should use projections.
- 8) Per Machine/ Table Game/ Other Gaming Area requirement. MBV calculates from Class II and Class III tabs.
 - a) "On Hand" – is 50% of the figure from **8b**.
 - b) "Next Business Day" – is 100% of the figures from lines **19** and **42**.
- 9) Variable Amounts Requirement. MBV calculates from Class II and Class III tabs.
 - a) "On Hand" – no requirement.
 - b) "Next Business Day" – calculates the figure from lines **27** and **51**.
- 10) Total Bankroll Requirement – sum of lines **7** through **9**.
- 11) Cash Excess / (Deficiency) – line **6** less line **10**.

Class II Tab

- 12) # of Machines – Enter the number of Class II machines being operated with a denomination of \$.01-\$.50.
- 13) # of Machines – Enter the number of Class II machines being operated with a denomination of \$1.
- 14) # of Machines – Enter the number of Class II machines being operated with a denomination >\$1.
- 15) Total Class II Machine Requirement- sum of lines **12**, **13**, and **14**.
- 16) Manual Bingo – Enter the highest in-house progressive or non-progressive payout offered, regardless of related
- 17) Pull Tabs – Enter the highest in-house progressive or non-progressive payout offered, regardless of related insurance
- 18) Total Other Gaming Area Requirement- sum of lines **16** and **17**.

- 19) Total Machine and Other Gaming Requirement-sum of lines **15 and 18**.
- 20) Highest Class II Machine Payout – Enter the greater of: 1) highest in-house progressive displayed meter amount or, 2) largest non-progressive payout offered.
 - i) If largest non-progressive payout is a non-cash item (e.g. car) with a cash option, use the greater of the cost of personal property or cash option.
 - ii) Exclude 3rd party operated wide area progressives where the 3rd party is responsible for the progressive
 - iii) Include related party wide area progressives if the gaming operation is responsible for paying the jackpot.
- 21) Card Games Progressive Liabilities – Enter the highest progressive offered.
- 22) Other Class II Progressives – Enter 100% of the progressive payout liability from games not included above.
- 23) Contest / Tournament Payout Liability for Class II– must include all amounts owed to patrons.
 - i) Until contest / tournament begins, all entry fees collected must be included.
 - ii) After the contest / tournament begins, all payout commitments to public must be included (e.g., weekly prizes and grand prize).
- 24) Customer Deposits for Class II including Wagering Accounts- Enter amounts from **2** above that pertain to Class II (note lines **24** and **48** should equal line **2**).

Miscellaneous Promotions Class II (e.g. drawings, scratch off tickets, wheel spins, slot machine pulls, etc.) – refer to
- 25) Look-up Tables for thresholds. For promotional payouts that exceed the applicable threshold, enter Y. If no promotional payouts exceed the threshold, enter N as no amount need be entered.
- 26) Periodic Payments for Class II– Enter the present value of the total sums owed to patrons for annuities or periodic
- 27) Total Variable Amounts Requirement – sum of lines **20, 21, 22, 23, 24, 25** and **26**.

**National Indian Gaming Commission
Minimum Bankroll Verification (MBV)**

		On Hand	Next Business Day
Cash Available			
1	Cash In Cage	1a	1b
2	Less: Customer Deposits Including Wagering Accounts	2a	2b -
3	Net Cash In Cage	3a -	3b -
4	Cash On Casino Floor	4a	4b
5	Cash In Bank	N/A	5
6	Cash Available	6a -	6b -
Required Bankroll			
7	Gross Gaming Revenue (Prior Business Year)	7a	7b
	7 X 1.00%	-	-
8	Per Machine/ Other Gaming Requirement (50% - On Hand; 100% - Next Business Day)	8a -	8b -
9	Variable Amounts Requirement		9 -
10	Total Bankroll Requirement	10a -	10b -
11	Cash Excess / (Deficiency)	11a -	11b -

Class II Machine and Other Class II Gaming Requirements

Class II Machine Requirement				
	Denomination	# of Machines	Per Machine Requirement	Requirement
12	\$.01-\$.50 & Multi Denom		\$350	-
13	\$1.00		\$500	-
14	> \$1.00		\$1,000	-
15	Total Class II Machine Requirement			-

Enter information in blue highlighted areas only.

Note: All shaded yellow cells contain formulas and cross references and do not require input.

Other Gaming Areas				
16	Manual Bingo- Highest Payout Offered			
17	Pull Tabs- Highest Payout Offered			
18	Total Other Gaming Area Requirement			-

19	Total Per Machine and Other Gaming Requirement			-
----	--	--	--	---

Variable Amounts Requirements				
20	Highest Class II Machine Payout			
21	Card Games Progressive			
22	Other Progressives			
23	Contest / Tournament Payout Liability			
24	Customer Deposits Including Wagering Accounts			
25	Miscellaneous Promotions	N		N/A
26	Periodic Payment Liabilities			
27	Total Variable Amounts Requirement			-

Class III Machine, Table Game, and Other Gaming Requirements

Class III Requirement				
	Denomination	# of Machines	Per Machine Requirement	Requirement
28	\$.01-\$.50 & Multi Denom		\$350	-
29	\$1 Slot Machine		\$500	-
30	> \$1.00		\$1,000	-
31	Total Class III Machine Requirement			-

Enter information in blue highlighted areas only.

Note: All shaded yellow cells contain formulas and cross references and do not require input.

Table Games Requirement				
	Game	# of Tables	Per Table Requirement	Requirement
32	"21" & Roulette		\$2,000	-
33	Craps		\$2,000	-
34	Baccarat		\$2,000	-
35	Other Games		\$2,000	-
36	Total Table Games Requirement			-

	Other Gaming Areas	Game Offered? (Y/N)		
37	Race Book	N	N/A	
38	Pari-Mutuel Wagering	N	N/A	
39	Sports Pool	N	N/A	
40	Keno	N		
41	Total Other Gaming Area Requirement			-

42	Total Class III Machine and Gaming Requirement			-
----	---	--	--	---

Variable Amounts Requirements				
43	Highest Slot Payout			
44	Table Games Progressive			
45	Race and Sports Book Progressive			
46	Other Progressives			
47	Contest / Tournament Payout Liability			
48	Customer Deposits Including Wagering Accounts			
49	Miscellaneous Promotions	N	N/A	
50	Periodic Payment Liabilities			
51	Total Variable Amounts Requirement			-

Minimum Bankroll Look-Up Tables

Class II						Class III					
Machine Requirement Look-up Table						Slot Requirement Look-up Table					
GGR:	>\$100 million	\$15-100 million	\$8-15 million	\$3-8 million	<\$3 million	GGR:	>\$130 million	\$72-130 million	\$36-72 million	\$12-36 million	<\$12 million
.01 - .50 & multi-denom	\$ 1,000	\$ 800	\$ 500	\$ 500	\$ 350	.01 - .50 & multi-denom	\$ 1,000	\$ 800	\$ 500	\$ 500	\$ 350
\$1 machine	\$ 1,800	\$ 1,500	\$ 1,000	\$ 750	\$ 500	\$1 slots	\$ 1,800	\$ 1,500	\$ 1,000	\$ 750	\$ 500
Denoms > \$1	\$ 5,000	\$ 4,000	\$ 3,000	\$ 2,000	\$ 1,000	Denoms > \$1	\$ 5,000	\$ 4,000	\$ 3,000	\$ 2,000	\$ 1,000
Miscellaneous Promotions						Table Games Requirement Look-up Table					
GGR:	>\$100 million	\$15-100 million	\$8-15 million	\$3-8 million	<\$3 million	GGR:	>\$130 million	\$72-130 million	\$36-72 million	\$12-36 million	<\$12 million
Large promo Payouts	\$ 500,000	\$ 350,000	\$ 200,000	\$ 100,000	\$ 50,000	"21" and Roulette	\$ 30,000	\$ 15,000	\$ 10,000	\$ 5,000	\$ 3,000
						Craps	\$ 60,000	\$ 30,000	\$ 20,000	\$ 15,000	\$ 5,000
						Baccarat	\$ 100,000	\$ 50,000	\$ 30,000	\$ 20,000	\$ 10,000
						Other	\$ 10,000	\$ 8,000	\$ 5,000	\$ 4,000	\$ 2,000
Race and Sports book Requirement Look-up Table						Miscellaneous Promotions					
GGR:	>\$130 million	\$72-130 million	\$36-72 million	\$12-36 million	<\$12 million	GGR:	>\$130 million	\$72-130 million	\$36-72 million	\$12-36 million	<\$12 million
Race book	\$ 2,500	\$ 2,000	\$ 1,600	\$ 800	\$ 500	Large promo Payouts	\$ 500,000	\$ 350,000	\$ 200,000	\$ 100,000	\$ 50,000
Pari-mutuel	\$ 30,000	\$ 22,500	\$ 15,000	\$ 7,000	\$ 4,000						
Sports pool	\$ 25,000	\$ 20,000	\$ 15,000	\$ 10,000	\$ 7,500						

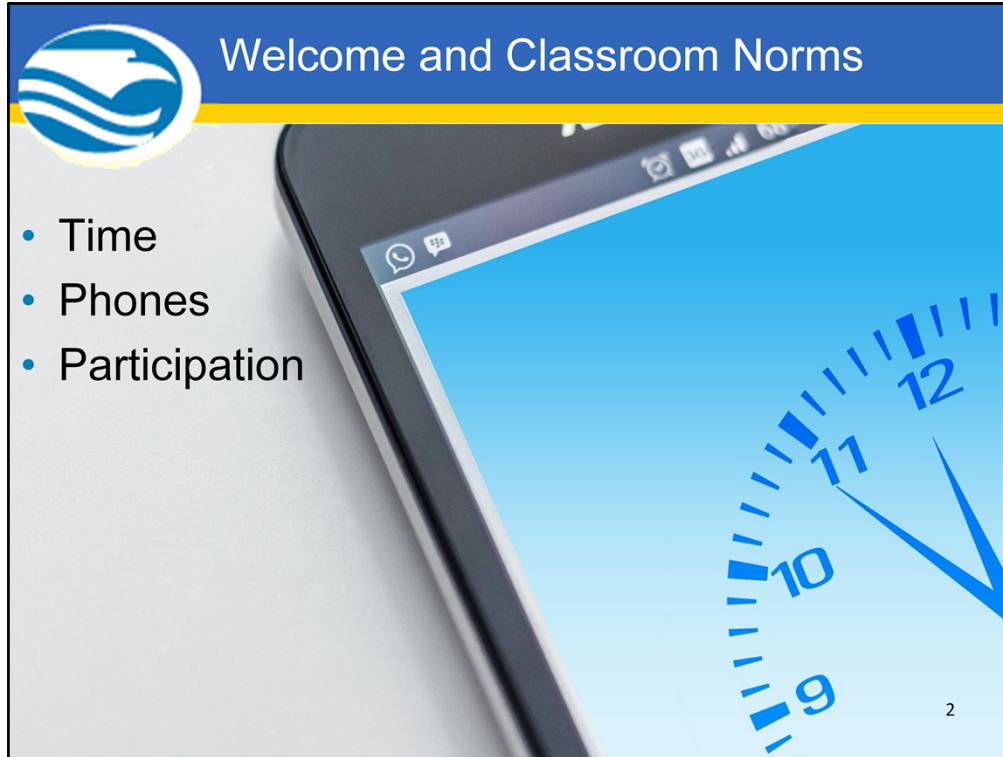
Y
N

Commissioner's Track Part 1 – Understanding the Requirements Participant Guide



KEY POINTS

Commissioner's Track Part 1 – Understanding the Requirements Participant Guide

A presentation slide titled "Welcome and Classroom Norms" with a blue header and a yellow horizontal bar. On the left is a circular logo with a white graduation cap and blue waves. The main content area features a list of three bullet points: "Time", "Phones", and "Participation". The background of the slide is a photograph of a smartphone displaying a blue clock face with white numbers and hands. A small number "2" is visible in the bottom right corner of the slide.

Welcome and Classroom Norms

- Time
- Phones
- Participation

2

KEY POINTS

Logistics:

- Breaks every 50 minutes
- You will use your cell phone to participate

Commissioner's Track Part 1 – Understanding the Requirements

Participant Guide



Knowledge Reviews & Course Evaluations

Knowledge Review Purpose

- Check for immediate understanding and retention
- Used to improve courses
- Provide your name & email address
- Completed twice:
 - at the end of the course
 - 90 days after course via email

Evaluation Purpose


- Allow participants to provide immediate feedback on their experience
- Encouraged to include ideas and recommendations
- Will be used to improve the course

3


KEY POINTS

Commissioner's Track Part 1 – Understanding the Requirements


Participant Guide





Participating with Poll Everywhere



Poll Everywhere

- 

Leader asks a question
- 

Participants respond
- 

Responses are displayed immediately!

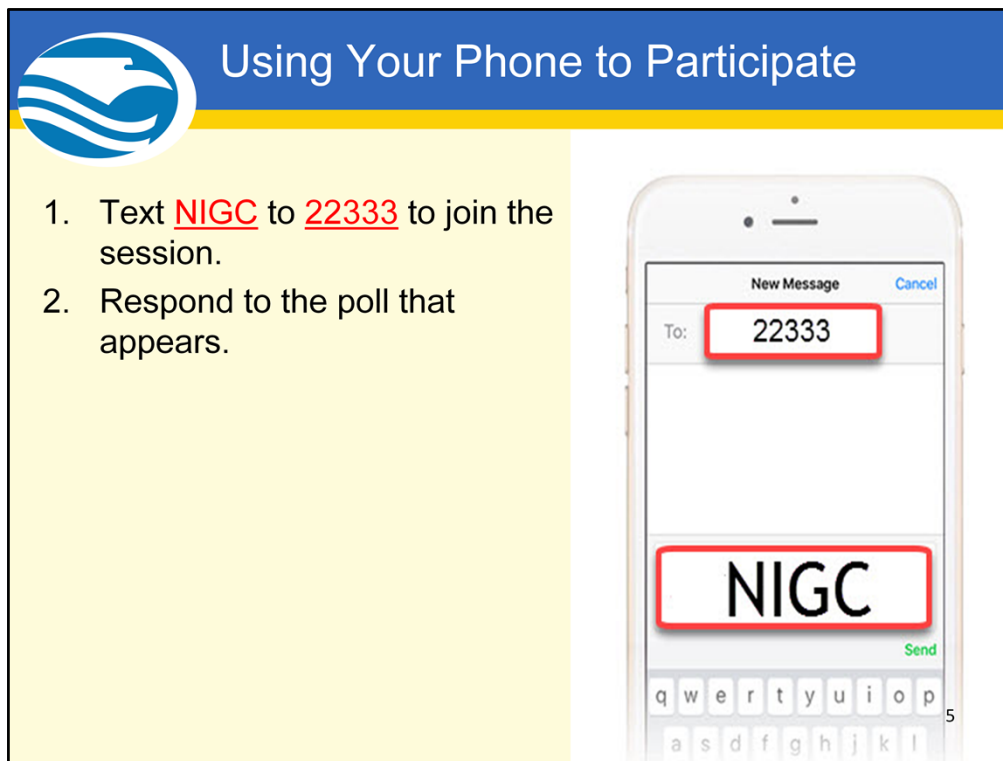
4

KEY POINTS

Your participation is voluntary and your responses are anonymous.

Commissioner's Track Part 1 – Understanding the Requirements


Participant Guide



The graphic features a blue header with the title "Using Your Phone to Participate" and a logo of a blue wave inside a white circle. Below the header is a yellow background with two numbered steps. To the right is a white smartphone displaying a text message interface. The "To:" field contains "22333" and the message body contains "NIGC".

Using Your Phone to Participate

1. Text **NIGC** to **22333** to join the session.
2. Respond to the poll that appears.



The smartphone screenshot shows a "New Message" screen. The "To:" field is highlighted with a red box and contains the number "22333". The message body is highlighted with a red box and contains the text "NIGC". A keyboard is visible at the bottom of the screen.


KEY POINTS

We're going to have a practice poll question so you get used to using Poll Everywhere.

1. Text **NIGC** to **22333** to join the session.
2. Then text your response to the question.

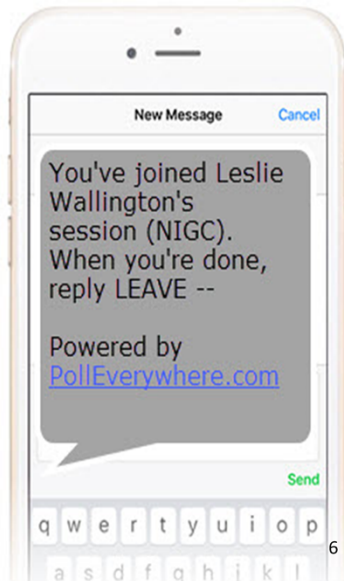
Commissioner's Track Part 1 – Understanding the Requirements

Participant Guide



Response from Poll Everywhere

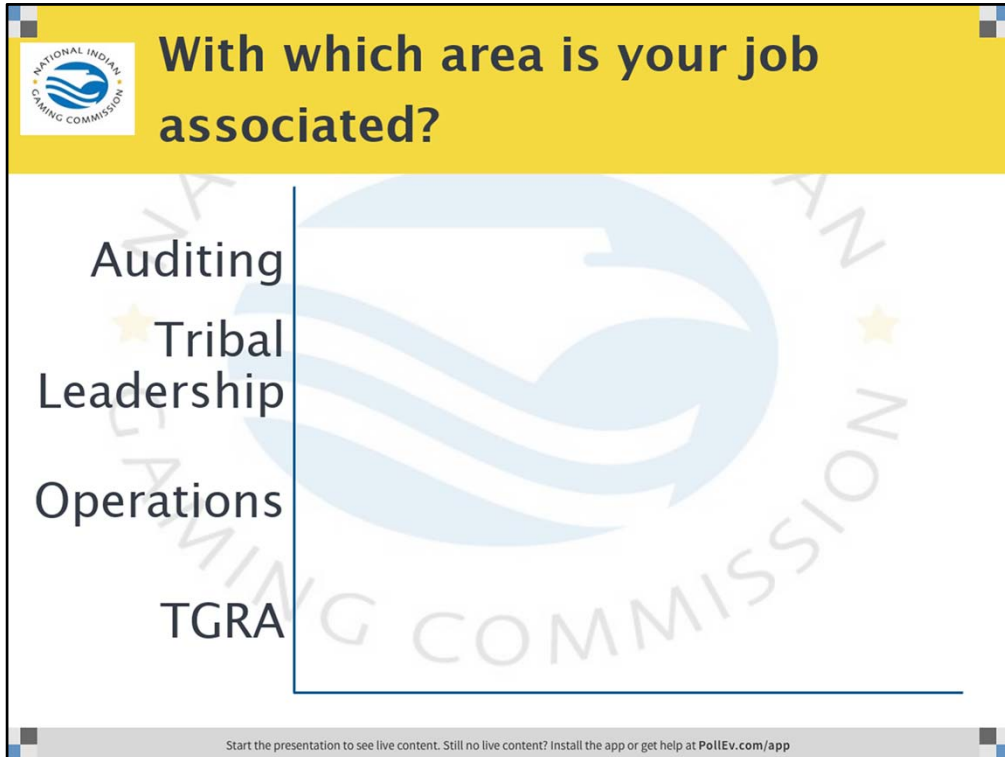
1. You will receive a text message confirming that you are in the polling session.
2. Do **NOT** select the PollEverywhere.com link.
3. Now you can enter your response to the poll as a text message.



KEY POINTS

- Do **not** click on the link that shows up in the text message you receive.
- Simply respond to the poll question listed on the power point slide.
- You will see the audience responses displayed on the screen.

Commissioner's Track Part 1 – Understanding the Requirements Participant Guide



The image shows a poll interface for the National Indian Gaming Commission. At the top left is the logo, which consists of a blue circle with a white wave and the text 'NATIONAL INDIAN GAMING COMMISSION'. To the right of the logo is a yellow header with the question 'With which area is your job associated?'. Below the header is a white area with a large, faint watermark of the commission's logo and the text 'NATIONAL INDIAN GAMING COMMISSION'. On the left side of this area, there is a vertical list of four options: 'Auditing', 'Tribal Leadership', 'Operations', and 'TGRA'. A blue vertical line is positioned to the right of these options. At the bottom of the poll interface, there is a small grey bar with the text 'Start the presentation to see live content. Still no live content? Install the app or get help at PollEv.com/app'.

KEY POINTS

Poll Title: With which area is your job associated?

https://www.polleverywhere.com/multiple_choice_polls/KQrRS4JiaQ5ILS1

Commissioner's Track Part 1 – Understanding the Requirements Participant Guide



Course Objectives

- Mission Statements
- Cabazon
- IGRA
- Gaming Ordinance
- Authority and Responsibilities of the TGRA

8

KEY POINTS

Commissioner's Track Part 1 – Understanding the Requirements

Participant Guide




KEY POINTS

An effective mission statement contains seven essential elements. One element is brevity. The statement should be between 11 and 22 words and directly point to a central goal, one that clients and employees can easily remember within a few minutes. Effective visions are challenging, inspiring employees to strive to reach a high, yet attainable goal, usually of national or international status for the company. A clear vision projects its goals into the future, and is stable. In other words, vision statements do not shift or change in the face of market trends or passing whims. The most effective visions inspire staff to set high goals and reach for these goals. The most effective visions affect both staff and the public.

(<https://toughnickel.com/industries/Walt-Disney-Companys-Mission-Statement-and-Vision-A-formula-for-success>)

Commissioner's Track Part 1 – Understanding the Requirements Participant Guide



Mission Statements

The NIGC's mission is to (1) promote tribal economic development, self-sufficiency, and strong tribal governments; (2) maintain the integrity of the Indian gaming industry; and (3) ensure that Tribes are the primary beneficiaries of their gaming activities. To fulfill its mission and achieve compliance, the NIGC works within the framework created by the IGRA by providing sound guidance, removing unnecessary roadblocks, and sensibly regulating gaming activities conducted by sovereign Indian tribes on Indian lands without stymieing the economic development and entrepreneurial spirit of tribes.

10

KEY POINTS

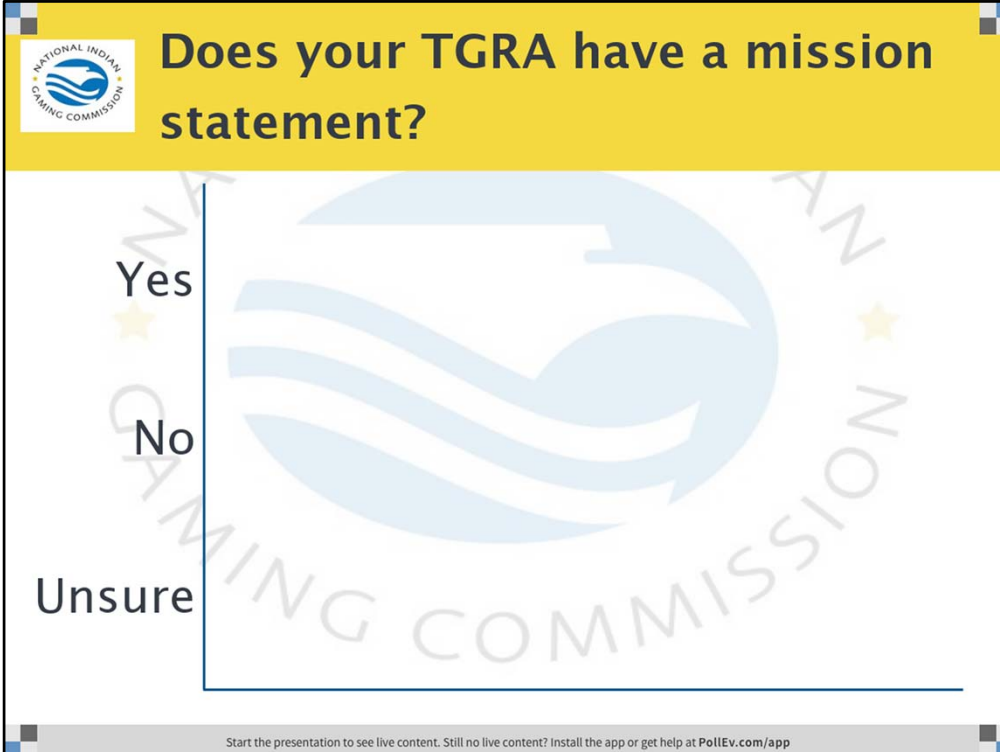
Mission

See slide for the NIGC Mission Statement.

Vision

The Commission's vision is to utilize all of its regulatory tools, including training, technical assistance, public education, and enforcement, to empower and partner with tribal governments to ensure regulatory compliance and gaming integrity that respects the capabilities and responsibilities of each sovereign tribe.

Commissioner's Track Part 1 – Understanding the Requirements Participant Guide



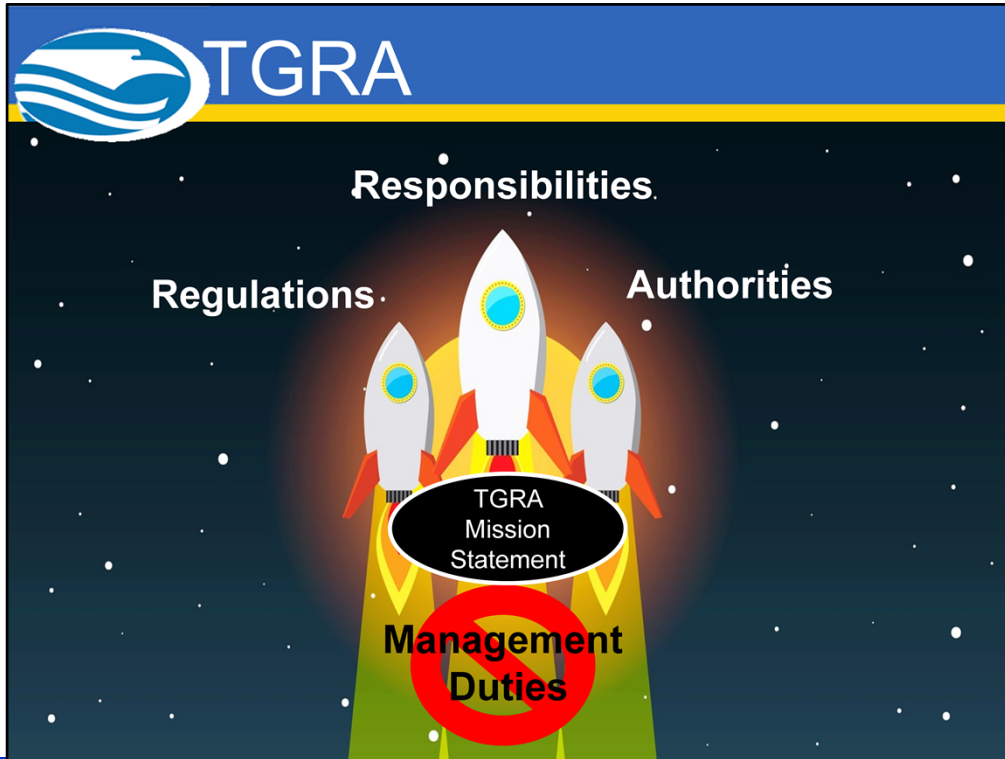
The image shows a poll interface from PollEv.com. At the top left is the logo for the National Indian Gaming Commission, which consists of a blue circular emblem with a stylized wave and a star, surrounded by the text 'NATIONAL INDIAN GAMING COMMISSION'. To the right of the logo, the poll question 'Does your TGRA have a mission statement?' is displayed in bold black text on a yellow background. Below the question, there are three response options: 'Yes' with a yellow star icon, 'No', and 'Unsure'. A large, faint watermark of the National Indian Gaming Commission logo is visible in the background. At the bottom of the poll interface, there is a small grey bar with the text: 'Start the presentation to see live content. Still no live content? Install the app or get help at PollEv.com/app'.

KEY POINTS

Poll Title: Does your TGRA have a mission statement?

https://www.polleverywhere.com/multiple_choice_polls/iI2oJ2iU76py2NZ

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KEY POINTS

- Your mission statement drives your regulatory direction.
- It helps maintain focus on regulatory issues and achieve the organization's goals.
- Ask yourself: How does each task or TGRA responsibilities help meet your mission and organizational goals?

Commissioner's Track Part 1 – Understanding the Requirements Participant Guide

The graphic for Activity #1 features a blue header with a white wave logo on the left and the text "Activity #1" in white. Below the header is a yellow background with the title "Writing Your Own Mission Statement" in bold blue text. In the center is a blue oval with the word "ACTIVITY" in bold black letters, with a black pen writing on it. The number "13" is in the bottom right corner.

Activity #1

Writing Your Own Mission Statement

ACTIVITY

13

KEY POINTS

Activity: Writing Your Own Mission Statement

Group Work

TIME: 30-45 minutes

Supplies: (per group)

- Large Post It Notes
- Markers
- Handout: NIGC Mission Statement

Instructions

1. Break up into small groups.
2. Select a recorder
3. Review the NIGC Mission Statement
4. Use the Post It Note to create and write down a mission statement for a Tribal Gaming Regulatory Authority (TGRA).
5. A few things to consider when creating your group's mission statement:
 - It should include regulatory focus and purpose.
 - It has to be usable, understandable, achievable, and have full TGRA support.

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KEY POINTS

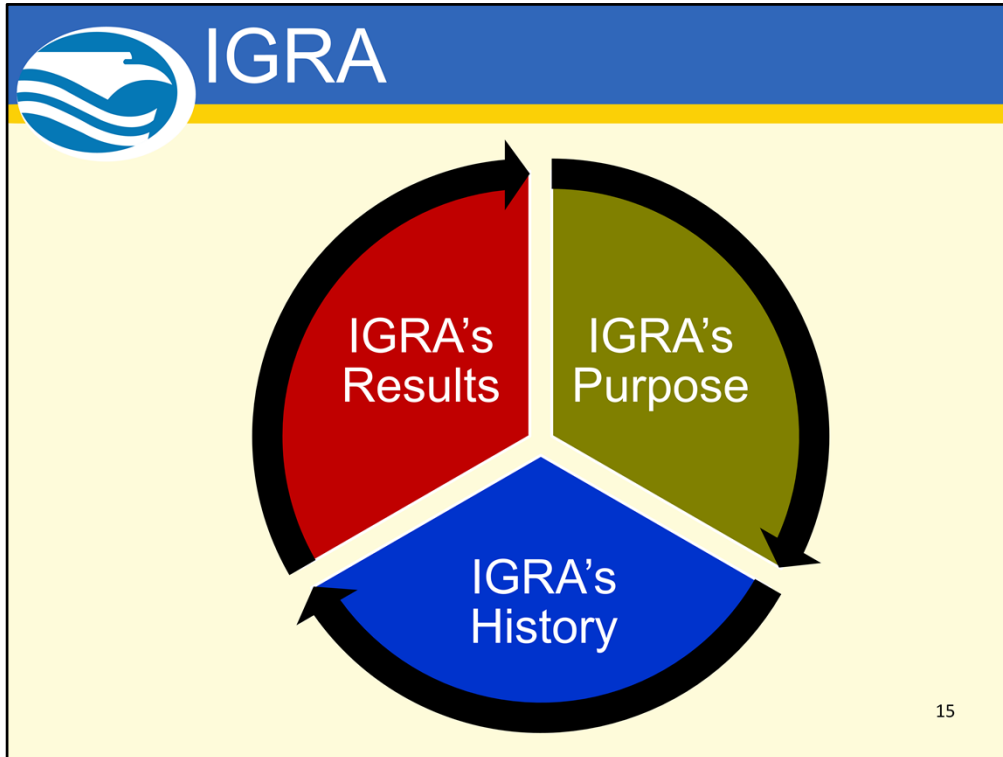
1987 Supreme Court Ruling:

- Affirmed a tribe's right to regulate gaming on tribal lands.
- Recognized the importance of Tribal self-governance and self-determination.
- Tribes have the authority to game on reservations unfettered by any state or county regulation.
- Tribal & federal interests supported gambling, which preempted state/county regulation.
- The Court emphasized the compelling need in Indian Country for economic development and that the gaming operations were a major source of employment.

Indian Gaming Regulatory Act:

- Congress established IGRA in the wake of Cabazon.
- Enacted by Congress in 1988.
- 25 U.S.C. §§ 2701 – 2721
- IGRA recognizes tribes' "exclusive right to regulate gaming activity..." §2701(5)

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KEY POINTS

The Indian Gaming Regulatory Act's (IGRA) History

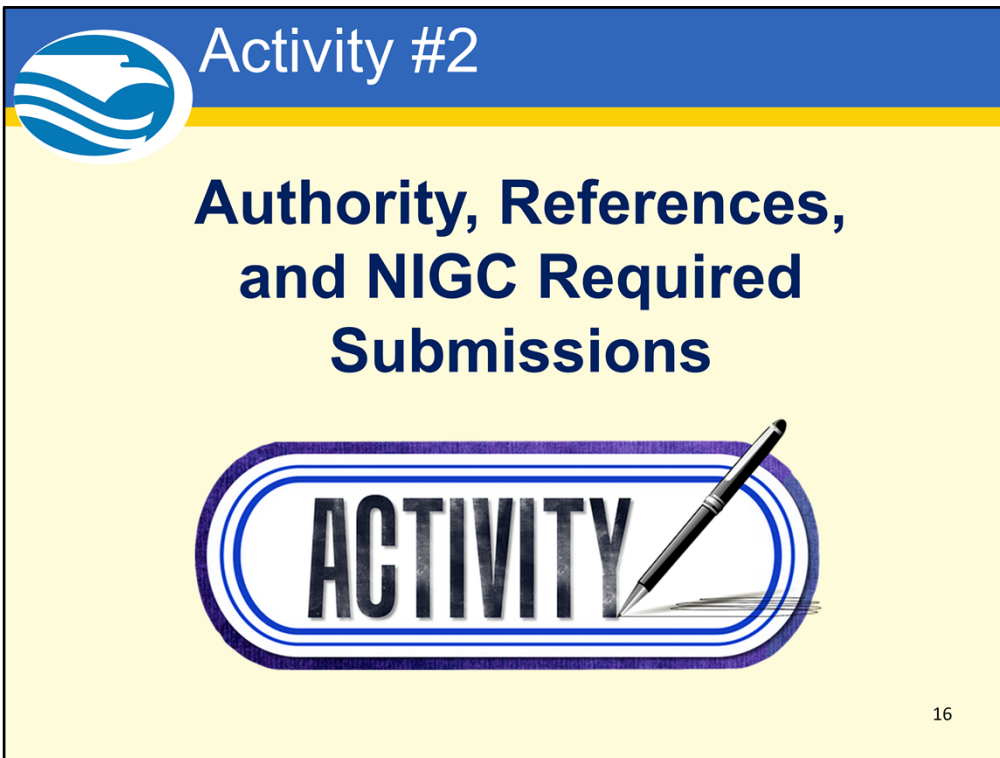
IGRA (25 U.S.C. §§ 2701 – 2721) was enacted in 1988 in the wake of *Cabazon*

- Maintains Tribes as primary regulators
- Established the regulatory role of the National Indian Gaming Commission (NIGC) for Class II gaming (States regulate Class III)
- Established the legal framework Tribes' are required to comply with in regards to gaming on tribal lands.

Purpose of IGRA (25 U.S.C. §2702):

- Promote tribal economic development, self-sufficiency, and strong tribal governments
- Shield tribes from organized crime
- Ensure tribes are the primary beneficiary of the gaming activities
- Ensure gaming is conducted fairly and honestly
- Establish federal regulatory authority for gaming on Indian lands

Commissioner's Track Part 1 – Understanding the Requirements Participant Guide



The graphic features a blue header with a white circular logo on the left containing a stylized wave and a hand. To the right of the logo, the text "Activity #2" is written in white. Below the header is a yellow background with the title "Authority, References, and NIGC Required Submissions" in bold blue text. At the bottom of the graphic is a blue rounded rectangle with the word "ACTIVITY" in white, with a black pen nib pointing to the right as if writing on a surface.

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KEY POINTS

Activity: #2 Authority, References, and NIGC Required Submissions

Group Work

TIME: 60 minutes

Supplies: (per group)

- Activity #2 IGRA and Ordinance activities gaming commissioner
- Activity #2 Handout #1 IGRA-USCODE-2014-title25-chap29
- Activity #2 Handout #2 Bulletin 2014-2 revised model ordinance
- Highlighters
- Your tribal ordinance

Instructions

NIGC regulation require a number of submissions. When completed this chart will serve as a quick reference for each required submission.

1. Work with individuals from your TGRA or individually.
2. Review IGRA handout. Locate each IGRA authority reference and highlight the applicable section.
3. Discuss how is responsible for the submission at your Tribe and how the TGRA is notified when the submission is sent.
4. Identify the frequency of each required submission and document your response in the applicable box.
5. **STOP!** Do not complete "Tribal Ordinance Requirement". This section will be completed after discussions on tribal on Tribal ordinance.

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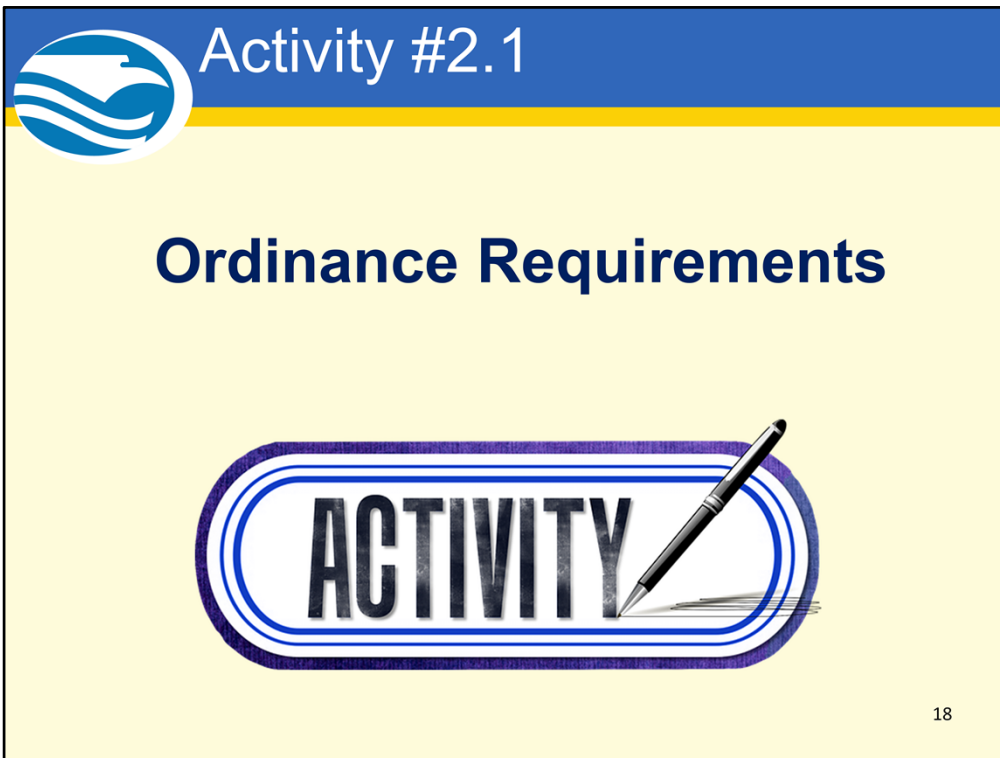


17

KEY POINTS

- Tribal law creates authority to regulate gaming.
- Before gaming commences, a tribe must have a gaming ordinance approved by the NIGC Chair.
- A gaming ordinance provides the foundation in which a tribe may regulate gaming.
- Each tribe is encouraged to tailor a gaming ordinance that best suits their needs.
- Incorporating IGRA & NIGC regulation requirements.
 - Example – Model Gaming Ordinance (www.nigc.gov/compliance/bulletins)
 - Published January 10, 2018
- Separate from the gaming ordinance/code are the tribal rules and regulations. The rules and regulations are more in-depth as opposed to the ordinance informing the public about the law. The rules and regulations inform the public how the law will be carried out. Tribal rules and regulations do not need NIGC approval. Tribal rules and regulations may be revised at any time and do not need to be reviewed by the NIGC.

Commissioner's Track Part 1 – Understanding the Requirements Participant Guide

The graphic features a blue header with a white circular logo on the left containing a stylized blue wave and a white bird-like shape. To the right of the logo, the text "Activity #2.1" is written in white. Below the header is a yellow background with the title "Ordinance Requirements" in bold blue text. In the center is a large, stylized graphic of the word "ACTIVITY" in bold black letters, enclosed in a blue and white rounded rectangular border. A black pen is shown writing the word. The number "18" is in the bottom right corner of the graphic.

Activity #2.1

Ordinance Requirements

ACTIVITY

18

KEY POINTS

Activity: #2.1 Ordinance Requirements

Group Work

TIME: 60 minutes


Supplies: (per group)

- Use the same worksheet from activity #2
- Highlighters
- Your tribal ordinance


Instructions

1. Review your Tribal Ordinance and identify the requirements for each submission
2. List your tribal ordinance reference or page number by applicable section in the box provided.

Commissioner's Track Part 1 – Understanding the Requirements Participant Guide



Name at least one duty or task you perform that helps to fulfill your regulatory duty.



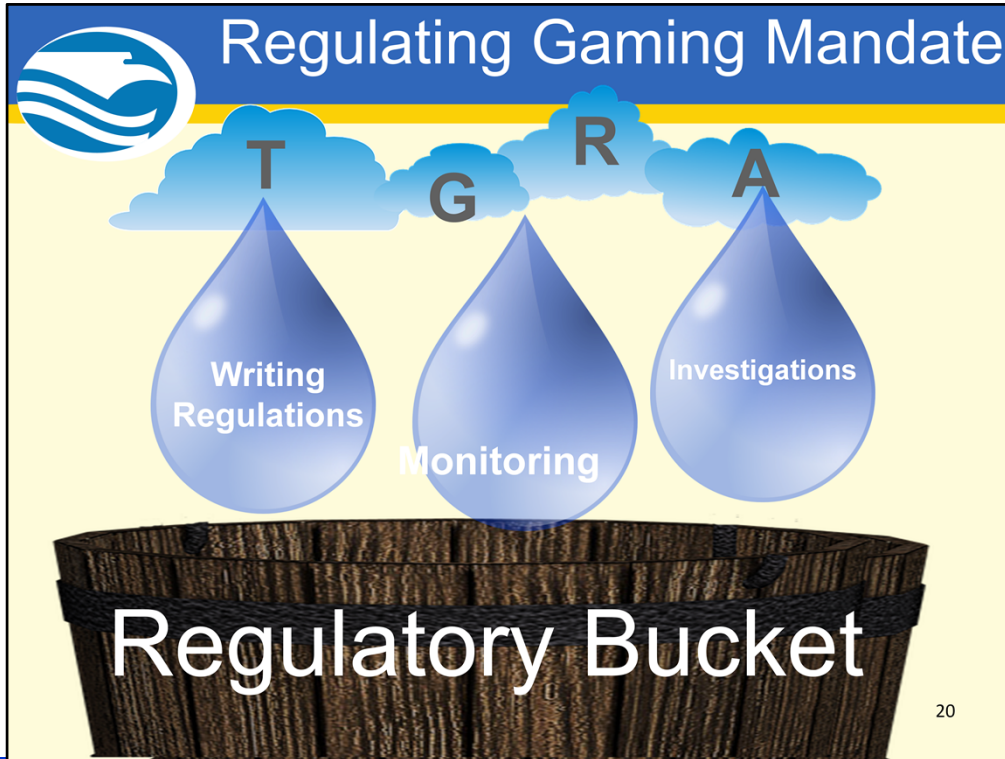
Start the presentation to see live content. Still no live content? Install the app or get help at [Pollev.com/app](https://www.pollev.com/app)

KEY POINTS

Poll Title: Name at least one duty or task you perform that helps to fulfill your regulatory duty.
https://www.pollev.com/free_text_polls/iksG0l6R6Pqt7s6

Your participation is voluntary and your responses are anonymous.

Commissioner's Track Part 1 – Understanding the Requirements Participant Guide



KEY POINTS

Visualize filling this Regulatory Bucket with all of the regulatory duties the TGRA performs to fulfill their responsibilities to regulate Indian gaming.

Commissioner's Track Part 1 – Understanding the Requirements Participant Guide



The graphic features a blue header with the text "Activity #3" in white. To the left is a circular logo with a white wave and a blue circle. Below the header, the title "TGRA Responsibilities, Authority, Compliance, and Tools" is written in bold blue text. At the bottom of the graphic is a stylized blue oval containing the word "ACTIVITY" in bold black letters, with a black pen nib pointing to the right as if writing on a surface.

Activity #3

TGRA Responsibilities, Authority, Compliance, and Tools

ACTIVITY

21

KEY POINTS:

Activity: TGRA Responsibilities, Authority, Compliance, and Tools

Group Work

TIME: 60 minutes

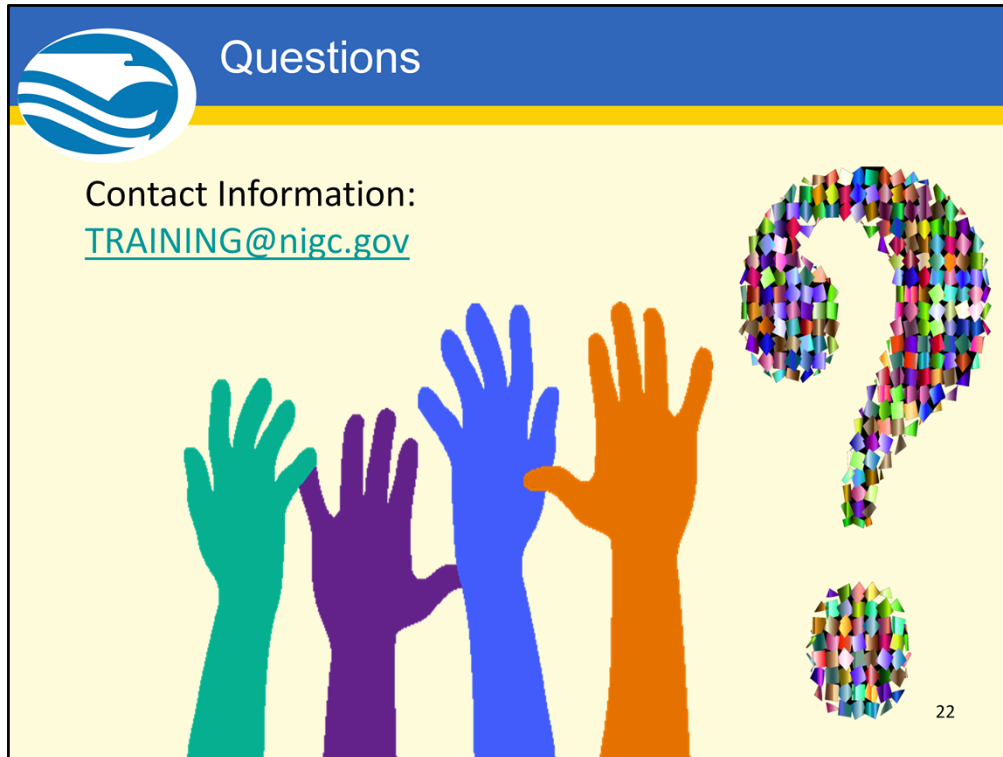
Supplies: (per group)

- Activity #3 TGRA Responsibilities, Authority, Compliance, and Tools
- Bulletins 1999-3 and 1994-3
- Highlighters

Instructions

1. Divide into groups.
2. Discuss the TGRA's regulatory tasks listed below in the "Responsibility" field.
 - Under each responsibility, list additional tasks that can be performed by the TGRA to achieve the mission of regulating Indian gaming.
3. Discuss the specific authority to carry out each task.
4. Discuss how you will achieve the task, including what resources (compliance, surveillance, internal audit, backgrounds etc.) you will rely on.

Commissioner's Track Part 1 – Understanding the Requirements Participant Guide



Questions

Contact Information:
TRAINING@nigc.gov

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KEY POINTS

If you have any questions or would like information about additional topics and training please contact the NIGC training department.

Commissioner's Track Part 1 – Understanding the Requirements

Participant Guide



The slide features a blue header with the text "Course Evaluation" and a logo of a stylized blue and white wave. Below the header, a hand is shown pointing towards three circular icons: a yellow neutral face, a green happy face, and a red sad face. To the left of the hand, there are two bullet points. The number "23" is located in the bottom right corner of the slide.

Course Evaluation

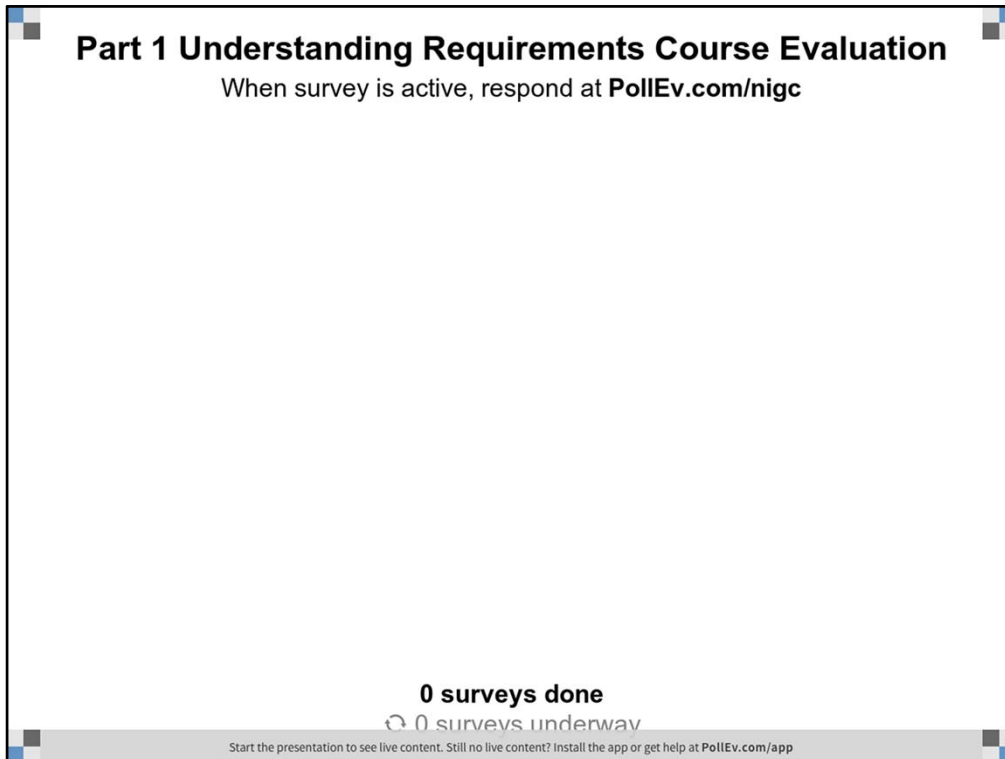
- Provide an honest assessment of your experience
- Written suggestions and comments are greatly appreciated and allow us to improve your experience

23

KEY POINTS

- Our last task is to complete the course evaluation.
- We use the information from both to evaluate the effectiveness of the course and to make improvements so please provide specific written feedback if applicable.

Commissioner's Track Part 1 – Understanding the Requirements Participant Guide



KEY POINTS

Poll Title: Part 1 Understanding Requirements Course Evaluation
<https://www.polleverywhere.com/surveys/ZvmziSrAu>

Activity #1 NIGC Mission Statement

NIGC's Mission and Vision Statements:

MISSION The NIGC's primary mission is to work within the framework created by the Indian Gaming Regulatory Act (IGRA) for the regulation of gaming activities conducted by sovereign Indian tribes on Indian lands to fully realize IGRA's goals: (1) promoting tribal economic development, self-sufficiency and strong tribal governments; (2) maintaining the integrity of the Indian gaming industry; and (3) ensuring that tribes are the primary beneficiaries of their gaming activities.

VISION The Commission's vision is to adhere to the principles of good government, including transparency and agency accountability; to promote fiscal responsibility; to operate with consistency and clarity to ensure fairness in the administration of IGRA; and to respect the capabilities and responsibilities of each sovereign Indian tribe in order to fully promote tribal economic development, self-sufficiency and strong tribal governments.

KEY – Activity #2 - Authority, References and NIGC Required Submissions
Activity #2.1 - Ordinance Requirements

Directions for Activity #2

NIGC regulations require a number of submissions. When completed, this chart will serve as a quick reference for each required submission.

1. Work with individuals from your TGRA or individually.
2. Review IGRA handout. Locate each IGRA authority reference and highlight the applicable section.
3. Discuss how is responsible for the submission at your Tribe and how the TGRA is notified when the submission is sent.
4. Identify the frequency of each required submission and document your response in the applicable box.
5. **STOP!** Do not complete “Tribal Ordinance Requirement”. This section will be completed after discussions on tribal on Tribal ordinance.

Directions for Activity #2.1

1. Review your Tribal Ordinance and identify the requirements for each submission
2. List your tribal ordinance reference or page number by applicable section in the box provided.

IGRA Authority	Associated NIGC Regulation	NIGC Required Submission	Responsibility within the Tribe/Casino/TGRA Understanding who submits the document and is TGRA notified.	Frequency of Submission	Tribal Ordinance Reference/Authority
2717 (a)	25 CFR §514	Fees			
2710 (e)	25 CFR §522	Ordinance			
2710 (b)(2)(F)	25 CFR§ 556	Backgrounds/ Investigations			
2710 (c)	25 CFR§ 558	Licensing			

**KEY – Activity #2 - Authority, References and NIGC Required Submissions
Activity #2.1 - Ordinance Requirements**

IGRA Authority	Associated NIGC Regulation	NIGC Required Submission	Responsibility within the Tribe/Casino/TGRA Understanding who submits the document and is TGRA notified.	Frequency of Submission	Tribal Ordinance Reference/Authority
2710 (b)(1)	25 CFR§ 559	Facility License and Attestations			
2710 (b)(2)(D)	25 CFR§ 522 (mentions \$25,000 specifically) 25 CFR§ 571 (mentions audits)	Review of contracts \$25,000 or more			
2710 (d)(9) 2711	25 CFR§ 533	Approval of Management Contracts			
2706(b)(1-4) 2706(b)(10)	25 CFR§ 543	Agreed upon procedures audit			
2710 (b)(2)(c)	25 CFR §571	Audited financials			

SUBCHAPTER III—SPECIAL PROGRAMS RELATING TO ADULT EDUCATION FOR INDIANS

§ 2631. Repealed. Pub. L. 103-382, title III, § 367, Oct. 20, 1994, 108 Stat. 3976

Section, Pub. L. 100-297, title V, § 5330, Apr. 28, 1988, 102 Stat. 410, related to improvement of educational opportunities for adult Indians. See section 7851 of Title 20, Education.

SUBCHAPTER IV—PROGRAM ADMINISTRATION

§§ 2641 to 2643. Repealed. Pub. L. 103-382, title III, § 367, Oct. 20, 1994, 108 Stat. 3976

Section 2641, Pub. L. 100-297, title V, § 5341, Apr. 28, 1988, 102 Stat. 411; Pub. L. 100-427, § 21, Sept. 9, 1988, 102 Stat. 1612, related to establishment of Office of Indian Education within Department of Education. See section 3423c of Title 20, Education.

Section 2642, Pub. L. 100-297, title V, § 5342, Apr. 28, 1988, 102 Stat. 412; Pub. L. 100-427, § 22, Sept. 9, 1988, 102 Stat. 1613, established National Advisory Council on Indian Education.

Section 2643, Pub. L. 100-297, title V, § 5343, Apr. 28, 1988, 102 Stat. 413, authorized appropriations for administration of Indian education programs. See section 7882 of Title 20, Education.

SUBCHAPTER V—MISCELLANEOUS

§ 2651. Repealed. Pub. L. 103-382, title III, § 367, Oct. 20, 1994, 108 Stat. 3976

Section, Pub. L. 100-297, title V, § 5351, Apr. 28, 1988, 102 Stat. 413; Pub. L. 100-427, § 23, Sept. 9, 1988, 102 Stat. 1613, defined terms for purposes of this chapter. See section 7881 of Title 20, Education.

CHAPTER 29—INDIAN GAMING REGULATION

Sec.	
2701.	Findings.
2702.	Declaration of policy.
2703.	Definitions.
2704.	National Indian Gaming Commission.
2705.	Powers of Chairman.
2706.	Powers of Commission.
2707.	Commission staffing.
2708.	Commission; access to information.
2709.	Interim authority to regulate gaming.
2710.	Tribal gaming ordinances.
2711.	Management contracts.
2712.	Review of existing ordinances and contracts.
2713.	Civil penalties.
2714.	Judicial review.
2715.	Subpoena and deposition authority.
2716.	Investigative powers.
2717.	Commission funding.
2717a.	Availability of class II gaming activity fees to carry out duties of Commission.
2718.	Authorization of appropriations.
2719.	Gaming on lands acquired after October 17, 1988.
2720.	Dissemination of information.
2721.	Severability.

§ 2701. Findings

The Congress finds that—

(1) numerous Indian tribes have become engaged in or have licensed gaming activities on Indian lands as a means of generating tribal governmental revenue;

(2) Federal courts have held that section 81 of this title requires Secretarial review of

management contracts dealing with Indian gaming, but does not provide standards for approval of such contracts;

(3) existing Federal law does not provide clear standards or regulations for the conduct of gaming on Indian lands;

(4) a principal goal of Federal Indian policy is to promote tribal economic development, tribal self-sufficiency, and strong tribal government; and

(5) Indian tribes have the exclusive right to regulate gaming activity on Indian lands if the gaming activity is not specifically prohibited by Federal law and is conducted within a State which does not, as a matter of criminal law and public policy, prohibit such gaming activity.

(Pub. L. 100-497, § 2, Oct. 17, 1988, 102 Stat. 2467.)

SHORT TITLE

Pub. L. 100-497, § 1, Oct. 17, 1988, 102 Stat. 2467, provided: "That this Act [enacting this chapter and sections 1166 to 1168 of Title 18, Crimes and Criminal Procedure] may be cited as the 'Indian Gaming Regulatory Act'."

§ 2702. Declaration of policy

The purpose of this chapter is—

(1) to provide a statutory basis for the operation of gaming by Indian tribes as a means of promoting tribal economic development, self-sufficiency, and strong tribal governments;

(2) to provide a statutory basis for the regulation of gaming by an Indian tribe adequate to shield it from organized crime and other corrupting influences, to ensure that the Indian tribe is the primary beneficiary of the gaming operation, and to assure that gaming is conducted fairly and honestly by both the operator and players; and

(3) to declare that the establishment of independent Federal regulatory authority for gaming on Indian lands, the establishment of Federal standards for gaming on Indian lands, and the establishment of a National Indian Gaming Commission are necessary to meet congressional concerns regarding gaming and to protect such gaming as a means of generating tribal revenue.

(Pub. L. 100-497, § 3, Oct. 17, 1988, 102 Stat. 2467.)

REFERENCES IN TEXT

This chapter, referred to in text, was in the original "this Act", meaning Pub. L. 100-497, Oct. 17, 1988, 102 Stat. 2467, known as the Indian Gaming Regulatory Act, which is classified principally to this chapter. For complete classification of this Act to the Code, see Short Title note set out under section 2701 of this title and Tables.

§ 2703. Definitions

For purposes of this chapter—

(1) The term "Attorney General" means the Attorney General of the United States.

(2) The term "Chairman" means the Chairman of the National Indian Gaming Commission.

(3) The term "Commission" means the National Indian Gaming Commission established pursuant to section 2704 of this title.

(4) The term "Indian lands" means—

(A) all lands within the limits of any Indian reservation; and

(B) any lands title to which is either held in trust by the United States for the benefit of any Indian tribe or individual or held by any Indian tribe or individual subject to restriction by the United States against alienation and over which an Indian tribe exercises governmental power.

(5) The term "Indian tribe" means any Indian tribe, band, nation, or other organized group or community of Indians which—

(A) is recognized as eligible by the Secretary for the special programs and services provided by the United States to Indians because of their status as Indians, and

(B) is recognized as possessing powers of self-government.

(6) The term "class I gaming" means social games solely for prizes of minimal value or traditional forms of Indian gaming engaged in by individuals as a part of, or in connection with, tribal ceremonies or celebrations.

(7)(A) The term "class II gaming" means—

(i) the game of chance commonly known as bingo (whether or not electronic, computer, or other technologic aids are used in connection therewith)—

(I) which is played for prizes, including monetary prizes, with cards bearing numbers or other designations,

(II) in which the holder of the card covers such numbers or designations when objects, similarly numbered or designated, are drawn or electronically determined, and

(III) in which the game is won by the first person covering a previously designated arrangement of numbers or designations on such cards,

including (if played in the same location) pull-tabs, lotto, punch boards, tip jars, instant bingo, and other games similar to bingo, and

(ii) card games that—

(I) are explicitly authorized by the laws of the State, or

(II) are not explicitly prohibited by the laws of the State and are played at any location in the State,

but only if such card games are played in conformity with those laws and regulations (if any) of the State regarding hours or periods of operation of such card games or limitations on wagers or pot sizes in such card games.

(B) The term "class II gaming" does not include—

(i) any banking card games, including baccarat, chemin de fer, or blackjack (21), or

(ii) electronic or electromechanical facsimiles of any game of chance or slot machines of any kind.

(C) Notwithstanding any other provision of this paragraph, the term "class II gaming" includes those card games played in the State of Michigan, the State of North Dakota, the State of South Dakota, or the State of Wash-

ington, that were actually operated in such State by an Indian tribe on or before May 1, 1988, but only to the extent of the nature and scope of the card games that were actually operated by an Indian tribe in such State on or before such date, as determined by the Chairman.

(D) Notwithstanding any other provision of this paragraph, the term "class II gaming" includes, during the 1-year period beginning on October 17, 1988, any gaming described in subparagraph (B)(ii) that was legally operated on Indian lands on or before May 1, 1988, if the Indian tribe having jurisdiction over the lands on which such gaming was operated requests the State, by no later than the date that is 30 days after October 17, 1988, to negotiate a Tribal-State compact under section 2710(d)(3) of this title.

(E) Notwithstanding any other provision of this paragraph, the term "class II gaming" includes, during the 1-year period beginning on December 17, 1991, any gaming described in subparagraph (B)(ii) that was legally operated on Indian lands in the State of Wisconsin on or before May 1, 1988, if the Indian tribe having jurisdiction over the lands on which such gaming was operated requested the State, by no later than November 16, 1988, to negotiate a Tribal-State compact under section 2710(d)(3) of this title.

(F) If, during the 1-year period described in subparagraph (E), there is a final judicial determination that the gaming described in subparagraph (E) is not legal as a matter of State law, then such gaming on such Indian land shall cease to operate on the date next following the date of such judicial decision.

(8) The term "class III gaming" means all forms of gaming that are not class I gaming or class II gaming.

(9) The term "net revenues" means gross revenues of an Indian gaming activity less amounts paid out as, or paid for, prizes and total operating expenses, excluding management fees.

(10) The term "Secretary" means the Secretary of the Interior.

(Pub. L. 100-497, § 4, Oct. 17, 1988, 102 Stat. 2467; Pub. L. 102-238, § 2(a), Dec. 17, 1991, 105 Stat. 1908; Pub. L. 102-497, § 16, Oct. 24, 1992, 106 Stat. 3261.)

REFERENCES IN TEXT

This chapter, referred to in text, was in the original "this Act", meaning Pub. L. 100-497, Oct. 17, 1988, 102 Stat. 2467, known as the Indian Gaming Regulatory Act, which is classified principally to this chapter. For complete classification of this Act to the Code, see Short Title note set out under section 2701 of this title and Tables.

AMENDMENTS

1992—Par. (7)(E). Pub. L. 102-497 struck out "or Montana" after "Wisconsin".

1991—Par. (7)(E), (F). Pub. L. 102-238 added subpars. (E) and (F).

CLASS II GAMING WITH RESPECT TO INDIAN TRIBES IN WISCONSIN OR MONTANA ENGAGED IN NEGOTIATING TRIBAL-STATE COMPACTS

Pub. L. 101-301, § 6, May 24, 1990, 104 Stat. 209, provided that: "Notwithstanding any other provision of law, the

term 'class II gaming' includes, for purposes of applying Public Law 100-497 [25 U.S.C. 2701 et seq.] with respect to any Indian tribe located in the State of Wisconsin or the State of Montana, during the 1-year period beginning on the date of enactment of this Act [May 24, 1990], any gaming described in section 4(7)(B)(ii) of Public Law 100-497 [25 U.S.C. 2703(7)(B)(ii)] that was legally operated on Indian lands on or before May 1, 1988, if the Indian tribe having jurisdiction over the lands on which such gaming was operated made a request, by no later than November 16, 1988, to the State in which such gaming is operated to negotiate a Tribal-State compact under section 11(d)(3) of Public Law 100-497 [25 U.S.C. 2710(d)(3)]."

TRIBAL-STATE COMPACT COVERING INDIAN TRIBES IN MINNESOTA; OPERATION OF CLASS II GAMES; ALLOWANCE OF ADDITIONAL YEAR FOR NEGOTIATIONS

Pub. L. 101-121, title I, § 118, Oct. 23, 1989, 103 Stat. 722, provided that: "Notwithstanding any other provision of law, the term 'Class II gaming' in Public Law 100-497 [25 U.S.C. 2701 et seq.], for any Indian tribe located in the State of Minnesota, includes, during the period commencing on the date of enactment of this Act [Oct. 23, 1989] and continuing for 365 days from that date, any gaming described in section 4(7)(B)(ii) of Public Law 100-497 [25 U.S.C. 2703(7)(B)(ii)] that was legally operated on Indian lands on or before May 1, 1988, if the Indian tribe having jurisdiction [sic] over the lands on which such gaming was operated, requested the State of Minnesota, no later than 30 days after the date of enactment of Public Law 100-497 [Oct. 17, 1988], to negotiate a tribal-state compact pursuant to section 11(d)(3) of Public Law 100-497 [25 U.S.C. 2710(d)(3)]."

§ 2704. National Indian Gaming Commission

(a) Establishment

There is established within the Department of the Interior a Commission to be known as the National Indian Gaming Commission.

(b) Composition; investigation; term of office; removal

(1) The Commission shall be composed of three full-time members who shall be appointed as follows:

(A) a Chairman, who shall be appointed by the President with the advice and consent of the Senate; and

(B) two associate members who shall be appointed by the Secretary of the Interior.

(2)(A) The Attorney General shall conduct a background investigation on any person considered for appointment to the Commission.

(B) The Secretary shall publish in the Federal Register the name and other information the Secretary deems pertinent regarding a nominee for membership on the Commission and shall allow a period of not less than thirty days for receipt of public comment.

(3) Not more than two members of the Commission shall be of the same political party. At least two members of the Commission shall be enrolled members of any Indian tribe.

(4)(A) Except as provided in subparagraph (B), the term of office of the members of the Commission shall be three years.

(B) Of the initial members of the Commission—

(i) two members, including the Chairman, shall have a term of office of three years; and

(ii) one member shall have a term of office of one year.

(5) No individual shall be eligible for any appointment to, or to continue service on, the Commission, who—

(A) has been convicted of a felony or gaming offense;

(B) has any financial interest in, or management responsibility for, any gaming activity; or

(C) has a financial interest in, or management responsibility for, any management contract approved pursuant to section 2711 of this title.

(6) A Commissioner may only be removed from office before the expiration of the term of office of the member by the President (or, in the case of associate member, by the Secretary) for neglect of duty, or malfeasance in office, or for other good cause shown.

(c) Vacancies

Vacancies occurring on the Commission shall be filled in the same manner as the original appointment. A member may serve after the expiration of his term of office until his successor has been appointed, unless the member has been removed for cause under subsection (b)(6) of this section.

(d) Quorum

Two members of the Commission, at least one of which is the Chairman or Vice Chairman, shall constitute a quorum.

(e) Vice Chairman

The Commission shall select, by majority vote, one of the members of the Commission to serve as Vice Chairman. The Vice Chairman shall serve as Chairman during meetings of the Commission in the absence of the Chairman.

(f) Meetings

The Commission shall meet at the call of the Chairman or a majority of its members, but shall meet at least once every 4 months.

(g) Compensation

(1) The Chairman of the Commission shall be paid at a rate equal to that of level IV of the Executive Schedule under section 5315 of title 5.

(2) The associate members of the Commission shall each be paid at a rate equal to that of level V of the Executive Schedule under section 5316 of title 5.

(3) All members of the Commission shall be reimbursed in accordance with title 5 for travel, subsistence, and other necessary expenses incurred by them in the performance of their duties.

(Pub. L. 100-497, § 5, Oct. 17, 1988, 102 Stat. 2469.)

§ 2705. Powers of Chairman

(a) The Chairman, on behalf of the Commission, shall have power, subject to an appeal to the Commission, to—

(1) issue orders of temporary closure of gaming activities as provided in section 2713(b) of this title;

(2) levy and collect civil fines as provided in section 2713(a) of this title;

(3) approve tribal ordinances or resolutions regulating class II gaming and class III gaming as provided in section 2710 of this title; and

(4) approve management contracts for class II gaming and class III gaming as provided in sections 2710(d)(9) and 2711 of this title.

(b) The Chairman shall have such other powers as may be delegated by the Commission.

(Pub. L. 100-497, § 6, Oct. 17, 1988, 102 Stat. 2470.)

§ 2706. Powers of Commission

(a) Budget approval; civil fines; fees; subpoenas; permanent orders

The Commission shall have the power, not subject to delegation—

(1) upon the recommendation of the Chairman, to approve the annual budget of the Commission as provided in section 2717 of this title;

(2) to adopt regulations for the assessment and collection of civil fines as provided in section 2713(a) of this title;

(3) by an affirmative vote of not less than 2 members, to establish the rate of fees as provided in section 2717 of this title;

(4) by an affirmative vote of not less than 2 members, to authorize the Chairman to issue subpoenas as provided in section 2715 of this title; and

(5) by an affirmative vote of not less than 2 members and after a full hearing, to make permanent a temporary order of the Chairman closing a gaming activity as provided in section 2713(b)(2) of this title.

(b) Monitoring; inspection of premises; investigations; access to records; mail; contracts; hearings; oaths; regulations

The Commission—

(1) shall monitor class II gaming conducted on Indian lands on a continuing basis;

(2) shall inspect and examine all premises located on Indian lands on which class II gaming is conducted;

(3) shall conduct or cause to be conducted such background investigations as may be necessary;

(4) may demand access to and inspect, examine, photocopy, and audit all papers, books, and records respecting gross revenues of class II gaming conducted on Indian lands and any other matters necessary to carry out the duties of the Commission under this chapter;

(5) may use the United States mail in the same manner and under the same conditions as any department or agency of the United States;

(6) may procure supplies, services, and property by contract in accordance with applicable Federal laws and regulations;

(7) may enter into contracts with Federal, State, tribal and private entities for activities necessary to the discharge of the duties of the Commission and, to the extent feasible, contract the enforcement of the Commission's regulations with the Indian tribes;

(8) may hold such hearings, sit and act at such times and places, take such testimony, and receive such evidence as the Commission deems appropriate;

(9) may administer oaths or affirmations to witnesses appearing before the Commission; and

(10) shall promulgate such regulations and guidelines as it deems appropriate to implement the provisions of this chapter.

(c) Omitted

(d) Application of Government Performance and Results Act

(1) In general

In carrying out any action under this chapter, the Commission shall be subject to the Government Performance and Results Act of 1993 (Public Law 103-62; 107 Stat. 285).

(2) Plans

In addition to any plan required under the Government Performance and Results Act of 1993 (Public Law 103-62; 107 Stat. 285), the Commission shall submit a plan to provide technical assistance to tribal gaming operations in accordance with that Act.

(Pub. L. 100-497, § 7, Oct. 17, 1988, 102 Stat. 2470; Pub. L. 109-221, title III, § 301(a), May 12, 2006, 120 Stat. 341.)

REFERENCES IN TEXT

This chapter, referred to in subsecs. (b)(4), (10) and (d)(1), was in the original "this Act", meaning Pub. L. 100-497, Oct. 17, 1988, 102 Stat. 2467, known as the Indian Gaming Regulatory Act, which is classified principally to this chapter. For complete classification of this Act to the Code, see Short Title note set out under section 2701 of this title and Tables.

The Government Performance and Results Act of 1993, referred to in subsec. (d), is Pub. L. 103-62, Aug. 3, 1993, 107 Stat. 285, which enacted section 306 of Title 5, Government Organization and Employees, sections 1115 to 1119, 9703, and 9704 of Title 31, Money and Finance, and sections 2801 to 2805 of Title 39, Postal Service, amended section 1105 of Title 31, and enacted provisions set out as notes under sections 1101 and 1115 of Title 31. For complete classification of this Act to the Code, see Short Title of 1993 Amendment note set out under section 1101 of Title 31 and Tables.

CODIFICATION

Subsec. (c) of this section, which required the Commission to submit a report to Congress every two years on various matters relating to the operation of the Commission, terminated, effective May 15, 2000, pursuant to section 3003 of Pub. L. 104-66, as amended, set out as a note under section 1113 of Title 31, Money and Finance. See, also, page 114 of House Document No. 103-7.

AMENDMENTS

2006—Subsec. (d). Pub. L. 109-221 added subsec. (d).

§ 2707. Commission staffing

(a) General Counsel

The Chairman shall appoint a General Counsel to the Commission who shall be paid at the annual rate of basic pay payable for GS-18 of the General Schedule under section 5332 of title 5.

(b) Staff

The Chairman shall appoint and supervise other staff of the Commission without regard to the provisions of title 5 governing appointments in the competitive service. Such staff shall be paid without regard to the provisions of chapter 51 and subchapter III of chapter 53 of such title relating to classification and General Schedule pay rates, except that no individual so ap-

pointed may receive pay in excess of the annual rate of basic pay payable for GS-17 of the General Schedule under section 5332 of that title.

(c) Temporary services

The Chairman may procure temporary and intermittent services under section 3109(b) of title 5, but at rates for individuals not to exceed the daily equivalent of the maximum annual rate of basic pay payable for GS-18 of the General Schedule.

(d) Federal agency personnel

Upon the request of the Chairman, the head of any Federal agency is authorized to detail any of the personnel of such agency to the Commission to assist the Commission in carrying out its duties under this chapter, unless otherwise prohibited by law.

(e) Administrative support services

The Secretary or Administrator of General Services shall provide to the Commission on a reimbursable basis such administrative support services as the Commission may request.

(Pub. L. 100-497, § 8, Oct. 17, 1988, 102 Stat. 2471.)

REFERENCES IN TEXT

This chapter, referred to in subsec. (d), was in the original "this Act", meaning Pub. L. 100-497, Oct. 17, 1988, 102 Stat. 2467, known as the Indian Gaming Regulatory Act, which is classified principally to this chapter. For complete classification of this Act to the Code, see Short Title note set out under section 2701 of this title and Tables.

REFERENCES IN OTHER LAWS TO GS-16, 17, OR 18 PAY RATES

References in laws to the rates of pay for GS-16, 17, or 18, or to maximum rates of pay under the General Schedule, to be considered references to rates payable under specified sections of Title 5, Government Organization and Employees, see section 529 [title I, § 101(c)(1)] of Pub. L. 101-509, set out in a note under section 5376 of Title 5.

§ 2708. Commission; access to information

The Commission may secure from any department or agency of the United States information necessary to enable it to carry out this chapter. Upon the request of the Chairman, the head of such department or agency shall furnish such information to the Commission, unless otherwise prohibited by law.

(Pub. L. 100-497, § 9, Oct. 17, 1988, 102 Stat. 2472.)

REFERENCES IN TEXT

This chapter, referred to in text, was in the original "this Act", meaning Pub. L. 100-497, Oct. 17, 1988, 102 Stat. 2467, known as the Indian Gaming Regulatory Act, which is classified principally to this chapter. For complete classification of this Act to the Code, see Short Title note set out under section 2701 of this title and Tables.

§ 2709. Interim authority to regulate gaming

Notwithstanding any other provision of this chapter, the Secretary shall continue to exercise those authorities vested in the Secretary on the day before October 17, 1988, relating to supervision of Indian gaming until such time as the Commission is organized and prescribes regulations. The Secretary shall provide staff and sup-

port assistance to facilitate an orderly transition to regulation of Indian gaming by the Commission.

(Pub. L. 100-497, § 10, Oct. 17, 1988, 102 Stat. 2472.)

REFERENCES IN TEXT

This chapter, referred to in text, was in the original "this Act", meaning Pub. L. 100-497, Oct. 17, 1988, 102 Stat. 2467, known as the Indian Gaming Regulatory Act, which is classified principally to this chapter. For complete classification of this Act to the Code, see Short Title note set out under section 2701 of this title and Tables.

§ 2710. Tribal gaming ordinances

(a) Jurisdiction over class I and class II gaming activity

(1) Class I gaming on Indian lands is within the exclusive jurisdiction of the Indian tribes and shall not be subject to the provisions of this chapter.

(2) Any class II gaming on Indian lands shall continue to be within the jurisdiction of the Indian tribes, but shall be subject to the provisions of this chapter.

(b) Regulation of class II gaming activity; net revenue allocation; audits; contracts

(1) An Indian tribe may engage in, or license and regulate, class II gaming on Indian lands within such tribe's jurisdiction, if—

(A) such Indian gaming is located within a State that permits such gaming for any purpose by any person, organization or entity (and such gaming is not otherwise specifically prohibited on Indian lands by Federal law), and

(B) the governing body of the Indian tribe adopts an ordinance or resolution which is approved by the Chairman.

A separate license issued by the Indian tribe shall be required for each place, facility, or location on Indian lands at which class II gaming is conducted.

(2) The Chairman shall approve any tribal ordinance or resolution concerning the conduct, or regulation of class II gaming on the Indian lands within the tribe's jurisdiction if such ordinance or resolution provides that—

(A) except as provided in paragraph (4), the Indian tribe will have the sole proprietary interest and responsibility for the conduct of any gaming activity;

(B) net revenues from any tribal gaming are not to be used for purposes other than—

(i) to fund tribal government operations or programs;

(ii) to provide for the general welfare of the Indian tribe and its members;

(iii) to promote tribal economic development;

(iv) to donate to charitable organizations;

or

(v) to help fund operations of local government agencies;

(C) annual outside audits of the gaming, which may be encompassed within existing independent tribal audit systems, will be provided by the Indian tribe to the Commission;

(D) all contracts for supplies, services, or concessions for a contract amount in excess of

\$25,000 annually (except contracts for professional legal or accounting services) relating to such gaming shall be subject to such independent audits;

(E) the construction and maintenance of the gaming facility, and the operation of that gaming is conducted in a manner which adequately protects the environment and the public health and safety; and

(F) there is an adequate system which—

(i) ensures that background investigations are conducted on the primary management officials and key employees of the gaming enterprise and that oversight of such officials and their management is conducted on an ongoing basis; and

(ii) includes—

(I) tribal licenses for primary management officials and key employees of the gaming enterprise with prompt notification to the Commission of the issuance of such licenses;

(II) a standard whereby any person whose prior activities, criminal record, if any, or reputation, habits and associations pose a threat to the public interest or to the effective regulation of gaming, or create or enhance the dangers of unsuitable, unfair, or illegal practices and methods and activities in the conduct of gaming shall not be eligible for employment; and

(III) notification by the Indian tribe to the Commission of the results of such background check before the issuance of any of such licenses.

(3) Net revenues from any class II gaming activities conducted or licensed by any Indian tribe may be used to make per capita payments to members of the Indian tribe only if—

(A) the Indian tribe has prepared a plan to allocate revenues to uses authorized by paragraph (2)(B);

(B) the plan is approved by the Secretary as adequate, particularly with respect to uses described in clause (i) or (iii) of paragraph (2)(B);

(C) the interests of minors and other legally incompetent persons who are entitled to receive any of the per capita payments are protected and preserved and the per capita payments are disbursed to the parents or legal guardian of such minors or legal incompetents in such amounts as may be necessary for the health, education, or welfare, of the minor or other legally incompetent person under a plan approved by the Secretary and the governing body of the Indian tribe; and

(D) the per capita payments are subject to Federal taxation and tribes notify members of such tax liability when payments are made.

(4)(A) A tribal ordinance or resolution may provide for the licensing or regulation of class II gaming activities owned by any person or entity other than the Indian tribe and conducted on Indian lands, only if the tribal licensing requirements include the requirements described in the subclauses of subparagraph (B)(i) and are at least as restrictive as those established by State law governing similar gaming within the jurisdiction of the State within which such Indian lands are located. No person or entity, other

than the Indian tribe, shall be eligible to receive a tribal license to own a class II gaming activity conducted on Indian lands within the jurisdiction of the Indian tribe if such person or entity would not be eligible to receive a State license to conduct the same activity within the jurisdiction of the State.

(B)(i) The provisions of subparagraph (A) of this paragraph and the provisions of subparagraphs (A) and (B) of paragraph (2) shall not bar the continued operation of an individually owned class II gaming operation that was operating on September 1, 1986, if—

(I) such gaming operation is licensed and regulated by an Indian tribe pursuant to an ordinance reviewed and approved by the Commission in accordance with section 2712 of this title,

(II) income to the Indian tribe from such gaming is used only for the purposes described in paragraph (2)(B) of this subsection,

(III) not less than 60 percent of the net revenues is income to the Indian tribe, and

(IV) the owner of such gaming operation pays an appropriate assessment to the National Indian Gaming Commission under section 2717(a)(1) of this title for regulation of such gaming.

(i) The exemption from the application of this subsection provided under this subparagraph may not be transferred to any person or entity and shall remain in effect only so long as the gaming activity remains within the same nature and scope as operated on October 17, 1988.

(iii) Within sixty days of October 17, 1988, the Secretary shall prepare a list of each individually owned gaming operation to which clause (i) applies and shall publish such list in the Federal Register.

(c) Issuance of gaming license; certificate of self-regulation

(1) The Commission may consult with appropriate law enforcement officials concerning gaming licenses issued by an Indian tribe and shall have thirty days to notify the Indian tribe of any objections to issuance of such license.

(2) If, after the issuance of a gaming license by an Indian tribe, reliable information is received from the Commission indicating that a primary management official or key employee does not meet the standard established under subsection (b)(2)(F)(i)(II) of this section, the Indian tribe shall suspend such license and, after notice and hearing, may revoke such license.

(3) Any Indian tribe which operates a class II gaming activity and which—

(A) has continuously conducted such activity for a period of not less than three years, including at least one year after October 17, 1988; and

(B) has otherwise complied with the provisions of this section¹

may petition the Commission for a certificate of self-regulation.

(4) The Commission shall issue a certificate of self-regulation if it determines from available information, and after a hearing if requested by the tribe, that the tribe has—

¹ So in original. Probably should be followed by a comma.

(A) conducted its gaming activity in a manner which—

(i) has resulted in an effective and honest accounting of all revenues;

(ii) has resulted in a reputation for safe, fair, and honest operation of the activity; and

(iii) has been generally free of evidence of criminal or dishonest activity;

(B) adopted and is implementing adequate systems for—

(i) accounting for all revenues from the activity;

(ii) investigation, licensing, and monitoring of all employees of the gaming activity; and

(iii) investigation, enforcement and prosecution of violations of its gaming ordinance and regulations; and

(C) conducted the operation on a fiscally and economically sound basis.

(5) During any year in which a tribe has a certificate for self-regulation—

(A) the tribe shall not be subject to the provisions of paragraphs (1), (2), (3), and (4) of section 2706(b) of this title;

(B) the tribe shall continue to submit an annual independent audit as required by subsection (b)(2)(C) of this section and shall submit to the Commission a complete resume on all employees hired and licensed by the tribe subsequent to the issuance of a certificate of self-regulation; and

(C) the Commission may not assess a fee on such activity pursuant to section 2717 of this title in excess of one quarter of 1 per centum of the gross revenue.

(6) The Commission may, for just cause and after an opportunity for a hearing, remove a certificate of self-regulation by majority vote of its members.

(d) Class III gaming activities; authorization; revocation; Tribal-State compact

(1) Class III gaming activities shall be lawful on Indian lands only if such activities are—

(A) authorized by an ordinance or resolution that—

(i) is adopted by the governing body of the Indian tribe having jurisdiction over such lands,

(ii) meets the requirements of subsection (b) of this section, and

(iii) is approved by the Chairman,

(B) located in a State that permits such gaming for any purpose by any person, organization, or entity, and

(C) conducted in conformance with a Tribal-State compact entered into by the Indian tribe and the State under paragraph (3) that is in effect.

(2)(A) If any Indian tribe proposes to engage in, or to authorize any person or entity to engage in, a class III gaming activity on Indian lands of the Indian tribe, the governing body of the Indian tribe shall adopt and submit to the Chairman an ordinance or resolution that meets the requirements of subsection (b) of this section.

(B) The Chairman shall approve any ordinance or resolution described in subparagraph (A), unless the Chairman specifically determines that—

(i) the ordinance or resolution was not adopted in compliance with the governing documents of the Indian tribe, or

(ii) the tribal governing body was significantly and unduly influenced in the adoption of such ordinance or resolution by any person identified in section 2711(e)(1)(D) of this title.

Upon the approval of such an ordinance or resolution, the Chairman shall publish in the Federal Register such ordinance or resolution and the order of approval.

(C) Effective with the publication under subparagraph (B) of an ordinance or resolution adopted by the governing body of an Indian tribe that has been approved by the Chairman under subparagraph (B), class III gaming activity on the Indian lands of the Indian tribe shall be fully subject to the terms and conditions of the Tribal-State compact entered into under paragraph (3) by the Indian tribe that is in effect.

(D)(i) The governing body of an Indian tribe, in its sole discretion and without the approval of the Chairman, may adopt an ordinance or resolution revoking any prior ordinance or resolution that authorized class III gaming on the Indian lands of the Indian tribe. Such revocation shall render class III gaming illegal on the Indian lands of such Indian tribe.

(ii) The Indian tribe shall submit any revocation ordinance or resolution described in clause (i) to the Chairman. The Chairman shall publish such ordinance or resolution in the Federal Register and the revocation provided by such ordinance or resolution shall take effect on the date of such publication.

(iii) Notwithstanding any other provision of this subsection—

(I) any person or entity operating a class III gaming activity pursuant to this paragraph on the date on which an ordinance or resolution described in clause (i) that revokes authorization for such class III gaming activity is published in the Federal Register may, during the 1-year period beginning on the date on which such revocation ordinance or resolution is published under clause (ii), continue to operate such activity in conformance with the Tribal-State compact entered into under paragraph (3) that is in effect, and

(II) any civil action that arises before, and any crime that is committed before, the close of such 1-year period shall not be affected by such revocation ordinance or resolution.

(3)(A) Any Indian tribe having jurisdiction over the Indian lands upon which a class III gaming activity is being conducted, or is to be conducted, shall request the State in which such lands are located to enter into negotiations for the purpose of entering into a Tribal-State compact governing the conduct of gaming activities. Upon receiving such a request, the State shall negotiate with the Indian tribe in good faith to enter into such a compact.

(B) Any State and any Indian tribe may enter into a Tribal-State compact governing gaming activities on the Indian lands of the Indian tribe, but such compact shall take effect only

when notice of approval by the Secretary of such compact has been published by the Secretary in the Federal Register.

(C) Any Tribal-State compact negotiated under subparagraph (A) may include provisions relating to—

(i) the application of the criminal and civil laws and regulations of the Indian tribe or the State that are directly related to, and necessary for, the licensing and regulation of such activity;

(ii) the allocation of criminal and civil jurisdiction between the State and the Indian tribe necessary for the enforcement of such laws and regulations;

(iii) the assessment by the State of such activities in such amounts as are necessary to defray the costs of regulating such activity;

(iv) taxation by the Indian tribe of such activity in amounts comparable to amounts assessed by the State for comparable activities;

(v) remedies for breach of contract;

(vi) standards for the operation of such activity and maintenance of the gaming facility, including licensing; and

(vii) any other subjects that are directly related to the operation of gaming activities.

(4) Except for any assessments that may be agreed to under paragraph (3)(C)(iii) of this subsection, nothing in this section shall be interpreted as conferring upon a State or any of its political subdivisions authority to impose any tax, fee, charge, or other assessment upon an Indian tribe or upon any other person or entity authorized by an Indian tribe to engage in a class III activity. No State may refuse to enter into the negotiations described in paragraph (3)(A) based upon the lack of authority in such State, or its political subdivisions, to impose such a tax, fee, charge, or other assessment.

(5) Nothing in this subsection shall impair the right of an Indian tribe to regulate class III gaming on its Indian lands concurrently with the State, except to the extent that such regulation is inconsistent with, or less stringent than, the State laws and regulations made applicable by any Tribal-State compact entered into by the Indian tribe under paragraph (3) that is in effect.

(6) The provisions of section 1175 of title 15 shall not apply to any gaming conducted under a Tribal-State compact that—

(A) is entered into under paragraph (3) by a State in which gambling devices are legal, and
(B) is in effect.

(7)(A) The United States district courts shall have jurisdiction over—

(i) any cause of action initiated by an Indian tribe arising from the failure of a State to enter into negotiations with the Indian tribe for the purpose of entering into a Tribal-State compact under paragraph (3) or to conduct such negotiations in good faith,

(ii) any cause of action initiated by a State or Indian tribe to enjoin a class III gaming activity located on Indian lands and conducted in violation of any Tribal-State compact entered into under paragraph (3) that is in effect, and

(iii) any cause of action initiated by the Secretary to enforce the procedures prescribed under subparagraph (B)(vii).

(B)(i) An Indian tribe may initiate a cause of action described in subparagraph (A)(i) only after the close of the 180-day period beginning on the date on which the Indian tribe requested the State to enter into negotiations under paragraph (3)(A).

(ii) In any action described in subparagraph (A)(i), upon the introduction of evidence by an Indian tribe that—

(I) a Tribal-State compact has not been entered into under paragraph (3), and

(II) the State did not respond to the request of the Indian tribe to negotiate such a compact or did not respond to such request in good faith,

the burden of proof shall be upon the State to prove that the State has negotiated with the Indian tribe in good faith to conclude a Tribal-State compact governing the conduct of gaming activities.

(iii) If, in any action described in subparagraph (A)(i), the court finds that the State has failed to negotiate in good faith with the Indian tribe to conclude a Tribal-State compact governing the conduct of gaming activities, the court shall order the State and the Indian Tribe² to conclude such a compact within a 60-day period. In determining in such an action whether a State has negotiated in good faith, the court—

(I) may take into account the public interest, public safety, criminality, financial integrity, and adverse economic impacts on existing gaming activities, and

(II) shall consider any demand by the State for direct taxation of the Indian tribe or of any Indian lands as evidence that the State has not negotiated in good faith.

(iv) If a State and an Indian tribe fail to conclude a Tribal-State compact governing the conduct of gaming activities on the Indian lands subject to the jurisdiction of such Indian tribe within the 60-day period provided in the order of a court issued under clause (iii), the Indian tribe and the State shall each submit to a mediator appointed by the court a proposed compact that represents their last best offer for a compact. The mediator shall select from the two proposed compacts the one which best comports with the terms of this chapter and any other applicable Federal law and with the findings and order of the court.

(v) The mediator appointed by the court under clause (iv) shall submit to the State and the Indian tribe the compact selected by the mediator under clause (iv).

(vi) If a State consents to a proposed compact during the 60-day period beginning on the date on which the proposed compact is submitted by the mediator to the State under clause (v), the proposed compact shall be treated as a Tribal-State compact entered into under paragraph (3).

(vii) If the State does not consent during the 60-day period described in clause (vi) to a proposed compact submitted by a mediator under clause (v), the mediator shall notify the Secretary and the Secretary shall prescribe, in consultation with the Indian tribe, procedures—

² So in original. Probably should not be capitalized.

(I) which are consistent with the proposed compact selected by the mediator under clause (iv), the provisions of this chapter, and the relevant provisions of the laws of the State, and (II) under which class III gaming may be conducted on the Indian lands over which the Indian tribe has jurisdiction.

(8)(A) The Secretary is authorized to approve any Tribal-State compact entered into between an Indian tribe and a State governing gaming on Indian lands of such Indian tribe.

(B) The Secretary may disapprove a compact described in subparagraph (A) only if such compact violates—

- (i) any provision of this chapter,
- (ii) any other provision of Federal law that does not relate to jurisdiction over gaming on Indian lands, or
- (iii) the trust obligations of the United States to Indians.

(C) If the Secretary does not approve or disapprove a compact described in subparagraph (A) before the date that is 45 days after the date on which the compact is submitted to the Secretary for approval, the compact shall be considered to have been approved by the Secretary, but only to the extent the compact is consistent with the provisions of this chapter.

(D) The Secretary shall publish in the Federal Register notice of any Tribal-State compact that is approved, or considered to have been approved, under this paragraph.

(9) An Indian tribe may enter into a management contract for the operation of a class III gaming activity if such contract has been submitted to, and approved by, the Chairman. The Chairman's review and approval of such contract shall be governed by the provisions of subsections (b), (c), (d), (f), (g), and (h) of section 2711 of this title.

(e) Approval of ordinances

For purposes of this section, by not later than the date that is 90 days after the date on which any tribal gaming ordinance or resolution is submitted to the Chairman, the Chairman shall approve such ordinance or resolution if it meets the requirements of this section. Any such ordinance or resolution not acted upon at the end of that 90-day period shall be considered to have been approved by the Chairman, but only to the extent such ordinance or resolution is consistent with the provisions of this chapter.

(Pub. L. 100-497, § 11, Oct. 17, 1988, 102 Stat. 2472.)

REFERENCES IN TEXT

This chapter, referred to in subsecs. (a), (d)(7)(B)(iv), (vii)(I), (8)(B)(i), (C), and (e), was in the original "this Act", meaning Pub. L. 100-497, Oct. 17, 1988, 102 Stat. 2467, known as the Indian Gaming Regulatory Act, which is classified principally to this chapter. For complete classification of this Act to the Code, see Short Title note set out under section 2701 of this title and Tables.

CONSTITUTIONALITY

For information regarding constitutionality of certain provisions of section 11 of Pub. L. 100-497, see Congressional Research Service, *The Constitution of the United States of America: Analysis and Interpretation*, Appendix 1, Acts of Congress Held Unconstitutional in

Whole or in Part by the Supreme Court of the United States.

§ 2711. Management contracts

(a) Class II gaming activity; information on operators

(1) Subject to the approval of the Chairman, an Indian tribe may enter into a management contract for the operation and management of a class II gaming activity that the Indian tribe may engage in under section 2710(b)(1) of this title, but, before approving such contract, the Chairman shall require and obtain the following information:

(A) the name, address, and other additional pertinent background information on each person or entity (including individuals comprising such entity) having a direct financial interest in, or management responsibility for, such contract, and, in the case of a corporation, those individuals who serve on the board of directors of such corporation and each of its stockholders who hold (directly or indirectly) 10 percent or more of its issued and outstanding stock;

(B) a description of any previous experience that each person listed pursuant to subparagraph (A) has had with other gaming contracts with Indian tribes or with the gaming industry generally, including specifically the name and address of any licensing or regulatory agency with which such person has had a contract relating to gaming; and

(C) a complete financial statement of each person listed pursuant to subparagraph (A).

(2) Any person listed pursuant to paragraph (1)(A) shall be required to respond to such written or oral questions that the Chairman may propound in accordance with his responsibilities under this section.

(3) For purposes of this chapter, any reference to the management contract described in paragraph (1) shall be considered to include all collateral agreements to such contract that relate to the gaming activity.

(b) Approval

The Chairman may approve any management contract entered into pursuant to this section only if he determines that it provides at least—

(1) for adequate accounting procedures that are maintained, and for verifiable financial reports that are prepared, by or for the tribal governing body on a monthly basis;

(2) for access to the daily operations of the gaming to appropriate tribal officials who shall also have a right to verify the daily gross revenues and income made from any such tribal gaming activity;

(3) for a minimum guaranteed payment to the Indian tribe that has preference over the retirement of development and construction costs;

(4) for an agreed ceiling for the repayment of development and construction costs;

(5) for a contract term not to exceed five years, except that, upon the request of an Indian tribe, the Chairman may authorize a contract term that exceeds five years but does not exceed seven years if the Chairman is satisfied

that the capital investment required, and the income projections, for the particular gaming activity require the additional time; and

(6) for grounds and mechanisms for terminating such contract, but actual contract termination shall not require the approval of the Commission.

(c) Fee based on percentage of net revenues

(1) The Chairman may approve a management contract providing for a fee based upon a percentage of the net revenues of a tribal gaming activity if the Chairman determines that such percentage fee is reasonable in light of surrounding circumstances. Except as otherwise provided in this subsection, such fee shall not exceed 30 percent of the net revenues.

(2) Upon the request of an Indian tribe, the Chairman may approve a management contract providing for a fee based upon a percentage of the net revenues of a tribal gaming activity that exceeds 30 percent but not 40 percent of the net revenues if the Chairman is satisfied that the capital investment required, and income projections, for such tribal gaming activity require the additional fee requested by the Indian tribe.

(d) Period for approval; extension

By no later than the date that is 180 days after the date on which a management contract is submitted to the Chairman for approval, the Chairman shall approve or disapprove such contract on its merits. The Chairman may extend the 180-day period by not more than 90 days if the Chairman notifies the Indian tribe in writing of the reason for the extension. The Indian tribe may bring an action in a United States district court to compel action by the Chairman if a contract has not been approved or disapproved within the period required by this subsection.

(e) Disapproval

The Chairman shall not approve any contract if the Chairman determines that—

(1) any person listed pursuant to subsection (a)(1)(A) of this section—

(A) is an elected member of the governing body of the Indian tribe which is the party to the management contract;

(B) has been or subsequently is convicted of any felony or gaming offense;

(C) has knowingly and willfully provided materially important false statements or information to the Commission or the Indian tribe pursuant to this chapter or has refused to respond to questions propounded pursuant to subsection (a)(2) of this section; or

(D) has been determined to be a person whose prior activities, criminal record if any, or reputation, habits, and associations pose a threat to the public interest or to the effective regulation and control of gaming, or create or enhance the dangers of unsuitable, unfair, or illegal practices, methods, and activities in the conduct of gaming or the carrying on of the business and financial arrangements incidental thereto;

(2) the management contractor has, or has attempted to, unduly interfere or influence for its gain or advantage any decision or process of tribal government relating to the gaming activity;

(3) the management contractor has deliberately or substantially failed to comply with the terms of the management contract or the tribal gaming ordinance or resolution adopted and approved pursuant to this chapter; or

(4) a trustee, exercising the skill and diligence that a trustee is commonly held to, would not approve the contract.

(f) Modification or voiding

The Chairman, after notice and hearing, shall have the authority to require appropriate contract modifications or may void any contract if he subsequently determines that any of the provisions of this section have been violated.

(g) Interest in land

No management contract for the operation and management of a gaming activity regulated by this chapter shall transfer or, in any other manner, convey any interest in land or other real property, unless specific statutory authority exists and unless clearly specified in writing in said contract.

(h) Authority

The authority of the Secretary under section 81 of this title, relating to management contracts regulated pursuant to this chapter, is hereby transferred to the Commission.

(i) Investigation fee

The Commission shall require a potential contractor to pay a fee to cover the cost of the investigation necessary to reach a determination required in subsection (e) of this section.

(Pub. L. 100-497, § 12, Oct. 17, 1988, 102 Stat. 2479.)

REFERENCES IN TEXT

This chapter, referred to in subsecs. (a)(3), (e)(1)(C), (3), (g), and (h), was in the original "this Act", meaning Pub. L. 100-497, Oct. 17, 1988, 102 Stat. 2467, known as the Indian Gaming Regulatory Act, which is classified principally to this chapter. For complete classification of this Act to the Code, see Short Title note set out under section 2701 of this title and Tables.

§ 2712. Review of existing ordinances and contracts

(a) Notification to submit

As soon as practicable after the organization of the Commission, the Chairman shall notify each Indian tribe or management contractor who, prior to October 17, 1988, adopted an ordinance or resolution authorizing class II gaming or class III gaming or entered into a management contract, that such ordinance, resolution, or contract, including all collateral agreements relating to the gaming activity, must be submitted for his review within 60 days of such notification. Any activity conducted under such ordinance, resolution, contract, or agreement shall be valid under this chapter, or any amendment made by this chapter, unless disapproved under this section.

(b) Approval or modification of ordinance or resolution

(1) By no later than the date that is 90 days after the date on which an ordinance or resolution authorizing class II gaming or class III gaming is submitted to the Chairman pursuant

to subsection (a) of this section, the Chairman shall review such ordinance or resolution to determine if it conforms to the requirements of section 2710(b) of this title.

(2) If the Chairman determines that an ordinance or resolution submitted under subsection (a) of this section conforms to the requirements of section 2710(b) of this title, the Chairman shall approve it.

(3) If the Chairman determines that an ordinance or resolution submitted under subsection (a) of this section does not conform to the requirements of section 2710(b) of this title, the Chairman shall provide written notification of necessary modifications to the Indian tribe which shall have not more than 120 days to bring such ordinance or resolution into compliance.

(c) Approval or modification of management contract

(1) Within 180 days after the submission of a management contract, including all collateral agreements, pursuant to subsection (a) of this section, the Chairman shall subject such contract to the requirements and process of section 2711 of this title.

(2) If the Chairman determines that a management contract submitted under subsection (a) of this section, and the management contractor under such contract, meet the requirements of section 2711 of this title, the Chairman shall approve the management contract.

(3) If the Chairman determines that a contract submitted under subsection (a) of this section, or the management contractor under a contract submitted under subsection (a) of this section, does not meet the requirements of section 2711 of this title, the Chairman shall provide written notification to the parties to such contract of necessary modifications and the parties shall have not more than 120 days to come into compliance. If a management contract has been approved by the Secretary prior to October 17, 1988, the parties shall have not more than 180 days after notification of necessary modifications to come into compliance.

(Pub. L. 100-497, §13, Oct. 17, 1988, 102 Stat. 2481.)

REFERENCES IN TEXT

This chapter, referred to in subsec. (a), was in the original "this Act", meaning Pub. L. 100-497, Oct. 17, 1988, 102 Stat. 2467, known as the Indian Gaming Regulatory Act, which is classified principally to this chapter. For complete classification of this Act to the Code, see Short Title note set out under section 2701 of this title and Tables.

§ 2713. Civil penalties

(a) Authority; amount; appeal; written complaint

(1) Subject to such regulations as may be prescribed by the Commission, the Chairman shall have authority to levy and collect appropriate civil fines, not to exceed \$25,000 per violation, against the tribal operator of an Indian game or a management contractor engaged in gaming for any violation of any provision of this chapter, any regulation prescribed by the Commission pursuant to this chapter, or tribal regulations, ordinances, or resolutions approved under section 2710 or 2712 of this title.

(2) The Commission shall, by regulation, provide an opportunity for an appeal and hearing

before the Commission on fines levied and collected by the Chairman.

(3) Whenever the Commission has reason to believe that the tribal operator of an Indian game or a management contractor is engaged in activities regulated by this chapter, by regulations prescribed under this chapter, or by tribal regulations, ordinances, or resolutions, approved under section 2710 or 2712 of this title, that may result in the imposition of a fine under subsection (a)(1) of this section, the permanent closure of such game, or the modification or termination of any management contract, the Commission shall provide such tribal operator or management contractor with a written complaint stating the acts or omissions which form the basis for such belief and the action or choice of action being considered by the Commission. The allegation shall be set forth in common and concise language and must specify the statutory or regulatory provisions alleged to have been violated, but may not consist merely of allegations stated in statutory or regulatory language.

(b) Temporary closure; hearing

(1) The Chairman shall have power to order temporary closure of an Indian game for substantial violation of the provisions of this chapter, of regulations prescribed by the Commission pursuant to this chapter, or of tribal regulations, ordinances, or resolutions approved under section 2710 or 2712 of this title.

(2) Not later than thirty days after the issuance by the Chairman of an order of temporary closure, the Indian tribe or management contractor involved shall have a right to a hearing before the Commission to determine whether such order should be made permanent or dissolved. Not later than sixty days following such hearing, the Commission shall, by a vote of not less than two of its members, decide whether to order a permanent closure of the gaming operation.

(c) Appeal from final decision

A decision of the Commission to give final approval of a fine levied by the Chairman or to order a permanent closure pursuant to this section shall be appealable to the appropriate Federal district court pursuant to chapter 7 of title 5.

(d) Regulatory authority under tribal law

Nothing in this chapter precludes an Indian tribe from exercising regulatory authority provided under tribal law over a gaming establishment within the Indian tribe's jurisdiction if such regulation is not inconsistent with this chapter or with any rules or regulations adopted by the Commission.

(Pub. L. 100-497, §14, Oct. 17, 1988, 102 Stat. 2482.)

REFERENCES IN TEXT

This chapter, referred to in subsecs. (a)(1), (3), (b)(1), and (d), was in the original "this Act", meaning Pub. L. 100-497, Oct. 17, 1988, 102 Stat. 2467, known as the Indian Gaming Regulatory Act, which is classified principally to this chapter. For complete classification of this Act to the Code, see Short Title note set out under section 2701 of this title and Tables.

§ 2714. Judicial review

Decisions made by the Commission pursuant to sections 2710, 2711, 2712, and 2713 of this title shall be final agency decisions for purposes of appeal to the appropriate Federal district court pursuant to chapter 7 of title 5.

(Pub. L. 100-497, § 15, Oct. 17, 1988, 102 Stat. 2483.)

§ 2715. Subpoena and deposition authority**(a) Attendance, testimony, production of papers, etc.**

By a vote of not less than two members, the Commission shall have the power to require by subpoena the attendance and testimony of witnesses and the production of all books, papers, and documents relating to any matter under consideration or investigation. Witnesses so summoned shall be paid the same fees and mileage that are paid witnesses in the courts of the United States.

(b) Geographical location

The attendance of witnesses and the production of books, papers, and documents, may be required from any place in the United States at any designated place of hearing. The Commission may request the Secretary to request the Attorney General to bring an action to enforce any subpoena under this section.

(c) Refusal of subpoena; court order; contempt

Any court of the United States within the jurisdiction of which an inquiry is carried on may, in case of contumacy or refusal to obey a subpoena for any reason, issue an order requiring such person to appear before the Commission (and produce books, papers, or documents as so ordered) and give evidence concerning the matter in question and any failure to obey such order of the court may be punished by such court as a contempt thereof.

(d) Depositions; notice

A Commissioner may order testimony to be taken by deposition in any proceeding or investigation pending before the Commission at any stage of such proceeding or investigation. Such depositions may be taken before any person designated by the Commission and having power to administer oaths. Reasonable notice must first be given to the Commission in writing by the party or his attorney proposing to take such deposition, and, in cases in which a Commissioner proposes to take a deposition, reasonable notice must be given. The notice shall state the name of the witness and the time and place of the taking of his deposition. Any person may be compelled to appear and depose, and to produce books, papers, or documents, in the same manner as witnesses may be compelled to appear and testify and produce like documentary evidence before the Commission, as hereinbefore provided.

(e) Oath or affirmation required

Every person deposing as herein provided shall be cautioned and shall be required to swear (or affirm, if he so requests) to testify to the whole truth, and shall be carefully examined. His testimony shall be reduced to writing by the person taking the deposition, or under his direction,

and shall, after it has been reduced to writing, be subscribed by the deponent. All depositions shall be promptly filed with the Commission.

(f) Witness fees

Witnesses whose depositions are taken as authorized in this section, and the persons taking the same, shall severally be entitled to the same fees as are paid for like services in the courts of the United States.

(Pub. L. 100-497, § 16, Oct. 17, 1988, 102 Stat. 2483.)

§ 2716. Investigative powers**(a) Confidential information**

Except as provided in subsection (b) of this section, the Commission shall preserve any and all information received pursuant to this chapter as confidential pursuant to the provisions of paragraphs (4) and (7) of section 552(b) of title 5.

(b) Provision to law enforcement officials

The Commission shall, when such information indicates a violation of Federal, State, or tribal statutes, ordinances, or resolutions, provide such information to the appropriate law enforcement officials.

(c) Attorney General

The Attorney General shall investigate activities associated with gaming authorized by this chapter which may be a violation of Federal law.

(Pub. L. 100-497, § 17, Oct. 17, 1988, 102 Stat. 2484.)

REFERENCES IN TEXT

This chapter, referred to in subsecs. (a) and (c), was in the original "this Act", meaning Pub. L. 100-497, Oct. 17, 1988, 102 Stat. 2467, known as the Indian Gaming Regulatory Act, which is classified principally to this chapter. For complete classification of this Act to the Code, see Short Title note set out under section 2701 of this title and Tables.

§ 2717. Commission funding

(a)(1) The Commission shall establish a schedule of fees to be paid to the Commission annually by each gaming operation that conducts a class II or class III gaming activity that is regulated by this chapter.

(2)(A) The rate of the fees imposed under the schedule established under paragraph (1) shall be—

(i) no more than 2.5 percent of the first \$1,500,000, and

(ii) no more than 5 percent of amounts in excess of the first \$1,500,000,

of the gross revenues from each activity regulated by this chapter.

(B) The total amount of all fees imposed during any fiscal year under the schedule established under paragraph (1) shall not exceed 0.080 percent of the gross gaming revenues of all gaming operations subject to regulation under this chapter.

(3) The Commission, by a vote of not less than two of its members, shall annually adopt the rate of the fees authorized by this section which shall be payable to the Commission on a quarterly basis.

(4) Failure to pay the fees imposed under the schedule established under paragraph (1) shall,

subject to the regulations of the Commission, be grounds for revocation of the approval of the Chairman of any license, ordinance, or resolution required under this chapter for the operation of gaming.

(5) To the extent that revenue derived from fees imposed under the schedule established under paragraph (1) are not expended or committed at the close of any fiscal year, such surplus funds shall be credited to each gaming activity on a pro rata basis against such fees imposed for the succeeding year.

(6) For purposes of this section, gross revenues shall constitute the annual total amount of money wagered, less any amounts paid out as prizes or paid for prizes awarded and less allowance for amortization of capital expenditures for structures.

(b)(1) The Commission, in coordination with the Secretary and in conjunction with the fiscal year of the United States, shall adopt an annual budget for the expenses and operation of the Commission.

(2) The budget of the Commission may include a request for appropriations, as authorized by section 2718 of this title, in an amount equal the amount of funds derived from assessments authorized by subsection (a) of this section for the fiscal year preceding the fiscal year for which the appropriation request is made.

(3) The request for appropriations pursuant to paragraph (2) shall be subject to the approval of the Secretary and shall be included as a part of the budget request of the Department of the Interior.

(Pub. L. 100-497, § 18, Oct. 17, 1988, 102 Stat. 2484; Pub. L. 105-83, title I, § 123(a)(1)-(2)(B), Nov. 14, 1997, 111 Stat. 1566; Pub. L. 109-221, title III, § 301(b), May 12, 2006, 120 Stat. 341.)

REFERENCES IN TEXT

This chapter, referred to in subsec. (a)(1), (2), (4), was in the original "this Act", meaning Pub. L. 100-497, Oct. 17, 1988, 102 Stat. 2467, known as the Indian Gaming Regulatory Act, which is classified principally to this chapter. For complete classification of this Act to the Code, see Short Title note set out under section 2701 of this title and Tables.

AMENDMENTS

2006—Subsec. (a)(2)(B). Pub. L. 109-221 added subpar. (B) and struck out former subpar. (B) which read as follows: "The total amount of all fees imposed during any fiscal year under the schedule established under paragraph (1) shall not exceed \$8,000,000."

1997—Subsec. (a)(1). Pub. L. 105-83, § 123(a)(1), substituted "gaming operation that conducts a class II or class III gaming activity" for "class II gaming activity".

Subsec. (a)(2)(A)(i). Pub. L. 105-83, § 123(a)(2)(A), substituted "no more than 2.5 percent" for "no less than 0.5 percent nor more than 2.5 percent".

Subsec. (a)(2)(B). Pub. L. 105-83, § 123(a)(2)(B), substituted "\$8,000,000" for "\$1,500,000".

APPLICATION TO SELF-REGULATED TRIBES

Pub. L. 105-83, title I, § 123(a)(2)(C), Nov. 14, 1997, 111 Stat. 1566, as amended by Pub. L. 105-277, div. A, § 101(e) [title III, § 338], Oct. 21, 1998, 112 Stat. 2681-231, 2681-295, provided that: "[N]othing in subsection (a) of this section [amending this section] shall apply to the Mississippi Band of Choctaw."

§ 2717a. Availability of class II gaming activity fees to carry out duties of Commission

In fiscal year 1990 and thereafter, fees collected pursuant to and as limited by section 2717 of this title shall be available to carry out the duties of the Commission, to remain available until expended.

(Pub. L. 101-121, title I, Oct. 23, 1989, 103 Stat. 718.)

CODIFICATION

Section was enacted as part of the Department of the Interior and Related Agencies Appropriations Act, 1990, and not as part of the Indian Gaming Regulatory Act which comprises this chapter.

§ 2718. Authorization of appropriations

(a) Subject to section 2717 of this title, there are authorized to be appropriated, for fiscal year 1998, and for each fiscal year thereafter, an amount equal to the amount of funds derived from the assessments authorized by section 2717(a) of this title.

(b) Notwithstanding section 2717 of this title, there are authorized to be appropriated to fund the operation of the Commission, \$2,000,000 for fiscal year 1998, and \$2,000,000 for each fiscal year thereafter. The amounts authorized to be appropriated in the preceding sentence shall be in addition to the amounts authorized to be appropriated under subsection (a) of this section.

(Pub. L. 100-497, § 19, Oct. 17, 1988, 102 Stat. 2485; Pub. L. 102-238, § 2(b), Dec. 17, 1991, 105 Stat. 1908; Pub. L. 105-83, title I, § 123(b), Nov. 14, 1997, 111 Stat. 1566; Pub. L. 105-119, title VI, § 627, Nov. 26, 1997, 111 Stat. 2522.)

AMENDMENTS

1997—Subsec. (a). Pub. L. 105-119 amended subsec. (a) generally. Prior to amendment, subsec. (a) read as follows: "Subject to the provisions of section 2717 of this title, there are hereby authorized to be appropriated for fiscal year 1998, and for each fiscal year thereafter, an amount equal to the amount of funds derived from the assessments authorized by section 2717(a) of this title for the fiscal year immediately preceding the fiscal year involved, for the operation of the Commission."

Pub. L. 105-83, § 123(b)(1), substituted "for fiscal year 1998, and for each fiscal year thereafter, an amount equal to the amount of funds derived from the assessments authorized by section 2717(a) of this title for the fiscal year immediately preceding the fiscal year involved," for "such sums as may be necessary".

Subsec. (b). Pub. L. 105-83, § 123(b)(2), added subsec. (b) and struck out former subsec. (b) which read as follows: "Notwithstanding the provisions of section 2717 of this title, there are hereby authorized to be appropriated not to exceed \$2,000,000 to fund the operation of the Commission for each of the fiscal years beginning October 1, 1988, and October 1, 1989. Notwithstanding the provisions of section 2717 of this title, there are authorized to be appropriated such sums as may be necessary to fund the operation of the Commission for each of the fiscal years beginning October 1, 1991, and October 1, 1992."

1991—Subsec. (b). Pub. L. 102-238 inserted at end "Notwithstanding the provisions of section 2717 of this title, there are authorized to be appropriated such sums as may be necessary to fund the operation of the Commission for each of the fiscal years beginning October 1, 1991, and October 1, 1992."

§ 2719. Gaming on lands acquired after October 17, 1988

(a) Prohibition on lands acquired in trust by Secretary

Except as provided in subsection (b) of this section, gaming regulated by this chapter shall not be conducted on lands acquired by the Secretary in trust for the benefit of an Indian tribe after October 17, 1988, unless—

(1) such lands are located within or contiguous to the boundaries of the reservation of the Indian tribe on October 17, 1988; or

(2) the Indian tribe has no reservation on October 17, 1988, and—

(A) such lands are located in Oklahoma and—

(i) are within the boundaries of the Indian tribe's former reservation, as defined by the Secretary, or

(ii) are contiguous to other land held in trust or restricted status by the United States for the Indian tribe in Oklahoma; or

(B) such lands are located in a State other than Oklahoma and are within the Indian tribe's last recognized reservation within the State or States within which such Indian tribe is presently located.

(b) Exceptions

(1) Subsection (a) of this section will not apply when—

(A) the Secretary, after consultation with the Indian tribe and appropriate State and local officials, including officials of other nearby Indian tribes, determines that a gaming establishment on newly acquired lands would be in the best interest of the Indian tribe and its members, and would not be detrimental to the surrounding community, but only if the Governor of the State in which the gaming activity is to be conducted concurs in the Secretary's determination; or

(B) lands are taken into trust as part of—

(i) a settlement of a land claim,

(ii) the initial reservation of an Indian tribe acknowledged by the Secretary under the Federal acknowledgment process, or

(iii) the restoration of lands for an Indian tribe that is restored to Federal recognition.

(2) Subsection (a) of this section shall not apply to—

(A) any lands involved in the trust petition of the St. Croix Chippewa Indians of Wisconsin that is the subject of the action filed in the United States District Court for the District of Columbia entitled *St. Croix Chippewa Indians of Wisconsin v. United States*, Civ. No. 86-2278, or

(B) the interests of the Miccosukee Tribe of Indians of Florida in approximately 25 contiguous acres of land, more or less, in Dade County, Florida, located within one mile of the intersection of State Road Numbered 27 (also known as Krome Avenue) and the Tamiami Trail.

(3) Upon request of the governing body of the Miccosukee Tribe of Indians of Florida, the Secretary shall, notwithstanding any other provision of law, accept the transfer by such Tribe to

the Secretary of the interests of such Tribe in the lands described in paragraph (2)(B) and the Secretary shall declare that such interests are held in trust by the Secretary for the benefit of such Tribe and that such interests are part of the reservation of such Tribe under sections 465 and 467 of this title, subject to any encumbrances and rights that are held at the time of such transfer by any person or entity other than such Tribe. The Secretary shall publish in the Federal Register the legal description of any lands that are declared held in trust by the Secretary under this paragraph.

(c) Authority of Secretary not affected

Nothing in this section shall affect or diminish the authority and responsibility of the Secretary to take land into trust.

(d) Application of title 26

(1) The provisions of title 26 (including sections 1441, 3402(q), 6041, and 6050I, and chapter 35 of such title) concerning the reporting and withholding of taxes with respect to the winnings from gaming or wagering operations shall apply to Indian gaming operations conducted pursuant to this chapter, or under a Tribal-State compact entered into under section 2710(d)(3) of this title that is in effect, in the same manner as such provisions apply to State gaming and wagering operations.

(2) The provisions of this subsection shall apply notwithstanding any other provision of law enacted before, on, or after October 17, 1988, unless such other provision of law specifically cites this subsection.

(Pub. L. 100-497, § 20, Oct. 17, 1988, 102 Stat. 2485.)

REFERENCES IN TEXT

This chapter, referred to in subsecs. (a) and (d)(1), was in the original "this Act", meaning Pub. L. 100-497, Oct. 17, 1988, 102 Stat. 2467, known as the Indian Gaming Regulatory Act, which is classified principally to this chapter. For complete classification of this Act to the Code, see Short Title note set out under section 2701 of this title and Tables.

§ 2720. Dissemination of information

Consistent with the requirements of this chapter, sections 1301, 1302, 1303 and 1304 of title 18 shall not apply to any gaming conducted by an Indian tribe pursuant to this chapter.

(Pub. L. 100-497, § 21, Oct. 17, 1988, 102 Stat. 2486.)

REFERENCES IN TEXT

This chapter, referred to in text, was in the original "this Act", meaning Pub. L. 100-497, Oct. 17, 1988, 102 Stat. 2467, known as the Indian Gaming Regulatory Act, which is classified principally to this chapter. For complete classification of this Act to the Code, see Short Title note set out under section 2701 of this title and Tables.

§ 2721. Severability

In the event that any section or provision of this chapter, or amendment made by this chapter, is held invalid, it is the intent of Congress that the remaining sections or provisions of this chapter, and amendments made by this chapter, shall continue in full force and effect.

(Pub. L. 100-497, § 22, Oct. 17, 1988, 102 Stat. 2486.)

REFERENCES IN TEXT

This chapter, referred to in text, was in the original "this Act", meaning Pub. L. 100-497, Oct. 17, 1988, 102 Stat. 2467, known as the Indian Gaming Regulatory Act, which is classified principally to this chapter. For complete classification of this Act to the Code, see Short Title note set out under section 2701 of this title and Tables.

CHAPTER 30—INDIAN LAW ENFORCEMENT REFORM

Sec.	
2801.	Definitions.
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2805.	Regulations.
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2815.	State, tribal, and local law enforcement cooperation.

§ 2801. Definitions

For purposes of this chapter—

(1) The term "Branch of Criminal Investigations" means the entity the Secretary is required to establish within the Office of Justice Services under section 2802(d)(1) of this title.

(2) The term "Bureau" means the Bureau of Indian Affairs of the Department of the Interior.

(3) The term "employee of the Bureau" includes an officer of the Bureau.

(4) The term "enforcement of a law" includes the prevention, detection, and investigation of an offense and the detention or confinement of an offender.

(5) The term "Indian country" has the meaning given that term in section 1151 of title 18.

(6) The term "Indian tribe" has the meaning given that term in section 1301 of this title.

(7) The term "offense" means an offense against the United States and includes a violation of a Federal regulation relating to part or all of Indian country.

(8) The term "Secretary" means the Secretary of the Interior.

(10)¹ The term "tribal justice official" means—

(A) a tribal prosecutor;

(B) a tribal law enforcement officer; or

(C) any other person responsible for investigating or prosecuting an alleged criminal offense in tribal court.

(Pub. L. 101-379, § 2, Aug. 18, 1990, 104 Stat. 473; Pub. L. 111-211, title II, §§ 203(b), 211(a), July 29, 2010, 124 Stat. 2263, 2264.)

AMENDMENTS

2010—Pub. L. 111-211, § 211(a), redesignated and reordered pars. (9) and (1) to (7) as (1) to (8), respectively, substituted "Office of Justice Services" for "Division

of Law Enforcement Services" in par. (1), and struck out former par. (8) which read as follows: "The term 'Division of Law Enforcement Services' means the entity established within the Bureau under section 2802(b) of this title."

Par. (10). Pub. L. 111-211, § 203(b), added par. (10).

SHORT TITLE OF 2010 AMENDMENT

Pub. L. 111-211, title II, § 201(a), July 29, 2010, 124 Stat. 2261, provided that: "This title [enacting part G (§458ccc et seq.) of subchapter II of chapter 14 of this title and sections 2810 to 2815, 3665a, and 3682 of this title, redesignating part F (§458bbb et seq.) of subchapter II of chapter 14 of this title as part H (§458ddd et seq.), amending this section and sections 458ddd-1, 458ddd-2, 1302, 1321, 2411 to 2413, 2414a, 2415, 2431 to 2433, 2441, 2442, 2451, 2453, 2802 to 2804, 2809, 3613, 3621, 3653, 3662, 3663, 3666, and 3681 of this title, sections 841, 845, 1162, 4042, and 4352 of Title 18, Crimes and Criminal Procedure, sections 872, 872a, 873, and 878 of Title 21, Food and Drugs, sections 534 and 543 of Title 28, Judiciary and Judicial Procedure, and sections 2996f, 3732, 3796h, 3796dd, 5616, 5783, and 13709 of Title 42, The Public Health and Welfare, enacting provisions set out as notes under this section and section 1302 of this title, section 872 of Title 21, section 534 of Title 28, and sections 3732, 3796h, 3796dd, and 14044 of Title 42, amending provisions set out as a note under section 534 of Title 28, and repealing provisions set out as a note under section 3651 of this title] may be cited as the 'Tribal Law and Order Act of 2010'."

SHORT TITLE

Pub. L. 101-379, § 1, Aug. 18, 1990, 104 Stat. 473, provided that: "This Act [enacting this chapter and provisions set out as a note under section 2991a of Title 42, The Public Health and Welfare] may be cited as the 'Indian Law Enforcement Reform Act'."

SEVERABILITY

Pub. L. 111-211, title II, § 204, July 29, 2010, 124 Stat. 2263, provided that: "If any provision of this title [see Short Title of 2010 Amendment note above], an amendment made by this title, or the application of such a provision or amendment to any individual, entity, or circumstance, is determined by a court of competent jurisdiction to be invalid, the remaining provisions of this title, the remaining amendments made by this title, and the application of those provisions and amendments to individuals, entities, or circumstances other than the affected individual, entity, or circumstance shall not be affected."

FINDINGS; PURPOSES

Pub. L. 111-211, title II, § 202, July 29, 2010, 124 Stat. 2262, provided that:

"(a) FINDINGS.—Congress finds that—

"(1) the United States has distinct legal, treaty, and trust obligations to provide for the public safety of Indian country;

"(2) Congress and the President have acknowledged that—

"(A) tribal law enforcement officers are often the first responders to crimes on Indian reservations; and

"(B) tribal justice systems are often the most appropriate institutions for maintaining law and order in Indian country;

"(3) less than 3,000 tribal and Federal law enforcement officers patrol more than 56,000,000 acres of Indian country, which reflects less than 1/2 of the law enforcement presence in comparable rural communities nationwide;

"(4) the complicated jurisdictional scheme that exists in Indian country—

"(A) has a significant negative impact on the ability to provide public safety to Indian communities;

"(B) has been increasingly exploited by criminals; and

¹ So in original. There is no par. (9).

Activity #3 - TGRA Responsibilities, Authority, Compliance, and Tools

IGRA and Tribal Gaming Ordinance mandates/requires Tribes to regulate Indian Gaming activities within their boundaries. Identify what duties and/or responsibilities help achieve the mandate and mission of the TGRA.

1. Divide into groups.
2. Discuss the TGRA’s regulatory tasks listed below in the “Responsibility” field.
 - a. Under each responsibility, list additional tasks that can be performed by the TGRA to achieve the mission of regulating Indian gaming.
3. Discuss the specific authority to carry out each task.
4. Discuss how you will achieve the task, including what resources (compliance, surveillance, internal audit, backgrounds etc.) you will rely on.

Responsibility Required or best practice duties TGRA can perform to achieve the mission	Authority IGRA, Tribal Ordinance, NIGC Regulation, Tribal Regulations	Action Plan How will you accomplish this task, and what resources will you need. Things to consider. Guide discussions on How to accomplish the task. Bring up things to consider.
1. Ensure that gaming facilities are constructed, maintained and operated in a manner that adequately protects the environment and the public health and safety		
2. Ensure that net revenues from any gaming activities are used for the limited purposes set forth in the tribal gaming ordinance		
3. Obtain annual independent outside audits. A Tribe shall submit to the Commission a copy of the report(s) and management letter(s) setting forth the results of each annual audit within 120 days after the end of each fiscal year of the gaming operation		

Activity #3 - TGRA Responsibilities, Authority, Compliance, and Tools

Responsibility Required or best practice duties TGRA can perform to achieve the mission	Authority IGRA, Tribal Ordinance, NIGC Regulation, Tribal Regulations	Action Plan How will you accomplish this task, and what resources will you need. Things to consider. Guide discussions on How to accomplish the task. Bring up things to consider.
4. Establish or approve minimum internal control standards or procedures for the gaming operation		
5. Protect tribal assets		
6. Conduct investigations of possible violations and take appropriate enforcement action with respect to the tribal gaming ordinances and regulations		

Activity #3 - TGRA Responsibilities, Authority, Compliance, and Tools

Responsibility Required or best practice duties TGRA can perform to achieve the mission	Authority IGRA, Tribal Ordinance, NIGC Regulation, Tribal Regulations	Action Plan How will you accomplish this task, and what resources will you need. Things to consider. Guide discussions on How to accomplish the task. Bring up things to consider.
7. Establish or approve rules of various games, and inspect games, tables, equipment, machines, cards, dice, and chips or tokens used in the gaming operation		

Additional Tasks: Discuss other tasks you perform to fulfill your regulatory mandate to regulate gaming. Develop a list of tasks and complete the table below.

Responsibility Required or best practice duties TGRA can perform to achieve the mission	Authority IGRA, Tribal Ordinance, NIGC Regulation, Tribal Regulations	Action Plan How will you accomplish this task, and what resources will you need. Things to consider. Guide discussions on How to accomplish the task. Bring up things to consider.
8.		
9.		

Activity #3 - TGRA Responsibilities, Authority, Compliance, and Tools

Responsibility Required or best practice duties TGRA can perform to achieve the mission	Authority IGRA, Tribal Ordinance, NIGC Regulation, Tribal Regulations	Action Plan How will you accomplish this task, and what resources will you need. Things to consider. Guide discussions on How to accomplish the task. Bring up things to consider.
10.		
11.		

Resources

Model gaming ordinance recommended language (Section 8. Gaming Commission):

The Commission will conduct oversight to ensure compliance with Tribal, federal and, if applicable, state laws and regulations. It will serve as the licensing authority for individuals employed in the gaming operation and will administer background investigations as part of the licensing process. **The Commission will also have a role in monitoring compliance with the gaming operation’s internal controls and in tracking gaming revenues. In order to carry out its regulatory duties, the Commission shall have unrestricted access to all areas of the gaming operation and to all of its records.** The Commission shall have authority to take enforcement actions, including suspension or revocation of an individual gaming license, when appropriate.

NATIONAL INDIAN GAMING COMMISSION BULLETIN

No. 94-3

April 20, 1994

Subject: Functions of a Tribal Gaming Commission

INTRODUCTION/OVERVIEW

In response to numerous requests, the National Indian Gaming Commission (NIGC) is providing this Bulletin regarding the establishment and functions of tribal gaming commissions. While neither the Indian Gaming Regulatory Act (IGRA) nor the NIGC regulations require tribes to establish tribal gaming commissions, there are specific governmental responsibilities tribes must undertake to engage in gaming under the IGRA. The NIGC believes that tribal gaming commissions are an appropriate type of governmental agency that can implement the regulatory responsibilities of the tribes under the IGRA. In fact, most governments that sanction gaming do so within a comprehensive regulatory environment, including active regulation through the use of gaming commissions. Aside from fulfilling the requirements under the IGRA, there are also many other regulatory duties that a tribal gaming commission can perform on behalf of a tribe.

This Bulletin addresses some of the regulatory responsibilities that are required under the IGRA and the regulations of the NIGC. This Bulletin also contains some recommendations for establishing tribal gaming commissions. Lastly, this Bulletin lists some of the regulatory responsibilities that tribal gaming commissions can perform on behalf of tribes. Also, it is important to note that many Indian tribes have already established tribal gaming commissions after which a tribe may wish to pattern its own commission.

TRIBAL REGULATORY RESPONSIBILITIES

Tribal governments are recognized as having the right to engage in gaming. This authority is confirmed through the IGRA. Under the IGRA and the regulations of the NIGC, tribal governments are responsible for the regulation of gaming conducted on Indian lands. While tribal governments have the authority to engage in gaming either through tribally run operations or through operations run by management contractors, tribes must understand the importance of establishing a governmental regulatory framework under which gaming will be conducted. Most importantly, comprehensive regulation is a necessary component in the system

of checks and balances needed to ensure the integrity of the games and to protect the interest of the tribe.

Effective regulatory oversight requires that there be a separation between the regulation and operation of tribal gaming activities. For example, if a tribe owns and operates its own gaming facility, the governmental entity must be structured to ensure that the regulation of gaming is separate from the operation of gaming. On the other hand, if a tribe has entered into a management agreement, the management entity is responsible only for the operation of gaming. In such cases, the management entity is required to comply with all tribal gaming ordinances and regulations including those that address background investigations, suitability determinations, and licensing of key employees and primary management officials. Also, the regulatory entity should have no involvement in the operational or managerial decisions of a gaming facility, except to the extent that such issues may involve tribal law or regulations.

The authority to establish a regulatory structure or tribal gaming commission comes from the sovereign powers of tribal governments. An effective regulatory scheme should work to ensure that all gaming within a tribe's jurisdiction is operated in accordance with tribal laws and regulations. The tribal gaming commission should be an arm of the tribal government, established for the exclusive purpose of regulating and monitoring gaming on behalf of the tribe. It is important to note that if a tribe does not establish a tribal gaming commission, some other office or agency of the tribal government must fulfill these governmental obligations.

ESTABLISHING A TRIBAL GAMING COMMISSION

There are many different factors a tribe should consider when establishing a tribal gaming commission. Most importantly, a tribal gaming commission should be established by ordinance. The following organizational and operational issues should also be considered when establishing a tribal gaming commission:

1. The tribal gaming commission's responsibilities, powers, and enforcement authority should be specifically set forth in the tribal ordinance. Any responsibility reserved to the governing body of the tribe should also be specifically stated.
2. The ordinance should include provisions regarding the number of commissioners, the method of selecting commissioners including the qualifications needed and the background requirements, their terms of office, and the methods and grounds for removal of commission members. The NIGC suggests staggering the terms of the commissioners so as to provide continuity in the tribal gaming commission's activities during transition of commission members.
3. The ordinance should include a method for funding the tribal gaming commission and its staff. The NIGC suggests that funding be appropriated from the tribal government instead of direct funding from the gaming operation.
4. The ordinance should include the basic procedures for conducting official commission business, including provisions regarding appeal procedures of tribal gaming commission actions.

5. The ordinance should provide for the tribal gaming commission's autonomous authority. This authority should include, among other things, unrestricted access to any area of the gaming operation, including the books and records of the operation, in order to carry out the regulatory duties.

REGULATORY FUNCTIONS OF A TRIBAL GAMING COMMISSION

If a tribe elects to utilize a tribal gaming commission, the commission might be responsible for the regulatory functions outlined below. Items 1 - 12 are requirements contained in the IGRA and the NIGC's regulations. The remaining activities are additional and related functions a tribal gaming commission might perform.

1. Develop licensing procedures for all employees of the gaming operation pursuant to 25 CFR § 558.1(b).
2. Issue, suspend, revoke, and renew licenses of primary management officials and key employees upon completion of background investigations and after following the procedures contained in 25 CFR Parts 556 and 558.
3. Conduct background investigations on primary management officials and key employees according to requirements that are at least as stringent as those in 25 CFR Parts 556 and 558 pursuant to 25 CFR § 522.4(b)(5).
4. Forward completed employment applications for primary management officials and key employees to the NIGC pursuant to 25 CFR § 558.3. These applications should include the Privacy Act notice and the notice regarding false statements contained in 25 CFR §§ 556.2 and 556.3.
5. Forward completed investigative reports on each background investigation for each primary management official or key employee to the NIGC prior to issuing a license pursuant to 25 CFR § 556.5.
6. Review a person's prior activities, criminal record, if any, and reputation, habits and associations to make a finding concerning the eligibility of a key employee or primary management official for employment in a gaming operation pursuant to 25 CFR § 558.2.
7. Notify the NIGC if, after conducting a background investigation on a primary management official or a key employee, the tribe does not license the individual pursuant to 25 CFR § 556.5(d)(1).
8. Retain applications and reports of background investigations of primary management officials and key employees for no less than three years from termination of employment pursuant to 25 CFR § 558.1(c).
9. Issue separate licenses to each place, facility, or location on Indian lands where a tribe elects to allow gaming pursuant to 25 CFR § 522.4(b)(6).

10. Ensure that gaming facilities are constructed, maintained and operated in a manner that adequately protects the environment and the public health and safety pursuant to 25 CFR § 522.4(b)(7).
11. Obtain annual independent outside audits and submit these audits to the NIGC pursuant to 25 CFR § 522.4(b)(3). The scope of these audits should include all gaming related contracts that result in purchases of supplies, services or concessions for more than \$25,000 in any year pursuant to 25 CFR § 522.4(b)(4).
12. Ensure that net revenues from any gaming activities are used for the limited purposes set forth in the tribal gaming ordinance pursuant to 25 CFR § 522.4(b)(2).
13. If the tribe authorizes individually owned gaming, issue licenses according to the requirements contained in the tribal gaming ordinance pursuant to 25 CFR §§ 522.10 and 522.11.
14. Promulgate tribal gaming regulations pursuant to tribal law.
15. Monitor gaming activities to ensure compliance with tribal law/regulations.
16. Interact with other regulatory and law enforcement agencies regarding the regulation of gaming.
17. Conduct investigations of possible violations and take appropriate enforcement action with respect to the tribal gaming ordinances and regulations.
18. Provide independent information to the tribe on the status of the tribe's gaming activities.
19. Take testimony and conduct hearings on regulatory matters, including matters related to the revocation of primary management official and key employee licenses.
20. Establish or approve minimum internal control standards or procedures for the gaming operation, including the operation's credit policies and procedures for acquiring supplies and equipment.
21. Establish any supplementary criteria for the licensing of primary management officials, key employees, and other employees that the tribe deems necessary.
22. Establish standards for and issue licenses or permits to persons and entities who deal with the gaming operation such as manufacturers and suppliers of machines, equipment and supplies.
23. Maintain records on licensees and on persons denied licenses including persons otherwise prohibited from engaging in gaming activities within the tribe's jurisdiction.
24. Perform audits of business transactions to ensure compliance with regulations and/or policy.

25. Establish or approve rules of various games, and inspect games, tables, equipment, machines, cards, dice, and chips or tokens used in the gaming operation. Establish or approve video surveillance standards. Establish standards/criteria for gaming machines and facilitate the testing of machines for compliance.
26. Resolve patron disputes, employees grievances, and other problems, pursuant to the tribal gaming ordinance.

For additional information, contact Tim Harper or Susan Carletta at (202) 632-7003.

No. 99-3

October 12, 1999

Subject: Independence of Tribal Gaming Commissions

Introduction/Overview

This Bulletin supplements NIGC Bulletin No. 94-3 (April 20, 1994) which discusses the role for a tribal gaming commission in helping a tribe meet its regulatory responsibilities under the Indian Gaming Regulatory Act (IGRA). Effective regulatory oversight requires a functional separation between the *operation* of tribal gaming and the *regulation* of that tribal gaming. In the NIGC's experience, a well-run tribal gaming commission, free to regulate without undue interference from tribal leadership, is the best vehicle for achieving this functional separation.

Discussion

A tribal gaming commission is an arm of the tribal government established for the exclusive purpose of regulating and monitoring gaming on behalf of the tribe. The charter document for the tribal gaming commission should ensure that the commission is an independent body, separated completely from the tribe's role as owner and operator of the tribe's gaming activities. Responsibilities such as the adoption and establishment of rules and standards for the operation of gaming activity should be delegated to the tribal gaming commission. The exercise of such authority is strong evidence that the gaming commission functions in an independent capacity distinct from the tribal council.

The purpose of a tribal gaming commission is regulatory not managerial. A tribal gaming commission conducts oversight to ensure compliance with federal, tribal, and, if applicable, state laws and regulations. The commission serves as the licensing authority for individuals employed in the gaming operation, administering an effective program for background investigations as part of the licensing process. The commission also has a role in monitoring compliance with the internal control standards for the gaming operation and in tracking revenues. In order to carry out its regulatory duties, the commission should have unrestricted access to all areas of the gaming operation and to all records. A tribal gaming commission should have clear authority to take enforcement actions, including suspension or revocation of an individual gaming license, when appropriate.

A tribal government helps ensure the independence of a tribal gaming commission by creating for it a permanent and stable source of funding. This funding may originate in the tribal budget, which is recommended, or from license fees or assessments on the gaming revenue. The independence and integrity of the commission is seriously threatened if the tribal council is able to withhold funding from it or if the level of funding is not sufficient for the gaming commission to perform its role. Similarly,

approval for day-to-day expenditures for the gaming commission should be within the authority of the gaming commission or a staff supervisor and not from an outside party. The tribal gaming commission should be supported by a qualified staff.

The length of term in office and assurance of an opportunity to perform the required duties are important to the independence of tribal gaming commissions as both a matter of reality and perception. The term should be of fixed length and long enough to ensure stability. Continuity is fostered by staggering the terms of commission members thus avoiding wholesale changes in the membership. The commission should be non-partisan and non-political. Removal of commission members during term of office should be for good cause only and follow a procedure which provides for due process. Removal should not be permitted for simple disagreement with tribal leadership over matters that involve a gaming commissioner's exercise of discretion in the performance of duty.

While independence is critical, regular and open communication with tribal leadership and tribal membership is also important. The general aspects of the commission's regulations and its oversight of gaming activities are of vital interest to the tribe. Regular reports should be made to the tribal council and to the membership on the status and health of the gaming operation from a regulatory perspective.

Serious conflicts of interest in the exercise of its regulatory responsibilities as well as an appearance of impropriety are avoided if members of gaming commissions are prohibited from playing in the gaming activities they regulate. Commission members should not be employed by gaming operations or by the management company or consultant serving the gaming operation. Participation as a player or as an employee in the regulated operations will likely raise questions about the independence of the tribal gaming commission and potentially compromise its integrity or that of its members.

Ideally, no members of a tribal council would serve on the tribal gaming commission. Tribal council members and tribal gaming commission members may not always agree on matters about which the tribal gaming commission has taken a regulatory position because they may approach these matters from different perspectives. Actual and perceived independence for a tribal gaming commission is fostered if the roles of council member and gaming commissioner are separate and distinct.

Conclusion

The NIGC encourages tribes to review their responsibilities and procedures in respect to gaming regulation and consider whether their tribal gaming commission operates in a sufficiently independent manner. This bulletin serve as guidance to tribes and identifies attributes of an independent tribal gaming commission but the NIGC recognizes that there may be other ways to achieve such independence. The overall goal is, of course, to ensure integrity in Indian gaming.

For additional information, a tribe may contact an NIGC field representative or the NIGC Office of General Counsel at (202) 632-7003.

Commissioners Track Part 2 Tools of the Gaming Commission Participant Guide



KEY POINTS

How does a Gaming Commission regulate? What tools do we have to enforce the various levels of law?

How do we get it done?

We will use critical thinking skills to discuss how different departments can assist TGRA's:

- Background Investigations and Licensing
- Internal Audit
- Compliance
- Surveillance

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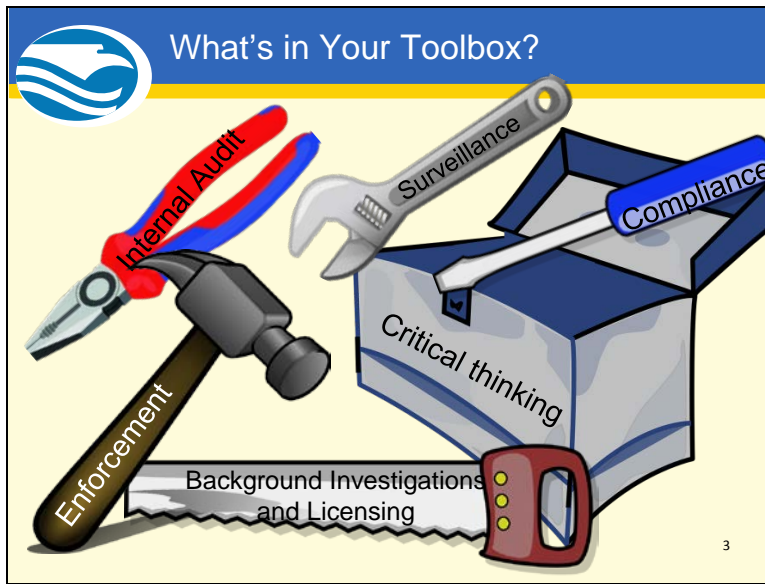


KEY POINTS

Poll Title: What is the most important tool the TGRA uses to regulate Indian gaming?

https://www.polleverywhere.com/free_text_polls/Cl1YtWNxjSsaYXG

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KEY POINTS


Imagine the job of regulating the Indian casino as being a bit more physical in nature. As with any job it requires craft and skill. We must use the tools available to us in order to complete all of the jobs required of a tribal regulator.

As in any job, we have different tools for the varying number of tasks, each tool with its capabilities and limitations. A hammer, while very effective for nails usually proves less than useful for painting. A saw will work very well on lumber, but for bricklaying it may be more of a hindrance than help. Each tool accomplished a limited number of tasks. No one task is completed using only one tool, so as you work on each task, you will reach for another tool to move the job forward.

We are going to discuss tools the tribal regulator has at hand and how each may be used to protect the tribe's guests and assets.

As we discuss these tools today, you are welcome to make suggestions or ask questions. As with any job, we can always learn to institute better techniques to accomplish your goals.


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Critical Thinking

Skills:

- Evaluation
- Analysis
- Interpretation
- Inference
- Self-Regulation
- Explanation



4

KEY POINTS

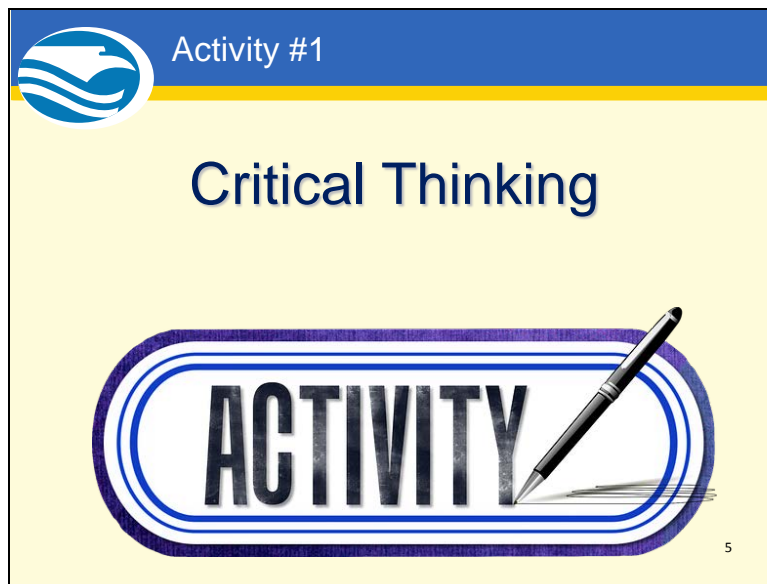
Critical thinking is the ability to think clearly and rationally about what to do or what to believe.

It includes the ability to engage in reflective and independent thinking. Someone with critical thinking skills is able to do the following :

- understand the logical connections between ideas
- identify, construct and evaluate arguments
- detect inconsistencies and common mistakes in reasoning
- solve problems systematically
- identify the relevance and importance of ideas
- reflect on the justification of one's own beliefs and values

Taken from: <http://philosophy.hku.hk/think/critical/ct.php>

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KEY POINTS

Critical Thinking Activity

Group Work

TIME: 45 minutes

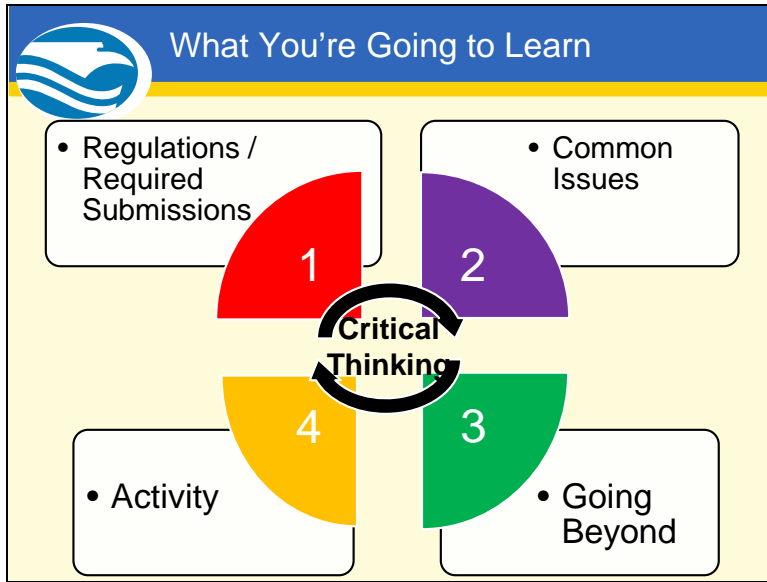
Supplies: (per group)

- Large Post-it notes
- Markers
- Activity #1 Critical Thinking Scenario worksheet

Instructions

- Break up into small groups.
- Review the Critical Thinking worksheet
- Work together to complete what you will need to do in order to accomplish this additional task
- Prepare to discuss.

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KEY POINTS

As we examine each tool of the gaming commission we are going to look at the following aspects:

- Regulations and required submissions
- Common issues
- How you can go beyond the regulations and required submissions
- Participate in an activity about that particular tool

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Regulations 556 & 558

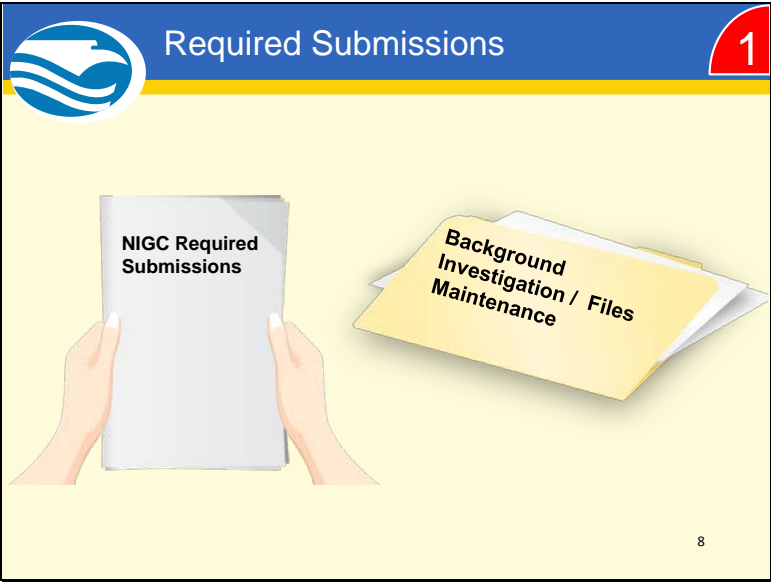
Regulation 556

Regulation 558

7

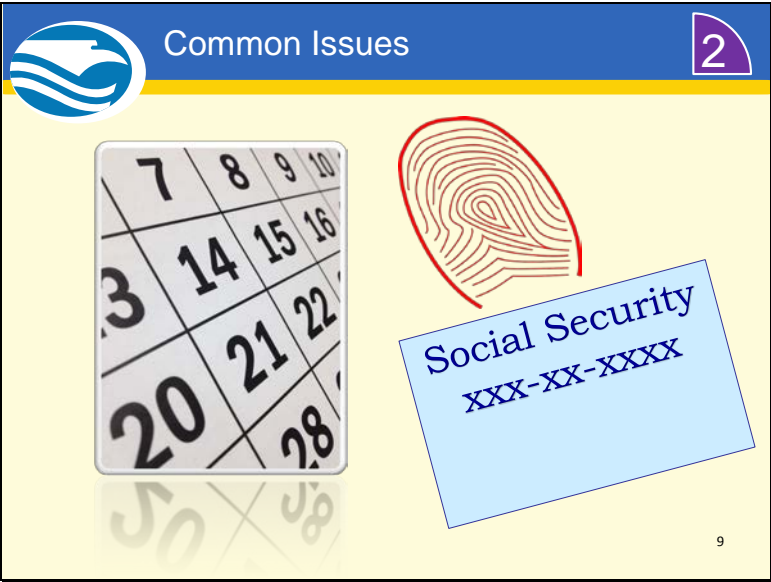
KEY POINTS

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KEY POINTS

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KEY POINTS

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KEY POINTS

Discussion: How can you use your critical thinking skills to create best practices, that go above and beyond the minimum requirements, for your background investigations.
Above & Beyond the Required Submissions

25 CFR §556.5 Tribal eligibility determination. (NIGC Regulations)


A tribe shall conduct an investigation sufficient to make an eligibility determination.

(a) To make a finding concerning the eligibility of a key employee or primary management official for granting of a gaming license, an authorized tribal official shall review a person's:

- (1) Prior activities;
- (2) Criminal record, if any; and
- (3) Reputation, habits, and associations.


§2710(b)(s)(F) there is an adequate system which— (i) ensures that background investigations are conducted on the primary management officials and key employees of the gaming enterprise and that oversight of such officials and their management is conducted on an ongoing basis; and (ii) includes— (I) tribal licenses for primary management officials and key employees of the gaming enterprise with prompt notification to the Commission of the issuance of such licenses; (II) a standard whereby any person whose prior activities, criminal record, if any, or reputation, habits and associations pose a threat to the public interest or to the effective regulation of gaming, or create or enhance the dangers of unsuitable, unfair, or illegal practices and methods and activities in the conduct of gaming shall not be eligible for employment.

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Going Beyond - The Required Submissions 3

- Utilizing the background investigation department as a tool to help you regulate



11

KEY POINTS

Discussion: How may background investigations aid the TGRA in performing regulatory duties?

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KEY POINTS

Activity #2 - Eligibility Determination Activity

Small Group Activity

TIME: 60 minutes

Supplies:

- Activity #2 - Eligibility determination worksheet

Instructions

- Discuss the TGRA responsibilities for conducting a thorough enough background investigation to make an eligibility determination.
- List specific tasks to achieve the IGRA mandate; highlighted section below.
- Group discussion.

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Surveillance Regs – 543.21

NIGC Surveillance Regulations

13

The slide features a blue header with the text 'Surveillance Regs – 543.21' and a red circle with the number '1' in the top right corner. Below the header is a yellow background with the text 'NIGC Surveillance Regulations' in blue. In the center is a circular photograph of a security guard from behind, wearing a white shirt with 'SECURITY' printed on it and a black cap. The number '13' is in the bottom right corner of the slide.

KEY POINTS

Link to the NIGC Surveillance Regulations:

[https://www.ecfr.gov/cgi-bin/text-](https://www.ecfr.gov/cgi-bin/text-idx?SID=29cb30e616812eca0418468d1232fde7&mc=true&node=pt25.2.543&rgn=div5#se25.2.543_121)

[idx?SID=29cb30e616812eca0418468d1232fde7&mc=true&node=pt25.2.543&rgn=div5#se25.2.543_121](https://www.ecfr.gov/cgi-bin/text-idx?SID=29cb30e616812eca0418468d1232fde7&mc=true&node=pt25.2.543&rgn=div5#se25.2.543_121)

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 Common Issues with Regs 2

**Group Discussion on
Common Issues**



14

KEY POINTS

Discussion: How to be compliant with these regulations.

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KEY POINTS

Activity #3 - 543.21 Surveillance Regulations - Request for Intent of Regulation

Small Group Work

TIME: 45 minutes

Supplies: (per group)

- Activity #3 - 543.21 Surveillance Regulations - Request for Intent of Regulation worksheet

Scenario: Pretend you are the TGRA and the Surveillance department requests you to provide clarification on the surveillance TICS. Using the regulations below, provide clarification on the intent of the regulation and how to achieve compliance to each of the regulations. Provide your responses in the table below.


Instructions

- Break up into small groups.
- Review the worksheet.
- In your groups determine and write down intent of the standard.
- In your groups determine how you would provide guidance to the surveillance department so they may achieve compliance with the regulations.
- Prepare to discuss.

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Going Beyond – Using Surveillance
Regulate **3**

How do you utilize surveillance to regulate?



16

The image shows five grey hexagonal nuts arranged in two columns (two on the left, three on the right) and one grey adjustable wrench positioned diagonally to the right. The word "Surveillance" is written in black on the handle of the wrench. The entire scene is set against a light yellow background within a white-bordered box.

KEY POINTS

Discussion: Effective ways to use surveillance to achieve your regulatory responsibilities.

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KEY POINTS

§543.23(c): Controls and Procedures for:

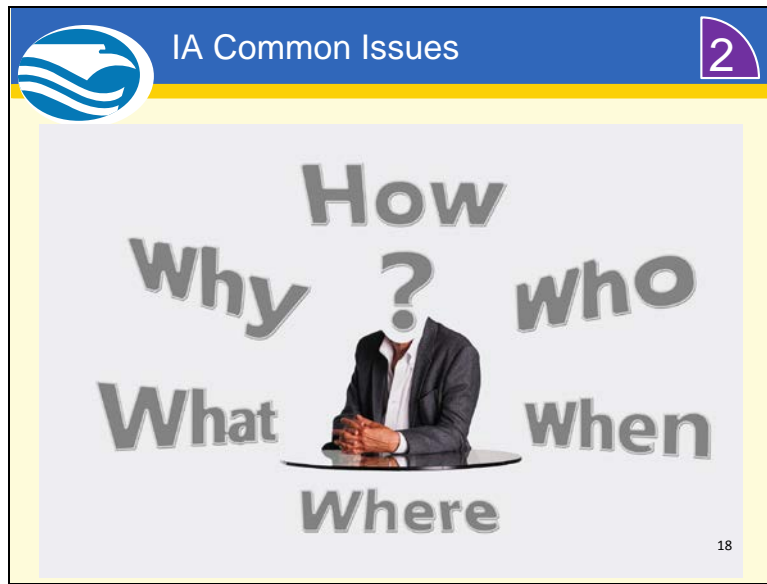
- Annual Internal Audits Performed
- Internal Audit is Independent
- Internal Audit Placement in Organization
- Documentation and Reports
- Internal Audit Findings

Link to regs:

[https://www.ecfr.gov/cgi-bin/text-](https://www.ecfr.gov/cgi-bin/text-idx?SID=29cb30e616812eca0418468d1232fde7&mc=true&node=pt25.2.543&rgn=div5#se25.2.543_123)

[idx?SID=29cb30e616812eca0418468d1232fde7&mc=true&node=pt25.2.543&rgn=div5#se25.2.543_123](https://www.ecfr.gov/cgi-bin/text-idx?SID=29cb30e616812eca0418468d1232fde7&mc=true&node=pt25.2.543&rgn=div5#se25.2.543_123)

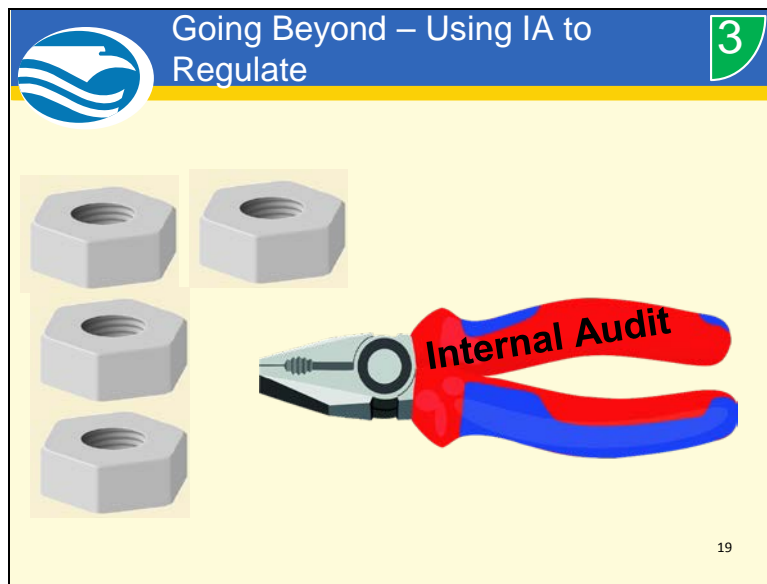
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KEY POINTS

Discussion: Common issues

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KEY POINTS

Discussion: Effective ways to use Internal Audit to achieve your regulator responsibility

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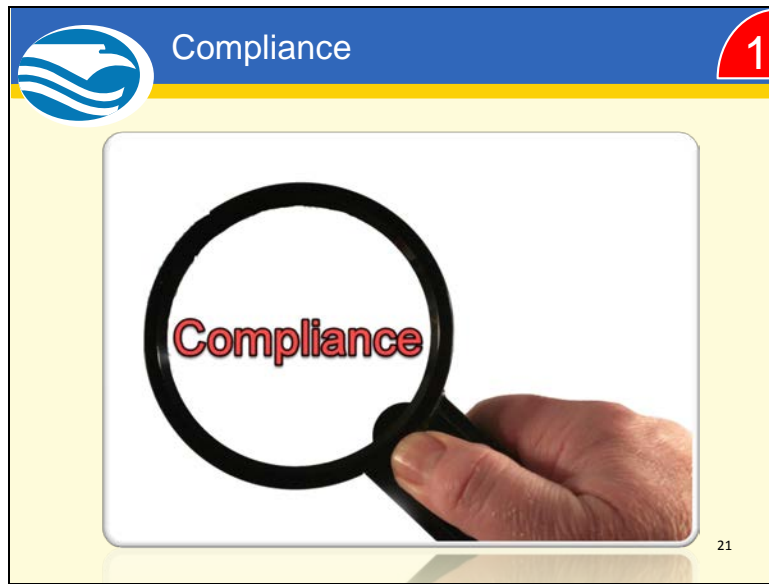


KEY POINTS

Poll Title: List an area that your internal audit department performs audits over.

https://www.polleverywhere.com/free_text_polls/s0jzJBIDtSh13ft

Commissioners Track Part 2 Tools of the Gaming Commission Participant Guide



KEY POINTS

Commissioners Track Part 2 Tools of the Gaming Commission Participant Guide

Going Beyond – Using Compliance to Regulate **3**

How do you utilize a Compliance department to help you regulate?



22

The illustration shows four screws of varying heights and a screwdriver with a blue handle labeled 'Compliance'. The screws are arranged in a line, increasing in height from left to right. The screwdriver is positioned to the right of the screws, with its handle pointing towards the top right. The background is a light yellow color.

KEY POINTS

Discussion: How to use Compliance to achieve your regulatory responsibility.

Commissioners Track Part 2 Tools of the Gaming Commission Participant Guide



KEY POINTS

Activity #4 – Critical Thinking - Using Compliance, Surveillance, Backgrounds and Internal Audit

TIME: 1hr to 1.5hrs

Communicating findings and using reports to regulate.

Supplies:

Activity #4 – Critical Thinking - Using Compliance, Surveillance, Backgrounds and Internal Audit worksheet

Instructions:

Part 1 – What reports does each department provide to the TGRA

Small group exercise

- Each department produces reports notifying the TGRA of internal control violations.
- (For example: Surveillance produces: incident reports, daily logs and suspicious activity reports. Internal audit produces: internal audit reports and follow up reports. Compliance produces: non-compliance reports.)
- Make a list of all reports that each department produces

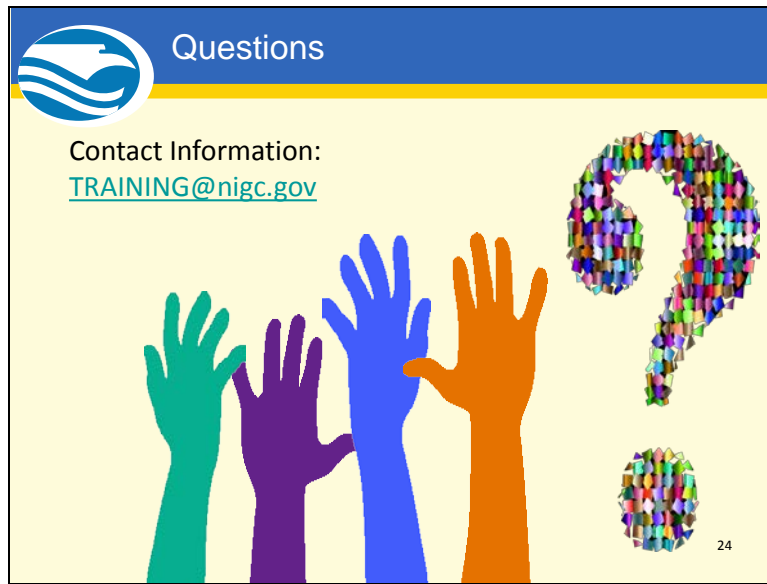
Part 2 – How does the TGRA track the information received and how does it use this information to help them regulate?

Group Discussion:

Scenario: The TGRA receives a lot of reports from various departments notifying them of violations, suspicious activities and other procedure violations. Discuss how the TGRA can effectively track all of the violations or use all of the information being reported to them, so they can effectively regulate.

Discuss how the information can be utilized effectively to help the TGRA regulate. Write your responses in the box below.

Commissioners Track Part 2 Tools of the Gaming Commission Participant Guide



KEY POINTS

If you have any questions or would like information about additional topics and training please contact the NIGC training department.

Commissioners Track Part 2 Tools of the Gaming Commission Participant Guide



Course Evaluation

- Provide an honest assessment of your experience
- Written suggestions and comments are greatly appreciated and allow us to improve your experience



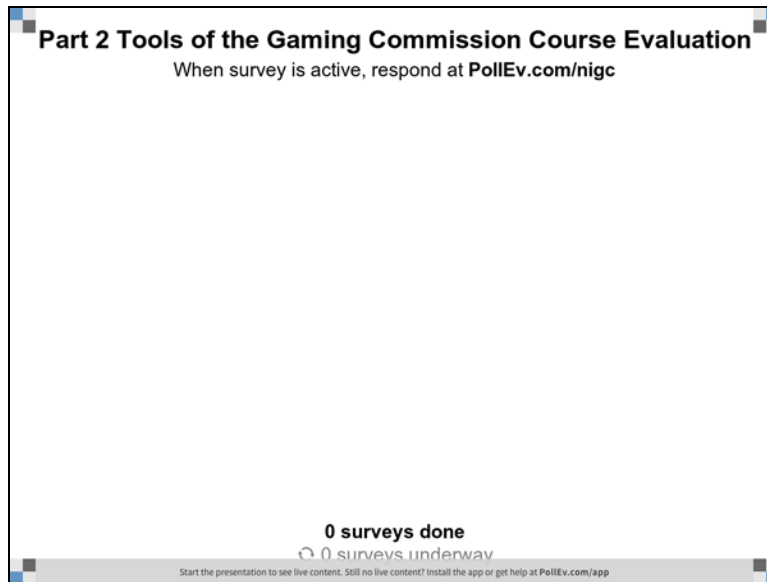
25

KEY POINTS

Our last task is to complete the course evaluation.

We use the information from both to evaluate the effectiveness of the course and to make improvements so please provide specific written feedback if applicable.

Commissioners Track Part 2 Tools of the Gaming Commission Participant Guide



KEY POINTS

Poll Title: Part 2 Tools of the Gaming Commission Course Evaluation

<https://www.polleverywhere.com/surveys/LgehpbBXW>

Activity #1 – Critical Thinking Scenario

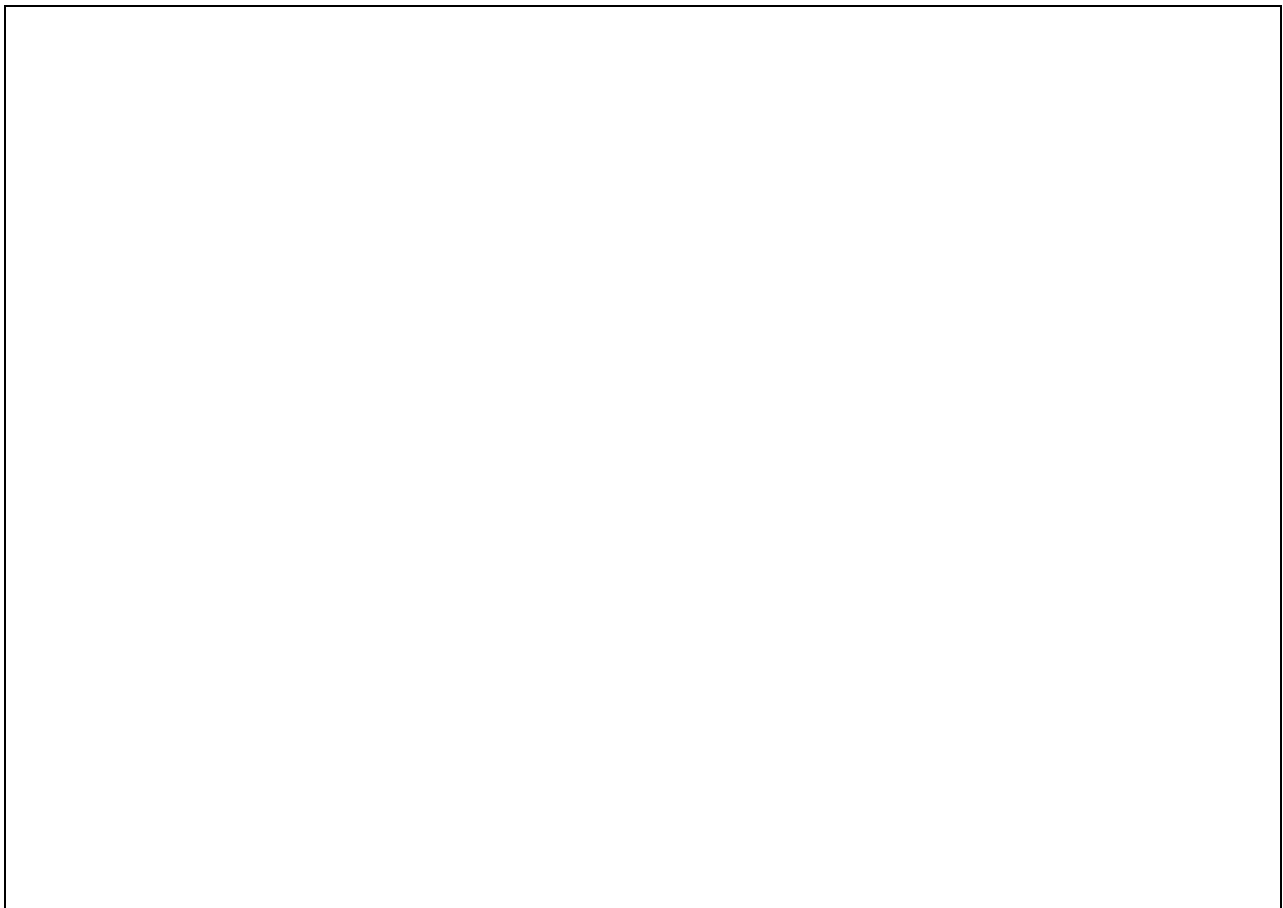
Small Group Activity

Discuss with your group the following scenario:

Tribal Council and/or Casino Management has decided to place fifteen (15) class II gaming machines in the Tribal gas station located across the parking lot from the current Casino. The Tribal gas station has never offered gaming. Your directive is ensure regulatory compliance over the project. Council provides a six (6) month deadline.

Start by discussing Tribal Ordinance and NIGC submission or notification requirements. List additional tasks the TGRA must perform to ensure regulatory compliance upon opening.

Write your group's ideas on a Post It note and be prepared to discuss them with the rest of the class.

A large, empty rectangular box with a thin black border, intended for students to write their group's ideas on a Post-it note. The box is currently blank.

Activity #2 – Eligibility Determination

1. Discuss the TGRA responsibilities for conducting a thorough enough background investigation to make an eligibility determination.
2. List specific tasks to achieve the IGRA mandate; highlighted section below.
3. Group discussion.

Group Discussion

25 CFR §556.5 Tribal eligibility determination. (NIGC Regulations)

A tribe shall conduct an investigation sufficient to make an eligibility determination.

(a) To make a finding concerning the eligibility of a key employee or primary management official for granting of a gaming license, an authorized tribal official shall review a person's:

(1) Prior activities;

(2) Criminal record, if any; and

(3) Reputation, habits, and associations.

2710 (b)(2)(F)

(F) **there is an adequate system which**— (i) ensures that background investigations are conducted on the primary management officials and key employees of the gaming enterprise and that oversight of such officials and their management is conducted on an **ongoing basis**; and (ii) includes— (I) tribal licenses for primary management officials and key employees of the gaming enterprise with prompt notification to the Commission of the issuance of such licenses; (II) **a standard whereby any person whose prior activities, criminal record, if any, or reputation, habits and associations pose a threat to the public interest or to the effective regulation of gaming, or create or enhance the dangers of unsuitable, unfair, or illegal practices and methods and activities in the conduct of gaming shall not be eligible for employment**;

Activity #2 – Eligibility Determination

1. Discuss the TGRA responsibilities for conducting a thorough enough background investigation to make an eligibility determination.
2. List specific tasks to achieve the IGRA mandate; highlighted section below.
3. Group discussion.

Task

Discuss what procedures your background and investigation department implements to meet the mandate:

Develop an adequate system whereby any person whose prior activities, criminal record, if any, or reputation, habits and associations pose a threat to the public interest or to the effective regulation of gaming, or create or enhance the dangers of unsuitable, unfair, or illegal practices and methods and activities in the conduct of gaming shall not be eligible for employment.

Focus on developing procedures for investigating an applicant's habits and reputations, write your response in the box below and be prepared to discuss with the group.

Activity #3 – 543.21 Surveillance Regulations - Request for Intent of Regulation

Small Group Activity

Scenario: Pretend you are the TGRA and the Surveillance department requests you to provide clarification on the surveillance TICS. Using the regulations below, provide clarification on the intent of the regulation and how to achieve compliance to each of the regulations. Provide your responses in the table below.

Regulation	Intent – What Does this Mean?	How would you ensure compliance with this standard?
(11) A periodic inspection of the surveillance systems must be conducted.		

Activity #3 – 543.21 Surveillance Regulations - Request for Intent of Regulation

Small Group Activity

Scenario: Pretend you are the TGRA and the Surveillance department requests you to provide clarification on the surveillance TICS. Using the regulations below, provide clarification on the intent of the regulation and how to achieve compliance to each of the regulations. Provide your responses in the table below.

Regulation	Intent – What Does this Mean?	How would you ensure compliance with this standard?
<p>(4)(iii) The cage or vault area in which exchange and transfer transactions occur must be monitored and recorded by a dedicated camera or motion activated dedicated camera that provides coverage with sufficient clarity to identify the chip values and the amounts on the exchange and transfer documentation. Controls provided by a computerized exchange and transfer system constitute an adequate alternative to viewing the amounts on the exchange and transfer documentation.</p>		

Activity #3 – 543.21 Surveillance Regulations - Request for Intent of Regulation

Small Group Activity

Scenario: Pretend you are the TGRA and the Surveillance department requests you to provide clarification on the surveillance TICS. Using the regulations below, provide clarification on the intent of the regulation and how to achieve compliance to each of the regulations. Provide your responses in the table below.

Regulation	Intent – What Does this Mean?	How would you ensure compliance with this standard?
(5) Count rooms: (ii) The surveillance system must provide coverage of count equipment with sufficient clarity to view any attempted manipulation of the recorded data.		

Activity #4 – Critical Thinking - Using Compliance, Surveillance, Backgrounds and Internal Audit

Part 1 – What reports does each department provide to the TGRA

Small group exercise

1. Each department produces reports notifying the TGRA of internal control violations.
2. (For example: Surveillance produces: incident reports, daily logs and suspicious activity reports. Internal audit produces: internal audit reports and follow up reports. Compliance produces: non-compliance reports.)
3. Make a list of all reports that each department produces

Department	Reports
Surveillance	
Internal Audit	
Compliance	
Backgrounds	

Activity #4 – Critical Thinking - Using Compliance, Surveillance, Backgrounds and Internal Audit

Part 2 – How does the TGRA track the information received and how does it use this information to help them regulate?

Group Discussion:

Scenario: The TGRA receives a lot of reports from various departments notifying them of violations, suspicious activities and other procedure violations. Discuss how the TGRA can effectively track all of the violations or use all of the information being reported to them, so they can effectively regulate.

Discuss how the information can be utilized effectively to help the TGRA regulate. Write your responses in the box below.

Activity #4 – Critical Thinking - Using Compliance, Surveillance, Backgrounds and Internal Audit

Part 3 – How Can Other Department Use this Information to Regulate?

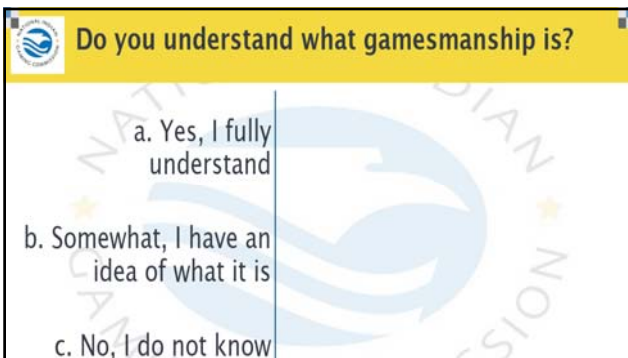
Complete the table below. For example, how can the surveillance department use internal audit reports and compliance reports to help them perform their duties.

Department	Use Internal Audit Reports	Use Compliance Reports
Surveillance		
Compliance		
Internal Audit		



**Gamesmanship
3.0**
*A focus on the misuse
of gaming revenues*

NATIONAL INDIAN
GAMING COMMISSION




Do you understand what gamesmanship is?

a. Yes, I fully understand

b. Somewhat, I have an idea of what it is

c. No, I do not know



What is gamesmanship?

NIGC considers that "gamesmanship" occurs when non Tribal-governmental interests manipulate business, professional, and employment relationships associated with Indian gaming operations to further their own interests at the expense of the Tribal gaming operation and the Tribe.

NATIONAL INDIAN
GAMING COMMISSION

 **What is gamesmanship?**

NIGC Protects Against Misuse of Gaming Revenue with Tribal Cooperation

Case Study: [Cheyenne-Arapaho Settlement Agreement](#)



4

 **Gamesmanship Violations under IGRA**



Gamesmanship Violations

 **Know your Authority**



6

Activity #1


Locate your authority



7

Misuse of Gaming Revenue (MGR)

- Violation of IGRA and NIGC regulations
- Five specific purposes
- When used for some other purpose, can result in a Notice of Violation




8

Ways Misuse of Gaming Revenue Happens

Why it Happens	How it Happens
<ul style="list-style-type: none"> • Lack of Awareness • Good Intentions/Few Options • Pressure • Collusion 	<ul style="list-style-type: none"> • Lack of procurement and accounting policies • Fraudulent purchases • Misuse of credit cards • Ghost employees • Contract rates

9




Helpful Definitions

Net revenues means Gross Gaming Revenues of an Indian gaming operation less—

- (a) Amounts paid out as, or paid for, prizes; and
- (b) Total gaming-related operating expenses, including all those expenses of the gaming operation commonly known as operating expenses and non-operating expenses consistent with professional accounting pronouncements, excluding management fees.

See 25 CFR Part 502.16

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Allowable Uses of NGR

A tribe shall use net revenues from any tribal gaming or from any individually owned games only for one or more of the following purposes:

- (i) To fund tribal government operations or programs;
- (ii) To provide for the general welfare of the tribe and its members (per capita distributions, with approved plan by the Secretary of the Interior under 25 U.S.C. 2710(b)(3));
- (iii) To promote tribal economic development;
- (iv) To donate to charitable organizations; or
- (v) To help fund operations of local government agencies;


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When does the Trouble Start

- Gaming revenue is spent by someone for something that is not:
 - A legitimate operating expense of the gaming operations, and/or
 - Bona fide tribal program or a per capita payment according to the approved plan.


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 Activity

Is this an operating expense?



13


 Expense Scenario

The Tribal Casino has issued charge cards to three of its top officials: manager, CFO, and executive assistant to the manager. The Casino uses the cards for online purchases, invoice payments, securing travel and lodging for casino staff. In the last three months, the new tribal chair has called the manager and verbally directed her to:

- Purchase tires for a tribal member at the cost of \$1,000.
- Purchase airfare and hotel for the tribal chair's mother to attend an "elder program" in the Florida Keys
- Meet him at the local car lot to purchase a used vehicle \$2500 for a tribal member.
- Withdraw cash \$500 to give to donate to a needy tribal member.


The TGRA determines there is no charge card policy and there is no tribal program which addresses the needs met by these transactions.

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 Per Capita Payments


- Per capita payments made to individual tribal members on an ad-hoc basis, outside the scope of a RAP, or payments to individual members not made pursuant to a government program divert money from the tribe as a whole and frustrate IGRA's policy of ensuring the entire tribe benefit from its gaming.

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 **Tribal Programs**

- Impromptu tribal programs and programs with no written criteria or guidelines are not bona-fide programs and likely are a misuse of gaming revenue.

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 **Improper use of Gaming Revenue**


- Paying net revenue to a 3rd party, over and above the fair market value, where the expense cannot be rationally justified as being for valuable consideration is a misuse of gaming revenue.
- Transferring revenue from a gaming operation as an operating expense when it cannot properly be categorized as an operating expense of the gaming operation results in a misuse of net gaming revenue.

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 **Activity – Misuses of Gaming Revenues**



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 **Storage Scenario**

During the annual audit, the CPA firm identifies a contract between the Casino and a third party for the monthly rental of dry storage space in the town near the casino. The space is a 10'X20' garage style storage with electricity supplied, no climate control. The facilities is staffed only during normal working hours 8am-5pm. The facility is equipped with surveillance cameras but no security officers. The CPA points out that the contract is for \$10,000 a month and has been in place for 11 months for a total of \$110,000.

The TGRA determines that the cost to the public for the same storage is \$100 a month. They also determine that the owner of the storage company is a friend of the casino manager and often times vacations with the general manager. The TGRA examines the procurement policy and determines the general manager must receive tribal council approval for any annual expenses exceeding \$49,999.99 a year. The storage company is not currently licensed as a non-gaming vender and the TGRA was not provided a copy of the contract, both of which are required by the TGRA's regulations.

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 **Additional Resources**


Bulletins, OGC Reviews, and Technical Assistance

Resources:

- Bulletin 2005-01 Use of Net Gaming Revenue
- How to Request a Legal Opinion
- Previous Notice of Violations




20

 **What is gamesmanship?**

NIGC Protects Against Misuse of Gaming Revenue with Tribal Cooperation

Case Study: SA17-01 [Cheyenne-Arapaho Settlement Agreement](#)



21

Activity #2 – Misuse of Gaming Revenue (MGR) Red Flags

22

Activity #3 – Misuses of Gaming Revenues


23

Management Contracts


Managing without a *written* contract

Managing without an approved contract


24

 **Ways It Happens**

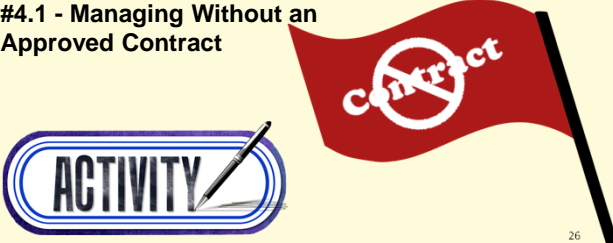
- 3rd party makes management decision for the Casino.
- 3rd party has unrestricted access to casino systems and records.
- 3rd party determines which payments are made or which contracts are accepted.
- Manager is not paid like other casino employees (deductions, bonuses outside of specific contract)




25

 **Activities #4 & 4.1**

#4 - Managing Without a Contract
#4.1 - Managing Without an Approved Contract



26

 **Sole Proprietary Interest (SPI)**

<p>Every approved tribal gaming ordinance must provide that the tribe will have the sole proprietary interest and responsibility for the conduct of any gaming activity.</p> <p>See 25 U.S.C. § 2710(b)(2)(A)</p>	<p>Evaluating Proprietary Interest</p> <ul style="list-style-type: none"> • The term of the relationship between the tribe and the third party; • The amount of revenue paid to the third-party; and • The third party's right of control over the gaming activity.
---	---


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 Ways Sole Proprietary Interest (SPI) Happens

- Excessive payments to vendors over market value
- Contract ties payments to gaming revenue
- Contract extend past 5 or 7 years
- Contract grants vendor control of gaming, gaming floor, and game selection



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 Activity #5 – SPI Red Flags



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 Additional Resources

Bulletins, OGC Reviews, and Technical Assistance

Links to resources:

[2005-1 Use of Net Gaming Revenues Bulletin](#)

[1994-5 Approved Management Contracts v. Consulting Agreements](#)



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 **Questions?**

- Division of Compliance
- Office of General Counsel (OGC)
- 202-632-7003



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 **Course Evaluation**

- Provide an honest assessment of your experience
- Written suggestions and comments are greatly appreciated and allow us to improve your experience



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Part 3 Gamesmanship 3.0 Course Evaluation
When survey is active, respond at [PollEv.com/nigc](https://www.poll-ev.com/nigc)

0 surveys done
0 surveys underway

See the instructions on the screen. You do not need to log in or provide a valid ID.

Bulletin No. 2018-1

Date: January 10, 2018

Subject: Revised Model Gaming Ordinance

This Bulletin provides guidance for tribal governments on the development and updating of a tribal gaming ordinance. It revises and supersedes the guidance previously provided and published by the NIGC in Bulletin No. 2014-2 (May 5, 2014), Bulletin 05-05 (August 24, 2005) and Bulletin 93-1 (June 10, 1993). The Commission offers this revised Model Gaming Ordinance (“Model Ordinance”) to assist tribes with meeting the ordinance requirements of IGRA and the NIGC’s regulations, and with crafting effective ordinances that address each tribe’s unique regulatory needs.

The Model Ordinance not only contains provisions that are required by IGRA and NIGC regulations, but also provisions that are recommended but are not required. Many section and provisions of this Model Ordinance were taken from a variety of tribal gaming ordinances so that tribes could benefit from the collective knowledge and experience of the more than 250 gaming tribes. Some sections of the Model Ordinance present different options so that tribes may adopt and use language and provisions that will work best for them.

Explanatory footnotes and matters that appear in italics in the text of the Model Ordinance are for reference only and should not be included in a tribe’s gaming ordinance. Shaded areas are included for a tribe to insert its specific information.

In addition to the revised Model Ordinance, the NIGC is also posting the checklist used by the Office of General Counsel when performing the review of an ordinance. The checklist includes all the provisions required by IGRA and the NIGC’s regulations.

For any questions about the revised Model Ordinance or the checklist, please contact the Office of General Counsel at (202) 632-7003.

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Revised Model Gaming Ordinance¹

Section 1. Purpose

The [Tribal Council or other authorized Tribal governing body] of the [name of Tribe] (“Tribe”), empowered by the [Tribe’s Constitution and/or other governing authority] to enact ordinances, hereby enacts this ordinance in order to govern and regulate the operation of [class II and/or class III] gaming operations on the Tribe’s Indian lands.

OR

The [Tribal Council or other authorized government body] of the [name of Tribe] (“Tribe”), empowered by the [Tribe’s Constitution and/or other governing authority] to enact ordinances, hereby enacts this ordinance to promote tribal economic development, self-sufficiency and sovereignty; to shield the operation of gaming from organized crime and other corrupting influences; and to ensure that gaming is conducted fairly and honestly by both the operator and players.

[25 U.S.C. § 2702(1)-(3)]

Section 2. Applicability

Unless specifically indicated otherwise, all provisions of this ordinance shall apply to [class II and/or class III] gaming on the Tribe’s Indian lands.

Section 3. Definitions²

¹ Provisions, or text, in black are recommended for a tribal gaming ordinance, but are not required by IGRA or the NIGC’s regulations. Provisions, or text, in green are not required to be included in a tribal gaming ordinance, but, if included, must be consistent with the language used in IGRA and/or the NIGC’s regulations. Provisions, or text in blue are required by IGRA and/or NIGC’s regulations to be included in a tribal gaming ordinance. Provisions, or text, in red are required to be submitted to the NIGC with a tribe’s request for approval of its gaming ordinance, but may instead be included in the ordinance itself. For ease of reference, a color key is included at the bottom of each page.

² A tribe may expand on its “Definitions” section by including definitions which reflect features unique to the tribe and the structure, size, and regulation of its gaming operation. If a tribe chooses to include

Black: Recommended, but not required
 Green: Not required, but, if included, must be consistent with IGRA and the NIGC regulations
 Blue: Must be included
 Red: Must be included in ordinance or submitted separately

The following terms shall have the same meaning and effect as those same terms as defined in the Indian Gaming Regulatory Act (“IGRA”), 25 U.S.C. §§ 2701 *et seq.*, and the National Indian Gaming Commission (“NIGC”) regulations, 25 C.F.R. §§ 500 *et seq.*, if they are defined in IGRA and the NIGC’s regulations.

A. Class I gaming.

1. Social games played solely for prizes of minimal value; or
2. Traditional forms of Indian gaming when played by individuals in connection with tribal ceremonies or celebrations.

[25 U.S.C. § 2703(6); 25 C.F.R. § 502.2]

B. Class II gaming.

1. Bingo or lotto (whether or not electronic, computer or other technologic aids are used) when players:
 - a. Play for prizes with cards bearing numbers or other designations;
 - b. Cover numbers or designations when objects, similarly numbered or designated, are drawn or electronically determined; and
 - c. Win the game by being the first person to cover a designated pattern on such cards;
2. Pull-tabs, punch boards, tip jars, instant bingo and other games similar to bingo, if played in the same location as bingo or lotto;
3. Non-banking card games that:
 - a. State law explicitly authorizes, or does not explicitly prohibit, and are played legally anywhere in the state; and
 - b. Players play in conformity with state laws and regulations concerning hours, periods of operation, and limitations on wagers and pot sizes;

definitions in its ordinance, it may, alternatively, cite directly to IGRA or the NIGC’s regulations and forego repeating language from IGRA or the NIGC’s regulations. For instance, a definition could read: “Class I gaming’ means those gaming activities as defined as class I gaming in IGRA at 25 U.S.C. § 2703(6), and the NIGC’s regulations at 25 C.F.R. § 502.2.”

Black: Recommended, but not required
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 Blue: Must be included
 Red: Must be included in ordinance or submitted separately

4. Card games played in the states of Michigan, North Dakota, South Dakota or Washington, if:
 - a. A tribe actually operates the same card games as played on or before May 1, 1988, as determined by the NIGC Chair; and
 - b. The pot and wager limits remain the same as on or before May 1, 1988, as determined by the NIGC Chair;
5. Individually owned class II gaming operations –
 - a. That were operating on September 1, 1986;
 - b. That meet the requirements of 25 U.S.C. § 2710(b)(4)(B);
 - c. Where the nature and scope of the game remains as it was on October 17, 1988; and
 - d. Where the ownership interest or interests are the same as on October 17, 1988.

[25 U.S.C. § 2703(7); 25 C.F.R. § 502.3]

C. Class III gaming. All forms of gaming that are not class I or class II gaming, including, but not limited to:

1. Any house banking game, including but not limited to –
 - a. Card games such as baccarat, chemin de fer, blackjack (21), and pai gow (if played as house-banking games); and
 - b. Casino games such as roulette, craps, and keno;
2. Any slot machines, as defined in 15 U.S.C. § 1711(a)(1), and electronic or electromechanical facsimiles of any game of chance;
3. Any sports betting and pari-mutuel wagering, including but not limited to, wagering on horse racing, dog racing or jai alai; or
4. Lotteries.

[25 U.S.C. § 2703(8); 25 C.F.R. § 502.4]

Black: Recommended, but not required
 Green: Not required, but, if included, must be consistent with IGRA and the NIGC regulations
 Blue: Must be included
 Red: Must be included in ordinance or submitted separately

D. **Commission.** The Tribal Gaming Commission established to perform regulatory oversight and to monitor compliance with tribal, federal and applicable state regulations.

E. **Commissioner.** A Tribal Gaming Commissioner.

F. **Directly related to.** A spouse, child, parent, grandparent, grandchild, aunt, uncle, or first cousin.

G. **Director.** A member of the Tribal Gaming Board of Directors.

H. **Facility License.** A separate license issued by the Tribe to each place, facility or location on Indian lands where the Tribe elects to allow class II or III gaming;

[25 C.F.R. § 502.23]

I. **Gaming Operation.** Each economic entity that is licensed by the Tribe, operates the games, receives the revenues, issues the prizes, and pays the expenses. A gaming operation may be operated by the Tribe directly; by a management contractor; or, under certain conditions, by another person or entity.

[25 C.F.R. § 502.10]

J. **Indian lands.**

1. Land within the limits of an Indian reservation; or
2. Land over which an Indian tribe exercises governmental power and that is either;
 - a. Held in trust by the United States for the benefit of any Indian tribe or individual; or
 - b. Held by an Indian tribe or individual subject to restriction by the United States against alienation.

[25 U.S.C. § 2703(4); 25 C.F.R. § 502.12;
See also 25 U.S.C. § 2719; 25 C.F.R. § 292]

K. **Key Employee.**

Black: Recommended, but not required
 Green: Not required, but, if included, must be consistent with IGRA and the NIGC regulations
 Blue: Must be included
 Red: Must be included in ordinance or submitted separately

1. A person who performs one or more of the following function:
 - a. Bingo caller;
 - b. Counting room supervisor;
 - c. Chief of Security;
 - d. Custodian of gaming supplies or cash;
 - e. Floor manager;
 - f. Pit boss
 - g. Dealer;
 - h. Croupier;
 - i. Approver of credit; or
 - j. Custodian of gambling devices, including persons with access to cash and accounting records within such devices;
2. If not otherwise included, any other person whose total cash compensation is in excess of \$50,000 per year;
3. If not otherwise included, the four most highly compensated persons in the gaming operation; or
4. Any other person designated by the tribe as a key employee.³

[25 C.F.R. § 502.14]

- L. **Licensee.** A tribally owned class II or class III gaming operation or a person licensed by the Tribal Gaming Commission as a primary management official, key employee or other gaming employee under the provisions of this ordinance.
- M. **Management Contract.** Any contract, subcontract or collateral agreement between an Indian tribe and a contractor or between a contractor and a subcontractor if such contract or agreement provides for the management of all or part of a gaming operation.

[25 C.F.R. § 502.15]

- N. **Net Revenues.** Gross gaming revenues of an Indian gaming operation less:

³ A tribe may consider expanding the definition of “key employee,” but may not limit it.

Black: Recommended, but not required
 Green: Not required, but, if included, must be consistent with IGRA and the NIGC regulations
 Blue: Must be included
 Red: Must be included in ordinance or submitted separately

1. Amounts paid out as, or paid for, prizes; and
2. Total gaming-related operating expenses, including all those expenses of the gaming operation commonly known as operating expenses and non-operating expenses consistent with professional accounting pronouncements, excluding management fees.

[25 U.S.C. § 2703(9); 25 C.F.R. § 502.16]

O. Primary Management Official.

1. The person(s) having management responsibility for a management contract.
2. Any person who has authority:
 - a. To hire and fire employees; or
 - b. To set up working policy for the gaming operation; or
 - c. The chief financial officer or other person who has financial management responsibility.
3. Any other person designated by the Tribe as a primary management official.⁴

[25 C.F.R. § 502.19]

P. Tribal-State Compact. An agreement between a tribe and state about class III gaming under 25 U.S.C. § 2710(d).

Q. Tribe. The [name of the Tribe].

Section 4. Gaming Authorized

[Class II and/or class III] gaming are authorized to be conducted on the Tribe's Indian lands, if such gaming is conducted in accordance with this ordinance, the Indian Gaming Regulatory Act, the NIGC's regulations, and any other applicable laws or regulations.

⁴ A tribe may consider expanding the definition of "primary management official," but may not limit it.

Black: Recommended, but not required
 Green: Not required, but, if included, must be consistent with IGRA and the NIGC regulations
 Blue: Must be included
 Red: Must be included in ordinance or submitted separately

Section 5. Ownership of Gaming

- A. The Tribe shall have the sole proprietary interest in and responsibility for the conduct of any gaming operation authorized by this Ordinance, except as expressly provided in this Ordinance.

**[25 U.S.C. § 2710(b)(2)(A);
25 C.F.R. §§ 522.4(b)(1), 522.6(c)]**

- B. No person or entity, other than the Tribe, shall conduct gaming without obtaining a license from the Tribal Gaming Commission.⁵
- C. The Tribal Gaming Commission may issue a license for individually-owned gaming so long as:
1. The individually owned gaming operation is licensed and regulated pursuant to this Ordinance;
 2. The income to the Tribe from an individually owned gaming operation is used only for the purposes listed in this Ordinance;
 3. Not less than 60 percent of the net revenues of the individually-owned gaming operation is income to the Tribe;
 4. The owner of the individually owned gaming pays an annual assessment to NIGC pursuant to 25 C.F.R. § 514.1; and
 5. The Tribal Gaming Commission applies licensing standards that are at least as restrictive as those established by State law governing similar gaming;⁶

⁵ A tribe is not required to allow individually owned gaming, but if it does, it must include these provisions in its ordinance.

⁶ If a tribe is going to permit individually owned gaming, it develop or reference these standards either in its ordinance or its individually owned gaming policies. *See* 25 U.S.C. § 2710(b)(4) and 25 C.F.R. § 522.10

Black: Recommended, but not required
 Green: Not required, but, if included, must be consistent with IGRA and the NIGC regulations
 Blue: Must be included
 Red: Must be included in ordinance or submitted separately

6. The Tribal Gaming Commission determines that the owner of the individually owned gaming would be eligible to receive a State license to conduct the same activity within the jurisdiction of the surrounding State.⁷

[25 U.S.C § 2710(b)(4)(A)-(B);
25 C.F.R. §§ 502.3(e), 522.4(b)(1), 522.6(c), 522.10, 522.11]

Section 6. Use of Net Gaming Revenues

- A. Net revenues from Tribal gaming shall be used only for the following purposes:
1. To fund Tribal government operations or programs;
 2. To provide for the general welfare of the Tribe and its members;
 3. To promote Tribal economic development;
 4. To donate to charitable organizations; or
 5. To help fund operations of local government agencies.⁸

[25 U.S.C. § 2710(b)(2)(B);
25 C.F.R. §§ 522.4(b)(2), 522.6(b)]

Section 7. Per Capita Payments

- A. Net revenues from any [class II and/or class III] gaming activities conducted or licensed by the Tribe may be used to make per capita payments to Tribal members if:

⁷ This requirement shall not bar the continued operation of an individually owned gaming operation that was operating on September 1, 1986, if the gaming activity remains within the same nature and scope as it was on October 17, 1988; and the ownership interests are the same as on October 17, 1988.

⁸ It is not necessary to include all five of the permissible uses in the ordinance, but a tribe may not include any additional uses.

Black: Recommended, but not required
 Green: Not required, but, if included, must be consistent with IGRA and the NIGC regulations
 Blue: Must be included
 Red: Must be included in ordinance or submitted separately

1. The Tribe has prepared a plan⁹ to allocate revenues to one or more of the five uses authorized by section 6(A) of this ordinance;
2. The plan is approved by the Secretary of the Interior as adequate, particularly with respect to the uses described in sections 6(A)(1) and 6(A)(3) of this ordinance;
3. The interests of minors and other legally incompetent persons who are entitled to receive any of the per capita payments are protected and preserved, and the per capita payments are disbursed to the parents or legal guardian of such minors or legal incompetents in such amounts as may be necessary for the health, education, or welfare of the minor or other legally incompetent person; and
4. The per capita payments are subject to Federal taxation and the Tribe notifies its members of such tax liability when payments are made.

**[25 U.S.C. § 2710(b)(3);
25 C.F.R. §§ 522.4(b)(2)(ii), 522.6(b)]**

Section 8. Gaming Commission¹⁰

- A. The Tribe hereby establishes a Tribal Gaming Commission (“Commission”) to regulate the Tribe’s gaming operations. The Commission shall consist of **[insert chosen number]** members, including a Chair, Vice-Chair and at least one additional Commissioner.
- B. The Commission will conduct oversight to ensure compliance with Tribal, federal and, if applicable, state laws and regulations. It will serve as the licensing authority for individuals employed in the gaming operation and will

⁹ A tribal revenue allocation plan (“RAP”) must satisfy the BIA regulations in 25 C.F.R. part 290 for approval by the Secretary of the Interior. Any questions about RAP requirements or approvals should be directed to the U.S. Department of Interior, Office of Indian Gaming.

¹⁰ This provision is recommended, but not required by IGRA or the NIGC’s regulations. Usually a tribal gaming commission is the entity that acts on behalf of a tribe to regulate its gaming operation. If a tribe opts to establish a gaming commission, it may wish to include more details in this section, such as how many commissioners should be enrolled tribal members; the length of their appointments; any additional restrictions on commissioners’ activities, relationships and holdings; how often written reports will be required of the commission; and how complaints will be processed by the commission.

Black: Recommended, but not required
 Green: Not required, but, if included, must be consistent with IGRA and the NIGC regulations
 Blue: Must be included
 Red: Must be included in ordinance or submitted separately

administer background investigations as part of the licensing process. The Commission will also have a role in monitoring compliance with the gaming operation's internal controls and in tracking gaming revenues. In order to carry out its regulatory duties, the Commission shall have unrestricted access to all areas of the gaming operation and to all of its records. The Commission shall have authority to take enforcement actions, including suspension or revocation of an individual gaming license, when appropriate.

C. Commissioner positions shall be filled in the following manner:

Through appointment by the [Tribe's general voting body] pursuant to an election.

OR

Through appointment by the [Tribal governing body].

OR

[Insert the Tribe's chosen method].

- D. Terms of office for Commissioners shall be as follows: the Chair shall serve an initial term of one (1) year, with subsequent Chairs serving 3-year terms; and the Vice-Chair and Commissioner(s) shall serve an initial term of two (2) years, with subsequent Vice-Chairs and Commissioners serving 3-year terms.
- E. The following persons are not eligible to serve as Commissioners: [Tribal governing body] members, while serving as such; current employees of the gaming operation; gaming contractors (including any principal of a management, or other contracting company); persons directly related to, or sharing a residence with, any of the above; and persons ineligible to be key employees or primary management officials. Non-tribal members previously convicted of any felony or misdemeanor offense of embezzlement, theft or any other money-related or honesty-related misdemeanor offense, such as fraud, cannot serve as Commissioner. Tribal members previously convicted of any felony or misdemeanor offense of embezzlement, theft or any other offense related to money or honesty, such as fraud, will only be allowed to serve as a Commissioner if the [Tribal governing body] specifically finds that a significant amount of time has passed and the person is now of trustworthy character.

Black: Recommended, but not required
 Green: Not required, but, if included, must be consistent with IGRA and the NIGC regulations
 Blue: Must be included
 Red: Must be included in ordinance or submitted separately

- F. The [Tribal governing body] shall require a criminal history check with appropriate law enforcement agencies for each Commissioner candidate; shall review the candidate's criminal history check results; and shall make an appropriate eligibility determination before appointing an individual to the position of Commissioner.
- G. The Tribe recognizes the importance of an independent Tribal Gaming Commission in maintaining a well-regulated gaming operation. The Commission shall be independent of, and act independently and autonomously from, the [Tribal governing body] in all matters within its purview. No prior, or subsequent, review by the [Tribal governing body] of any actions of the Commission shall be required or permitted except as otherwise explicitly provided in this ordinance. To avoid potential conflicts of interest between the operation and regulation of the gaming facility, the Tribe requires that, at a minimum:
1. No member of the [Tribal governing body] or Tribal Gaming Board of Directors may serve on the Tribal Gaming Commission;
 2. No member directly related to, or living with, any [Tribal governing body] member or Tribal Gaming Board of Directors member may serve on the Tribal Gaming Commission;
 3. Members of the Commission are prohibited from gambling in the facility;
 4. Commissioners are prohibited from accepting complimentary items from the gaming operation, excepting food and beverages valued under [redacted] dollars (\$.00); and
 5. Commissioners may only be removed from office by the [Tribal governing body], prior to the expiration of their respective terms, for neglect of duty, misconduct, malfeasance or other acts that would render a Commissioner unqualified for the position.
- H. Nominees for Commissioner positions must satisfy the eligibility standards set forth for primary management officials and key employees found in Section 21 of this ordinance. All requisite background investigations shall be performed under the direction of [office or entity that will conduct the background investigations].

Black: Recommended, but not required
 Green: Not required, but, if included, must be consistent with IGRA and the NIGC regulations
 Blue: Must be included
 Red: Must be included in ordinance or submitted separately

- I. The Tribal Gaming Commission shall:
 1. Conduct background investigations, or cause such investigations to be conducted, for primary management officials and key employees;
 2. Review and approve all investigative work conducted in connection with the background investigations of primary management officials and key employees;
 3. Create and maintain investigative reports based on the background investigations of primary management officials and key employees;
 4. Designate a law enforcement agency to obtain and process fingerprints and conduct a criminal history check that shall include a check of criminal history records information maintained by the Federal Bureau of Investigation.;
 5. Make licensing eligibility determinations, which shall be signed by the Chair of the Commission;
 6. Submit a notice of results to the NIGC of the background investigations done for each primary management official and key employee applicant;
 7. Issue gaming licenses to primary management officials and key employees of the operation, if warranted by the eligibility determination;
 8. Establish standards for licensing Tribal gaming facilities;
 9. Issue gaming licenses to Tribal gaming facilities;
 10. Inspect, examine and monitor all of the Tribe's gaming activities, and have immediate access to review, inspect, examine, photocopy and audit all records of the gaming facilities and operations;
 11. Ensure compliance with all Tribal, federal and applicable state laws, rules and regulations regarding Indian gaming;
 12. Investigate any suspicion of wrongdoing associated with any gaming activities;

Black: Recommended, but not required
 Green: Not required, but, if included, must be consistent with IGRA and the NIGC regulations
 Blue: Must be included
 Red: Must be included in ordinance or submitted separately

13. Hold hearings on patron complaints, in accordance with procedures established in this ordinance and the Tribal gaming regulations;
14. Comply with any and all reporting requirements under IGRA, the NIGC's regulations and any tribal-state compact to which the Tribe is a party, and any other applicable law;
15. Promulgate and issue regulations necessary to comply with applicable internal control standards;
16. Promulgate and issue regulations on the levying of fees and/or taxes associated with gaming license applications;
17. Promulgate and issue regulations on the levying of fines and/or the suspension or revocation of gaming licenses for violations of this ordinance or any Tribal, federal or applicable state gaming regulations;
18. Establish a list of persons not allowed to game in the Tribe's gaming facilities in order to maintain the integrity of the gaming operation;
19. Establish a list of persons who have voluntarily agreed to be excluded from the Tribal gaming facilities, and create regulations for enforcing the exclusions;
20. Provide referrals and information to the appropriate law enforcement officials when such information indicates a violation of Tribal, federal or state statutes, ordinances, regulations, codes or resolutions;
21. Create a list of regulatory authorities that conduct background investigations of, and licenses, vendors who are recognized as trustworthy;
22. Draft regulations exempting vendors from the licensing and/or background investigation requirements if they have received a license from a recognized regulatory authority;
23. Perform such other duties the Commission deems appropriate for the proper regulation of the Tribal gaming operation; and

Black: Recommended, but not required
 Green: Not required, but, if included, must be consistent with IGRA and the NIGC regulations
 Blue: Must be included
 Red: Must be included in ordinance or submitted separately

24. Promulgate such regulations and guidelines as deemed appropriate to implement the provisions of this ordinance, so long as they are in furtherance of, and not in conflict with, any provisions of this ordinance.
- J. Before adopting, amending and repealing regulations, the Commission shall give notice of any such proposed action to the [Tribal governing body], the gaming operation(s) and all other persons whom the Commission has reason to believe have a legitimate interest in the proposed action. The notice shall invite comments and describe the general nature of the proposed action and the manner in which comments on the proposed action shall be received by the Commission.
- K. The Commission shall ensure that all records and information obtained as a result of an employee background investigation, including but not limited to, the identity of each person interviewed in the course of an investigation, shall remain confidential and shall not be disclosed to any persons who are not directly involved in the licensing and employment processes. Information obtained during the course of an employee background investigation shall be disclosed to members of management, human resource personnel and/or others employed by the Tribal gaming operation on a need-to-know basis, for actions taken in their official capacities.
- L. The confidentiality requirements in Section 8(J), above, do not apply to requests for such records or information from any Tribal, federal or state law enforcement or regulatory agency, or for the use of such records or information by the Commission and staff in the performance of their official duties.
- M. A majority of the Commission shall constitute a quorum. The concurrence of a majority of the Commissioners shall be required for any final determination by the Commission. The Commission may act in its official capacity, even if there are vacancies on the Commission.
- N. Commissioners shall be compensated at a level determined by the [tribal governing authority]. In order to ensure the Commission is not improperly influenced, a Commissioner's compensation shall not be based on a percentage of gaming revenue.
- O. The Commission shall keep a written record of all its meetings.

Black: Recommended, but not required
 Green: Not required, but, if included, must be consistent with IGRA and the NIGC regulations
 Blue: Must be included
 Red: Must be included in ordinance or submitted separately

Section 9. Audits

- A. The Tribe shall cause to be conducted independent audits of gaming operations annually and shall submit the results of those audits to the NIGC.

[25 U.S.C. § 2710(b)(2)(C);
25 C.F.R. § 522.4(b)(3)]

- B. Annual audits shall conform to generally accepted auditing standards.

[25 C.F.R. § 571.12(b)]

- C. All gaming-related contracts that result in the purchase of supplies, services or concessions for more than \$25,000 in any year¹¹ (except contracts for professional legal and accounting services) shall be specifically included within the scope of the audit conducted under Section 9(A) of this ordinance.

[25 U.S.C. § 2710(b)(2)(D);
25 C.F.R. §§ 522.4(b)(4), 522.6(b)]

- D. Copies of the annual audit of each licensed gaming operation, and each audit for supplies, services or concessions of each gaming operation, shall be furnished to the NIGC within 120 days after the end of each fiscal year of the gaming operation.

[25 C.F.R. § 571.13]

Section 10. Environment and Public Health and Safety

- A. Each gaming facility shall be constructed, maintained, and operated in a manner that adequately protects the environment and the health and safety of the public.

[25 U.S.C. § 2710(b)(2)(E);
25 C.F.R. §§ 522.4(b)(7), 522.6(b), and 559.4]

¹¹ The amount may exceed, but not be less than, \$25,000.

Black: Recommended, but not required
 Green: Not required, but, if included, must be consistent with IGRA and the NIGC regulations
 Blue: Must be included
 Red: Must be included in ordinance or submitted separately

- B. [Tribal official or group] shall identify and enforce laws, resolutions, codes, policies, standards, or procedures, which are applicable to each gaming place, facility or location, to ensure adequate protection of the environment and the health and safety of the public.

[25 C.F.R. § 559.4]

Section 11. Patron Dispute Resolution¹²

Patrons with complaints against the gaming establishment shall have as their sole remedy the right to file a petition for relief with the Tribal Gaming Commission. Complaints shall be submitted in writing. The Commission shall hold a hearing within 30 days of receipt of the petitioner's complaint. The petitioner may have counsel present at the hearing. The petitioner may be allowed to present evidence, at the discretion of the Commission. After the hearing, the Commission shall render a decision in a timely fashion. All such decisions will be final when issued. Any patron complaint must be submitted to the Commission within thirty (30) days of the incident giving rise to the complaint. All claims by patrons shall be limited to a maximum recovery of [enter dollar amount] per occurrence, and a cumulative limit of [enter dollar amount] per patron in any 12-month period, except disputes relating to a patron's entitlement to a game prize, which shall be limited to the amount of such prize. The Commission's decision shall constitute the complainant's final remedy.

[25 C.F.R. § 522.2(f)]

Section 12. Facility Licenses

- A. The Tribe shall issue a separate license to each place, facility or location on Indian lands where [class II and/or class III] gaming is conducted under this ordinance.

[25 U.S.C. § 2710(b)(1);
25 C.F.R. §§ 522.4(b)(6), 522.6(b) and 559]

¹² 25 C.F.R. § 522(f) requires a tribe to include in its ordinance a description of the procedures in place for resolving disputes between the gaming public and a tribe or the gaming public and a tribe's management contractor. This section provides an example of a dispute resolution process used by tribes with gaming operations.

Black: Recommended, but not required
 Green: Not required, but, if included, must be consistent with IGRA and the NIGC regulations
 Blue: Must be included
 Red: Must be included in ordinance or submitted separately

- B. The Tribal Gaming Commission is responsible for issuing new or renewed facility licenses to each place, facility or location.
- C. The Tribal Gaming Commission shall require that a facility license application be completed by the chief management official of the gaming facility for each gaming place, facility or location.
- D. The Tribal Gaming Commission shall identify the environmental, health and public safety standards with which the place, facility or location must comply, and specify the form, conditions and content of a facility license application. The application shall include:
- E. A legal description of the lands upon which the facility is located, and a certification that the site constitutes "Indian lands," as defined in IGRA, the NIGC's regulations, the NIGC Office of General Counsel and DOI Solicitor Offices' Indian lands legal opinions, judicial decisions and any other applicable law.
- F. The Tribal Gaming Commission shall only issue a facility license if the application includes the required information and documentation, and sufficiently satisfies any additional conditions deemed necessary by the Tribe.
- G. The Tribe or Tribal Gaming Commission shall submit to the NIGC Chair a notice that issuance of a facility license is under consideration by the Tribal Gaming Commission.¹³ This notice must be submitted at least 120 days before the opening of any new place, facility or location on Indian lands where [class II and/or class III] gaming will occur.¹⁴

[25 C.F.R. § 559.2(a)]

¹³ The facility license notice shall contain the information and documentation set out in 25 C.F.R. § 559.2(b).

¹⁴ The NIGC does not notify the tribe that a facility complies with the requirements for gaming on Indian land unless the tribe specifically requests such notice.

Black: Recommended, but not required
 Green: Not required, but, if included, must be consistent with IGRA and the NIGC regulations
 Blue: Must be included
 Red: Must be included in ordinance or submitted separately

- H. The Tribal Gaming Commission shall submit a copy of each newly issued or renewed facility license to the NIGC Chair within 30 days of issuance, along with any other required documentation.¹⁵

[25 C.F.R. § 559.3]

- I. The Tribe shall notify the NIGC Chair within 30 days if a facility license is terminated or expires, or if a gaming place, facility, or location closes or reopens.

[25 C.F.R. § 559.5]

Section 13. Agent for Service of Process

The Tribe designates [identity of an official position]¹⁶ as the agent for service of any official determination, order or notice of violation.

[25 C.F.R. §§ 519.1, 522.2(g), 522.6(a)]

Section 14. Tribal Access to Financial Information

A copy of the Tribal gaming operation’s annual audit will be made available for review, upon request, to:

[the Tribe’s Business Committee]

OR

[enrolled Tribal member]

¹⁵ Under 25 C.F.R. § 559.4, a tribe is required to submit an attestation certifying that by issuing the facility licenses, the tribe has determined that the construction and maintenance of the gaming facility, and the operation of that gaming, is conducted in a manner which adequately protects the environment and the public health and safety.

¹⁶ The NIGC recommends identifying an official position rather than naming a specific person as the agent for service of process.

Black: Recommended, but not required
Green: Not required, but, if included, must be consistent with IGRA and the NIGC regulations
Blue: Must be included
Red: Must be included in ordinance or submitted separately

OR

[desired Tribal group]

Section 15. License Application Forms¹⁷

- A. The following notice shall be placed on the Tribe's license application form for a key employee or a primary management official before it is filled out by an applicant:

In compliance with the Privacy Act of 1974, the following information is provided: Solicitation of the information on this form is authorized by 25 U.S.C. §§ 2701 *et seq.* The purpose of the requested information is to determine the eligibility of individuals to be granted a gaming license. The information will be used by the Tribal gaming regulatory authorities and by the National Indian Gaming Commission members and staff who have need for the information in the performance of their official duties. The information may be disclosed by the Tribe or the NIGC to appropriate Federal, Tribal, State, local or foreign law enforcement and regulatory agencies when relevant to civil, criminal or regulatory investigations or prosecutions or when pursuant to a requirement by a tribe or the NIGC in connection with the issuance, denial, or revocation of a gaming license, or investigations of activities while associated with a tribe or a gaming operation. Failure to consent to the disclosures indicated in this notice will result in a tribe being unable to license you for a primary management official or key employee position.

The disclosure of your Social Security Number (SSN) is voluntary. However, failure to supply a SSN may result in errors in processing your application.

[25 C.F.R. § 556.2(a)]

- B. The following additional notice shall be placed on the application form for a key employee or a primary management official before it is filled out by an applicant:

¹⁷ The provisions related to the Privacy Act and False Statement notifications must be included in the ordinance exactly as written in the NIGC's regulations.

Black: Recommended, but not required
 Green: Not required, but, if included, must be consistent with IGRA and the NIGC regulations
 Blue: Must be included
 Red: Must be included in ordinance or submitted separately

A false statement on any part of your license application may be grounds for denying a license or the suspension or revocation of a license. Also, you may be punished by fine or imprisonment (U.S. Code, title 18, section 1001).

[25 C.F.R. § 556.3(a)]

Section 16. License Fees

The Tribe may charge a license fee, to be set by the Tribal Gaming Commission, to cover its expenses in investigating and licensing key employees and primary management officials of the gaming operation.

Section 17. Background Investigations¹⁸

- A. The Tribe shall perform a background investigation for each primary management official and key employee in its gaming operation.¹⁹ The investigation must be sufficient to allow the Tribal Gaming Commission to make an eligibility determination under Section 20 of this ordinance.

**[25 U.S.C. § 2710(b)(2)(F);
25 C.F.R. §§ 522.4(b)(5), 556.4]**

- B. The Tribal Gaming Commission is responsible for conducting the background investigations of primary management officials and key employees. The background investigation shall include a check of criminal history records information maintained by the Federal Bureau of Investigations.

**[25 U.S.C. § 2710(b)(2)(F);
25 C.F.R. §§ 522.2(h), 522.6(a)]**

¹⁸ Unless a tribal-state compact provides that a state has exclusive jurisdiction over conducting background investigations and issuing licenses for class III gaming operations, the background investigation provisions apply to both class II and class III gaming.

¹⁹ Background investigations, and the related procedures and standards in 25 C.F.R. part 556, are required for primary management officials and key employees of a tribe's gaming operation. A tribe may, however, wish to require all employees of its gaming operation to undergo background investigations.

Black: Recommended, but not required
Green: Not required, but, if included, must be consistent with IGRA and the NIGC regulations
Blue: Must be included
Red: Must be included in ordinance or submitted separately

- C. The Tribe shall request fingerprints from each primary management official and key employee. The law enforcement agency designated to take fingerprints is [name of responsible law enforcement agency].²⁰

**[25 U.S.C. § 2710(b)(2)(F);
25 C.F.R. §§ 522.2(h), 522.6(a), 556.4(a)(14)]**

- D. The Tribal Gaming Commission shall request from each primary management official and key employee all of the following information:
1. Full name, other names used (oral or written), social security number, birth date, place of birth, citizenship, gender and all languages (spoken and/or written);
 2. Currently, and for the previous five (5) years; business and employment positions held, ownership interests in those businesses, business and residential addresses, and driver's license numbers;
 3. The names and current addresses of at least three (3) personal references, including one (1) personal reference who was acquainted with the applicant during each period of residence listed under paragraph (C)(2) of this section;
 4. Current business and residential telephone numbers, and all cell phone numbers;
 5. A description of any existing and previous business relationships with other tribes, including any ownership interests in those businesses;
 6. A description of any existing and previous business relationships with the gaming industry generally, including ownership interests in those businesses;

²⁰ A tribe is required to submit the name of the law enforcement agency that will take fingerprints and provide a description of the procedures for conducting a criminal history check by a law enforcement agency; however, it is not required to include such information in the ordinance. *See* 25 C.F.R. §§ 522.2(h), 522.6(a).

Black: Recommended, but not required
 Green: Not required, but, if included, must be consistent with IGRA and the NIGC regulations
 Blue: Must be included
 Red: Must be included in ordinance or submitted separately

7. The name and address of any licensing or regulatory agency with which the person has filed an application for a license or permit related to gaming, whether or not such license or permit was granted;
8. For each felony for which there is an ongoing prosecution or a conviction, the charge, the name and address of the court involved, and the date of disposition, if any;
9. For each misdemeanor conviction or ongoing misdemeanor prosecution (excluding minor traffic violations) within 10 years of the date of the application, the name and address of the court involved and the date of disposition, if any;
10. For each criminal charge (excluding minor traffic charges), whether or not there is a conviction, if such criminal charge is within 10 years of the date of the application, and is not otherwise listed pursuant to paragraphs (C)(8) or (C)(9) of this Section, the criminal charge, the name and address of the court involved, and the date of disposition, if any;
11. The name and address of any licensing or regulatory agency with which the person has filed an application for an occupational license or permit, whether or not such license or permit was granted;
12. A photograph;²¹
13. Any other information the Tribe deems relevant; and
14. Fingerprints obtained in accordance with procedures adopted by the Tribe

**[25 U.S.C. § 2710(b)(2)(F);
25 C.F.R. §§ 522.2(h), 522.4(b)(5), 522.6(a), 556.4(a)(1)-(14)]**

- E. When a primary management official or key employee is employed by the Tribe, a complete application file, containing all of the information listed in Section 18(C), shall be maintained.

[25 U.S.C. § 2710(b)(2)(F);

²¹ A *current* photograph is recommended.

Black: Recommended, but not required
 Green: Not required, but, if included, must be consistent with IGRA and the NIGC regulations
 Blue: Must be included
 Red: Must be included in ordinance or submitted separately

25 C.F.R. §§ 522.4(b)(5), 556.6(a)]

- F. The Tribal Gaming Commission, and its investigators, shall keep confidential the identity of each person interviewed in the course of conducting a background investigation.

[25 C.F.R. §§ 522.4(b)(5), 556.4(c)]

Section 18. Procedures for Conducting Background Investigations²²

- A. The Tribal Gaming Commission, or its agent, shall employ or engage an investigator to conduct a background investigation of each applicant for a primary management official or key employee position. The investigator shall:
1. Verify the applicant's identity through items such as a social security card, driver's license, birth certificate or passport;
 2. Contact each personal and business reference provided in the license application, when possible;
 3. Conduct a personal credit check;
 4. Conduct a civil history check;²³
 5. Conduct a criminal history records check;^{24 25}

²² Most of the actions recommended in this provision are not required to be included in the ordinance. However, an ordinance must require that a background investigation be sufficient for a tribe to make an eligibility determination for licensing purposes. Additionally, an authorized tribal official must be able to review a person's prior activities, criminal record (if any), and reputation, habits and associations to make an eligibility finding for licensing purposes. *See* 25 U.S.C. § 2710(b)(2)(F)(II); 25 C.F.R. § 556.5.

²³ A tribe should look for items of concern including past or outstanding judgments, current liens, past or pending lawsuits, and any other information deemed to be relevant.

²⁴ A tribe should check federal, state and tribal court records for any criminal activity or any other information deemed to be relevant.

²⁵ A tribe may want to perform a check of tribal criminal history also. Tribal criminal records are not reflected in federal or state databases.

Black: Recommended, but not required
 Green: Not required, but, if included, must be consistent with IGRA and the NIGC regulations
 Blue: Must be included
 Red: Must be included in ordinance or submitted separately

6. Based on the results of the criminal history records check, as well as information acquired from an applicant's self-reporting or from any other source, obtain information from the appropriate court regarding any past felony and/or misdemeanor convictions or ongoing prosecutions within the past 10 years;²⁶
7. Inquire into any previous or existing business relationships with the gaming industry, including with any tribes with gaming operations, by contacting the entities or tribes;
8. Verify the applicant's history and current status with any licensing agency by contacting the agency; and
9. Take other appropriate steps to verify the accuracy of the information, focusing on any problem areas noted.

[25 U.S.C. § 2710(b)(2)(F); 25 C.F.R. §§ 522.4(b)(5), 556.5]

Section 19. Investigative Reports

- A. A Tribe shall create and maintain an investigative report for each background investigation of a primary management official or key employee.

**[25 U.S.C. § 2710(b)(2)(F);
25 C.F.R. §§ 522.4(b)(5), 556.6(b)(1)]**

- B. Investigative reports shall include all of the following information:
 - a. Steps taken in conducting the investigation;
 - b. Results obtained;
 - c. Conclusions reached; and
 - d. The basis for those conclusions.

²⁶ A tribe may want to perform a check of tribal criminal history also. Tribal criminal records are not reflected in federal or state databases.

Black: Recommended, but not required
 Green: Not required, but, if included, must be consistent with IGRA and the NIGC regulations
 Blue: Must be included
 Red: Must be included in ordinance or submitted separately

[25 U.S.C. § 2710(b)(2)(F);
25 C.F.R. §§ 522.4(b)(5), 556.6(b)(1)]

Section 20. Eligibility Determinations

- A. Before a license is issued to a primary management official or key employee, an authorized Tribal official shall make a finding concerning the eligibility of that person for receiving a gaming license by reviewing the applicant's prior activities, criminal record, if any, and reputation, habits and associations.

[25 U.S.C. § 2710(b)(2)(F);
25 C.F.R. §§ 522.4(b)(5), 556.5(a)]

- B. If the authorized Tribal official, in applying the standards adopted in this ordinance, determines that licensing the person poses a threat to the public interest or to the effective regulation of gaming, or creates or enhances the dangers of unsuitable, unfair or illegal practices, methods and/or activities in the conduct of gaming, he or she shall not license that person in a key employee or primary management official position.

[25 U.S.C. § 2710(b)(2)(F);
25 C.F.R. § 556.5(b)]

- C. Copies of the eligibility determination shall be included with the notice of results that must be submitted to the NIGC before the licensing of a primary management official or key employee.

[25 U.S.C. § 2710(b)(2)(F);
25 C.F.R. § 556.6(b)(2)]

Section 21. Notice of Results of Background Investigations

- A. Before issuing a license to a primary management official or key employee, the Tribal Gaming Commission shall prepare a notice of results of the applicant's background investigation to submit to the NIGC.

Black: Recommended, but not required
 Green: Not required, but, if included, must be consistent with IGRA and the NIGC regulations
 Blue: Must be included
 Red: Must be included in ordinance or submitted separately

- B. The notice of results must be submitted to the NIGC no later than 60 days after the applicant begins working for the Tribe.

**[25 U.S.C. § 2710(b)(2)(F);
25 C.F.R. § 556.6(b)(2)]**

- C. The notice of results shall include the following information:

1. The applicant's name, date of birth and social security number;
2. The date on which the applicant began, or will begin, working as a primary management official or key employee;
3. A summary of the information presented in the investigative report, including:
 - a. licenses that have previously been denied;
 - b. gaming licenses that have been revoked, even if subsequently reinstated;
 - c. every known criminal charge brought against the applicant within the last 10 years of the date of the application; and
 - d. every felony offense of which the applicant has been convicted or any ongoing prosecution; and
4. A copy of the eligibility determination made in accordance with Section 21.

[25 C.F.R. § 556.6(b)(2)(i)-(iv)]

Section 22. Granting Gaming Licenses²⁷

- A. All primary management officials and key employees of the gaming operation must have a gaming license issued by the Tribe.

**[25 U.S.C. § 2710(b)(2)(F);
25 C.F.R. § 558.3(c)]**

²⁷ The procedures and standards of 25 U.S.C. part 558 apply only to licenses for primary management officials and key employees. *See* 25 C.F.R. § 558.1.

Black: Recommended, but not required
 Green: Not required, but, if included, must be consistent with IGRA and the NIGC regulations
 Blue: Must be included
 Red: Must be included in ordinance or submitted separately

- B. The Tribal Gaming Commission²⁸ is responsible for granting and issuing gaming licenses to primary management officials and key employees.

**[25 U.S.C. § 2710(b)(2)(F);
25 C.F.R. § 558.1]**

- C. The Tribal Gaming Commission may license a primary management official or key employee applicant after submitting a notice of results of the applicant's background investigation to the NIGC, as required by Section 22.

[25 C.F.R. § 558.3(a)]

- D. The Tribal Gaming Commission shall notify the NIGC of the issuance of a license to a primary management official or key employee within 30 days of issuance.

**[25 U.S.C. § 2710(b)(2)(F);
25 C.F.R. § 558.3(b)]**

- E. The Tribe shall not employ an individual in a primary management official or key employee position who does not have a license after 90 days of beginning work at the gaming operation.

[25 C.F.R. § 558.3(c)]

- F. The Tribal Gaming Commission must reconsider a license application for a primary management official or key employee if it receives a statement of itemized objections to issuing such a license from the NIGC, and those objections are received within 30 days of the NIGC receiving a notice of results of the applicant's background investigation.

[25 C.F.R. § 558.2(c)]

- G. The Tribal Gaming Commission shall take the NIGC's objections into account when reconsidering a license application.

[25 C.F.R. § 558.2(c)]

²⁸ Unless a tribal-state compact assigns responsibility to an entity other than a tribe, the licensing authority for class II or class III gaming is a tribal authority. *See* 25 C.F.R. § 558.1.

Black: Recommended, but not required
 Green: Not required, but, if included, must be consistent with IGRA and the NIGC regulations
 Blue: Must be included
 Red: Must be included in ordinance or submitted separately

- H. The Tribe will make the final decision whether to issue a license to an applicant for a primary management official or key employee position.

[25 C.F.R. § 558.2(c)]

- I. If the Tribal Gaming Commission has issued a license to a primary management official or key employee before receiving the NIGC's statement of objections, notice and a hearing shall be provided to the licensee, as required by Section 25.

[25 C.F.R. § 558.2(d)]

Section 23. Denying Gaming Licenses

- A. The tribal Gaming Commission shall not license a primary management official or key employee if an authorized Tribal official determines, in applying the standards in Section 21 for making a license eligibility determination, that licensing the person:

1. Poses a threat to the public interest;
2. Poses a threat to the effective regulation of gaming; or
3. Creates or enhances the dangers of unsuitable, unfair or illegal practices, methods and/or activities in the conduct of gaming.

**[25 U.S.C. § 2710(b)(2)(F);
25 C.F.R. § 556.5(b)]**

- B. When the Tribal Gaming Commission does not issue a license to an applicant for a primary management official or key employee position, or revokes a previously issued licenses after reconsideration, it shall:

1. Notify the NIGC; and
2. Forward copies of its eligibility determination and notice of results of the applicant's background investigation to the NIGC for inclusion in the Indian Gaming Individuals Record System.

[25 C.F.R. § 558.3(d)]

Black: Recommended, but not required
 Green: Not required, but, if included, must be consistent with IGRA and the NIGC regulations
 Blue: Must be included
 Red: Must be included in ordinance or submitted separately

Section 24. Gaming License Suspensions and Revocations

- A. If, after a license is issued to a primary management official or a key employee, the Tribe receives notice from the NIGC that the primary management official or key employee is not eligible for employment, the Tribal Gaming Commission shall do the following:
1. Immediately suspend the license;
 2. Provide the licensee with written notice of the suspension and proposed revocation; and
 3. Provide the licensee with notice of a time and place for a hearing on the proposed revocation of the license.²⁹

[25 C.F.R. § 558.4(a)-(c)]

- B. Following a revocation hearing, the Tribe shall decide whether to revoke or reinstate the license at issue.

[25 C.F.R. § 558.4(e)]

- C. The Tribe shall notify the NIGC of its decision to revoke or reinstate a license within 45 days of receiving notification from the NIGC that a primary management official or key employee is not eligible for employment.

[25 CFR § 558.4(e)]

Section 25. Records Retention

- A. The Tribal Gaming Commission shall retain, for no less than three years from the date a primary management official or key employee is terminated from employment with the Tribe, the following documentation:

²⁹ Upon granting a permanent license under an ordinance approved by the Chair of the NIGC, a tribe must provide the right to a revocation hearing pursuant to 25 C.F.R. § 558. This section does not limit or prohibit a tribe from providing a hearing in other circumstances as well.

Black: Recommended, but not required
 Green: Not required, but, if included, must be consistent with IGRA and the NIGC regulations
 Blue: Must be included
 Red: Must be included in ordinance or submitted separately

1. Application for licensing;
2. Investigative Reports; and
3. Eligibility Determinations.

[25 C.F.R. § 558.3(e)]

Section 26. Licenses for Vendors³⁰

Vendors of gaming services or supplies, with a value of \$25,000³¹ or more annually, must have a vendor license from the Tribal Gaming Commission in order to transact business with the Tribal gaming operation. Contracts for professional legal and accounting services are excluded from this Section.

Section 27. Submission of a Vendor License Application

In order to obtain a gaming vendor license, the business must complete a vendor application and submit to background checks of itself and its principals. Principals of a business include those officers, directors, managers, owners, partners, and non-institutional stockholders that either own 10% or more of the business' stock or are the 10 largest stockholders, as well as the on-site supervisors or managers designated in an agreement with the Tribe, if applicable.

Section 28. Contents of the Vendor License Application

A. Applications for gaming vendor licenses must include the following:

1. Name of business, business address, business telephone number(s), federal tax identification number (or social security number, if a sole proprietorship), main office address (if different from business address),

³⁰ This provision is recommended, but not required by IGRA or the NIGC's regulations. A tribe may leave this optional section in its ordinance or may create a separate vendor licensing regulation.

³¹ A tribe may wish to evaluate the \$25,000 minimum based on the size of the operation and the average amount of its contracts.

Black: Recommended, but not required
 Green: Not required, but, if included, must be consistent with IGRA and the NIGC regulations
 Blue: Must be included
 Red: Must be included in ordinance or submitted separately

any other names used by the applicant in business, and type of service(s) applicant will provide;

2. Whether the applicant is a partnership, corporation, limited liability company, sole proprietorship or other entity;
3. If the applicant is a corporation, the state of incorporation and the qualification to do business in the State of [insert State name], if the gaming operation is in a different state than the state of incorporation.
4. Trade name, other names ever used and names of any wholly owned subsidiaries or other businesses owned by the vendor or its principals;
5. General description of the business and its activities;
6. Whether the applicant will be investing in, or loaning money to, the gaming operation, and if so, how much;
7. A description of any existing and previous business relationships with the gaming industry generally, including ownership interests in those businesses;
8. A list of Indian tribes with which the vendor has an existing or previous business relationship, including ownership, financial or management interests in any non-gaming activity;³²
9. Names, addresses and telephone numbers of three (3) business references with whom the company has regularly done business for the last five (5) years;
10. The name and address of any licensing or regulatory agency with which the business has filed an application for a license or permit related to gaming, whether or not such license or permit was granted;
11. If the business has ever had a license revoked for any reason, the circumstances involved;

³² If a vendor has extensive interaction with Indian tribes, a tribe may want to limit this list to the ten (10) biggest contracts.

Black: Recommended, but not required
 Green: Not required, but, if included, must be consistent with IGRA and the NIGC regulations
 Blue: Must be included
 Red: Must be included in ordinance or submitted separately

12. A list of lawsuits to which the business has been a defendant, including the name and address of the court involved, and the date and disposition, if any;
 13. A list of the business' funding sources and any liabilities of \$50,000 or more;³³
 14. A list of the principals of the business, their social security numbers, addresses, telephone numbers, titles and percentage of ownership in the company; and
 15. Any further information the Tribe deems relevant.
- B. The following notice shall be placed on the application form for a vendor and its principals:
- Inclusion of false or misleading information in the vendor application may be grounds for denial or revocation of the Tribe's vendor license.
- C. A vendor may submit to the Tribal Gaming Commission a copy of a recent license application to another jurisdiction if it contains the information listed above. The vendor will be required to submit, in writing, any changes in the information since the other license application was filed, and any information requested by the Tribe not contained in the other application.

Section 29. Vendor Background Investigations

The Tribal Gaming Commission shall employ or otherwise engage an investigator to complete an investigation of a gaming vendor. This investigation shall include, at a minimum, the following steps:

- A. Verification of the vendor's business' incorporation status and qualifications to do business in the state where the gaming operation is located;
- B. Obtaining a business credit report, if available, and conducting a Better Business Bureau check on the vendor;

³³ A tribe may want to consider naming a higher amount for larger or publicly traded companies.

Black: Recommended, but not required
 Green: Not required, but, if included, must be consistent with IGRA and the NIGC regulations
 Blue: Must be included
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- C. Conducting a check of the vendor's business' credit history;
- D. Calling and questioning each of the references listed in the vendor application; and
- E. Conducting an investigation of the principals of the vendor's business, including facilitating a criminal history check, obtaining criminal history check results, obtaining a credit report, and interviewing the personal references listed.

Section 30. Vendor License Fees

The Tribe may charge a license fee, to be set by the Tribal Gaming Commission, to cover its expenses in investigating and licensing vendors of the gaming operation.

Section 31. Vendor Background Investigation Reports

The investigator shall complete an investigative report covering each of the steps taken in the background investigation of the gaming vendor and its principals, and present it to the Tribal Gaming Commission.

Section 32. Vendors Licensed by Recognized Regulatory Authorities

The Tribal Gaming Commission may adopt regulations naming specific licensing authorities that it recognizes and may authorize exemptions to the vendor licensing process for vendors who have received a license from one of the named regulatory authorities.

Section 33. Compliance with Federal Law

The Tribe shall comply with all applicable federal laws, including the Bank Secrecy Act, 31 U.S.C. § 5311 *et seq.*

Section 34. Repeal

To the extent that they are inconsistent with this ordinance, all prior Tribal gaming ordinances are hereby repealed.

Black: Recommended, but not required
 Green: Not required, but, if included, must be consistent with IGRA and the NIGC regulations
 Blue: Must be included
 Red: Must be included in ordinance or submitted separately

Section 35. Effective Date

This ordinance shall take effect immediately upon its approval by the NIGC Chair.

Black: Recommended, but not required
Green: Not required, but, if included, must
be consistent with IGRA and the
NIGC regulations
Blue: Must be included
Red: Must be included in ordinance
or submitted separately

REVIEWS OF ORDINANCES, RESOLUTIONS, AND ORDINANCE AMENDMENTS

A CHECKLIST OF STATUTORY & REGULATORY REQUIREMENTS

<p>Tribe: _____</p> <p>Classes of Gaming: _____</p> <p>Internal Due Date: _____</p> <p>(45 days from receipt)</p> <p>Date of Review: _____</p> <p>Date(s) of Previous Ordinance and/or Amendment Approval(s), if any: _____</p>	<p>Ordinance or Resolution #: _____</p> <p>Amendment? YES <input type="checkbox"/> NO <input type="checkbox"/></p> <p>Date Received: _____</p> <p>Due Date: (90 days from receipt) _____</p> <p>Reviewer: _____</p>
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I. Submission Requirements

- Some of this information may be included within the ordinance, but can also be submitted separately. In the case of an ordinance amendment, some of this information may have been previously submitted.
- For most amendments, only verification of authority is needed; however, the hard file of the previously approved ordinance should be reviewed.

Yes	N o	N/A	Cite and/or Comments
			<p>1. Copy of an ordinance, resolution, or ordinance amendment certified as authentic by an authorized tribal official. (§ 522.2(a))</p> <p>To verify authenticity, the following is required:</p> <ul style="list-style-type: none"> • A copy of the tribe’s Constitution or other governing document. _____ • Is the signatory to the tribal gaming ordinance recognized by the BIA? <ul style="list-style-type: none"> • BIA employee called and date: _____ • Does the body adopting the ordinance have authority under the tribe’s governing document? <ul style="list-style-type: none"> • Name of body: _____ • What is the quorum requirement? _____ • Did the governing body have a quorum to pass the ordinance or resolution? <ul style="list-style-type: none"> • Quorum when passed: _____
			<p>2. Copies of all tribal gaming regulations. (§ 522.2(d)) (If missing, please obtain.)</p>

			3. Copies of all tribal-state compacts, or Secretarial procedures, when an ordinance or resolution concerns class III gaming. (§ 522.2(e)) (If missing, please obtain.)
			4. A description of procedures for resolving disputes between the gaming public and the tribe and/or the management contractor. (§ 522.2(f))
			5. Designation of an agent for service of any official determination, order, or notice of violation, as required by § 519.1. (§ 522.2(g))
			6. Identification of a law enforcement agency that will take fingerprints. (§522.2(h))
			7. A description of procedures for conducting a criminal history check by a law enforcement agency, including a check of criminal history records information maintained by the FBI. (§ 522.2(h))

II. General Content Requirements

- An asterisk (*) after any item indicates that the language in the ordinance should generally mimic the language in either IGRA or NIGC regulations.
- Ordinance amendments need only be reviewed if the amended provisions fall within the scope of IGRA or NIGC regulations. If so, check off the sections being amended, but you should also review the ordinance provisions related to any recently revised NIGC regulations.
- If you can answer “yes” to any of the following three questions, please notify your supervisor immediately:
 - Is the ordinance, or amendment thereof, site-specific?
 - Aside from the games already classified in IGRA or NIGC regulations, does the ordinance or amendment thereof, define a specific game as a class II or class III game?
 - Does the ordinance, or amendment thereof, authorize the tribe to conduct internet gaming?

Yes	No	N/A	Cite and/or Comments
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			1. While an ordinance is not required to define terms, if it does define any terms, are the definitions of said terms consistent with those contained in IGRA or NIGC regulations? (If not, please note them.)
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§ 522.4 Requirements

			2. Does the ordinance provide that the tribe will retain the sole proprietary interest in, and responsibility for, the conduct of the gaming operation? (§ 522.4(b)(1))
			3. If the tribe authorizes individually-owned gaming, does the ordinance meet the requirements of §§ 522.10 or 522.11? (§ 522.4(b)(1))
			4. Does the ordinance require that net gaming revenues be used only for one or more of the following purposes:

			<ul style="list-style-type: none"> • to fund tribal government operations or programs; • to provide for the general welfare of the tribe and its members; • to promote tribal economic development; • to donate to charitable organizations; or • to help fund operations of local government agencies? (§ 522.4(b)(2)) * <p>If the ordinance provides for the use of net revenues for any other purpose, please note and list the additional purposes.</p>
			<p>5. Does the ordinance specify that per capita payments will only be made pursuant to an approved revenue allocation plan? (§ 522.4(b)(2)(ii))</p>
			<p>6. Does the ordinance require that annual, independent audits be conducted and the results submitted to the NIGC, including the independent audits of all gaming-related contracts resulting in purchases of supplies, services or concessions amounting to more than \$25,000 in any year (except contracts for professional legal or accounting services)? (§ 522.4(b)(3)-(b)(4))</p>
			<p>7. Does the ordinance require the tribe to perform background investigations of PMOs and key employees according to requirements that are as stringent as those in parts 556 and 558? (§ 522.4(b)(5))</p>
			<p>8. Does the ordinance require the tribe to issue a separate license to each place, facility, or location on Indian lands where a tribe elects to allow class II or class III gaming?</p> <p>(§ 522.4(b)(6); § 522.6(b); 25 USC 2710(b)(1))</p> <p>(If the ordinance includes any specific facility license provisions, please review for, and note, any inconsistencies with 25 CFR part 559.)</p>
			<p>9. Does the ordinance require the tribe to construct, maintain, and operate a gaming facility in a manner that adequately protects the environment and the public health and safety? (§ 522.4(b)(7))</p>
Part 556 Requirements			

			<p>10. Does the ordinance require that the application form for a PMO or key employee contain a Privacy Act notice that incorporates the specific language set out in 25 CFR § 556.2(a)?</p>
			<p>11. Does the ordinance require that the application form for a PMO or key employee contain a false statement notice that incorporates the specific language set out in 25 CFR § 556.3(a)?</p>
			<p>12. Does the ordinance require the tribe, as part of the background investigation of each PMO and each key employee, to request all of the following information?</p>
			<p>a) full name, other names used (oral or written), SSN(s), birth date, place of birth, citizenship, gender, and all languages spoken or written;</p>
			<p>b) currently and for the previous five years: business and employment positions held, ownership interests in those businesses, business and residential addresses, and driver's license number(s);</p>
			<p>c) the names and current addresses of at least three personal references, including one personal reference who was acquainted with the applicant during each period of residence listed above;</p>
			<p>d) current business and residence telephone numbers;</p>
			<p>e) a description of any existing and previous business relationships with Indian tribes, including ownership interests in those businesses;</p>
			<p>f) a description of any existing and previous business relationships with the gaming industry generally, including ownership interests in those businesses;</p>
			<p>g) the name and address of any licensing or regulatory agency with which the person has filed an application for a license or permit related to gaming, whether or not such license or permit was granted;</p>
			<p>h) for each felony for which there is an ongoing prosecution or a conviction, the charge, the name and address of the court involved, and the date and disposition, if any;</p>
			<p>i) for each misdemeanor conviction or ongoing misdemeanor prosecution (excluding minor traffic charges) within 10 years of the date of the application, the name and address of the court involved and the date and disposition;</p>

			j) for each criminal charge (excluding minor traffic charges) whether or not there is a conviction, if such criminal charge is within 10 years of the date of the application and is not otherwise listed, the criminal charge, the name and address of the court involved, and the date and disposition;
			k) the name and address of any licensing or regulatory agency with which the person has filed an application for an occupational license or permit, whether or not such license or permit was granted;
			l) a photograph;
			m) any other information a tribe deems relevant; and
			n) fingerprints consistent with procedures adopted by a tribe according to § 522.2(h). § 556.4(a)(1)-(14) *
			13. Does the ordinance require that the tribe keep confidential the identity of each person interviewed in the course of conducting a background investigation? (§ 556.4(c))
			14. Does the ordinance require that, in order to make a finding concerning the eligibility of a PMO or key employee for the granting of a gaming license, an authorized tribal official shall review a person's: <ul style="list-style-type: none"> • prior activities; • criminal record, if any; and • reputation, habits, and associations. (§ 556.5(a)) *
			15. Does the ordinance require that if, in applying the standards adopted in the ordinance, the authorized tribal official determines that licensing of the person poses a threat to the public interest or to the effective regulation of the gaming, or creates or enhances the dangers of unsuitable, unfair, or illegal practices, methods, and activities in the conduct of gaming, the authorized tribal official shall not license that person in a PMO or key employee position? (§ 556.5(b)) *
			16. Does the ordinance require the tribe to maintain an individual's complete application file containing all of the information listed in § 556.4(a)(1)-(a)(14) when it employs the individual in a PMO or a key employee position? (§ 556.6(a))

		<p>17. Does the ordinance require the tribe, before issuing a license to a PMO or to a key employee, to create and maintain an investigative report on each background investigation that includes all of the following:</p>
		<ul style="list-style-type: none"> • steps taken in conducting a background investigation;
		<ul style="list-style-type: none"> • results obtained;
		<ul style="list-style-type: none"> • conclusions reached; and
		<ul style="list-style-type: none"> • the basis for those conclusions. (§ 556.6(b)(1)) *
		<p>18. Does the ordinance require the tribe, before issuing a license to a PMO or to a key employee, to submit a notice of results of the applicant’s background investigation to the Commission no later than 60 days after the applicant begins work, that includes:</p>
		<ul style="list-style-type: none"> • the applicant’s name, date of birth, and SSN;
		<ul style="list-style-type: none"> • date on which the applicant began or will begin work as a PMO or key employee;
		<ul style="list-style-type: none"> • a summary of the information presented in the investigative report, including:
		<ul style="list-style-type: none"> • license(s) that have previously been denied;
		<ul style="list-style-type: none"> • gaming licenses that have been revoked, even if subsequently reinstated;
		<ul style="list-style-type: none"> • every known criminal charge brought against the applicant within the last 10 years of the date of the application; and
		<ul style="list-style-type: none"> • every felony of which the applicant has been convicted or any ongoing prosecution.
		<ul style="list-style-type: none"> • a copy of the eligibility determination made under § 556.5. (§556.6(b)(2)) *
Part 558 Requirements		
		<p>19. Does the ordinance require the tribe to reconsider a license application for a PMO or key employee if, within 30 days of the NIGC receiving a notice of results, the NIGC provides the tribe with a statement itemizing objections to the issuance of such license? (§ 558.2(c))</p>
		<p>20. Does the ordinance require the tribe to take NIGC objections into account when reconsidering a license application? (§ 558.2(c))</p>

		<p>21. Does the ordinance provide that, if the tribe has issued the license before receiving the NIGC's statement of objection(s), a notice and hearing shall be provided to the licensee as required by § 558.4? (§ 558.2(d))</p>
		<p>22. Does the ordinance provide that the tribe may license a PMO or key employee after it has submitted a notice of results to the NIGC? (§ 558.3(a))</p>
		<p>23. Does the ordinance require the tribe to notify the NIGC of the issuance of a license to a PMO or key employee within 30 days of its issuance? (§ 558.3(b))</p>
		<p>24. Does the ordinance prohibit the tribe from employing an individual in a PMO or key employee position who does not have a license after 90 days? (§ 558.3(c))</p>
		<p>25. Does the ordinance require a tribe that does not license an applicant to:</p> <ul style="list-style-type: none"> • notify the NIGC; and • forward copies of its eligibility determination and notice of results to the NIGC for inclusion in the Indian Gaming Individuals Record System? (§ 558.3(d))
		<p>26. Does the ordinance require the tribe to retain the following documentation for no less than three years from the date of a PMO's or key employee's termination of employment:</p> <ul style="list-style-type: none"> • applications for licensing; • investigative reports; and • eligibility determinations? (§ 558.3(e) *)
		<p>27. Does the ordinance require the tribe, upon receipt of notification from the NIGC that a PMO or a key employee is not eligible for employment, to immediately suspend the license and provide the licensee with written notice of suspension and proposed revocation, including notifying the licensee of a time and a place for a hearing on the proposed revocation of the license? (§ 558.4(b)-(c)).</p>
		<p>28. Does the ordinance provide that the right to a revocation hearing vests only upon receipt of a license granted under an ordinance approved by the NIGC Chair?(§ 558.4(d)).</p>

		29. Does the ordinance require the tribe to decide to revoke or reinstate a license after a revocation hearing? (§ 558.4(e))
		30. Does the ordinance require the tribe to notify the NIGC of its decision to revoke or to reinstate a license within 45 days of receiving notification from the NIGC that a PMO or key employee is not eligible for employment? (§ 558.4(e)).



No. 01-05

Date: 01/18/05

Subject: Use of Net Gaming Revenues Bulletin

Introduction

The goals of federal Indian policy that the Indian Gaming Regulatory Act ("IGRA") was enacted to promote include tribal economic development, tribal self-sufficiency and strong tribal governments. Implicit in these goals is the concept of tribal self-determination. That is, it should be the tribe that determines its future, not outsiders, and certainly not just federal officials. Thus, decisions about how tribal gaming revenues are to be utilized should be made and implemented by tribes, through their duly authorized tribal governments.

In writing IGRA, Congress did, however, specify several broad categories for appropriate tribal expenditures of gaming revenues. These categories are discussed below.

Tribal governments determine the appropriate uses of net gaming revenues consistent with IGRA's designated categories. The National Indian Gaming Commission ("NIGC") acknowledges that tribal governments are well aware of the requirements for the uses of net revenues from Indian gaming under IGRA, and that tribal governments, in general, have committed gaming revenues to fund essential government services, including education, health care, police and fire protection, water and sewer services, and elderly and child care. For most tribal governments, this Bulletin will reinforce existing practices.

As might be expected, however, the NIGC often receives comments and complaints from tribal members with respect to their tribes' expenditures of tribal gaming revenues. While the NIGC is committed to a government-to-government relationship with tribes, and most of our dealings are directly with tribal governments through their tribal gaming commissions, tribal councils and other tribal governmental entities, when appropriate, we attempt to assist in the resolution of misunderstandings and disputes that can, and do, develop between tribal members and tribal entities regarding Indian gaming issues, such as expenditures of gaming revenues. Because tribes' utilization and expenditures of tribal gaming revenues are so fundamental to the purpose for tribal gaming and to its

continued success, the NIGC has deemed it appropriate to compile and share the information in this Bulletin to encourage tribes to employ policies and procedures in their expenditure of tribal gaming revenues that comply with IGRA and will minimize complaints and misunderstanding among the tribal membership and interested outside parties. The NIGC recognizes and respects that tribal governments are in the best position to determine tribal needs and priorities, and to incorporate tribal culture, traditions and values in the processes and programs that they develop, utilize and support with the expenditures of tribal gaming revenues. It is in this spirit that the information in this Bulletin is provided.

Net Revenues Used for Government Purposes and for Payments to Individual Tribal Members

IGRA requires that net gaming revenues from Indian gaming be used for public purposes that are consistent with those typically provided by governments. The five public purposes specified by IGRA for a tribe's use of net revenues from its tribal gaming operations are:

- 1) To fund tribal government operations or programs;
- 2) To provide for the general welfare of the Indian tribe and its members;
- 3) To promote tribal economic development;
- 4) To donate to charitable organizations; and
- 5) To help fund operations of local government agencies.

25 USC § 2710(b)(2)(B); *see also* 25 U.S.C. §§ 2710(d)(1)(A)(ii) and 2710(d)(2); 25 C.F.R. §§ 522.4, 522.6. The term "net revenues" is defined in IGRA as "gross revenues of an Indian gaming activity less amounts paid out as, or paid for, prizes and total operating expenses, excluding management fees." 25 U.S.C. § 2703(9); 25 C.F.R. § 502.16.

Direct distributions of payments to individual tribal members, outside of a government program, are not allowed under IGRA. However, there is an exception to this limitation. Tribes may distribute gaming proceeds to individual tribal members if the tribe has a Revenue Allocation Plan, or "RAP," that authorizes per capita payments and has been formally approved by the Secretary of the Interior ("Secretary"). 25 U.S.C. §§ 2710(b)(3); *see also* 2710(d)(1)(A)(ii). It is in the RAP that a tribe describes how it will allocate and distribute net gaming revenues for public purposes and to individual tribal members on a per capita basis. 25 C.F.R. § 290.2. "Per capita payment," within this context, is defined as "the distribution of money or other thing of value to all members of the tribe, or to identified groups of members, which is paid directly from the net revenues of any tribal gaming activity." 25 C.F.R. § 290.2. The responsibility for reviewing and approving RAPs is delegated by federal regulations to the Bureau of Indian Affairs ("BIA") and the Secretary of the Interior, and not the NIGC. 25 C.F.R. Part 290.

Tribes are not required to make per capita payments from net gaming revenues to individual tribal members. If they choose to do so, however, they must comply with both IGRA and the administrative regulations of the BIA. 25 U.S.C. § 2710(b)(3); 25 C.F.R. Part 290. Tribes that elect to make per capita payments to individual tribal members from net revenues are required to take the following steps before making the payments:

- 1) Prepare a plan to allocate gaming revenues to one or all of the five public purposes specified in Section 2710(b)(2)(B) of IGRA;
- 2) Submit the plan to the BIA and have it approved by the Secretary as “adequate,” particularly with respect to a tribe’s funding of tribal government operations and programs, and promotion of tribal economic development;
- 3) Insure that the plan protects the interests of minors and other legally incompetent persons and makes per capita payments for them in amounts necessary for their health, education and welfare, under a plan approved by the tribe and the Secretary; and
- 4) Notify tribal members, when per capita payments are made, that the payments are subject to federal withholding and taxation as personal income.

25 U.S.C. § 2710(b)(3).

If tribes choose to make per capita payments to individual members, they must be made to *all* enrolled members, unless there is reasonable justification for limiting payments to a group of enrolled members and excluding the remaining enrolled members. 25 C.F.R. § 290.14. For example, a tribe may limit per capita payments to individual tribal members 65 years or older because of this group’s greater financial needs due to not working and increased health care expenses. Importantly, according to 25 C.F.R. 290.12(b)(4), if tribes choose to make per capita payments, they are then required to notify members of the tax liability for the payments, and then withhold taxes for all recipients in accordance with the Internal Revenue Service (“IRS”) regulations found in 26 C.F.R. Part 31.

Under the BIA’s regulations, tribes making per capita payments to individual members are required to establish and use a tribal court system, forum or administrative process for the resolution of disputes concerning the allocation of net gaming revenues and the distribution of per capita payments. 25 C.F.R. § 290.12(b)(5). This requirement insures that tribal members are afforded a process for challenging and appealing the distribution and allocation of gaming revenues under a RAP. It gives tribal members the ability to have some recourse if they disagree with how tribal gaming revenues are being spent.

The NIGC shares regulatory authority and responsibility for the proper use of gaming revenues with the tribes, tribal councils and tribal gaming commissions. When exercising and discharging its regulatory authority and responsibilities under IGRA, the NIGC is committed to maintaining a respectful and meaningful government-to-government relationship with tribes and their authorized government leaders.

Permissible Uses of Gaming Revenues

Tribes typically allocate a substantial portion of their gaming revenues to the “general welfare” of the tribe and its members; to “tribal economic development”; and/or to “government operations or programs.” When tribes establish government programs to benefit individual members, those programs should: 1) be created in response to a recognized need within the tribal community; 2) have eligibility criteria to determine which members qualify to participate in the program; and 3) not discriminate by including some members and excluding others without reasonable justification. Payments made and services offered should be made equally available to all those who meet program standards.

Government programs are set up to serve one or more needs or requirements of the tribal community. A fundamental part of any government program is the criteria established to determine which tribal members are eligible to participate in a program. The criteria are tied to the needs and requirements of the tribal membership, and are often tied to income levels and the financial needs of a group of members. Criteria can be based on needs other than financial ones, however, such as educational, medical or housing needs. Criteria can also reflect a historical lack of prosperity for a group of members like tribal elders, who missed out on the financial benefits of gaming for most of their lives.

Tribes have developed a broad range of tribal government programs using objective criteria based on the requirements and needs of the tribal membership. Examples of these are:

- Elder programs
- Daycare and early childhood development programs
- Universal health care
- Nutrition assistance programs
- Housing assistance programs
- Small business loan programs
- Emergency loan programs
- Legal aid programs
- Public defender programs
- Job training programs
- Educational grants, loans and scholarships
- Drug and alcohol treatment programs
- Culture and language programs
- After-school programs for youth
- Burial assistance programs

Eyeglass programs
Programs offering culturally-based, alternative health care
and treatments

The above list is not exhaustive, as there are hundreds of different government programs currently being offered by the more than 500 federally recognized tribes in existence today.

Tribes also commonly allocate gaming revenues for the creation and expansion of tribal government infrastructure under the government operations or general welfare provisions of IGRA. The following examples typify allowable expenditures of gaming revenues for these purposes:

- Constructing tribal administrative office buildings
- Installing a telecommunications center, including computers
- Building and improving roads
- Creating a tribal justice center, including trial and appellate courts, a law enforcement agency, a corrections facility, a prosecutors' office and a public defender office
- Constructing a youth recreation complex
- Constructing a fitness center
- Constructing a community swimming pool
- Constructing a retirement center for tribal elders
- Establishing tribal credit unions
- Creating a museum
- Creating a library with computers available for members' use
- Establishing utilities for the provision of water and sewer services
- Establishing a waste treatment facility

In developing government programs that provide benefits to individual tribal members, it is important for tribes to consider and determine whether the benefits received by members will be subject to federal withholding and taxation. Bona fide tribal government programs can often be structured so that there is no tax liability for payments and services received by members. As discussed later in this Bulletin, tribes interested in achieving some certainty and assurances regarding the tax consequences of any tribal government program may wish to contact the IRS for guidance.

Impermissible Uses of Gaming Revenues

There are a number of ways in which tribes can misuse their gaming revenues and run afoul of federal law, including IGRA and the Internal Revenue Code ("IRC"). Many of these stem from an overly broad interpretation of what constitutes the "general welfare" of the tribe.

Generally speaking, gaming revenues used in ways in which the tribe as a whole is not the beneficiary is an impermissible use of revenues under IGRA. It cannot be said, for

example, that payments are for the “general welfare of the Indian tribe and its members” when tribes make direct payments to individual tribal members without an approved RAP or outside of a government program. A government program is one that is based on a need or requirement of the tribal community; that has specific eligibility criteria; and that does not discriminate. Whether the payments take the form of cash, gifts or services, if they occur without a RAP or outside of a government program, they are not permissible.

Impermissible use of gaming revenues also occurs when gaming funds are directly distributed to select individual tribal members for their personal use without a RAP or outside of a government program. Purchases or cash payments that are being used for personal reasons and not for tribal business purposes, or for the tribe as a whole, fall into this category. These include buying such items as personal cars, boats, houses and clothing, or other personal items. Unauthorized expenditures also include such things as non-business trips, visits to health spas, residential landscaping and payment of outstanding bills of tribal members. They also include payments to businesses or clubs that are owned by tribal members and may be located on tribal lands, but are not titled to or owned by the tribe.

Other impermissible uses can occur if a tribe creates a fund with gaming revenues, from which cash payments are made to individual tribal members without any objective criteria based on the needs and requirements of the tribal membership. An example of this is when an individual tribal leader is given a portion of gaming revenues for members residing in his or her district, and then gives it to some, but not all members for medical, emergency or other reasons, without using any eligibility criteria to determine who is entitled to receive a payment. A variation on this situation occurs when a tribal government makes loans to select individual tribal members, or to businesses owned by individual tribal members, with no eligibility criteria or expectation of repayment.

An example of how one tribe’s distribution of gaming revenues to tribal members was found to be impermissible is reported in *Avis Little Eagle v. Standing Rock Sioux Tribal Council*, Standing Rock Sioux Tribal Court Memorandum Opinion, TRO-03-131 (2003). In that case, revenue payments were not based on or distributed pursuant to a bona fide tribal government program. Forty per cent of gaming revenues, or approximately \$2 million, was being distributed through the Inyan Wakagapi Betterment Project to individual tribal members from a certain district, based solely upon membership in the Standing Rock Sioux Tribe. The Tribal Court characterized the payments as “simple cash payments to individual enrollees of a particular district with no strings attached” – in other words, per capita payments. Similarly, in *Ross v. Flandreau Santee Sioux Tribe*, 809 F. Supp. 738 (S.D.S.D. 1992), a federal district court ruled that calling gaming revenue payments made to individual tribal members “interim payments,” “Reservation Lifestyle Betterment Grants,” or “On-Reservation Lifestyle Betterment Grants” did not change the true nature of the payments. The Court held that they were really per capita payments, not exempted from IGRA’s requirements for per capita payments. (“Just as a rose by any other name is still a rose, a per capita payment by any other name is still a per capita payment”). Both courts ordered that the payments from gaming revenues be stopped.

Compliance

There are a number of ways that tribes can avoid impermissible uses of gaming revenues. Foremost among them is by establishing tribal government programs with eligibility criteria for participation in the programs, and then implementing the programs in non-discriminatory ways.

A starting point in determining whether a program falls within IGRA's permissible purposes is to look at other, similar programs that are customarily offered by other governments – tribal, federal, state and local. Examples of such programs are listed above and include housing assistance, educational scholarships and nutrition assistance. Such government programs always address the needs and requirements of the tribal community, have eligibility criteria and do not discriminate.

Programs that are structured so that payments for services are made to the providers, instead of to individual tribal members, clarify the purpose and use of the payments. An example of this is when a tribal member qualifies for a tribe's higher education scholarship program, and payments are then made directly to the school instead of to the student. Structuring program payments in this way eliminates the potential for making direct payments to tribal members beyond established per capita amounts or without an approved RAP.

The tribal court system, forum or administrative process required by the BIA's administrative regulations plays an important role in the uses of gaming revenues by tribal governments. These judicial, or quasi-judicial, mechanisms serve as a check on improper distributions of gaming revenues to individual members and allocations of revenues to programs, as well as a vehicle for challenges by members. By establishing an internal tribal review process, the propriety of payments and programs can be challenged by tribal members and evaluated by the tribe itself.

Although there is little in IGRA regarding the specifics of acceptable government programs, the IRS provides some guidance. Not surprisingly, there is substantial overlap between the spending of gaming revenues that violates IGRA and spending that triggers tax liability under the IRC. The IRS has a specific department, the Office of Indian Tribal Governments, which was created to deal with tax issues emanating from tribal gaming, as well as other issues involving tribal governments, entities and enterprises. Its website, www.irs.gov/tribes, includes topics such as "Reporting of Per Capita Distributions by Tribal Members" and "Frequently Asked Questions." The Office also publishes a quarterly newsletter that deals with current tribal taxation issues.

At the request of a tribe, the IRS will informally discuss with tribes proposed distributions of gaming revenues to individual tribal members to see if they trigger tax liability. The IRS will also review and evaluate existing or proposed tribal programs for potential tax liability. Reviewing proposed gaming revenue distributions with the IRS can help a tribe avoid the possibility of exposing individual tribal members to unforeseen

tax liability. Regional and national contacts for arranging these kinds of informal discussions are listed on the IRS website referenced above.

If, after talking to the Office of Indian Tribal Governments at the IRS, a tribe wants more certainty about its tax liability, it can request a private letter ruling from the IRS Office of Chief Counsel. To receive rulings, a tribe submits specific facts about its programs to the IRS, and then has a discussion with the IRS if there is a disagreement on the tax consequences of the tribe's program. The ruling only applies to the particular tribe seeking the ruling. These rulings become public, but all identifying information is removed to maintain the privacy of the tribe requesting the ruling. To date, the IRS Office of Chief Counsel has issued approximately ten private letter rulings regarding tribal government programs or per capita payments to tribal members. There is currently a \$6,000 fee for a private letter ruling. The Office of Indian Tribal Governments is available to assist tribes in navigating the submission process for these rulings.

An example of when an IRS private letter ruling might be useful to a tribe is demonstrated by the following fact situation. Tribal leadership asked its membership how much each member had spent on housing, transportation, etc., and then subtracted the combined amounts from the per capita payments being reported to the IRS. The IRS determined that the plan was structured to get around reporting and withholding on individual per capita payments, and, as a consequence, individual tribal members had large amounts of income taxes assessed against them. If the tribe had requested a private letter ruling before setting up its program, it would have been warned that the payment structure would result in taxes for its members. The tribe could have then revised its program to meet both the needs of the members and the requirements of the Tax Code.

In conclusion, the NIGC is hopeful that this Bulletin will be a helpful guide to tribes in their ongoing efforts to strengthen their tribal governments and effectively meet the needs of tribal members. If you have any questions regarding the use of gaming revenues, please contact the NIGC's Office of General Counsel or your NIGC Regional Office.

RED FLAGS HANDOUT

Below is a list of Red Flags that may help regulators identify IGRA violations. When one of a combination of these are observed or reported, additional investigation will be needed to determine if there is actually a violation. This is not an exhaustive list and there will be other actions not listed that may can constitute an IGRA violation.

Misuse of Gaming Revenue

- Is there a lack of policies and procedures in procurement and accounting?
- Has the TGRA encountered difficulty in promulgating policy and procedures to protect the gaming operation against fraud both internally and externally?
- Are all gaming revenue sources accounted for in the cage and vault and expensed through the casino accounting procedures?
- Is the casino distributing payments directly to tribal members or individuals under the guise of an undocumented tribal assistance programs or loan program, where there is no expectation of repayment?
- Are there proper policy and procedures in place for the issuance of complimentary, most notably discretionary complimentaries. (Who is issuing the comps? Do they have authority within policy to issue (dollar amounts and job titles of issuer)? Who are they issuing the comps too? Are they players, do have any association with vendors, are they issued to decision makers for the gaming facility or tribe?)
- Previous agreements and contracts handled by multiple parties are consolidated into one party at a higher rate of pay.
- Previous contract rates are greatly increased (x2, x10, x100) for no apparent reason when transferred to a new party.
- Fraudulent purchases by casino employee/management.
- Payment of ghost employees.
- Unauthorized write-off of player debt or NSF checks.
- Promotion fraud.
- Misuses of casino charge cards.
- Misuse of complementary services.
- Operating a casino without an approved budget makes misuse harder to track.

RED FLAGS HANDOUT

Management Without an Approved Contract

- Operation managers appear not to be making management decisions or not to have the authority to make decisions. This may be for one part of the gaming or all gaming.
- Are policies and regulations written by outside parties or are approved by 3rd parties before implementation?
- Are 3rd parties present at the casino to consult on issues when not needed or outside agreement?
- Do 3rd parties direct employee activities, directly or indirectly?
- Do 3rd parties maintain close relationship with an elected official(s), or top management?
- Are 3rd parties available to meet with the regulators, or do they disappear when you are on site?
- Do 3rd parties have unescorted access to restricted areas like back of the house, gaming machines, financial information, etc.?
- Is the 3rd party's work consists of tasks that management would typically perform?
- Written documentation between the 3rd party "consultant" and the tribe is non-existent, limited, or off topic.
- The 3rd party is reviewing and approving promotions/marketing.
- Employees and regulators who do not agree with the 3rd party or attempt to regulate the 3rd party are demoted or terminated.
- Operation managers appear not to be making management decisions or not to have the authority to make decisions. This may be for one part of the gaming or all gaming.
- Does the 3rd party have unrestricted access/remote access to your games/gaming system(s) that will allow for changes to be made in relation to payout of the games/gaming system(s).
- Is the 3rd party deciding the payout percentages on your games/gaming systems?
- Is the 3rd party deciding what games will be offered and/or where they will be placed on the floor?
- Is a 3rd party giving final approval of changes to payout percentages, changes of games/gaming system(s) in the tribal facility?
- Does the 3rd party participate in or are they responsible for selecting other vendors at the casino? Including back off house accounting system, insurance, other EGM vendors.
- Does the 3rd party have to agree with management on the decisions above? Consensus is a form of management.

RED FLAGS HANDOUT

Sole Proprietary Interest

- Does the 3rd party have control physically or by approval of any of the casino accounts or expense payments?
- Does the manager get a paycheck or a lump sum based on a percentage of revenue?
- If manager receives a bonus based on a percentage of revenue, does their contract list what must be accomplished to achieve the bonus?
- Most common: are payments to the vendor excessive, based on a percentage of revenue, over a long period of time or indefinite? Vendor may have provided significant services in the beginning, but eventually is doing nothing to receive the payments.
- Does the agreement extend beyond 5 or 7 years or beyond the needs of the tribe?
- Does default of the agreement give the vendor land, buildings, or control over gaming?
- Does the vendor control payout, game placement, game selection?
- Does the agreement give the vendor the majority of the floor space or a high percentage of the revenue from each machine or system?
- Compensation that is out of proportion for work performed and/or is based on a percentage of net win, net gaming revenue or gross gaming revenue.
- 3rd party seldom present at the casino (1x week, 1x month, etc.), yet paid significant compensation.
- Previous agreements and contracts handled by multiple parties are consolidated into one party at a higher rate of pay.
- Previous contract rates are greatly increased (x2, x10, x100) for no apparent reason when transferred to a new party.
- Repayment to developer is unlimited or lengthy and based on a percentage of revenues.
- Termination of contract is in favor of vendor or difficult for tribe to terminate.
- Is the vendor paying the tribe game placement fees and retaining substantial control over the machines/systems?

Miscellaneous Red Flags

- No one has a copy of the agreement and the CO cannot find anyone who has reviewed it.
- TGRA or Operations attempt to defend the Parties presence and contributions prior to inquiry.
- Attempts to avoid licensing process or is not fully cooperative.
- Contract is overly simple and vague.
- Presents of new gaming machine vendors and product not typically seen in the market or appears to be substandard in performance.

National Indian Gaming Commission

SETTLEMENT AGREEMENT SA-17-01

INTRODUCTION

This Settlement Agreement (Agreement) is entered into by and between the Cheyenne and Arapaho Tribes of Oklahoma (Tribes), a federally-recognized Indian tribe, and the Chairman of the National Indian Gaming Commission (NIGC Chairman), related to the Tribes' misuse of gaming revenue through actions of the Tribal Casino Chief Executive Officer in directing payments to Clinton Land Holdings, LLC, and violation of the sole proprietary interest requirement in an Indian gaming operation by transferring an unauthorized proprietary interest in the gaming operation to Clinton Land Holdings, LLC in violation of Indian Gaming Regulatory Act (IGRA), 25 U.S.C. § 2701 et. seq., NIGC regulations, 25 C.F.R. § 501 et. seq. and the Cheyenne and Arapaho Tribal Gaming Ordinance.

CIRCUMSTANCES OF VIOLATION

1. The Tribes own and operate six gaming operations (Gaming Operations) in Oklahoma, including the Lucky Star Casino – Clinton (Casino).
2. On or about December 22, 2004, the Tribes, through Lucky Star Casino Club, Inc., leased property owned by Fred and Mary Jane Kiehn located at 22728 East 1035 Rd, Clinton, Custer County, Oklahoma (Land) for use as a parking lot at a rate of \$400.00 per month for use of 2 acres.
3. The Tribes leased the Land from the Kiehns beginning in 2004 and ending in 2012. Through the years, the Tribes' use of the Land continued, and many improvements had been made to the Land at the Tribes' expense. At the conclusion of the lease agreement in 2012, the Tribes were leasing approximately 2 acres of the Land from the Kiehns at a rate of \$500.00 per month.
4. In 2009, the Kiehns put the Land on the real estate market using an agent at the list price of \$625,000.
5. Shortly thereafter, the Kiehns agreed to allow the Tribes to purchase the property for \$425,000 in an unwritten agreement with Governor Daryl Flyingman. However, Governor Flyingman's term of office ended in January 2010 and this agreement was never consummated.
6. On or about January 02, 2010, the Tribes, by newly elected Governor Janice Prairie Chief-Boswell, through Executive Order 010210-1, hired Brian Foster of Norman,

Oklahoma, to act as the Chief Executive Officer (CEO) and Director of Gaming Operations for the Tribes. Mr. Foster was responsible for planning, organizing, and controlling the daily operations of all of the Tribes' Gaming Operations, including managing subordinate employees by, among other things, planning, assigning, and directing work, appraising performance, and rewarding and disciplining the employees for their work.¹

7. Under the Tribes' Constitution, Article VII, Section 4(d), the Tribal Governor is the only official with authority to contract on behalf of the Tribes, but must obtain prior approval from either the Tribal Council or Legislature to do so.
8. On or about February 19, 2011, the Tribes enacted Tribal Council Resolution 021911STC-002, which authorized the Tribal Governor to negotiate and execute contracts independent of the Tribal Council or Legislature up to \$500,000.
9. On or about March 11, 2011, Mr. Foster incorporated a limited liability company, Sooner Biofuels, LLC, (SBF) in the State of Oklahoma.
10. On or about August 22, 2011, Mr. Foster was provided an appraisal for the Land by a BancFirst employee via email. The appraisal includes an engagement letter that indicates that the purchaser of the Land is Brian Foster and that the seller is Fred Kiehn. The email also indicated that BancFirst would be willing to lend Mr. Foster 80% of the purchase price of the Land.
11. The appraisal determined that best and highest use of the property was its current use at the time of the appraisal, which included utilizing the home for office space, the shop for storage, and leasing the two acres to the Casino for a parking lot. The property was valued at a total of \$126,000 and the land alone was valued at \$85,500.
12. In early 2012, Ms. Kiehn contacted Mr. Foster, as CEO of the Tribes' Gaming Operations, to follow up on the sale of the Land to the Tribes. Mr. Foster confirmed that the Tribes would purchase the Land from Ms. Kiehn.²
13. On or about March 24, 2012, Mr. Foster emailed Thomas Fox and conveyed details of how he planned to acquire the Land, have "sbf" (presumably Sooner Biofuels) lease it to the Casino, the terms of compensation for the lease, and potential long

¹ Neither the Tribes nor the Gaming Operation was able to produce a final employment agreement for Mr. Foster. They were able to provide a draft employment agreement and all facts support that the parties acted according to its terms. Most notably, Mr. Foster was paid and accepted compensation pursuant to the terms of that agreement and declarations from two Lucky Star Casino Clinton General Managers described their relationship to Mr. Foster as complying with that agreement.

² The Constitution delegates authority solely to the Governor to contract on behalf of the Tribes. In order for Mr. Foster to have lawful authority to bind the Tribes to a contract, the Governor would have to delegate the Tribes' contracting authority to him through official action. The investigation revealed no official action granting authority to Mr. Foster to enter into contracts on behalf of the Tribes. Ms. Kiehn understood that Mr. Foster was acting on behalf of the Tribes through his employment as CEO of the Gaming Operations to purchase the Land and did so with authority.

term plans for the Land that would "keep the nige out of the picture i think even though it is a non gaming contract but payments would be made from the gaming facility."

14. On or about April 05, 2012, the Casino, through Barbara Paukei, forwarded Casino Site Plans that included the Land, to Mr. Fox, demonstrating that Mr. Fox had access to internal information related to the Casino's use of the Land prior to having a formal business relationship with the Tribes regarding the Land.
15. On or about April 12, 2012, Mr. Fox incorporated a limited liability company, Clinton Land Holdings, LLC, (CLH) in the state of Minnesota.
16. On or about April 24, 2012, Brian Foster presented Ms. Kiehn with a check for \$150,000 drawn from his personal account for the down payment on the property.
17. On or about May 10, 2012, Ms. Kiehn and Brian Foster executed a contract for the sale of her property to SBF. The contract indicates SBF will assign the contract to CLH.
18. On or about May 22, 2012, Ms. Kiehn sold the Land to CLH. Initially the settlement company believed it was being sold to SBF, though the final documents indicated that the land was sold to Tom Fox of CLH. Brian Foster was cc'd on the transmittal of the land purchase documents.
19. There is no record that Mr. Foster ever received reimbursement for the \$150,000 payment he made on the property from his personal account.
20. On or about May 22, 2012, Mr. Foster presented Mr. Sam Barnett, the Casino's general manager, with a negotiated lease agreement (Lease or Lease Agreement) with Clinton Land Holdings. Mr. Foster directed Mr. Barnett to sign the Lease Mr. Foster had negotiated. Mr. Barnett complied with the directions of his supervisor.
21. On May 22, 2012, Mr. Barnett signed the Lease on behalf of the Casino with CLH to lease the Land for \$25,000 per month plus 1% of the Gross Gaming Revenue of the Casino. The Casino was also liable for all improvements, damages, and day-to-day upkeep of the Land, including paying all Local/State/Federal taxes on the property. The Lease was an automatically renewable, month-to-month agreement with no termination date. Because the term of the contract was interpreted to be renewable monthly with no action by either party, the Lease had no maximum payment.
22. The Lease Agreement executed by the Casino with CLH at the direction of Mr. Foster, an employee of a tribal enterprise under the Executive Branch of the Tribes, exceeded \$500,000. Communications between the two demonstrate that both Mr. Foster and Mr. Fox anticipated that the Lease would exceed \$500,000 and the Lease Agreement did not receive Tribal Council or Legislative approval, and was not

signed or authorized in writing by the Tribes' Governor, as required by Tribal Council Resolution 021911STC-002 and the Tribes' Constitution.

23. Pursuant to the terms of the Lease with CLH, the Casino paid an increased price of \$24,500 more per month for use of the Land beginning May 22, 2012, with limited increased benefit to the Tribes for use of the Land.
24. Further, the Casino, acting at the direction of Mr. Brian Foster, transferred 1% of gross gaming revenue to Mr. Tom Fox for an indefinite period of time since the Lease Agreement renewed without any action by either party.
25. From June 05, 2012, through December 30, 2013, the Casino paid CLH a total of \$1,257,342.44.
26. The Casino paid three times more than the purchase price the Tribes had initially agreed to pay for the Land, ten times more than the Land's appraised value, and a minimum of \$56,400 dollars more per month than the Casino had paid to lease the Land in the prior 8 years for nearly the same usage with significantly less fiscal responsibility.

RECITALS

1. The Indian Gaming Regulatory Act authorizes the NIGC Chairman to issue civil fines for violations of the IGRA, National Indian Gaming Commission regulations, or tribal regulations, ordinances, or resolutions approved by the NIGC Chairman under 25 U.S.C. §§ 2710, 2712. 25 U.S.C. § 2713(a)(1).
2. Under the regulations of the NIGC, 25 C.F.R. § 573.3(a), the NIGC Chairman may issue a Notice of Violation (NOV) to any person for violations of any provision of the IGRA, NIGC regulations, or any provision of a tribal gaming ordinance or resolution approved by the Chairman.
3. The NIGC Chairman and the Tribes agree that the Chairman has obtained sufficient evidence to issue an NOV under the authority of 25 C.F.R. § 573.3(a) for misuse of gaming revenue and a violation of the sole proprietary interest in the Casino.
4. The Tribes have fully cooperated with the NIGC Chairman in the investigation of the matter.
5. Prior to any involvement of the NIGC, after Governor Hamilton entered office in January 2014, the Tribes canceled the Lease Agreement with CLH promptly upon identifying the problems with the Lease Agreement, ceased payment of gaming revenue under the terms of the Lease Agreement, and requested and received the resignation of Brian Foster and Sam Barnett from their gaming operations.

6. The NIGC Chairman and the Tribes desire to achieve an amicable resolution of the violations prior to the issuance of a NOV, thereby avoiding unnecessary expense or delay.
7. The Chairman and the Tribes have agreed to execute this Agreement and perform in accordance with the following covenants and conditions:

TERMS OF SETTLEMENT

8. This Agreement is entered into pursuant to 25 C.F.R. § 575.6(b) and shall be effective upon the date that it is signed by the last party to sign this Agreement (Effective Date).
9. The Tribes agree that IGRA was enacted to ensure that Tribes are the primary beneficiary of the gaming operation and that one way IGRA ensures that purpose is to require that gaming revenues be used either as operating expenses for the gaming operation or transferred to the tribal government as net gaming revenue. *See* 25 U.S.C. § 2701 et. seq.
10. The Tribes agree that any expenditure that is not an operating expense, one of the five uses of net gaming revenues, or per capita payments as authorized by IGRA is a violation of IGRA, NIGC regulations, and the Tribes' Gaming Ordinance. *See* 25 U.S.C. § 2703(9); 25 C.F.R. §502.16; Cheyenne and Arapaho Tribal Gaming Ordinance §§ 502 and 503.
11. The Tribes agree that transferring revenue from a gaming operation to a third-party as an operating expense reduces the net gaming revenue of the operation by an equivalent amount.
12. The Tribes agree that IGRA and NIGC regulations require net gaming revenues be paid to the Tribes, and defines net gaming revenues as gross revenues less amounts paid out as prizes and total operating expenses. *See* 25 U.S.C. § 2703(9); 25 C.F.R. §502.16.
13. The Tribes agree that operating expenses include those costs necessary to conduct the normal day-to-day operations of a gaming facility, such as for services, materials, supplies, or equipment, but does not include capital expenses, such as real estate acquisitions, as indicated by the legislative history of the IGRA (S. Rep. No. 100-446).
14. The Tribes agree that the transfer of revenue from the Casino to Tom Fox through CLH was not an operating expense as defined by IGRA and NIGC regulations. *See* 25 U.S.C. § 2703(9); 25 C.F.R. § 502.16.

15. The Tribes agree that transferring revenue from a gaming operation as an operating expense when it cannot properly be categorized as an operating expense of the gaming operation results in a misuse of net gaming revenue in violation of IGRA, NIGC regulations, and the Tribes' Gaming Ordinance. *See* 25 U.S.C. § 2703(9); 25 C.F.R. §502.16; Cheyenne and Arapaho Tribal Gaming Ordinance §§ 502 and 503.
16. The Tribes agree that transferring revenue from a gaming operation in a manner that violates IGRA, NIGC regulations, or the Tribes' Gaming Ordinance necessarily results in an illegal use of net gaming revenues because it prevents the net revenues from ever being transferred to the Tribes, and thus prevents the Tribes from expending the net revenues.
17. The Tribes agree that for approximately 7 years prior to May 22, 2012, they had leased the Land for its most beneficial purpose, a parking lot, for \$400-\$500 per month. The Tribes continued to use the Land after May 22, 2012, for substantially the same purpose.
18. The Tribes agree that the highest rental rate that could be rationally justified as "rent" for the Land after May 22, 2012, would have been \$3,000 per month.³
19. The Tribes agree that the rental rate of \$25,000 per month plus 1% of the gross win of the Casino so far exceeds the highest rationally justifiable rental rate that it demonstrates that the Lease Agreement was mere pretext for transferring gaming revenue to a third-party in violation of IGRA and the Tribes' Gaming Ordinance.
20. The Tribes agree that once the Lease Agreement was acted upon it resulted in the illegal transfer of net gaming revenues to CLH in violation of IGRA, NIGC regulations, and the Tribes' Gaming Ordinance.
21. The Tribes agree that it could have reasonably obtained a right to purchase the Land for \$425,000.
22. The Tribes agree that the \$425,000 purchase price included a premium of \$299,000 over the highest appraised value of the Land, which was \$126,000.
23. The Tribes agree that the option to purchase the Land for \$425,000 was available to it on May 22, 2012, and that its agent, Brian Foster, had resources available to make that purchase, including access to available funding and the process for receiving the proper authorization from the Tribes.
24. The Tribes agree that paying \$1,257,342 to CLH to use the Land for 18 months when it could have owned the land for \$425,000 is a financial transaction that so far exceeds the agreed upon purchase price of the Land that it is more than a bad deal, it is not rationally justifiable.

³ The parties agree that it is impossible to rationalize a rate higher than \$3,000 for the monthly rental of the Land.

25. The Tribes agree that the egregious difference between the Lease Agreement cost and the anticipated purchase price of the land is conclusive evidence that the Lease Agreement was mere pretext for transferring gaming revenue to a third-party in violation of IGRA and the Tribes' Gaming Ordinance.
26. The Tribes agree that the pretext served to transfer \$832,342 to CLH in violation of the sole propriety interest requirement of IGRA and the Tribes' Gaming Ordinance.
27. The Tribes agree that, but for the pretext, the Casino would have had an additional \$832,342.00 available for transfer to the Tribes as net gaming revenue, and thus the \$832,342.00 transferred to CLH was net gaming revenue.
28. The Tribes agree that the \$832,342.00 of net gaming revenue illegally transferred to CLH was a misuse of net gaming revenue in violation of IGRA, NIGC Regulations, and the Tribes' Gaming Ordinance.
29. The Tribes agree that failure to use net gaming revenues consistent with the requirements of IGRA, NIGC regulations, and the Cheyenne and Arapaho Tribal Gaming Ordinance is a violation of those laws. *See* 25 U.S.C. § 2703(9); 25 C.F.R. §502.16; Cheyenne and Arapaho Tribal Gaming Ordinance §§ 502 and 503.
30. The Tribes agree that its agents used net revenues in a manner inconsistent with IGRA, NIGC regulations, and the Cheyenne and Arapaho Tribal Gaming Ordinance when they paid net revenue to CLH over and above the fair market value for the lease of the property, where the rental rate could not be rationally justified as being for valuable consideration and was thus a misuse of gaming revenue.
31. The Tribes agree that it is a violation of IGRA, NIGC Regulations, and the Cheyenne and Arapaho Tribal Gaming Ordinance to give a third party a proprietary interest in the Tribes' Gaming Operations.
32. The Tribes and the NIGC agree that an individual or entity having an entitlement to a portion of gaming revenue for no return, service, or additional asset to the gaming operation is conclusive evidence of a proprietary interest.
33. The Tribes agree that the Tribes' agents, without lawful authorization, did grant Tom Fox, as principal agent of CLH, an interest in the net win of the Casino for no valid return, service, or additional asset to the gaming operation for a term that would continue perpetually.
34. The Tribes agree that by transferring the excessive rental compensation including an interest in the net win of the Casino for no valid return, service, or additional asset to the gaming operation, they violated the Sole Proprietary Interest

Requirement of the Indian Gaming Regulatory Act and the Tribes' Gaming Ordinance.⁴

35. The Tribes admit the facts set forth in the "Circumstance of Violations" section of this agreement; agree that the NIGC possesses jurisdiction over this matter; and agree to comply with the terms of this Settlement Agreement.
36. In exchange for the terms, condition, and understandings, set forth in this Agreement, the Tribes waive their right to any administrative review of this Agreement (25 C.F.R. §§ 584, 585), submit information prior to the issue of a civil fine assessment (25 C.F.R. § 575.5), seek the reduction or waiver of a civil fine (25 C.F.R. § 575.6(a)), and the right to seek judicial review (25 U.S.C. § 2714).
37. In exchange for the terms, conditions, and understanding set forth herein, the Tribes hereby waive the rights specified in paragraph 36 of this Agreement and any other right to seek judicial review or otherwise challenge or context the Chairman's actions under this Agreement, including the right to have the Chairman provide his written analysis of the factors to be considered in assessing a civil fine set forth under 25 C.F.R. § 575.4.
38. The Chairman agrees upon execution of this Agreement that the NIGC shall not institute further proceeding or actions or assess any additional sanctions for the violations detailed in this Agreement against the Tribes, the Cheyenne and Arapaho Tribal Gaming Commission, or any other entity of the Tribes, or any of the officers and/or directors of such tribal entities, not including individual former employees actively engaged in the actions identified herein, unless the Tribes fail to comply with this Agreement. If the Tribes, the Cheyenne and Arapaho Tribal Gaming Commission, or any other entity of the Tribes, or any of the officers and/or directors of such tribal entities, not including individual former employees actively engaged in the actions identified herein fail to comply with this Agreement as outlined below, the Tribes agree that it will pay a fine of \$100,000 as outlined below.
39. The Tribes agree to adopt a procurement policy and procedure for their Gaming Operations within the next 12 months. The policy will include, by title, what positions are authorized to negotiate and execute purchase and lease agreements, any monetary limits including those set by tribal law, resolutions and constitution, and the approval process. If the NIGC has any concerns regarding the Tribes' procurement policy and procedure for its gaming operations, it will provide the Tribes its concerns in writing, and the Tribes agree to work in good faith with the NIGC to remedy its concerns.

⁴ This analysis is consistent with the NIGC's long held interpretation that a third-party has acquired a propriety interest in a tribe's gaming operation when it acquires an interest in gaming revenue for little or no service or asset provided. Though other factors are often considered, when revenue is transferred for an on-going period of time without any benefit to a tribe, no other factor is necessary to establish a proprietary interest. See NOV 11-02, Letter from P. Coleman to M. Cypress dated June 05, 2003, Letter from P. Coleman to J. Madalena dated October 27, 2006.

40. The Tribes agree to refrain from entering into any contracts for activities related to the gaming operations with Sooner Biofuels, LLC, Clinton Land Holdings, LLC, Brian Foster, Tom Fox, Sam Barnett, or any company in which these individuals hold a financial interest without first submitting said contracts to the NIGC Oklahoma City Regional Office or any successor office of the NIGC, if applicable.
41. The Tribes agree that they will not employ or retain Brian Foster, Tom Fox, or Sam Barnett in any capacity to provide any service for the Tribes related to any gaming operation for a period of 10 years.
42. The Tribes will ensure that the Tribal Governor, the General Managers of all Tribal Gaming Operations, any Tribal employee providing supervision to the General Managers, the Tribes' Gaming Commission, the CFO's of each gaming operation, and any other employee(s) as determined by the Tribes' will attend a site-specific training related to the violations listed herein offered by the NIGC at a facility designated by the Tribes at a mutually agreeable time within the next 12 months.
43. The Tribes agree as part of their annual financial statement audits and Agreed Upon Procedures, to specifically engage an independent Certified Public Accountant to examine all of the Tribes Gaming Operations' adherence to a Tribal Gaming Regulatory Authority approved procurement policy and procedures. The purpose of the examination will be to determine whether: 1) the procurement policy is adequate and compliant with tribal law and regulations, 2) each casino has implemented the policy, and 3) the Gaming Operations complied with the policy within the year being tested.
44. The Tribes agree, for a period of three years, to submit for review of compliance with IGRA and NIGC regulations, all draft/unexecuted contracts, whether verbal, electronic or in writing, including gaming machine vendor agreements, to the NIGC's Office of General Counsel if said agreement entitles a third party to any percentage of Gross Gaming Revenue, Net Win, or Net Gaming Revenue. If the NIGC has any concerns regarding one of the Tribes' draft agreements, it will provide the Tribes its concerns in writing, and the Tribes agree to work in good faith with the NIGC to remedy its concerns prior to executing the agreement.
45. The Tribes agree to take all reasonable and necessary action to collect the Net Gaming Revenues paid to CLH in excess of the fair market value of the property.
46. For a period of three years beginning with the execution of this Agreement, the Tribes agree that it will provide the NIGC with an annual training funds assessment letter (Assessment Letter) identifying and detailing the amount of training funds dedicated to training the Tribes' Gaming Commission, internal audit staff, and the employees of its gaming operations, including the accounting department, which explains whether such funds are sufficient. Funds expended relating to training provided by the NIGC in accordance with this Agreement shall not be included in

the Assessment Letter. The Tribes agree to provide this Assessment Letter to the NIGC within three months of the effective date of this Agreement, and on the same day thereafter annually for two additional years. If the NIGC has any concerns regarding the Tribes' Assessment Letter or its schedule of training, it will provide the Tribes its concerns in writing, and the Tribes agree to work in good faith with the NIGC to remedy its concerns.

ADDITIONAL COVENANTS

47. This Agreement constitutes the entire agreement between the NIGC Chairman and the Tribes relating to the enforcement matter set forth at the beginning of this Agreement. Any modification or waiver of any term of this Agreement must be in writing and signed by both parties.
48. The NIGC Chairman and the Tribes expressly agree and acknowledge that time is of the essence in this Agreement. The recitals herein shall be binding upon the parties, their agents, heirs, personal representatives, successors and assigns.
49. The parties agree that after the Effective Date, this Agreement shall be a public document and may be published or disclosed by either party.
50. This Agreement may be executed on one or more counterparts and each shall constitute an original. A signature produced by facsimile shall be deemed to be an original signature and shall be effective and binding for purpose of the Agreement.
51. The terms of this Agreement will continue in full force and affect until 10 years from the date the Agreement becomes final.

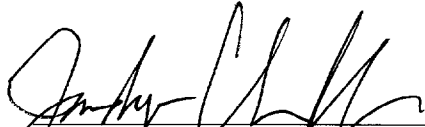
Cheyenne and Arapaho Tribes

National Indian Gaming Commission



Eddie Hamilton, Governor

Date: 4/7/17



Jonodev Chaudhuri, Chairman

Date: 4/11/17

National Indian Gaming Commission

NOTICE OF VIOLATION

NOV-10-01

To: Mitchell Cypress, Chairman
Seminole Tribe of Florida
6300 Stirling Road
Hollywood, Florida 33024
Fax: (954) 967-3463

Alan Huff, Chairman
Seminole Gaming Commission
6300 Stirling Road
Hollywood, Florida 33024
Fax: (954) 967-3464

1. Notification of Violation

The Chairman of the National Indian Gaming Commission (NIGC) hereby gives notice that the Seminole Tribe of Florida (Respondent or Tribe), headquartered in Hollywood, Florida, is in violation of the Indian Gaming Regulatory Act (IGRA), NIGC regulations, and its tribal gaming ordinance, because the Tribe used net gaming revenue for purposes other than those permitted by IGRA, NIGC regulations, and the Tribe's gaming ordinance.

2. Authority

- A. The Chairman of the NIGC (Chairman) may issue a Notice of Violation (NOV) to any person for violation of any provision of the Indian Gaming Regulatory Act (IGRA), NIGC regulations, or any provision of a tribal gaming ordinance or resolution approved by the Chairman. 25 U.S.C. § 2713; 25 C.F.R. § 573.3.
- B. The Chairman shall have authority to levy and collect appropriate civil fines, not to exceed \$ 25,000 per violation, against the tribal operator of an Indian game or a management contractor engaged in gaming for any violation of any provision of this Act, any regulation prescribed by the Commission pursuant to this Act, or tribal regulations, ordinances, or resolutions approved under the Act. 25 U.S.C. § 2713(a)(1).

3. Applicable Federal and Tribal Laws

- A. 25 U.S.C. § 2710(b)(2)(B); 25 C.F.R. § 522.4(b)(2); Section 1-1.09(a) of the Seminole Tribal Gaming Code (Code) – Net revenues from any tribal gaming are not to be used for purposes other than (1) to fund tribal government operations and programs; (2) to provide for the general welfare of the Indian tribe and its members; (3) to promote the tribal economic development; (4) to donate to charitable organizations; (5) to help fund operations of local government agencies.
- B. 25 U.S.C. § 2710(b)(3); 25 C.F.R. § 290.6 – Net revenues from gaming activities conducted or licensed by any Indian tribe may be used to make per capita payments to members of the Indian tribe only if the tribe has prepared a plan to allocate revenues to the five permitted uses found in 25 U.S.C. § 2710(b)(2)(B). That plan must be approved by the Secretary of the Interior as adequate, particularly with respect to the uses described in clause (i) or (iii) of § 2710(b)(2)(B).
- C. Section 1 of the Seminole Tribe Revenue Allocation & Per Capita Distribution Plan (Seminole RAP) – The Tribal Council of the Seminole Tribe of Florida adopted the RAP to govern the allocation of its net gaming revenues for per capita distribution payments and governmental programs consistent with the requirements of IGRA and the purposes of the Seminole Tribe of Florida.
- D. Section 6(a) of the Seminole RAP- In order to provide for the health, education and welfare of Qualified Enrolled Tribal Members, the portion of the net gaming revenues allocated to per capita distribution payments shall be paid in equal shares to all Qualified Enrolled Tribal members . . .

4. Circumstances

The purpose of IGRA is, in part, to provide a statutory basis for the operation of gaming by tribes as a means to promote tribal economic development, self sufficiency, and strong tribal governments. It is also to ensure that Indian tribes *as a whole* are the primary beneficiary of gaming revenue. To achieve that purpose, IGRA permits a Tribe to use its net gaming revenue for the five purposes listed above in paragraph 3(A). Tribes typically allocate a substantial portion of their gaming revenues to the “general welfare” of the tribe and its members; to “tribal economic development”; and/or to “government operations or programs.”

Government programs are set up to serve one or more needs or requirements of the tribal community. A fundamental part of any government program is the criteria established to determine which tribal members are eligible to participate in a program. The criteria are tied to the needs and requirements of the tribal membership, and are often tied to income levels and the financial needs of a group of members. Criteria can be based on needs other than financial ones, however, such as educational, medical, or housing needs. *See* NIGC Bulletin No. 05-01.

When tribes establish government programs to benefit individual members, those programs should: 1) be created in response to a recognized need within the tribal community; 2) have written eligibility criteria to determine which members qualify to participate in the program; and 3) not discriminate by including some members and excluding others without reasonable justification. Payments made and services offered should be made equally available to all those who meet program standards. *Id.*

Although direct distributions of net revenue to tribal members do not typically fall into any of the five permitted uses, per capita payments are permitted by IGRA. Section 2710(b)(3) of IGRA states that net gaming revenue may be used to make per capita payments to tribal members only if the tribe has adopted a revenue allocation plan (RAP) approved by the Secretary of the Interior. The RAP is designed to protect IGRA's policy of promoting *tribal* economic development, self sufficiency, and government by ensuring that any per capita payment leaves a significant share of net gaming revenues for economic development and governmental purposes. *See* 25 U.S.C. 2710(b)(3)(B) (requires that "the [Revenue Allocation] plan is approved by the Secretary as adequate, particularly with respect to uses described in clause (i) or (iii) of [25 U.S.C. 2710(b)(2)(B)]. It also ensures that per capita payments are made equally to all tribal members or a particular group of members. *See* 25 C.F.R. part 290 (defining *per capita payment* as "the distribution of money or other thing of value to all members of the tribe, or to identified groups of members").

Per capita payments made to individual tribal members on an ad-hoc basis, outside the scope of a RAP, or payments to individual members not made pursuant to a government program divert money from the tribe as a whole and thereby frustrate IGRA's policy of ensuring that the entire tribe benefit from tribal gaming, rather than individual tribal members. More to the point here, though, such payments are an impermissible use of net revenue and a violation of IGRA.

The Seminole Tribe of Florida's RAP was approved by the Department of the Interior on August 25, 2005. As required by IGRA, the Tribe's RAP specifies the percentage of net revenue to be used for per capita payments and reserves the rest for government operations, general welfare, and economic development. Seminole RAP § 4. While the tribe makes authorized per capita payments pursuant to the RAP, it has also made several per capita payments outside the scope of the RAP and, therefore, in violation of IGRA.

As described below, these additional per capita payments were made under the pretense of delivering services pursuant to a tribal program or, in some cases, without any pretense at all. Many of the "programs" used to justify the distributions had no written criteria or guiding procedures and, as a consequence, are not bona-fide programs. For example, the Tribe engages in event sponsorship via a "program" with no written criteria and on an impromptu basis, choosing to sponsor events without any discernible standard and without requiring any proof that the event actually took place.

In other instances, the tribe simply decided to give cash or valuable goods to a tribal member with complete disregard for IGRA's net revenue requirements. Regardless of how the disbursements were made or labeled, though, they are per capita payments made outside the scope of the RAP and are a violation of IGRA.

5. First Violation

- A. On August 10, 2007, the Tribe issued check no. 229018 to Tribal member Carl Baxley for \$19,800.00. The check request was made by the Business Manager of the Tribe's Housing Department and the funds were accounted for on the General Ledger as *Home Owner Assistance*.
- B. An August 6, 2007 e-mail from the Director of the Tribe's Housing Department to the Department's Housing Services Manager indicates that Mr. Baxley requested the money for "relocation reimbursement."
- C. In an August 8, 2007 memorandum from the Business Manager of the Tribal Housing Department to Accounts Payable, the Business Manager disclosed that Mr. Baxley was unable to stay at his primary residence because it was being replaced as part of the Tribe's "project board for replacement home."
- D. The August 6, 2007 email also reveals, though, that while Mr. Baxley was unable to stay at his primary place of residence, he stayed in another one of his homes.
- E. According to the August 6, 2007 e-mail, Mr Baxley requested the money because "it is only fair since others receive such assistance."
- F. The August 6, 2007 e-mail also reveals that the grant amount was proposed by Mr. Baxley, rather than based on any written guidelines or procedures established by the Department of Housing, and was "calculated at \$1,100 per month, which is what his mortgage used to be on the unit."
- G. The Tribe did not require Mr. Baxley to repay the \$19,800.
- H. While the Tribe had a *Relocation Assistance Program* and an *Emergency Rental Assistance Program* in place at the time of the payment, those programs do not provide for this type of payment.
- I. The Seminole Tribe of Florida Emergency Rental Assistance Program is designed to provide Tribal members with assistance to secure adequate housing that is essential as the result of emergency circumstances, education, employment or health-related issues or eviction related situations. There was no such emergency here. Even if there were, the maximum grant permitted under the program is \$3,000.
- J. The Seminole Tribe of Florida Relocation Assistance Program is designed to provide Tribal members with assistance in costs associated with relocation to

improve lifestyle and living location for personal, health, or professional advancement. The program only covers actual moving expenses, though, such as hiring movers or renting a moving van. Further, the maximum grant permitted under the program is \$2,500.

- K. A grant of \$19,800 to a tribal member, made outside the scope of a legitimate Tribal government program, is not a permissible use of net gaming revenue.
- L. The payment does not comply with any of the uses of net gaming revenue permitted by IGRA, NIGC regulations, or the Tribe's gaming ordinance and is an improper use of net revenue.
- M. The payment to Mr. Baxley constitutes a per capita payment made in addition to that permitted by the Tribe's RAP, and is therefore a violation of IGRA.

6. Second Violation

- A. On August 20, 2007, Seminole Tribe of Florida Accounts Payable Department issued check number 231211 in the amount of \$5,000 to Marty Johns.
- B. The check was authorized by Chairman Mitchell Cypress in an August 20, 2007 memorandum to Teresa Colaluca, Accounts Payable for Representatives.
- C. According to the August memorandum, the \$5,000 was "to be used towards a property that is being leased by Mr. Johns together with a few other Tribal members to be used for hunting and other recreational activities."
- D. In the memorandum, Chairman Cypress ordered the money to be taken from the Fitness Department's budget.
- E. The payment was accounted for in the Tribe's General Ledger as *Event Sponsorship*.
- F. At the time of the payment, there was no *Event Sponsorship* program.
- G. The Tribe did not require and did not produce a copy of the property lease or any other evidence that the money was used to lease property.
- H. The Tribe did not require Mr. Johns to repay the \$5,000.
- I. A grant of \$5,000 to a tribal member, made outside the scope of a legitimate Tribal government program, is not a permissible use of net gaming revenue.
- J. The payment does not comply with any of the uses of net gaming revenue permitted by IGRA, NIGC regulations, or the Tribe's gaming ordinance and is an improper use of the revenue.

K. The payment to Mr. Johns constitutes a per capita payment made in addition to that permitted by the Tribe's RAP and is therefore a violation of IGRA.

7. Third Violation

- A. On June 11, 2007, the Tribe issued check number 219386 for \$10,000 to Francine Marie Osceola.
- B. Ms. Osceola requested the money via an undated, hand-written note to Chairman Mitchell Cypress.
- C. According to the note, the money was requested from "money allotted for memorial events" to pay for "a Christmas Gathering in Big Cypress" in December of 2006, at which Ms. Osceola served dinner and distributed gifts.
- D. The check was issued more than six months after the party was held, and no receipts or invoices were provided to the Tribe to substantiate the costs.
- E. The expense was accounted for in the Tribe's General Ledger as a *Community Activity*.
- F. The payment was made outside the scope of a legitimate program.
- G. Paying for an individual tribal member's Christmas party does not comply with any of the uses of net gaming revenue permitted by IGRA, NIGC regulations, or the Tribe's gaming ordinance and is an improper use of net revenue.
- H. The payment to Ms. Osceola constitutes a per capita payment made in addition to that permitted by the Tribe's RAP and is therefore a violation of IGRA.

8. Fourth Violation

- A. On February 1, 2007, Immokalee Liaison Rafael Sanchez submitted Purchase Order Requisition No. 122927 for a 2002 GMC Yukon Denali with a 5 year warranty at a cost of \$55,074.50.
- B. On February 2, 2007, the requisition was approved by Tribal Council Representative David Cypress.
- C. Check No. 202410, in the amount of \$55,074.50, was issued to Pines Pontiac GMC Buick on February 5, 2007. The purchase of the vehicle was accounted for on the Tribe's General Ledger as *Miscellaneous Expense*.
- D. On September 6, 2007, the Tribe sold the GMC Yukon XL to Mr. Sanchez for ten dollars (\$10.00). The Bill of Sale is signed by Pricilla D. Sayen, Secretary of Seminole Tribe of Florida.

- E. The Vehicle Sale Procedure form, establishing the terms of the sale of the GMC Yukon Denali, was signed by Suresh Geer, Director of Finance, per David Cypress.
- F. The Tribe does not have a program that addresses car sales, but each sale is made according to a *Vehicle Sale Procedure*. The *Vehicle Sale Procedure* describes the automobile and sets the bidding procedure and minimum price.
- G. The Vehicle Sale Procedure for the GMC Yukon sold to Mr. Sanchez requires that the Kelley Blue Book *private party value* shall be the beginning sales price and the Kelley Blue Book *trade in value* shall be the lowest sales price.
- H. The Vehicle Sale Procedure form asserts that the on September 6, 2007, the “Book Value” of the car was \$47,121.25. It is not specified if this is the Kelley Blue Book private party value, trade in value, or a based on a different value calculation.
- I. The Tribe failed to follow its own procedures in selling the car to Mr. Sanchez for less than the Kelley Blue Book trade in value.
- J. NIGC investigators were told that traditionally, when an individual loses their liaison position, they are allowed to keep their official government vehicle.
- K. The sale of the car to Mr. Sanchez at a substantially reduced rate was a fictitious transaction to conceal the purchase of the car for Mr. Sanchez.
- L. The purchase of a car for an individual member or Tribal employee is not a permissible use of net revenues under IGRA, NIGC regulations, or the Tribe’s gaming ordinance.
- M. The purchase of the car for Mr. Sanchez constitutes a per capita payment made in addition to that permitted by the Tribe’s RAP and is therefore a violation of IGRA.

9. Fifth Violation

- A. In a June 5, 2007 note to Tribal Council Member David Cypress, Tribal member Annie Jumper requested \$15,500 for “housing expenses.”
- B. The note did not further describe what expenses were incurred or how the \$15,500 was to be used. The NIGC investigative team requested any documents supporting the expenses claimed by Ms. Jumper, but none were provided.
- C. The request was forwarded to the Accounts Payable Department, who issued check number 219130 in the amount of \$15,500 to Ms. Jumper on June 7, 2007.

- D. The Payment was accounted for as a *Relocation Expense* on the Tribe's General Ledger but there is no evidence that the request was made for "relocation expenses" or that the money was used for any of the eligible services encompassed by the *Relocation Assistance Program*.
- E. The Seminole Tribe of Florida Relocation Assistance Program is designed to provide Tribal member with assistance in costs associated with relocation to improve lifestyle and living location for personal, health, or professional advancement. The program only covers actual moving expenses, though, such as hiring movers or renting a moving van.
- F. The Tribe's *Relocation Assistance Program* permits grants for moving services up to a cost of \$2,500. The grant to Ms. Jumper greatly exceeds that amount.
- G. The Tribe's *Relocation Assistance Program* at the time of the grant to Ms. Jumper permits the Tribal Council to make exceptions to the grant amount, but the Tribe was not able to produce any documents demonstrating that the Tribal Council considered the request.
- H. The *Relocation Assistance Program* does not permit the Tribal Council to grant money for services not covered by the program.
- I. An unsubstantiated \$15,500 distribution to an individual Tribal member is not a permissible use of net gaming revenue pursuant to IGRA, NIGC regulations, or the Tribe's gaming ordinance.
- J. The payment to Ms. Jumper constitutes a per capita payment made in addition to that permitted by the Tribe's RAP and is therefore a violation of IGRA.

10. Sixth Violation

- A. The Seminole Tribe of Florida issued an American Express card to Tribal Council member Max B. Osceola, Jr.
- B. The card balance is paid by the Tribe with net gaming revenues through the "Gov Fund."
- C. The American Express card, which is paid for by the Tribe, was used by Mr. Osceola to make several personal purchases, including:
 - 1. October 27, 2006: \$13,184 purchase at Platinum Jewelry Exchange, a jewelry store in Hollywood Florida.
 - 2. November 1, 2006: \$1,636 purchase at Pure Triumph Fort Lauderdale, a motorcycle dealer.

3. November 3, 2006: \$136.75 purchase at the Palm Restaurant in Las Vegas, Nevada.
 4. November 14, 2006: \$9,953.41 purchase at Americrown Service, an event services company.
 5. November 20, 2006: \$5,077.16 purchase at Broward Motorsports, a motorcycle dealer.
 6. November 27, 2006: Two purchases for \$616.90 and \$1,327.47 at Portofino Bay Resort, a hotel in Orlando, Florida.
 7. November 30, 2006: \$222.60 purchase at California Custom Sport Trucks, an automobile accessories store in Fort Lauderdale, Florida.
 8. December 5, 2006: \$13,949 purchase at Platinum Jewelry Exchange.
 9. December 5, 2006: \$2,159.80 purchase at Sound Advice, an electronics store in Hollywood, Florida.
 10. December 6, 2006: \$3,356.87 purchase from Protection One, a home security company.
 11. December 7, 2006: \$551.20 purchase from Protection One.
 12. December 9, 2006: Two purchases for \$1,097.16 and \$470.16 at Bruce Rossmeyer's Harley Davidson, a motorcycle dealer.
 13. December 14, 2006: \$30,500 purchase at Platinum Jewelry Exchange.
 14. December 14, 2006: \$1,272.84 purchase from Harley Davidson of Miami, a motorcycle dealer.
- D. The Tribe was unable to produce any documentation justifying the purchases as a business expense and, during a September 9, 2009 meeting with the NIGC, Mr. Osceola affirmed that the charges to the card were for personal expenses.
- E. On February 17, 2010, the Tribe sent to the NIGC a list of "personal credit card charges" made by Max Osceola. All of the charges listed above in part 10(c) are on that list.
- F. Payment of a Tribal member's personal credit card expenses is not a permissible use of net gaming revenue pursuant to IGRA, NIGC regulations, or the Tribe's gaming ordinance.

- G. Payment of the Mr. Osceola's personal credit card expenses with Tribal net gaming revenue constitutes a per capita payment made in addition to the Tribe's RAP and is therefore a violation of IGRA.

11. Measures Required to Correct these Violations

- A. The Tribe shall review all Tribal Council credit card records from 2005 to the present to determine whether charges are business or personal. Within 60 days from the date of this NOV, the Tribe shall submit a report, including copies of records to the NIGC, detailing the Tribe's findings and demonstrating that every Tribal Council Member has repaid any personal expenses incurred on a Tribal credit card.
- B. The Tribe shall seek repayment of the \$15,500 grant to Annie Jumper and, within 60 days of from the date of this NOV, submit to the NIGC a fully executed repayment plan for Ms. Jumper to follow. The repayment schedule shall not last more than 3 years.
- C. The Tribe shall seek repayment of the \$19,800 "relocation reimbursement" provided to Carl Baxley and, within 60 days of from the date of this NOV, submit to the NIGC a fully executed repayment plan for Mr. Baxley to follow. The repayment schedule shall not last more than 3 years.
- D. The Tribe shall seek repayment of the \$5,000 provided to Marty Johns and, within 60 days from the date of this NOV, submit to the NIGC a fully executed repayment plan for Mr. Johns to follow. The repayment schedule shall not last more than 1 year.
- E. The Tribe shall seek repayment of the \$10,000 given to Francine Marie Osceola for a Christmas gathering and, within 60 days from the date of this NOV, submit a fully executed repayment plan for Ms. Osceola to follow. The repayment schedule shall not last more than 2 years.
- F. The Tribe shall seek the immediate repossession of the GMC Yukon XL given to Raphael Sanchez. In the alternative, Mr. Sanchez may purchase the car from the Tribe for the September 6, 2007 Kelly Blue Book value. All fully executed sales documents shall be submitted to the NIGC within 60 days.

12. Appeal

Within 30 (thirty) days after service of this Notice of Violation, Respondent may appeal to the full Commission under 25 C.F.R. Part 577 by submitting a notice of appeal and, if desired, request in writing for a hearing to the National Indian Gaming Commission, 1441 L Street, NW, Ninth Floor, Washington, DC 20005. Respondent has a right to assistance of counsel in such an appeal. A notice of appeal must reference this Notice of Violation.

Within ten (10) days after filing a notice of appeal, Respondent must file with the Commission a supplemental statement that states with particularity the relief desired and the grounds therefore and that includes, when available, supporting evidence in the form of affidavits. If Respondent wishes to present oral testimony or witnesses at the hearing, Respondent must include a request to do so with the supplemental statement. The request to present oral testimony or witnesses must specify the names of proposed witnesses and the general nature of their expected testimony, whether a closed hearing is requested and why. Respondent may, in writing, waive its right to an oral hearing and instead elect to have the matter determined by the Commission solely on the basis of written submissions.

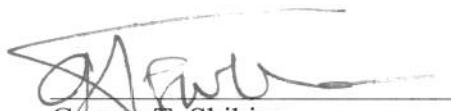
13. Fine and Submission of Information

The violations cited above may result in the assessment of a civil fine against Respondent in an amount not to exceed \$25,000 per violation per day. Under 25 C.F.R. § 575.5(a), Respondent may submit written information about the violation to the Chairman within fifteen (15) days after service of this notice of violation (or such longer period as the Chairman of the Commission may grant for good cause). The Chairman shall consider any information submitted in determining the facts surrounding the violation and the amount of the civil fine, if any.

14. Temporary Closure Order Information

The violations cited above may result in a temporary closure order if the Tribe fails to correct the violations in the time permitted in this Notice of Violation. Under 25 U.S.C. § 2713(b)(2), not later than 30 days after the order of temporary closure, the tribe may request a hearing before the Commission to determine whether such order should be made permanent or dissolved. Under 25 C.F.R. § 573.6, within seven days of the issuance of a temporary closure order, the tribe may request informal expedited review by the Chairman.

Dated this 3rd of June 2010


George T. Skibine
Acting Chairman


Certificate of Service

I certify that this **Notice of Violation** was sent by facsimile transmission and certified U.S. mail, return receipt requested, on June 3, 2010, to:

Seminole Tribe of Florida
Attn: Mitchell Cypress, Chairman
6300 Stirling Road
Hollywood, FL 33024
FAX: (954) 967-3463

Seminole Gaming Commission
Attn: Alan Huff, Chairman
6300 Stirling Road
Hollywood, FL 33024
FAX: (954) 967-3464

Jim Shore, General Counsel
Seminole Tribe of Florida
6300 Stirling Road
Hollywood, FL 33024
FAX: (954) 967-3950



Michael Hoenig
Staff Attorney, NIGC