



December 17, 2009

Ora Campillio, Executive Director  
Tohono O'odham Gaming Office  
P.O. Box 22887  
Tucson, AZ 85734-2887  
Fax: (520) 648-4159

RE: Gaming Office amended regulations, approval

Dear Executive Director Campillo:

On October 26, 2009, the National Indian Gaming Commission (NIGC) received the Tohono O'odham Nation Gaming Office's amended regulations adopted on October 19, 2009. This final rule includes six parts; Part 1 explains the policies and procedures for processing applications for, issuing, limiting, revoking, and suspending gaming licenses; Part 2 provides the processes and procedures for access to all areas of the tribal gaming facility; Part 3 provides procedures for the gaming operation to provide various notifications to the Gaming Office; Part 4 is reserved; Part 5 provides the policies and procedures for waiving the requirement for certain vendors to have a gaming license; and Part 6 provides the policies and procedures to be followed by gaming device manufacturers and gaming-related on-line systems vendors.

This letter constitutes approval of the final rule. Nothing therein conflicts with IGRA's requirements or the NIGC's regulations.

Thank you, and if you have any questions, please feel free to contact Staff Attorney Heather McMillan Nakai at (202) 632-7003.

Sincerely,

A handwritten signature in black ink, appearing to read "G. Skibine", with a long horizontal flourish extending to the right.

George T. Skibine  
Acting Chairman



## TOHONO O'ODHAM NATION GAMING OFFICE

P.O.Box 22887  
Tucson, Arizona 85734-2887  
Telephone (520) 648-4100  
Fax (520) 648-4159

OCT 26 2009

### Final Rule

The purpose of this Notice is to inform the public that the Regulations of the Tohono O'odham Gaming Office are approved by the Executive Director of the Tohono O'odham Gaming Office. The Tohono O'odham Gaming Office submitted proposed regulations in accordance with Section 404(b) of the Ordinance for the Regulation of Gaming Activities within the Tohono O'odham Nation on March 20, 2009. The Gaming Office received and reviewed all comments from the public and the Tohono O'odham Gaming Enterprise. The Gaming Office took these comments under advisement and accepted some comments and proposed changes and rejected others.

The Regulations of the Tohono O'odham Gaming Office become effective upon being officially filed with the Secretary of the Legislative Counsel, the Office of the Chairperson and the Office of the Attorney General, but no earlier than October 19, 2009.

If you have any further questions, please contact the Tohono O'odham Gaming Office at 520-648-4100.

# REGULATIONS OF THE TOHONO O'ODHAM GAMING OFFICE

---

## PART 1 - LICENSING

### Section 1 – LICENSING

- 1.1     PURPOSE - This regulation identifies the process and procedures by which the Gaming Office shall exercise its authority to process applications and issue, limit, revoke, or suspend gaming licenses. Terms used in this Section shall have the same meaning as provided in the Gaming Ordinance, unless otherwise provided.
- 1.2     LICENSE - An applicant for a gaming license or renewal of a license is seeking the granting of a privilege. The issuance of a gaming license by the Gaming Office does NOT create or imply a right of employment or continued employment.
- 1.3     DISCLOSURE OF INFORMATION - An application for a gaming license may be denied for failure to provide all information and documentation requested by the Gaming Office.
- 1.4     FEES - The Gaming Office may establish a schedule of fees for investigations, to be paid by the applicant or licensee, for the purpose of paying for the administrative costs associated with issuing licenses. These fees may vary depending on the type of application and the complexity of the investigation or costs of the Gaming Office in reviewing and processing applications. A current schedule of fees shall be made available to any applicant or licensee and the Gaming Facility Operator upon request. The Gaming Office shall transmit all licensing fees collected to the Treasurer of the Tohono O'odham Nation.
- 1.5     DENIAL OF A GAMING LICENSE - The Gaming Office, through the Executive Director or Director's designee, shall deny an application for a gaming license if the applicant:
- (a)     Individuals
- 1.5.1     fails to prove by clear and convincing evidence that he or she is qualified for a license in accordance with the provisions of the Gaming Ordinance or the Tribal/State Compact; or
- 1.5.2     has felony charges at the time he/she applies for an initial license or renewal of a gaming license, or has any charges for gaming related offenses or crimes related to theft, violence or fraud; or
- 1.5.3     has been convicted of any felony or gaming offense, or has entered into a diversion program in lieu of felony charges; or

## **REGULATIONS OF THE TOHONO O'ODHAM GAMING OFFICE**

---

1.6.2 The applicant has previously had a license denied, suspended or revoked by the Gaming Office or by a gaming regulatory body of another jurisdiction;

1.6.3 The applicant has had a finding of delinquency, notice, or lien filed against him or her for non-payment of federal, state, or local taxes and/or regulatory fees, federal student loans, or child support payments; or

1.6.4 The Gaming Office determines the licensing of an individual will constitute a danger to gaming, the Enterprise, or the public interest.

1.6.5 has entered into a plea agreement, misdemeanor compromise, diversion program or entered a plea of no contest concerning passing bad checks or other financial criminal activity; or

1.6.6 has refused to cooperate with a lawful investigation by the Gaming Office when such agency is engaged in the investigation of crimes relating to gaming, official corruption, gangs, organized crime activity or violation of the MICS, Ordinance, Compact or applicable Federal, Tribal, State or local law.

1.7 **FINDING OF NON-SUITABILITY** - If after receiving a complete application, the Gaming Office makes a determination that an individual does not meet the standards for suitability for a Gaming License or deems the applicant unsuitable for license renewal, the Gaming Office shall prepare a "Preliminary Finding of Non-Suitability for Licensing." A copy of the Preliminary Finding shall be personally served on the applicant or licensee or sent to the applicant via certified mail at the applicant's home or business address. The applicant will have 7 calendar days to submit a statement regarding why a final finding of non-suitability should not be entered. Upon receipt of the applicant's or Licensee's statement, the Executive Director or Director's designee shall consider the statement and any evidence submitted by the applicant and render a decision within 15 calendar days. If the Executive Director or Director's designee determines the individual should not be licensed, a formal denial letter will be issued and this will constitute the final decision of the Gaming Office. The applicant or licensee shall have the right to appeal the decision pursuant to Section 1204(b) of the Gaming Ordinance.

1.8 **CONTINUING DISCLOSURE** - Each licensee shall disclose, in writing, to the Gaming Office within 48 hours (or two calendar days) of the occurrence, or upon the receipt of, any citation, charge against or arrest made of the licensee, or any plea entered into by the licensee regarding any offense or conviction thereof, excluding minor traffic violations, in any jurisdiction. Failure to comply with this requirement may lead to suspension or revocation of the licensee's gaming license.

1.9 **CHANGE OF ADDRESS** - Any applicant or licensee must report, in writing, to the Gaming Office any change of address and/or telephone number within 5 calendar days of such change.

# REGULATIONS OF THE TOHONO O'ODHAM GAMING OFFICE

---

- 1.10 CONDITIONAL LICENSES - The Gaming Office may place conditions or limits on any license it issues or has issued, including but not limited to restricting a licensee to non-money handling positions, requiring a licensee to address court mandated obligations or creditor responsibilities within a set time period or any other conditions the Gaming Office deems necessary to protect the public interest in the integrity of gaming, the orderly conduct of gaming activities, the integrity of the Gaming Facility Operator or the assets of the Nation. Such conditions shall be in writing and issued to the licensee in person or through certified mail to the address listed on file at the Gaming Office.

Failure to comply with the conditions or limits placed on any license may result in the issuance of a Written Warning of Preliminary Determination of Violation. A copy of the Notice shall be personally served on the licensee or sent to the licensee via certified mail at the applicant's home or business address. The licensee will have 7 calendar days to submit a statement and any evidence regarding why a Notice of Violation should not be entered. Upon receipt of the licensee's statement, the Executive Director or Director's designee shall consider the statement and any evidence submitted by the applicant and render a final written decision within 15 calendar days.

- 1.11 RESTRICTION ON REAPPLICATION - Any Person whose application has been denied or whose license has been revoked by the Tohono O'odham Gaming Office shall not be considered for licensing by the Gaming Office for a period of one year from the time the final action was taken.

## Section 2 – SANCTIONS

- 1.20 PURPOSE - This Section identifies the process and procedures by which the Gaming Office exercises its authority to impose sanctions against licensees. Terms used in this Section shall have the same meaning as provided in the Gaming Ordinance, unless otherwise provided.

### 1.21 CATEGORIES OF VIOLATIONS

1.21.1 Category I - The Gaming Office, through the Executive Director or Director's designee, shall issue notices of Category I violations to any licensee the Executive Director or Director's designee determines has violated a provision of the Ordinance, Compact, Appendices, Tohono O'odham Nation/State of Arizona Memoranda of Understanding concerning Gaming Activities, Minimum Internal Control Standards (MICS) of the Nation or the Indian Gaming Regulatory Act (the "Act") or Regulations of the Tohono O'odham Gaming Office in such a manner that poses an immediate risk or threat to public health, safety, or welfare, the integrity of gaming, or gaming assets. Pursuant to Section 1.25 of Regulation 1, the Gaming Office shall also summarily suspend the license of an individual alleged to have committed a Category I violation. Category I violations include, but are not limited to:



## REGULATIONS OF THE TOHONO O'ODHAM GAMING OFFICE

---

- A. Theft or attempted theft;
- B. Intentional damage to property or attempted intentional damage to property;
- C. Assault or threat of assault;
- D. Intentional obstruction of lawful authority;
- E. Fraudulent manipulation or alteration of official documents or business records; or
- F. The conducting of unlawful Gaming Activities by a licensee within or without the exterior boundaries of the Nation.

1.21.2 Sanctions for Category I Infractions - If the Gaming Office determines, after completing its investigation into the alleged violation, that a licensee has committed a Category I violation, the Gaming Office shall summarily suspend the licensee's gaming license in accordance with Section 1.25, followed by issuance of a Written Warning of Preliminary Determination of Violation.

1.21.3 Category II - The Gaming Office, through the Executive Director or the Director's designee, may issue notices of Category II Violations to any licensee the Executive Director or Director's designee determines has violated a provision of the Ordinance, Compact, Appendices, Tohono O'odham Nation/State of Arizona Memoranda of Understanding concerning Gaming Activities, MICS, the Act or Regulations of the Tohono O'odham Gaming Office, in such a manner that does not pose an immediate risk or threat to public health, safety, or welfare, but which may call into question the orderly conduct of, or integrity of the Nation's Gaming Activities if not timely remedied.

1.21.4 Sanctions for Category II - Sanctions will normally be dealt with in a progressive manner to compel compliance with regulatory requirements. First infractions of Category II violations are generally addressed by means of a warning letter. Second infractions of the same type within 90 days may result in a second warning letter. A third infraction of the same type within 90 days will generally result in a license suspension for a time period determined by the Executive Director or Director's designee of the Gaming Office. The record of the suspension shall remain in the Person's file. A fourth offense of a similar nature within 90 days may result in revocation of the Person's gaming license at the discretion of the Executive Director or Director's designee.

1.22 NOTICE - The Gaming Office shall issue, either in person or by certified mail to the address currently on file with the Gaming Office, a Written Warning of its Preliminary Determination of Violation, its denial of a gaming license, a conditional license, a suspension or revocation of a gaming license or notification of a Compact, Appendix, Ordinance, Regulation or MICS violation to any licensee alleged to have committed such a violation. A copy shall be served on the Gaming Facility Operator within 24 hours unless there are extenuating circumstances preventing such service. The Warning shall notify the licensee and/or Gaming Facility Operator if applicable, of the infraction and the terms on which it can be corrected, or if the action cannot be corrected, why it cannot

## **REGULATIONS OF THE TOHONO O'ODHAM GAMING OFFICE**

---

be corrected. The Notice shall comply with Section 1203(b) of the Gaming Ordinance. The licensee may appeal the final decision of the Gaming Office pursuant to Section 1204 of the Gaming Ordinance.

**1.23    RESPONSE TO WARNING** - Following receipt of the response(s), or if no response(s) is received within seven (7) calendar days after service of the warning, the Executive Director or Director's designee shall issue a Notice of Violation if the Gaming Office determines after completing its investigation into the alleged violation, that a licensee violated or is violating the Ordinance, Compact, Appendices, Regulations or the Act and has failed to correct the violation within the time set forth in the Warning under the terms and conditions listed in the Warning letter, unless the Gaming Office determines there is good cause not to issue such Violation.

**1.24    EFFECTS OF FAILURE TO CORRECT A VIOLATION LISTED IN A WRITTEN WARNING OF PRELIMINARY DETERMINATION OF VIOLATION** - If a licensee fails to correct any violation listed in a Written Warning of Preliminary Violation under the terms and conditions provided in the letter, or if the violation cannot be corrected, the licensee shall file a written response to the warning within 15 calendar days of receiving the warning. The Gaming Facility Operator may separately file a written response, but shall do so within the same period. Failure to correct a violation or submit a statement why such violation cannot be corrected may result in the issuance of a Notice of Violation.

**1.25    SUMMARY SUSPENSION OF A GAMING LICENSE** -

Notwithstanding any other provision in these regulations, the Gaming Office, through the Director or the Director's designee, may summarily suspend the license of any individual:

- (1) who has gained such license through fraud, or if information becomes available to the Gaming Office which would have resulted in the denial of an initial application for a license; or
- (2) if the applicant is determined to be unsuitable under the provisions of 1.5.5 above; or
- (3) if continued licensing of a licensee constitutes an immediate and substantial threat to the public health, safety or welfare; or
- (4) if continued licensing constitutes an immediate and substantial threat to the integrity of Gaming Activities; or
- (5) if continued licensing constitutes an immediate and substantial threat to the integrity of the Gaming Facility Operator; or

## **REGULATIONS OF THE TOHONO O'ODHAM GAMING OFFICE**

---

- (6) if continued licensing constitutes an immediate and substantial threat to the Gaming Facility Operator's ability to account for and protect its assets; or
- (7) if continued licensing constitutes an immediate and substantial threat to the security of gaming proceeds.

The Gaming Office shall serve written notice either in person or by certified mail to the address on file at the Gaming Office. A licensee, whose license has been summarily suspended, for any reason, may apply for interlocutory review of the Gaming Office's action within 15 calendar days of receiving notice of the Gaming Office's action pursuant to Section 1204 of the Gaming Ordinance. The application for interlocutory review must be filed in the Judicial Court of the Tohono O'odham Nation.

- 1.26 **Due Process** - The licensee to whom a Notice of Violation is issued and the Gaming Facility Operator each may submit a written response to the Gaming Office together with any additional written information the Gaming Office should consider. This must be done within 15 calendar days after receiving the Notice of Violation.

1.26.1 The Gaming Office shall issue a written decision concerning the Notice of Violation within 15 calendar days after receiving all written responses, or if no party submits a written response in a timely manner, within fifteen days after the deadline for the submission of written responses.

1.26.2 The written response of the Gaming Office shall constitute a final action of the Gaming Office. The Gaming Office shall not take action to enforce a Notice of Violation until it has issued a written decision unless summary action is warranted to protect the public health, safety or welfare; the integrity of Gaming Activities; the integrity of the Gaming Facility Operator; the Gaming Facility Operator's ability to account for and protect its assets; or to the security of gaming proceeds. Any licensee desiring to appeal a final decision of the Gaming Office must file an application for judicial review within 60 days of receiving notice from the Gaming Office of its final decision.

- 1.27 **METHOD OF SERVICE** - A Written Warning of Preliminary Determination of Violation, denial of a gaming license, a conditional license, a suspension or revocation of a gaming license or notification of (Compact, Appendices, Ordinance, Regulation, MICS or Act) violation may be served in person or by certified mail to the licensee's address on file at the Gaming Office. A copy shall be delivered to the Gaming Facility Operator with any redactions necessary to avoid disclosure of any information which the Gaming Office is obligated to keep confidential under any applicable privacy laws including the Ordinance.

- 1.28 **USE OF FORCE** - The Gaming Office may use such force as may be necessary under the circumstances to summarily eject any licensee or patron who has violated the Ordinance, the Compact, or the Act, from a Gaming Facility or the surrounding premises controlled



# REGULATIONS OF THE TOHONO O'ODHAM GAMING OFFICE

---

by the Gaming Facility Operator if the Gaming Office determines that licensee or patron constitutes an immediate threat to the public health, safety or welfare.

## **PART 2 - ACCESSIBILITY TO NON-PUBLIC AREAS OF THE GAMING ENTERPRISE**

- 2.1     PURPOSE - This regulation identifies the process and procedure by which access to any and all areas of a Gaming Facility shall be conducted. Terms used in this Part shall have the same meaning as provided in the Gaming Ordinance, unless otherwise provided.
- 2.2     ELECTRONIC CARD READER ACCESS - The Executive Director, Assistant Director, Chief Inspector, Inspector Supervisors, Inspectors, Inspector Projects Manager, and Inspector Project Assistants shall have their electronic door access cards programmed such that they have access to any and all doors equipped with a card access reader in each Gaming Facility and associated offices at all times. In the case of a system malfunction in which programming is lost, the highest ranking Security Department supervisor on duty shall notify the Chief Inspector, Inspector Supervisor, or an Inspector no later than 15 minutes after a malfunction is discovered. At the time the system comes back up, the highest ranking Security Department supervisor on duty, or a specified designee, shall notify the Chief Inspector, or an Inspector Supervisor, that the system is functional.
- 2.3     KEYED ACCESS - Whenever the Executive Director, Assistant Director, Chief Inspector, or an Inspector Supervisor need access through a keyed door that is not equipped with an electronic card reader, the individual may request the grand master or other appropriate key which will provide access from personnel at the designated security post or electronic key system. If the requested key is stored at a designated security post, the security officer on duty shall provide the key immediately on demand. Once the authorized Gaming Office staff has taken possession of the grand master key, that individual will notify the Security Officer of his or her destination and wait for a security officer escort. If the grand master or other appropriate key is obtained from an electronic key system, the authorized Gaming Office staff individual will also notify a Security Officer of his or her destination and wait for a Security Officer escort. In emergency situations, the authorized Gaming Office staff is not required to wait for a security officer escort.
- 2.4     FAILURE TO COMPLY - Intentional modifications to programming which result in reduced access by authorized Gaming Office personnel without appropriate notification, intentional delays in notification involving programming loss due to system failure, attempts to verbally or physically deny access, or failure to provide an appropriate key immediately on demand shall be treated as Category 1 violations.

## **REGULATIONS OF THE TOHONO O'ODHAM GAMING OFFICE**

---

- 2.5 TOHONO O'ODHAM DEPARTMENT OF PUBLIC SAFETY - Authorized personnel of the Tohono O'odham Police and Fire Departments, when acting in an official capacity, shall have access to the Nation's Gaming Facilities. When the Nation's police officers or fire fighters enter a secure area, they shall be accompanied by the Executive Director, Assistant Director, Chief Inspector, Inspector Supervisor, or an Inspector of the Gaming Office. In life threatening or emergency situations such access shall be immediate and unrestricted.
- 2.6 WEARING GAMING OFFICE ISSUED BADGES - Each licensee, and all authorized vendors accessing non-public areas must wear a Gaming Office issued badge when they are present at the Gaming Facility in the course of their work. During non-working hours, licensees must have their badge in their possession when they are in the public areas of a casino and must wear their badge if they go into non-public areas. Licensees may escort non-employees who have a legitimate business reason to be in non-public or secured areas and are approved by the Gaming Office to have such escorted access.
- 2.7 PROVIDING UNAUTHORIZED ACCESS TO ANY INDIVIDUAL - Each licensee shall use his or her own badge to enter or exit areas that require electronic card access and have card readers. Licensees shall not utilize their own badge to provide access to any individual ("piggy backing") who does not have a valid license on his or her person. Licensees who are regular employees of the Gaming Enterprise may escort into secured areas authorized employees identified in the Gaming Facility Operator's internal controls as individuals permitted escorted access to a designated area.

### **PART 3 – NOTIFICATION**

- 3.1 PURPOSE - This regulation identifies the process and procedure by which the Gaming Facility Operator shall make required reports to the Gaming Office. Terms used in this Part shall have the same meaning as provided in the Gaming Ordinance, unless otherwise provided.
- 3.2 TIMELY NOTIFICATION TO THE GAMING OFFICE - The Gaming Facility Operator shall timely report to the Chief Inspector, Inspector Supervisor, or a Gaming Inspector any reportable matter in the manner provided in this Part. For purposes of this regulation, timely notification means reporting to the Chief Inspector, Inspector Supervisor, or Inspector no later than 15 minutes after a supervisory employee becomes aware of a reportable activity pursuant to this Part. Reporting shall be conducted in person, by radio with acknowledgement by the individual receiving the report, or by telephone, but may not be by voice mail messaging, answering machine messaging, e-mail, or fax.
- 3.3 DUTY TO REPORT - Each licensee of the Gaming Facility Operator has a duty to report to his or her department supervisor any of the following activities of which the licensee becomes aware:

## **REGULATIONS OF THE TOHONO O'ODHAM GAMING OFFICE**

---

**3.3.1 Criminal Activity** - Licensees shall report all criminal activity occurring on the property of the Gaming Facility Operator regardless of availability of camera coverage or corroborating evidence. For purposes of this part, criminal activity includes any conduct a reasonable licensee would believe to be a crime or suspected crime including violations of Nation, State, or Federal law.

**3.3.2 Unusual Occurrence** - Licensees shall report all unusual occurrences, including but not limited to: (i) death or serious injury of a patron or employee; (ii) any incident in which a significant loss has occurred including but not limited to any situation, human caused or natural, that threatens casino operations or jeopardizes the health, safety or welfare of patrons or employees; (iii) any technical failure or human error that could impact the outcome of a game; (v) any time that any law enforcement or an emergency medical agency is called by the Gaming Facility Operator to respond to an incident on any Gaming Facility Operator property; (iv) any other activity of a suspicious or unusual nature that could affect the integrity of gaming; or (vi) any loss of communication between the slot accounting system and the floor lasting more than 15 minutes.

**3.3.3 Violation or Suspected Violation of the Compact, Appendices, Ordinance, Minimum Internal Control Standards, Regulations or IGRA** - Licensees shall report all activities or suspected activities that a reasonable licensee would believe or suspect to be: (i) a violation of the Compact, Appendices, Ordinance, MICS, Regulations, or the Act, or (ii) could result in a violation of the Compact, Ordinance, MICS, Regulations or the Act.

**3.3.4 Patron Disputes** - Licensees shall report all disputes over payment of alleged winnings that equal or exceed \$500.00 between patrons and the Gaming Facility Operator. For purposes of this Part, a patron dispute includes any claim by a patron that the Gaming Facility Operator, or any of its agents or employees, refuses to pay winnings, prizes or a jackpot that equals or exceeds \$500.00.

**3.3.5 Overage or Shortage** - Licensees shall report any overage or shortage of \$100.00 or more or any suspicious overage or shortage of any amount in any bank, or portable bank handled by a licensee.

**3.3.6 Forced Balancing** - Licensees shall report any voiding of a transaction a reasonable licensee would believe was made for the purpose of forcing the balance of any register or point of sale in the cage, restaurants, gift shop, box offices, and hotel or entertainment center of the Gaming Facility Operator. This includes but is not limited to incidents of licensees adding their own funds to a bank to balance the bank or reduce a variance, or licensees voiding a legitimate transaction to prevent a variance.

**3.3.7 Discrepancies in Inventory** - Employees shall report the following discrepancies in inventory, including, but not limited to: (i) bingo or keno products and paper; (ii) playing cards; (iii) tokens or cheques used in the play of any game; (iv) slot machine parts; (v) any type of office equipment and materials; (vi) food and beverage, including alcohol, products the value of which exceeds \$25.00; (vii) any inventoried coupons or

# REGULATIONS OF THE TOHONO O'ODHAM GAMING OFFICE

---

gift certificates; (viii) any building materials the value of which exceeds \$25.00; or (ix) any other Gaming Facility Operator property exceeding \$25.00 in value.

3.3.8 Miscellaneous Reporting Requirements - Licensees in the following departments have a duty to report to the licensee's department supervisor any of the following additional reporting duties:

- |                      |   |
|----------------------|---|
| A. Security          | Security Department licensees shall report any incident in which Security Department personnel use physical force or detain a patron or licensee or any individual is injured on casino property.   |
| B. Surveillance      | Surveillance Department licensees shall report any intended movement of cameras 7 calendar days in advance of the proposed move and must obtain Gaming Office approval and provide a modified plan prior to implementing any such changes. Surveillance department licensees shall report any loss of camera coverage and any camera or recording malfunctions via written report on a daily basis. Surveillance licensees shall immediately report the presence of any felon or individual, made aware of or becomes known to them, who a reasonable surveillance licensee believes to be a threat to gaming activities or the public. |
| C. Slot Department   | Slot Department licensees, or the Manager on Duty, shall report any jackpot of \$10,000 or more on a gaming device and shall suspend patron play or testing on that gaming device until the arrival of an authorized representative of the Gaming Office.   |
| D. Table Games       | Table Games licensees shall report any payout of \$10,000 or more on a blackjack game or poker hand, and any progressive jackpot won.   |
| E. Food and Beverage | Food and Beverage Department licensees shall report any violation or suspected violation of applicable liquor laws, and any violation or suspected violation of food and beverage handling standards as outlined in United States Public Health Service requirements.   |
| F. Accounting        | Accounting Department licensees shall report any violation or suspected violation of the Compact, Ordinance, or MICS regardless of whether he or she believes prior reporting has occurred.   |

# REGULATIONS OF THE TOHONO O'ODHAM GAMING OFFICE

---

- 3.4    PROCEDURE FOR REPORTING - The licensee shall notify the supervisor on duty for his or her department at the time the reportable activity is discovered or observed. The on-duty department supervisor shall be responsible for notifying the Gaming Office pursuant to Section 3.2 above.
- 3.5    RETALIATION FOR REPORTING OR COOPERATING WITH A GAMING OFFICE INVESTIGATION - No supervisory or management licensee may take retaliatory action against a Gaming Facility Operator licensee for making a report as required in these Regulations or for cooperating with a Gaming Office investigation.
- 3.6    FAILURE TO COMPLY - Failure of a licensee of the Gaming Facility Operator to comply with the reporting requirements of this Part may result in sanctions against the licensee. A department supervisor, who intentionally withholds timely notification to the Gaming Office resulting in the obstruction of an investigation, whether criminal in nature or regulatory, shall have committed a Category 1 violation and may be subject to summary license suspension. A non-supervisory licensee of the Gaming Facility Operator who does not report a matter under this section to his or her supervisor shall have committed a Category 1 violation if the individual knew or should have known the matter was reportable under this Part. The Gaming Facility Operator shall determine the manner in which a non-supervisory licensee shall communicate a reportable matter to a supervisor.

## **PART 4 – INFORMATION TECHNOLOGY [RESERVED]**

## **PART 5 – WAIVERS**

- 5.1    PURPOSE - The Gaming Office has the authority to waive the requirement for a license pursuant to Section 7 of the Gaming Ordinance (Ord. No. 93-01, Rev. May 2007). This Regulation identifies the process for applying for and obtaining a waiver. The waiver shall be used strictly for Entertainers and Publicly Traded Companies (collectively "Vendors") that provide Gaming Services and meet specific criteria as listed in this Regulation. Terms used in this Part shall have the same meaning as provided in the Gaming Ordinance, unless otherwise provided.
- 5.2    DEFINITIONS -
- (a) Entertainer - An individual or group with whom the Gaming Facility Operator contracts to hold a public performance such as singing, dancing, comedy or other amusement.



## **REGULATIONS OF THE TOHONO O'ODHAM GAMING OFFICE**

---

(b) Publicly Traded Company - A company that has held an initial public offering and whose shares are now traded on a United States national market or exchange. Also called publicly held or public company.

5.3 ENTERTAINERS - In the event the Gaming Facility Operator contracts directly with any Entertainer for the provision of Gaming Services, the Entertainer, employees of the Entertainer, and persons providing personal services to the Entertainer, who are paid by the Entertainer, may be eligible for a waiver from the Gaming Office so long as:

5.3.1 The Entertainer does not perform at the Gaming Facility Operator on more than three days in one calendar year; and

5.3.2 The Entertainer, employees of the Entertainer, persons providing personal services to the Entertainer, and are paid by the Entertainer, are not allowed unescorted access to any secure areas of the Gaming Facility.

5.4 PERFORMANCES ENDING AFTER MIDNIGHT - Performances that end after midnight, and are part of a show or series of shows that started the previous evening, will be considered to be part of the performance from the previous evening. Performances do not include setting up and tearing down the stage, props, or light and sound equipment, or warm-ups and sound checks.

5.5 PUBLICLY TRADED COMPANIES - Publicly traded companies with over \$1 billion in annual gross revenues may be eligible for a waiver by the Gaming Office so long as:

5.5.1 The company is not a Manufacturer or Distributor as defined in the Gaming Ordinance and goods, not services, are purchased from the company;

5.5.2 The goods purchased by the Gaming Facility Operator are not used in the play of Class II and Class III gaming, including software or component parts, and are not used for security or surveillance (other than component parts or replacement parts used for security or surveillance);

5.5.3 The Gaming Facility Operator makes its purchases directly from the company (including via an Internet web site or from a company owned retail store);

5.5.4 The goods purchased by the Gaming Facility Operator are sold by the company in its regular course of business and not acquired solely for resale to the Gaming Facility Operator; and

5.5.5 No employees of the company are allowed unescorted access to any secure areas of the Gaming Facility, as referenced in Compact Section 4(b).

5.5.6 If the purchases are computers and/or software, one-time training may be provided directly by the company.

# REGULATIONS OF THE TOHONO O'ODHAM GAMING OFFICE

---

## 5.6 PROCEDURES FOR A WAIVER REQUEST -

5.6.1 The Gaming Office must receive a request from the Gaming Facility Operator identifying the proposed Vendor, and describing how the Vendor is qualified for a waiver. The Gaming Office must receive the waiver request at least thirty-five (35) calendar days prior to the Vendor providing goods or services in excess of \$10,000 in any single month.

5.6.2 A draft contract must be sent to the Gaming Office, for review of Compact compliance, not later than fifteen (15) calendar days prior to signing the final contract between the Vendor, and the Gaming Facility Operator.

5.6.3 The waiver request must include: (i) the name of the proposed Vendor; (ii) a description of the Vendor, and the reason why they qualify for a waiver; (iii) a representative's name, phone number, fax number, address, e-mail address, and position with the company will be required; (iv) the department requesting the waiver, and the name of a contact person; and (v) a request that the Gaming Office issue the Vendor a waiver.

5.6.4 A copy of the final signed contract must be sent to the Gaming Office to be included in the file.

## 5.7 WAIVER APPROVAL/DENIAL -

5.7.1 Before the Gaming Facility Operator purchases goods or services from a Vendor in excess of \$10,000 in any single month, the Gaming Facility Operator must receive written confirmation from the Gaming Office that the vendor currently holds a valid waiver.

5.7.2 Within thirty (30) calendar days of receiving a request for a waiver from the Gaming Facility Operator the Gaming Office will verify the following:

- (a) For a Company: (i) name of the company; (ii) that the company is publicly traded on a United States national market or exchange; (iii) that the company has one billion in annual gross revenues; and (iv) the company's business product.
- (b) For an Entertainer: (i) name of the Entertainer; (ii) the Entertainer will not perform on more than three (3) days in a calendar year; and (iii) written confirmation that the Entertainer, employees of the Entertainer, persons providing personal services to the Entertainer, and are paid by the Entertainer, are not allowed unescorted access to any secure areas of the Gaming Facility.

## **REGULATIONS OF THE TOHONO O'ODHAM GAMING OFFICE**

---

5.7.3 The Gaming Office may deny the request for failure to provide the requested information within the time allotted or for failure to meet the requirements outlined herein.

5.7.4 Upon review of the Vendors' information, the Gaming Office will issue a written response to the Gaming Facility Operator approving or denying the waiver request. If the waiver is denied, the Gaming Office will state the basis for its denial. This will constitute the final decision of the Gaming Office for purposes of appealing the Gaming Office's decision. The applicant may appeal the decision of the Gaming Office pursuant to Section 1204 of the Gaming Ordinance.

5.7.5 An annual list of the Vendors, currently holding a waiver, on file with the Gaming Office will be sent to the Gaming Facility Operator's Purchasing Department.

### 5.8 TIME PERIOD

5.8.1 During the term of the waiver, if a Vendor no longer meets the requirements as outlined herein, the Gaming Office will rescind the waiver. The Gaming Office will provide written notice to the Gaming Facility Operator, in person or by certified mail, that the Vendor no longer meets the requirements for a waiver and that such waiver has been rescinded. The Gaming Facility Operator may appeal the decision of the Gaming Office pursuant to Section 1204 of the Gaming Ordinance.

5.8.2 The waiver may be renewed every two (2) years, unless rescinded earlier by the Gaming Office.

5.8.3 Prior to the expiration of the waiver, the Gaming Facility Operator shall submit a renewal request for any Vendor it wishes to continue a business relationship with.

5.8.4 If the Vendor's waiver is revoked or denied, the Vendor will be required to be licensed and/or certified through the regular licensing process to provide goods or services in excess of \$10,000 in any single month, with the Gaming Facility Operator.

5.9 REVOCATION OF WAIVER - The Gaming Office will remain the sole authority to issue or rescind a waiver.

5.10 SANCTIONS - The Gaming Office may sanction a Vendor who holds a waiver, including, but not limited to, issuing a fine, summarily suspending a waiver, or any other sanction it deems necessary to ensure the integrity of gaming, protect the integrity of the Gaming Facility Operator, or protect the assets of the Nation.

# **REGULATIONS OF THE TOHONO O'ODHAM GAMING OFFICE**

---

## **PART 6 - GAMING DEVICE MANUFACTURERS/ GAMING RELATED ON-LINE SYSTEMS VENDOR NOTIFICATION REQUIREMENTS**

6.1 PURPOSE - This regulation identifies the process and procedures by which Gaming Device Manufacturers/Vendors and the Gaming Facility Operator shall make required notifications to the Gaming Office. Terms used in this Part shall have the same meaning as provided in the Gaming Ordinance, unless otherwise provided.

6.2 TIMELY NOTIFICATION TO THE GAMING OFFICE

6.2.1 Manufacturers -

(A) Gaming Device Manufacturers/Vendors shall give the Gaming Office 5 calendar days advance written notice of any shipment of bingo or technological aids to the game of bingo or Class III gaming devices, components, or software to be sent to any gaming facility on the Tohono O'odham Nation. The notice: (1) shall be addressed to the Gaming Office Executive Director; (2) be sent via fax; and (3) follow time calculation requirements specified in Section 21 of the Tribal/State Compact. This requirement also applies to Manufacturers/Vendors of On-Line Monitoring and Control Systems (MCS).

(B) The Gaming Device Manufacturers/Vendors shall be in compliance with Sections 15 U.S.C. 1173 and 15 U.S.C. 1174, of the Johnson Act, which requires the Manufacturers/Vendors to register and label Gaming Devices sold.

6.2.2 Gaming Facility Operator -

(A) The Gaming Facility Operator shall provide the Gaming Office 30 calendar day's written notification of their intent to install, re-install, modify, or convert gaming devices prior to placing such gaming devices in use. A conversion and/or modification means a change or alteration in an approved gaming device that affects the manner or mode of play or the percentage paid by the gaming device, including a change in control or graphics programs.

(B) The Gaming Facility Operator shall provide the Gaming Office 5 calendar day's written notification of its intent to remove any gaming device off the gaming floor for the purpose of taking it out of play. The notice will identify date of removal, machine serial number, machine number, game name, and destination.

(C) The Gaming Facility Operator must provide the Gaming Office 24 hour written notification of their intent to transfer gaming devices for the purpose of keeping it in play within the facility or other facility owned by the Nation. The notice will identify date of transfer, machine serial number, machine numbers, game names, and destination.

# REGULATIONS OF THE TOHONO O'ODHAM GAMING OFFICE

---

(D) The Gaming Facility Operator shall provide the Gaming Office with written documentation containing information in (A) – (C) above. The written information shall include old/new bank and machine numbers, serial numbers, hold percentages, paytable ID's, and game type (upright/slant top reel or video). This documentation will be required according to the time frames listed in this Regulation.

(E) The Gaming Facility Operator may request the Gaming Office obtain a waiver for the manufacturer's 5 Day shipping notice requirement from ADOG for Class III devices. However, waivers for Class II gaming only require Gaming Office approval.

(F) The Gaming Facility Operator shall be registered with the United States Attorney General's Office pursuant to 15 U.S.C. 1173, which is required when selling gaming devices from the facility to another party. Registration documentation must be submitted to the Gaming Office as proof of compliance.

6.3 LABORATORY CERTIFICATIONS - All bingo and technological aids to the game of bingo and Class III devices, components, and software must be approved, prior to shipment, by a certified testing laboratory which issues a certification letter that contains findings, conclusions and an opinion whether a gaming device, player terminal, gaming system, component, or software complies with the provisions of the Compact and Appendix A for Class III gaming and Tribal regulations on Class II gaming.

6.4 SHIPMENT OF SOFTWARE - Software must be shipped to arrive no later than 3 days prior to the scheduled machine activity. All software and media of software that are embedded in a gaming device or system must be shipped and addressed to the Tohono O'odham Gaming Office, not the Gaming Facility Operator. All associated hardware that does not determine the outcome of the game may be shipped and addressed to the Gaming Facility Operator.

6.5 GAMING OFFICE SANCTIONS -

6.5.1 The Gaming Office may impose a civil sanction of up to ten thousand dollars if a manufacturer/ vendor:

- (a) fails to provide the Gaming Office the required 5 calendar day advance shipping notice; or
- (b) sells, or provides for play gaming devices, components, or software of the Gaming Facility Operator prior to laboratory certification for use in the State of Arizona; or
- (c) knows, or reasonably should know, that the devices or software will malfunction in any manner that affects game play or accuracy of the device meters; or



## **REGULATIONS OF THE TOHONO O'ODHAM GAMING OFFICE**

---

- (d) fails to immediately notify the Gaming Office in writing of the discovery of any probable malfunction that affects game play or the accuracy of the device meters, components, or software approved for use in the State of Arizona; or
- (e) sells, or provides for installation software that is determined to be revoked by a certified laboratory, to the Gaming Facility Operator; or
- (f) fails to provide the correct software as described in the manufacturer notification; or
- (g) sends software directly to the Gaming Facility Operator instead of to the Gaming Office.

6.5.2 The Executive Director of the Gaming Office shall issue a written warning of its preliminary determination of violation to any licensee, Gaming Facility Operator, or manufacturer/vendor alleged to have committed a violation of this Regulation.

6.5.3 Warnings are dealt with in a progressive manner to compel compliance with regulatory requirements.

6.5.4 The Gaming Office may impose a civil sanction of up to ten thousand dollars if the Gaming Facility Operator: (a) fails to provide timely notifications as required concerning gaming machine installs or movements, or (b) performs any machine install, removal, transfer, or modification/conversion without having made the required notifications to the Gaming Office.